Rules and Regulations of the State of Georgia

Department 120 RULES OF COMPTROLLER GENERAL

Current through Rules and Regulations filed through May 26, 2021

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Rule 120-3-3-.09. Parking Space Designation for Persons with Disabilities.
Rule 120-3-3-.10. Notes.
Rule 120-3-3-.11. Severability.
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Subject 120-3-5. RULES AND REGULATIONS FOR MOBILE OR PORTABLE CLASSROOMS. REPEALED.
Subject 120-3-6. GENERAL REGULATIONS.
Subject 120-3-7. RULES AND REGULATIONS FOR MANUFACTURED HOMES.
Rule 120-3-7-.01. Authority.
Rule 120-3-7-.02. Purpose.
Rule 120-3-7-.03. Definitions.
Rule 120-3-7-.04. Authorized Representative of the Commissioner.
Rule 120-3-7-.05. Standards of Construction.
Rule 120-3-7-.06. In-Plant Primary Inspection Agency (IPIA) Inspection Procedures; Disagreements With Procedures.
Rule 120-3-7-.07. Consumer Complaint Handling and Remedial Actions.
Rule 120-3-7-.08. Annual License.
Rule 120-3-7-.09. Public Participation in Presentation of Views or Hearings.
Rule 120-3-7-.10. Procedures for the Presentation of Views or Hearings.
Rule 120-3-7-.11. Request for Extraordinary Interim Relief.
Rule 120-3-7-.12. Dispute Resolution.
Rule 120-3-7-.13. Installation Requirements.
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Rule 120-3-7-.15. Reports of Manufactured and Mobile Home Installations.
Rule 120-3-7-.16. Literature.
Rule 120-3-7-.17. Disclosure of Damage.
Rule 120-3-7-.18. Installation Instructions.
Rule 120-3-7-.19. Compliance With Rules and Regulations; Penalties.

Rule 120-3-7-.20. Forms.
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Rule 120-3-10-.05. Special Provisions.
Rule 120-3-10-.06. Standards for Manufacture, Storage, Transportation, Handling and Use of Explosives and Blasting Agents.
Rule 120-3-10-.07. Blasting Report.
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Rule 120-3-10-.09. Forms.
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Rule 120-3-11-.12. Repealed.
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Rule 120-3-11-.14. Repealed.
Rule 120-3-11-.15. Repealed.
Rule 120-3-11-.16. Repealed.
Rule 120-3-11-.17. Repealed.
Rule 120-3-11-.18. Repealed.

Rule 120-3-11-.19. Repealed.
Rule 120-3-11-.20. Repealed.
Rule 120-3-11-.21. Repealed.
Rule 120-3-11-.22. Repealed.
Rule 120-3-11-.23. Repealed.
Rule 120-3-11-.24. Repealed.
Rule 120-3-11-.25. Repealed.
Rule 120-3-11-.26. Repealed.
Subject 120-3-12. RULES AND REGULATIONS FOR THE STORAGE AND HANDLING OF ANHYDROUS AMMONIA.
Rule 120-3-12-.01. Promulgation and Purpose.
Rule 120-3-12-.02. Administration.
Rule 120-3-12-.03. Definitions.
Rule 120-3-12-.04. Special Provisions.
Rule 120-3-12-.05. Adoption of Standards for the Storage and Handling of Anhydrous Ammonia.
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Rule 120-3-13-.02. Definitions.
Rule 120-3-13-.03. Adopted Standards and Modifications.
Rule 120-3-13-.04. Transportation of Fuel Gas for Welding and Cutting.
Rule 120-3-13-.05. Request for Modification of Specific Requirements.
Rule 120-3-13-.06. Penalties.
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Subject 120-3-14. RULES AND REGULATIONS FOR NATURAL GAS SYSTEMS.
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Rule 120-3-14-.02. Definitions.
Rule 120-3-14-.03. Reporting of Fires and Serious Accidents.
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Rule 120-3-14-.08. Request for Modification of Specific Requirements.
Rule 120-3-14-.09. Penalties.
Rule 120-3-14-.10. Severability.
Rule 120-3-14-.11. Forms.

Subject 120-3-15. DRY CLEANING PLANTS AND FLUIDS.
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Rule 120-3-16-.01. Promulgation and Purpose.
Rule 120-3-16-.02. Definitions.
Rule 120-3-16-.03. Licenses; Fees and other Requirements.
Rule 120-3-16-.04. Training Requirements for Georgia Liquefied Petroleum Gas Industry Workers.
Rule 120-3-16-.05. Submission of Plans.
Rule 120-3-16-.06. Reporting of Fires and Accidents.
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Rule 120-3-16-.08. Request for Modification of Specific Requirements.
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Rule 120-3-16-.10. Compliance with Rules and Regulations; Penalties.
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Rule 120-3-17-.01. Promulgation and Purpose.
Rule 120-3-17-.02. Definitions.
Rule 120-3-17-.03. Submission of Plans/Fees.
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Rule 120-3-17-.05. Adopted Standards.
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Subject 120-3-19. RULES AND REGULATIONS FOR ENFORCEMENT OF THE GEORGIA FIRE SPRINKLER ACT.
Rule 120-3-19-.01. Promulgation and Purpose.
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Rule 120-3-19-.04. Powers and Duties of the Commissioner; Delegation of Authority.
Rule 120-3-19-.05. Application to Become Certificate Holder; Certificate Fee; Demonstration of Applicant's Competence and Knowledge; Limitations on Issuance of Certificate; Expiration and Renewal of Certificate.
Rule 120-3-19-.06. Licensing of Each Location; Application; Fee; Prerequisites.

Rule 120-3-19-.07. Inspectors License.

Rule 120-3-19-.08. Fire Protection System Designer License.

Rule 120-3-19-.09. Requirement that Installation, Repair, etc., Be Performed or Supervised by Certificate Holder.

Rule 120-3-19-.10. Review of Water-based Fire Protection Shop Drawings.

Rule 120-3-19-.11. Preparation of Water-based Fire Protection System Documents for Construction by Designers.

Rule 120-3-19-.12. Individuals Authorized to Inspect and Maintain Systems.

Rule 120-3-19-.13. Rules and Regulations; Forms.

Rule 120-3-19-.14. Valid License Required for Installation or Repair of Underground Facilities or Piping Connected to Water-based Fire Protection Sprinkler Systems; Proof of Contractor's Competency as Requirement for License or Building Permit; Effect of Chapter on Other Laws Regulating Work of Contractors.

Rule 120-3-19-.15. Applicability to Work Performed for State or Political Subdivision; Contract and Bid Requirements for Such Work.

Rule 120-3-19-.16. Authority to Accept Grants for Administration of Chapter.

Rule 120-3-19-.17. Cease and Desist Order Against Violators; Penalty for Violations; Order Requiring Compliance; Revocation of Certificate for Failure to Comply with Order.

Rule 120-3-19-.18. Additional Grounds for Revocation or Suspension of Licenses.

Rule 120-3-19-.19. Failure to Renew Certificate or License.

Rule 120-3-19-.20. Request for Modification of Specific Requirements.

Rule 120-3-19-.21. Notes.

Rule 120-3-19-.22. Severability.

Subject 120-3-20. ACCESS TO AND USE OF PUBLIC FACILITIES BY HANDICAPPED PERSONS.

Rule 120-3-20-.01. Promulgation and Purpose.

Rule 120-3-20-.02. Application.

Rule 120-3-20-.03. Definitions.

Rule 120-3-20-.04. State Minimum Accessibility Standards with Modifications.

Rule 120-3-20-.05. Request for Modification of Specific Requirements.

Rule 120-3-20-.06. Parking Space Designation for Persons with Disabilities.

Rule 120-3-20-.07. Notes.

Rule 120-3-20-.08. Severability.

Subject 120-3-20A. .

Rule 120-3-20A-.01. .

Subject 120-3-21. RULES AND REGULATIONS FOR RESIDENTIAL BOARD AND CARE OCCUPANCIES (PERSONAL CARE HOMES). REPEALED.

Subject 120-3-22. MANUFACTURING, STORAGE, SALES, EXHIBITIONS AND DISPLAYS OF FIREWORKS AND PYROTECHNICS, USE OF FLAME EFFECTS BEFORE A PROXIMATE AUDIENCE.

Rule 120-3-22-.01. Promulgation and Purpose.
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Rule 120-3-22-.03. Submission of Plans for Storage Installations.
Rule 120-3-22-.04. Submission of Plans and Licensing of Fireworks Manufacturers.
Rule 120-3-22-.05. Submission of Plans for Consumer Fireworks Retail Sales Facilities.
Rule 120-3-22-.06. Inspections.
Rule 120-3-22-.07. Reporting of Fires and Accidents.
Rule 120-3-22-.08. State Minimum Fire Safety Codes and Standards.
Rule 120-3-22-.09. Licensing Requirements for Fireworks or Pyrotechnics Exhibitions or Displays before a Proximate Audience.
Rule 120-3-22-.10. Licensing Requirements for Distributors of Consumer Fireworks.
Rule 120-3-22-.11. Sales of Consumer Fireworks.
Rule 120-3-22-.12. Purchase of Consumer Fireworks.
Rule 120-3-22-.13. Use of Fireworks.
Rule 120-3-22-.14. Unlawful Activity.
Rule 120-3-22-.15. Compliance with Rules and Regulations; Penalties.
Rule 120-3-22-.16. Requests for Modification of Specific Requirements.
Rule 120-3-22-.17. Forms.
Rule 120-3-22-.18. Notes.
Rule 120-3-22-.19. Severability.
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Rule 120-3-23-.01. Promulgation and Purpose.
Rule 120-3-23-.02. Definitions.
Rule 120-3-23-.03. General Requirements Related to Licenses, Amended Licenses, Permits, Amended Permits, Renewals and Associated Fees.
Rule 120-3-23-.04. Requirements for Portable Fire Extinguisher License.
Rule 120-3-23-.05. Requirements for Portable Fire Extinguisher Technician Permit.
Rule 120-3-23-.06. Requirements for Pre-Engineered Kitchen or Restaurant Fire Suppression System License.
Rule 120-3-23-.07. Requirements for Pre-Engineered Kitchen or Restaurant Fire Suppression System Technician Permit.
Rule 120-3-23-.08. Requirements for Pre-Engineered Industrial Fire Suppression System License.
Rule 120-3-23-.09. Requirements for Pre-Engineered Industrial Fire Suppression System Technician Permit.
Rule 120-3-23-.10. Requirements for Engineered Special Hazard Fire Suppression System License.

Rule 120-3-23-.11. Requirements for Engineered Special Hazard Fire Suppression System Technician Permit.

Rule 120-3-23-.12. Requirements for Technician Training Provisional Permit.

Rule 120-3-23-.13. Adopted Codes and Standards.

Rule 120-3-23-.14. Specifications for Service Tags, Maintenance Labels, Test Labels, Service Collars, Non-Compliance Tags and High Pressure Cylinder Stamp Filing Requirements.

Rule 120-3-23-.15. Cease and Desist Order Against Violators; Order Requiring Compliance; Suspension or Revocation of Licenses and Permits for Failure to Comply with Order; Penalties for Violations.

Rule 120-3-23-.16. Enforcement; Additional Grounds for Revocation or Suspension of Licenses and Permits.

Rule 120-3-23-.17. Local Jurisdictions.

Rule 120-3-23-.18. Delegation of Authority by the Commissioner.

Rule 120-3-23-.19. Failure to Renew Certificate, Permit or License.

Rule 120-3-23-.20. Request for Modification of Specific Requirements.

Rule 120-3-23-.21. Effective Dates.

Rule 120-3-23-.22. Notes.

Rule 120-3-23-.23. Severability.

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Rule 120-3-24-.01. Promulgation and Purpose.

Rule 120-3-24-.02. Application.

Rule 120-3-24-.03. Definitions.

Rule 120-3-24-.04. Registration of Industry and Manufacturing Processes and Compliance with Codes and Standards Adopted.

Rule 120-3-24-.05. Fire Safety Information and Training to be Reported.

Rule 120-3-24-.06. State Minimum Fire Safety Standards with Modifications.

Rule 120-3-24-.07. Request for Modification of Specific Requirements.

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Rule 120-3-24-.09. Parking Space Designation for Persons with Disabilities.

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Rule 120-3-24-.11. Notes.

Rule 120-3-24-.12. Sovereign Immunity as to Carrying Out the Provisions of This Chapter; Legal Duties, Obligations, of Property Owners and Lessees.

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Rule 120-3-25-.02. Application.

Rule 120-3-25-.03. Definitions.

Rule 120-3-25-.04. Jurisdiction Numbered Tags.
Rule 120-3-25-.05. Qualification of Inspectors.
Rule 120-3-25-.06. Responsibility of Elevator Operations and Maintenance.
Rule 120-3-25-.07. Reporting of Accidents.
Rule 120-3-25-.08. New, Altered or Relocated Elevators.
Rule 120-3-25-.09. Temporary Use of Permanent Elevators, Temporary Construction Elevators and Transport Platforms During Construction.
Rule 120-3-25-.10. Existing Freight Elevators.
Rule 120-3-25-.11. Notice of Hearing and Penalties.
Rule 120-3-25-.12. Discontinuance of Operation.
Rule 120-3-25-.13. Repealed and Reserved.
Rule 120-3-25-.14. Fees.
Rule 120-3-25-.15. Existing Installation (General).
Rule 120-3-25-.16. Existing Installations (Special Purpose Personnel Elevators, Including Wheelchair Lifts).
Rule 120-3-25-.17. Existing Installations - Belt Manlifts.
Rule 120-3-25-.18. Existing Installations - Side Walk Elevators.
Rule 120-3-25-.19. Existing Installations - Dumbwaiters.
Rule 120-3-25-.20. New Installation (General).
Rule 120-3-25-.21. New Installation - Platform Lifts (Wheelchair Lift) and Stairway Chairlifts.
Rule 120-3-25-.22. Certificate to Perform Elevator Installations, Alterations, Repairs, Maintenance or Inspections.
Rule 120-3-25-.23. Insurance Requirements.
Subject 120-3-26. RULES AND REGULATIONS FOR BOILERS AND PRESSURE VESSELS.
Rule 120-3-26-.01. Promulgation and Purpose.
Rule 120-3-26-.02. Application.
Rule 120-3-26-.03. Definition of Terms.
Rule 120-3-26-.04. Administration.
Rule 120-3-26-.05. Certificate of Competency and Examination.
Rule 120-3-26-.06. State Inspection Fees.
Rule 120-3-26-.07. State Inspection Fees New Installation of Boilers and Installation of Secondhand Boilers or Pressure Vessels.
Rule 120-3-26-.08. Boiler and Pressure Vessel Inspection Requirements.
Rule 120-3-26-.09. Notification of Inspection.
Rule 120-3-26-.10. Notification of Accident.
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Rule 120-3-26-.12. Non-Vaporizing Fluid Heaters.

Rule 120-3-26-.13. Georgia State Special Boilers and Pressure Vessels.
Rule 120-3-26-.14. Non-Conforming or Non-Standard Boilers and Pressure Vessels.
Rule 120-3-26-.15. Boiler and Pressure Vessel Repair or Alteration.
Rule 120-3-26-.16. Reinstallation of Certain Boilers and Pressure Vessels.
Rule 120-3-26-.17. Boiler and Pressure Vessel Construction.
Rule 120-3-26-.18. Certificate of Authority to Install, Maintain and/or Service Boilers.
Rule 120-3-26-.19. Preparation for Certificate Inspection.
Rule 120-3-26-.20. Notice of Hearing and Penalties.
Rule 120-3-26-.21. Safety/Safety Relief Valves.
Rule 120-3-26-.22. Exceptions.
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Rule 120-3-27-.08. Insurance, Bond or Other Security.
Rule 120-3-27-.09. Operation, Amusement Rides.
Rule 120-3-27-.10. Maintenance and Inspection Records.
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Rule 120-3-27-.13. Manufacturer's Information.
Rule 120-3-27-.14. Brakes and Stops.
Rule 120-3-27-.15. Internal Combustion Engines.
Rule 120-3-27-.16. Wire Rope.
Rule 120-3-27-.17. Hydraulic Systems.
Rule 120-3-27-.18. Pressure Vessels, i.e., Vacuum Tanks.
Rule 120-3-27-.19. Passenger Tramways.
Rule 120-3-27-.20. Electrical Equipment.
Rule 120-3-27-.21. Grounding.
Rule 120-3-27-.22. Construction.
Rule 120-3-27-.23. Means of Access and Egress.
Rule 120-3-27-.24. Walkways and Ramps.
Rule 120-3-27-.25. Buildings and Structures as Part of an Amusement Ride.
Rule 120-3-27-.26. Fire Prevention.

Rule 120-3-27-.27. Water Flumes, Structural Design.
Rule 120-3-27-.28. Circulation Systems.
Rule 120-3-27-.29. Filters.
Rule 120-3-27-.30. Pumps.
Rule 120-3-27-.31. Inlets and Outlets.
Rule 120-3-27-.32. Piping.
Rule 120-3-27-.33. Waste Water Disposal.
Rule 120-3-27-.34. Water Quality.
Rule 120-3-27-.35. Disinfectant and Chemical Feeders.
Rule 120-3-27-.36. Electrical Safety and Lighting.
Rule 120-3-27-.37. Operation, Water Slides.
Rule 120-3-27-.38. Competence of Operators.
Rule 120-3-27-.39. Emergency Procedures.
Rule 120-3-27-.40. Power Outage.
Rule 120-3-27-.41. Kart Rules and Regulations.
Rule 120-3-27-.42. Imposition of Civil Penalties.
Rule 120-3-27-.43. Special Situations.
Rule 120-3-27-.44. Bungee Jumping.
Rule 120-3-27-.45. Definitions.
Rule 120-3-27-.46. Site and Operating Approval.
Rule 120-3-27-.47. Safety Space.
Rule 120-3-27-.48. Permanent Platform.
Rule 120-3-27-.49. Lowering System.
Rule 120-3-27-.50. Bungee Cord Requirements.
Rule 120-3-27-.51. Jump Harness.
Rule 120-3-27-.52. Ropes.
Rule 120-3-27-.53. Hardware.
Subject 120-3-28. RULES AND REGULATIONS FOR CARNIVAL RIDES.
Rule 120-3-28-.01. Purpose.
Rule 120-3-28-.02. Application.
Rule 120-3-28-.03. Definitions.
Rule 120-3-28-.04. Owner/Operator Responsibility; Rider Responsibility; Warnings and Signage.
Rule 120-3-28-.05. Application for Permit.
Rule 120-3-28-.06. Notice of Hearing and Penalties.
Rule 120-3-28-.07. Identification and Rating Plates.
Rule 120-3-28-.08. Rebuilt and Modified Rides.
Rule 120-3-28-.09. Control of Operation.

Rule 120-3-28-.10. Overspeeding and Overloading.
Rule 120-3-28-.11. Medical and First Aid.
Rule 120-3-28-.12. Fatalities, Personal Injury, and Accidents.
Rule 120-3-28-.13. Inspections.
Rule 120-3-28-.14. Mechanical Failure Reports.
Rule 120-3-28-.15. Removal of Parts.
Rule 120-3-28-.16. Load Tests.
Rule 120-3-28-.17. Design Criteria.
Rule 120-3-28-.18. Operations.
Rule 120-3-28-.19. Maintenance.
Rule 120-3-28-.20. Electrical.
Rule 120-3-28-.21. Daily Inspection.
Rule 120-3-28-.22. Special Situations.

ADMINISTRATIVE HISTORY

CHAPTER 120-1

An **Administrative History** will not be found following those Rules that have not been amended since they were initially filed on July 20, 1965. The **Administrative History** following each Rule that has been subsequently added, amended or repealed gives the date on which the Rule was originally filed and its effective date, as well as the date on which any amendment or repeal was filed and its effective date. Principal abbreviations used in the Administrative History are as follows:

f. - filed

eff. - effective

R. - Rule (Abbreviated only at the beginning of the control number)

Ch. - Chapter (Abbreviated only at the beginning of the control number)

ER. - Emergency Rule

Rev. -Revised

Note: Emergency Rules are listed in each Rule's Administrative History by Emergency Rule number, date filed and effective date. The Emergency Rule will be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency.

Chapters 120-1-1 entitled "Organization", 120-1-2 entitled "Practice and Procedure", 120-1-3 entitled "Definition and Interpretation of Certain Terms", 120-1-4 entitled "Manager's Qualifications", 120-1-5 entitled "Application for License, Forms", 120-1-6 entitled "Place of Business, Making Loans, Receiving Payments", 120-1-7 entitled "Books and Records", 120-1-8 entitled "Suspension, Revocation of License", 120-1-9 entitled "Advertising", 120-1-10 entitled "Loans; Installment Loans; Receipts and Other Papers Evidencing Indebtedness; Maximum Interest Per Month", 120-1-11 entitled "Insurance Written in Connection With Loans', 120-1-12 entitled "Computing the Refund Factor" have been adopted. Filed and effective July 20, 1965.

Chapter 120-1-13, entitled "Loan Tax," containing Rule 120-1-13-.01 was filed and effective on July 20, 1965.

Paragraph (7) of Rule 120-7-.02 has been amended. Filed December 22, 1965; effective January 10, 1966.

Rule 120-1-9-.01 has been amended by the repeal of subparagraph (n) and the adoption of a new subparagraph (n). Filed December 22, 1965; effective January 10, 1966.

Rule 120-1-9-.03 has been amended. Filed December 22, 1965; effective January 10, 1966.

Paragraph (2) of Rule 120-1-10-.04 has been amended. Filed December 22, 1965; effective January 10, 1966.

Rule 120-1-11-.02 has been amended by the repeal of subparagraph (3)(a) and by the adoption of a new subparagraph (3)(a). Filed December 22,1965; effective January 10, 1966.

Rule 120-1-11-.03 has been amended by the repeal of subparagraph (3)(a) and by the adoption of a new subparagraph (3)(a). Filed December 22, 1965; effective January 10, 1966.

Rule 120-1-9-.01 has been amended by the repeal of subparagraph (1)(i) and by the adoption of a new subparagraph (1)(i). Filed April 6, 1966; effective April 25, 1966.

Rule 120-1-10-.01 has been amended by the repeal of paragraph (2) and by the adoption of a new paragraph (2). Filed April 6, 1966; effective April 25, 1966.

Rule 120-1-11-.01 has been amended by the repeal of subparagraphs (3)(a) and (3)(b) and by the adoption of new subparagraphs (3)(a) and (3)(b). Filed April 6, 1966; effective April 25, 1966.

Paragraph (4) of Rule 120-1-10-.03 has been amended. Filed August 20, 1969; effective September 8, 1969.

Subparagraph (3)(g) of Rule 120-1-2-.14 has been amended. Filed April 2, 1971; effective April 22, 1971.

Rule 120-1-7-.02 has been amended by the adoption of subparagraph (3)(g). Filed April 2, 1971; effective April 22, 1971.

Rule 120-1-11-.03 has been amended by the repeal of paragraph (1) and the adoption of a new paragraph (1). Filed August 6, 1973; effective September 1, 1973, as specified by the Agency.

Chapter 120-1-14, entitled "Unfair Trade Practices," containing Rules 120-1-14-.01 through 120-1-14-.26, has been adopted. Filed January 3, 1974; effective January 23, 1974.

Paragraphs (1), (2) and (8) of Rule 120-1-1-.01 have been amended. Filed August 29, 1975; effective September 18, 1975.

Paragraphs (1) and (4) of Rule 120-1-2-.14 have been amended. Filed August 29, 1975; effective September 18, 1975.

Rule 120-1-3-.02 has been amended. Filed August 29, 1975; effective September 18, 1975.

Rule 120-1-7-.02 has been amended. Filed August 29, 1975; effective September 18, 1975.

Rule 120-1-9-.01 has been amended. Filed August 29, 1975; effective September 18, 1975.

Rules 120-1-14-.02 through 120-1-14-.04 have been amended. Filed August 29, 1975; effective September 18, 1975.

Rule 120-1-10-.01 has been amended by the repeal of paragraph (1) and the adoption of a new paragraph (1). Filed August 29, 1975; effective September 18, 1975.

Chapter 120-1-15, entitled "Maintenance Charges," containing Rules 120-1-15-.01 through 120-1-15-.07, has been adopted. Filed August 29, 1975; effective September 18, 1975.

Rule 120-1-11-.01 has been amended by the repeal of sub-paragraphs (2)(c), (2)(e), and (3)(b) and by the adoption of new sub-paragraphs (2)(c), (2)(e), and (3)(b); said Rule has been further amended by the adoption of sub-paragraphs (3)(c) and (3)(d). Filed March 8, 1977; effective March 28, 1977.

Rule 120-1-11-.02 has been amended by the repeal of sub-paragraphs (2)(a) and (2)(b) and by the adoption of new sub-paragraphs (2)(a) and (2)(b). Filed March 8, 1977; effective March 28, 1977.

Rule 120-1-11-.03 has been amended by the repeal of paragraph (2) and by the adoption of a new paragraph (2). Filed March 8, 1977; effective March 28, 1977.

Rule 120-1-11-.05 has been amended by the repeal of paragraph (2) and by the adoption of a new paragraph (2). Filed March 8, 1977; effective March 28, 1977.

Rule 120-1-11-.06 has been amended by the repeal of paragraph (3) and by the adoption of a new paragraph (3). Filed March 8, 1977; effective March 28, 1977.

Rule 120-1-15-.07 has been renumbered as 120-1-15-.08; Rules 120-1-15-.03 through 120-1-15-.06 have been amended and renumbered as 120-1-15-.04 through 120-1-15-.07, respectively, and a new Rule 120-1-15-.03 adopted. Filed June 28, 1977; effective July 18, 1977.

Rule 120-1-11-.03 has been amended by the repeal of paragraph (1) and by the adoption of a new paragraph (1). Filed November 10, 1980; effective January 1, 1981, as specified by the Agency.

Rule 120-1-11-.05 has been amended by the repeal of paragraph (3) and by the adoption of a new paragraph (3). Filed November 10, 1980; effective January 1, 1981, as specified by the Agency.

Rule 120-1-11-.08 has been adopted. Filed November 10, 1980; effective January 1, 1981, as specified by the Agency.

Rule 120-1-10-.03 has been amended by the repeal of paragraph (4) and by renumbering paragraph (5) as paragraph (4). Filed October 1, 1985; effective October 21, 1985. Rule 120-1-2-.02 has been amended by the repeal of paragraph (2) and by the adoption of a new paragraph (2). Filed March 11, 1988; effective June 1, 1988, as specified by the Agency.

Rule 120-1-2-.07 has been amended by renumbering paragraphs (7) through (13) as paragraphs (8) through (14), respectively, and by the adoption of a new paragraph (7). Filed March 11, 1988; effective June 1, 1988, as specified by the Agency.

Rule 120-1-11-.02 has been amended by the repeal of paragraphs (2) and (5) and by the adoption of new paragraphs (2), (5) and (6). Filed March 11, 1988; effective June 1, 1988, as specified by the Agency.

Rule 120-1-11-.03 has been amended by the adoption of paragraph (7). Filed March 11, 1988; effective June 1, 1988, as specified by the Agency.

Rule 120-1-14-.08 has been amended and subparagraph (3)(e) adopted. Filed August 4, 1989; effective September 29, 1989, as specified by the Agency.

Rule 120-1-11-.02 has been amended and paragraph (7) adopted. Filed May 9, 1990; effective October 1, 1990, as specified by the Agency.

Rule 120-1-11-.01 has been repealed and a new Rule of same title adopted; Rule 120-1-11-.02 has been amended. Filed October 12, 1993; effective November 1, 1993.

Rules 120-1-11-.01 and .02(2) have been amended. Filed December 6, 1993; effective December 26, 1993.

Chapters 120-1-1, 120-1-5, and 120-1-11 have been repealed and new Chapters adopted. Rules 120-1-2-.01, .02, .06 to .12, .14 to .17, 120-1-3-.02 to .04, 120-1-4-.05, 120-1-6-.03, 120-1-7-.01, .02, 120-1-9-.01, .02, 120-1-10-.02, .03, 120-1-14-.01 to .05, .17, .22, .26, 120-1-15-.03 to .06 have been repealed and new Rules adopted. Rules 120-1-2-.18, .19, 120-1-3-.07, 120-1-4-.08, 120-1-6-.04, 120-1-7-.04, 120-1-9-.05, 120-1-10-.05, 120-1-14-.27, and 120-1-15-.09 have been adopted. Filed November 19, 2004; effective January 1, 2005, as specified by the Agency.

Chapter 120-1-16 entitled "Closing Fees" and Rules 120-1-16-.01 through 120-1-16-.07 adopted. F. Aug. 8, 2013; eff. Aug. 28, 2013.

Editor's Note: Agency title changed. During the 2011-2012 Regular Session of the Georgia General Assembly, the legislature changed the title of this agency through Senate Bill 343. That bill amended the law in Chapter 5B of Title 50 of the Official Code of Georgia Annotated, relating to the State Accounting Office, so as to designate the state accounting office officer as the Comptroller General; to transfer the office, functions, duties, and responsibilities of the Comptroller General from the Commissioner of Insurance to the State Accounting Office; to provide for related matters; and to amend Chapter 14 of Title 45 of the Official Code of Georgia Annotated, relating to the Commissioner of Insurance, so as to conform such provisions to reflect the change in the transfer of the position and duties of the Comptroller General to the state accounting officer.

The title of this agency shall no longer include the Office of the Comptroller General. Accordingly, the title of this agency is amended from the "Office of Commissioner of Insurance, Safety Fire Commissioner, Industrial Loan Commissioner and Comptroller General" to the "Office of the Commissioner of Insurance, Safety Fire Commissioner and Industrial Loan Commissioner," as filed May 14, 2015, effective June 3, 2015. Therefore, the "Comptroller General" title as listed in any rule and regulation of this agency is hereby repealed.

Chapter 120-1 title amended from "Rules of Comptroller General Industrial Loan Department" to "Rules of Industrial Loan Commissioner." Chapter 120-2 title amended from "Rules of Comptroller General Office of Commissioner of Insurance" to "Rules of Commissioner of Insurance." Chapter 120-3 title amended from "Rules of Comptroller General Safety Fire Commissioner" to "Rules of Safety Fire Commissioner." F. May 14, 2015; eff. June 3, 2015.

Chapter 120-1-17 entitled "Convenience Fees" adopted. F. June 25, 2015; eff. July 15, 2015.

CHAPTER 120-2

An **Administrative History** will not be shown following those Rules that have not been amended since they were originally filed on July 20, 1965. The **Administrative History** following each Rule that has been subsequently added, amended, or repealed gives the date on which the Rule was filed and its effective date, except for amendments to Chapter 120-2-5. (**See Editor's Note, Chapter 120-2-5, p. 183.**) (**Note:** As pages bearing Rules that have not been amended since originally filed are necessarily reprinted, an Administrative History will be added to each). Principal abbreviations used in the Administrative History are as follows:

f. - filed

eff. - effective

R. - Rule (Abbreviated only at the beginning of the control number)

Ch. - Chapter (Abbreviated only at the beginning of the control number)

ER. - Emergency Rule

Rev. -Revised

Note: Emergency Rules are listed in each Rule's Administrative History by Emergency Rule number, date filed and effective date. The Emergency Rule will be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency.

Chapters 120-2-1 entitled "Organization", 120-2-2 entitled "Practice and Procedure", 120-2-3 entitled "Regulations Regarding Agents and Counselors for Life and Accident and Sickness", 120-2-4 entitled "Regulations Regarding Agents, Counselors, Solicitors, Brokers and Adjusters for Property, Casualty and Allied Lines", 120-2-5 entitled "Valuation Procedures and Instructions for Bonds and Stocks", 120-2-6 entitled "Form for Claiming Retaliatory Tax Credit", 120-2-7 entitled "Regulations Regarding Proxies, Consents, and Authorizations of Domestic Stock Issuers", 120-2-8 entitled "Domestic Stock and Mutual Insurers: Organization and Corporate Procedures", 120-2-9 entitled "Insider Trading of Domestic Stock Insurer Equity Securities", 120-2-10 entitled "Regulations Regarding Insurance Contract", 120-2-11 entitled "Regulations Regarding Industrial Life Insurance", 120-2-12 entitled "Advertising Accident Sickness Insurance", 120-2-13 entitled "Credit Life, Accident and Sickness Insurance", 120-2-14 entitled "Georgia Automobile Assigned Risk Plan" have been adopted. [Chapter 120-2-15 was not filed.] Filed and effective July 20, 1965.

Chapters 120-2-16 entitled "National Council Workmen's Compensation Unit Statistical Plan Manual" has been adopted. Filed and effective July 20, 1965. (The Statistical Plan Manual has not been published because of its size and bulk; copies may be obtained from the Agency.)

Chapter 120-2-17 entitled "Inland Marine Insurance Bureau Statistical Plan for Inland Marine Insurance" has been adopted. Filed and effective July 20, 1965. (The Statistical Plan Manual has not been published because of its size and bulk; copies may be obtained from the Agency.)

Chapter 120-2-18 entitled "Authorization and General Requirements for Doing Business" has been adopted. Filed and effective July 20, 1965. (The exhibits and forms have not been published because of the size and expense; copies may be obtained from the Agency.)

Editor's Note:

Under Ga. Laws 1967, p. 618 (Ga. Code Ann., Section 3A-124), the Insurance Department of the Office of the Comptroller General complied with the filing requirements of this Act by filing with the Office of the Secretary of State merely the name and designation of regulations, standards, and plans, provided such regulations, standards and plans were kept on file in the Office of the Comptroller General and were open for public examination and copying.

In accordance with Ga. Laws 1989, p. 681 (O.C.G.A. 50-13-21), the contents of all Rules and Regulations of the Commission of Insurance adopted on and after July 1, 1989 are filed and published by the Office of Secretary of State.

Paragraphs (7), (10), (11), (12), (13), and (14) of Rule 120-2-1-.04 have been amended. Filed December 3, 1965; effective December 22, 1965.

Rule 120-2-2-.26 has been amended by the repeal of subparagraph (1)(c) and by the adoption of a new subparagraph (1)(c). Filed December 3, 1965; effective December 22, 1965.

Chapter 120-2-5 has been repealed and a new Chapter 120-2-5 of the same title, containing Rules 120-2-5-.01 through 120-2-5.10, adopted. Filed December 3, 1965; effective December 22, 1965.

Chapter 120-2-7 has been repealed and a new Chapter 120-2-7 of the same title, containing Rules 120-2-7-.01 through 120-2-7-.13, adopted. Filed December 3, 1965; effective December 22, 1965.

Rules 120-2-18-.02, 120-2-18-.03, and 120-2-18-.04 have been repealed and new Rules of the same numbers adopted. Filed December 3, 1965; effective December 22, 1965.

Chapter 120-2-19, entitled "Property Insurance Regulations," containing Rule 120-2-19-.01, has been adopted. Filed December 6, 1965; effective December 25, 1965.

Chapter 120-2-16 has been amended by the adoption of a paragraph 12 to Section II-A relating to "Miscellaneous Premium" and a new paragraph 25 to Section III relating to "Losses." Filed April 22, 1966; effective May 11, 1966.

Rule 120-2-14-.08 has been amended by the repeal of paragraphs (4), (5), and (6) and by the adoption of new paragraphs (4), (5), and (6). Filed April 22, 1966; effective May 12, 1966.

Rule 120-2-14-.08 has been amended by the repeal of paragraph (12) and by the adoption of a new paragraph (12). Filed April 22, 1966; effective May 12, 1966.

Rule 120-2-14-.16 has been amended by the repeal of paragraphs (16) and (17) and by the adoption of new paragraphs (16) and (17). Filed April 22, 1966; effective May 12, 1966.

Rule 120-2-2-.27 has been adopted. Filed July 17, 1967; effective July 10, 1967, as specified by the Agency. **(See Editor's Note, p. 88.03.)**

Rule 120-2-14-.13 has been repealed and a new Rule 120-2-14-.13 adopted. Filed August 15, 1967; effective September 4, 1967. **(See Editor's Note, p. 88.03.)**

Rule 120-2-14-.14 has been amended by the repeal of subparagraphs (1)(a), (b), (c), (d), and paragraph (2) and by the adoption of new subparagraphs (1)(a), (b), (c), (d), and a new paragraph (2). Filed August 15, 1967; effective September 4, 1967. **(See Editor's Note, p. 88.03.)**

Rule 120-2-1-.07 has been adopted. Filed September 5, 1967; effective August 28, 1967. **(See Editor's Note, p. 88.03.)**

Rules 120-2-10-.01 and 120-2-10-.02 have been repealed and new Rules of the same numbers adopted. Filed November 13, 1967; effective November 1, 1967. **(See Editor's Note, p. 88.03.)**

Rules 120-2-10-.04 through 120-2-10-.10 have been adopted; Rule 120-2-10-.03 is reserved. Filed November 13, 1967; effective November 1, 1967. **(See Editor's Note, p. 88.03.)**

Chapter 120-2-15, entitled "Reporting of Policy Cancellations," containing Rules 120-2-15-.01 through 120-2-15-.03, has been adopted. Filed November 13, 1967; effective September 28, 1967. **(See Editor's Note, p. 88.03.)**

Rules 120-2-14-.09 and 120-2-14-.10 have been repealed and new Rules of the same numbers adopted. Filed March 4, 1968; effective March 24, 1968. **(See Editor's Note, p. 88.03.)**

Subparagraphs (2) (a) and (2) (b) of Rule 120-2-2-.22 have been amended. Filed August 15, 1968; effective July 1, 1968. **(See Editor's Note, p. 88.03.)**

The name of Chapter 120-2-14 has been changed from "Georgia Automobile Assigned Risk Plan" to "Georgia Automobile Insurance Plan." Filed September 20, 1968; effective September 10, 1968. **(See Editor's Note, p. 88.03.)**

Chapter 120-2-21, entitled "Insurance Premium Finance Companies," containing Rules 120-2-21-.01 through 120-2-21-.10, has been adopted. Filed August 29, 1969; effective July 16, 1969. **(See Editor's Note, p. 88.03.)**

Chapter 120-2-22, entitled "Georgia Variable Annuity Contract Regulation," containing Rules 120-2-22-.01 through 120-2-22-.07, has been adopted. Filed December 11, 1969; effective December 1, 1969. **(See Editor's Note, p. 88.03.)**

Rules 120-2-7-.01, 120-2-7-.02, 120-2-7-.03, 120-2-7-.05, 120-2-7-.06, 120-2-7-.07, 120-2-7-.09, and 120-2-7-.13 have been amended. Filed January 20, 1970; effective January 1, 1970. **(See Editor's Note, p. 88.03.)**

Rule 120-2-3-.05 has been repealed and a new Rule 120-2-3-.05 adopted. Filed July 1, 1970; effective July 1, 1970. **(See Editor's Note, p. 88.03.)**

Chapter 120-2-23, entitled "Georgia Insurance Holding Company Regulation," containing Rules 120-2-23-.01 through 120-2-23-.04, has been adopted. Filed and effective on October 30, 1970. **(See Editor's Note, p. 88.03.)**

Rule 120-2-2-.26 has been amended. Filed January 13, 1971; effective February 2, 1971. **(See Editor's Note, p. 88.03.)**

Rule 120-2-14-.03 has been amended. Filed January 13, 1971; effective February 2, 1971. **(See Editor's Note, p. 88.03.)**

Rules 120-2-14-.08 through 120-2-14-.16 have been amended. Filed January 13, 1971; effective February 2, 1971. **(See Editor's Note, p. 88.03.)**

Chapter 120-2-20, entitled "Unfair Trade Practices," containing Rule 120-2-20-.01, has been adopted. Filed June 5, 1972; effective June 25, 1972. It was determined by the

Comptroller General's office that this Chapter had never been filed; therefore this note is being made to substantiate the recent filing date. **(See Editor's Note, p. 88.03.)**

Chapter 120-2-24, entitled "Replacement of Life Insurance Policies," containing Rules 120-2-24-.01 through 120-2-24-.10, has been adopted. Filed June 5, 1972; effective June 25, 1972. **(See Editor's Note, p. 88.03.)**

Chapter 120-2-25, entitled "Exemption From Filing Certain Life and Health Policy Forms," containing Rules 120-2-25-.01 through 120-2-25-.08, has been adopted. Filed June 5, 1972; effective June 25, 1972. **(See Editor's Note, p. 88.03.)**

Emergency Rule 120-2-0.1 was filed on June 9, 1972, to become effective June 15, 1972, as specified by the Agency, to remain in effect for a period of 120 days or until the adoption of permanent Rules covering the same subject matter superseding said Emergency Rule. **(See Editor's Note, p. 88.03.)**

Chapter 120-2-26, entitled "Financing Premiums of Life Insurance Policies," containing Rules 120-2-26-.01 through 120-2-26-.14, has been adopted. Filed July 18, 1972; effective August 7, 1972. **(See Editor's Note, p. 88.03.)**

Chapter 120-2-27, entitled "Credit Life Insurance Forms," containing Rules 120-2-27-.01 through 120-2-27-.03, has been adopted replacing Emergency Rule 120-2-0.1, which expired on October 12, 1972. Filed December 12, 1972; effective January 1, 1973. **(See Editor's Note, p. 88.03.)**

Chapter 120-2-12 has been repealed and a new Chapter 120-2-12 of the same title, containing Rules 120-2-12-.01 through 120-2-12-.22, adopted. Filed May 29, 1973; effective June 18, 1973. **(See Editor's Note, p. 88.03.)**

Emergency Rule 120-2-28-0.2 was filed and effective on December 20, 1974, to remain in effect for a period of 120 days. **(See Editor's Note, p. 88.03.)**

Rule 120-2-14-.08 has been amended by renumbering paragraphs (15) and (16) as (16) and (17) and by the adoption of a new paragraph (15). Filed December 17, 1974; effective January 6, 1975. **(See Editor's Note, p. 88.03.)**

Rule 120-2-14-.16 has been amended by the repeal of paragraph (6) and by the adoption of a new paragraph (6). Filed December 17, 1974; effective January 6, 1975. **(See Editor's Note, p. 88.03.)**

Emergency Rule 120-2-28-0.2 has been repealed and in lieu thereof Chapter 120-2-28, entitled "Georgia Motor Vehicle Accident Reparations Act," containing Rules 120-2-28-.01 through 120-2-28-.11, adopted. Filed January 16, 1975; effective February 5, 1975. **(See Editor's Note, p. 88.03.)**

Rule 120-2-1-.02 has been amended by the repeal of paragraph (10) and by the adoption of a new paragraph (10). Filed February 7, 1975; effective February 27, 1975. **(See Editor's Note, p. 88.03.)**

Rule 120-2-2-.13 has been amended by the repeal of subparagraph (2) (a) and paragraph (4) and by the adoption of new subparagraph (2) (a) and a new paragraph (4). Filed February 7, 1975; effective February 27, 1975. **(See Editor's Note, p. 88.03.)**

Rule 120-2-14-.03 has been repealed and reserved. Filed April 30, 1975; effective May 20, 1975. **(See Editor's Note, p. 88.03.)**

Rule 120-2-14-.18 has been amended. Filed April 30, 1975; effective May 20, 1975. **(See Editor's Note, p. 88.03.)**

Rule 120-2-14-.04 has been repealed and a new Rule 120-2-14-.04 adopted. Filed April 30, 1975; effective May 20, 1975. **(See Editor's Note, p. 88.03.)**

Rule 120-2-14-.07 has been amended by the repeal of paragraph (3) and by the adoption of a new paragraph (3). Filed April 30, 1975; effective May 20, 1975. **(See Editor's Note, p. 88.03.)**

Rule 120-2-14-.24 has been adopted. Filed April 30, 1975; effective May 20, 1975. **(See Editor's Note, p. 88.03.)**

Rules 120-2-14-.01, 120-2-14-.02, 120-2-14-.05, 120-2-14-.08, 120-2-14-.10, 120-2-14-.11, 120-2-14-.13, 120-2-14-.16, and 120-2-14-.23 have been repealed and new Rules of the same numbers adopted. Filed April 30, 1975; effective May 20, 1975. **(See Editor's Note, p. 88.03.)**

Rule 120-2-14-.08 has been amended by the repeal of subparagraph (2) (d) and by the adoption of a new subparagraph (2) (d). Filed August 1, 1975; effective August 21, 1975. **(See Editor's Note, p. 88.03.)**

Rule 120-2-25-.06 has been amended by the repeal of subparagraph (1) (f) and by the adoption of a new subparagraph (1) (f). Filed December 3, 1975; effective December 23, 1975. **(See Editor's Note, p. 88.03.)**

Rule 120-2-21-.01 has been amended. Filed March 9, 1976; effective March 29, 1976. **(See Editor's Note, p. 88.03.)**

Rules 120-2-21-.07 and 120-2-21-.08 have been repealed and new Rules of the same numbers adopted. Filed March 9, 1976; effective March 29, 1976. **(See Editor's Note, p. 88.03.)**

Rule 120-2-21-.11 has been adopted. Filed March 9, 1976; effective March 29, 1976. **(See Editor's Note, p. 88.03.)**

Rule 120-2-14-.02 has been repealed and a new Rule 120-2-14-.02 adopted. Filed December 21, 1976; effective January 10, 1977. **(See Editor's Note, p. 88.03.)**

Rule 120-2-14-.08 has been amended by the repeal of paragraph (5) and by the adoption of a new paragraph (5). Filed December 21, 1976; effective January 10, 1977. **(See Editor's Note, p. 88.03.)**

Rule 120-2-21-.11 has been amended by the repeal of paragraph (3) and by the adoption of a new paragraph (3). Filed December 21, 1976; effective January 10, 1977: **(See Editor's Note, p. 88.03.)**

Chapter 120-2-29, entitled "Prepaid Legal Services Plans," containing Rules 120-2-29-.01 through 120-2-29-.17, has been adopted. Filed February 28, 1977; effective March 20, 1977. **(See Editor's Note, p. 88.03.)**

Rule 120-2-21-.11 has been amended by the repeal of paragraph (3) and by the adoption of a new paragraph (3). Filed March 8, 1977; effective March 28, 1977. **(See Editor's Note, p. 88.03.)**

Chapter 120-2-27 has been repealed and a new Chapter 120-2-27, entitled "Credit Life and Credit Accident and Sickness Insurance Forms," containing Rules 120-2-27-.01 through 120-2-27-.18, adopted. Filed March 8, 1977; effective July 1, 1977, as specified by the Agency. **(See Editor's Note, p. 88.03.)**

Emergency Rule 120-2-30-0.3, containing Rules 120-2-30-0.3-.01 through 120-2-30-0.3-.07, has been adopted. Filed and effective on August 5, 1977 to remain in effect for a period of 120 days, as specified by the Agency. (Emergency Rule 120-2-30-0.3 expired on December 2, 1977.) **(See Editor's Note, p. 88.03.)**

Subparagraphs (3) (a) 3. and (3) (c) of Rule 120-2-14-.08 have been amended. Filed December 1, 1977; effective December 21, 1977. **(See Editor's Note, p. 88.03.)**

Rule 120-2-14-.10 has been amended by the repeal of paragraph (1) and by the adoption of a new paragraph (1). Filed December 1, 1977; effective December 21, 1977. **(See Editor's Note, p. 88.03.)**

Chapter 120-2-30, entitled "Issuance and Repayment of Surplus Loans of Domestic Mutual Insurers," containing Rules 120-2-30-.01 through 120-2-30-.07, has been adopted. Filed December 19, 1977; effective January 8, 1978. **(See Editor's Note, p. 88.03.)**

Subparagraphs (3)(d), (3)(e), and (3)(e)3. of Rule 120-2-14-.08 have been amended. Filed April 28, 1978; effective May 18, 1978. **(See Editor's Note, p. 88.03.)**

Rule 120-2-14-.08 has been amended by the adoption of paragraph (14). Filed November 22, 1978; effective December 12, 1978. **(See Editor's Note, p. 88.03.)**

Rule 120-2-14-.11 has been amended by the repeal of paragraph (3) and by the adoption of a new paragraph (3). Filed November 22, 1978; effective December 12, 1978. **(See Editor's Note, p. 88.03.)**

Rules 120-2-14-.13 and 120-2-14-.18 have been repealed and new Rules of the same numbers adopted. Filed November 22, 1978; effective December 12, 1978. **(See Editor's Note, p. 88.03.)**

Chapter 120-2-32, entitled "Variable Life Insurance," containing Rules 120-2-32-.01 through 120-2-32-.14, has been adopted. Filed October 18, 1979; effective November 7, 1979. **(See Editor's Note, p. 88.03.) (Chapter 120-2-31 is reserved.)**

Rule 120-2-15-.01 has been amended by the repeal of paragraph (2) and by the adoption of a new paragraph (2). Filed October 23, 1979; effective November 12, 1979. **(See Editor's Note, p. 88.03.)**

Rule 120-2-15-.04 has been adopted. Filed October 23, 1979; effective November 12, 1979. **(See Editor's Note, p. 88.03.)**

Chapter 120-2-8 has been repealed and Chapter number reserved. Filed April 11, 1980; effective July 1, 1980, as specified by the Agency. **(See Editor's Note, p. 88.03.)**

Rules 120-2-10-.05, 120-2-10-.06, and 120-2-10-.10 have been repealed and new Rules of the same numbers adopted. Filed April 11, 1980; effective July 1, 1980, as specified by the Agency. **(See Editor's Note, p. 88.03.)**

Rule 120-2-10-.09 has been repealed and Rule number reserved. Filed April 11, 1980; effective July 1, 1980, as specified by the Agency. **(See Editor's Note, p. 88.03.)**

Rules 120-2-10-.11 and 120-2-10-.12 have been adopted. Filed April 11, 1980; effective July 1, 1980, as specified by the Agency. **(See Editor's Note, p. 88.03.)**

Chapter 120-2-11 has been repealed and a new Chapter 120-2-11, entitled "Advertising of Life Insurance and Annuity Contracts," containing Rules 120-2-11-.01 through 120-2-11-.14, adopted. Filed April 11, 1980; effective July 1, 1980, as specified by the Agency. **(See Editor's Note, p. 88.03.)**

Chapter 120-2-31, entitled "Life Insurance Solicitation Regulation," containing Rules 120-2-31-.01 through 120-2-31-.08, was filed on April 11, 1980; effective July 1, 1980, as specified by the Agency. **(See Editor's Note, p. 88.03.)**

Chapter 120-2-33, entitled "Health Maintenance Organizations (HMO)," containing Rules 120-2-33-.01 through 120-2-33-.18, has been adopted. Filed April 21, 1980; effective May 11, 1980. **(See Editor's Note, p. 88.03.)**

Rule 120-2-10-.03 has been adopted. Filed August 29, 1980; effective September 18, 1980. **(See Editor's Note, p. 88.03.)**

Chapter 120-2-8, entitled "Medicare Supplement Insurance," containing Rules 120-2-8-.01 through 120-2-8-.11, has been adopted. Filed October 28, 1980; effective November 17, 1980. **(See Editor's Note, p. 88.03.)**

Rule 120-2-2-.13 has been repealed and a new Rule 120-2-2-.13 adopted. Filed May 5, 1981; effective June 1, 1981, as specified by the Agency. **(See Editor's Note, p. 88.33.)**

Rule 120-2-2-.14 has been repealed (including exhibits A through H) and a new Rule 120-2-2-.14 adopted. Filed May 5, 1981; effective June 1, 1981, as specified by the Agency. **(See Editor's Note, p. 88.33.)**

Rules 120-2-2-.15 and 120-2-2-.16 have been repealed. Filed May 5, 1981; effective June 1, 1981, as specified by the Agency. **(See Editor's Note, p. 88.33.)**

Rule 120-2-2-.22 has been repealed and a new Rule 120-2-2-.22 adopted. Filed May 5, 1981; effective June 1, 1981, as specified by the Agency. **(See Editor's Note, p. 88.33.)**

Rule 120-2-19-.02 has been adopted. Filed on May 5, 1981; effective June 1, 1981, as specified by the Agency. **(See Editor's Note, p. 88.33.)**

Rule 120-2-14-.01 has been amended by the repeal of subparagraph (1)(a) and by the adoption of a new subparagraph (1)(a). Filed September 2, 1981; effective September 22, 1981.

Rule 120-2-14-.07 has been repealed and Rule number reserved. Filed September 2, 1981; effective September 22, 1981.

Rule 120-2-14-.02, 120-2-14-.03, 120-2-14-.04, 120-2-14-.05, 120-2-14-.06, and 120-2-14-.08 have been repealed and new Rules of the same numbers adopted. Filed September 2, 1981; effective September 22, 1981.

Rule 120-2-14-.10 has been amended by the repeal of subparagraph (1)(a)3. and by the adoption of a new subparagraph (1)(a)3. Filed September 2, 1981; effective September 22, 1981.

Rule 120-2-14-.11 has been amended by the repeal of the first unnumbered paragraph, and by the adoption of a new first unnumbered paragraph; said Rule has been further amended by the repeal of paragraphs (2) and (3) and by the adoption of new paragraphs (2), (3), and (4). Filed September 2, 1981; effective September 22, 1981.

Rules 120-2-14-.12 and 120-2-14-.13 have been repealed and new Rules of the same numbers adopted. Filed September 2, 1981; effective September 22, 1981.

Rule 120-2-13-.14 has been amended by the repeal of subparagraph (8)(a) and by the adoption of a new subparagraph (8)(a). Filed September 2, 1981; effective September 22, 1981.

Rule 120-2-14-.15 has been repealed and Rule number reserved. Filed September 2, 1981; effective September 22, 1981.

Rule 120-2-14-.16 has been amended by the repeal of paragraphs (5), (6), and (7), and by the adoption of new paragraphs (5) and (6). Filed September 2, 1981; effective September 22, 1981.

Rule 120-2-14-.18 has been amended by the adoption of subparagraph (2)(g). Filed September 2, 1981; effective September 22, 1981.

Rule 120-2-14-.19 has been amended by the repeal of paragraph (1), and by the adoption of a new paragraph (1). Filed September 2, 1981; effective September 22, 1981.

Rule 120-2-14-.20 has been amended by the repeal of paragraphs (1) and (2), and by the adoption of new paragraphs (1) and (2). Filed September 2, 1981; effective September 22, 1981.

Rule 120-2-14-.21 has been amended by the repeal of paragraph (2), and by the adoption of a new paragraph (2). Filed September 2, 1981; effective September 22, 1981.

Chapter 120-2-34, entitled "Group Self-Insurance Funds," containing Rules 120-2-34-.01 through 120-2-34-.21, has been adopted. Filed March 16, 1982; effective April 15, 1982, as specified by Order of the Insurance Commissioner.

Chapter 120-2-24 has been repealed and a new Chapter 120-2-24, of the same title, containing Rules 120-2-24-.01 through 120-2-24-.11, adopted. Filed April 28, 1982; effective June 1, 1981, as specified by Order of the Insurance Commissioner.

Rules 120-2-2-.15 and 120-2-2-.16 have been repealed and new Rules of the same numbers adopted. Filed May 21, 1982; effective June 10, 1982.

Paragraph 120-2-2-.22 has been amended. Filed May 21, 1982; effective June 10, 1982.

Paragraph 120-2-3-.03, 120-2-3-.04 and 120-2-3-.07 have been repealed and new Rules of the same numbers adopted. Filed May 21, 1981; effective June 10, 1982.

Rule 120-2-3-.06 has been repealed. Filed May 21, 1981; effective June 10, 1982.

Rule 120-2-4-.04 has been repealed and a new Rule 120-2-4-.04 adopted. Filed May 21, 1982; effective June 10, 1982.

Rule 120-2-4-.17 has been repealed. Filed May 21, 1982; effective June 10, 1982.

Rule 120-2-2-.04 has been amended by deleting the last sentence of paragraph (8). Filed March 31, 1983; effective May 1, 1983, as specified by the Agency.

Rule 120-2-18-.04 has been repealed and a new Rule 120-2-18-.04 adopted. Filed March 31, 1983; effective May 1, 1983, as specified by the Agency.

Rule 120-2-18-.05 has been adopted. Filed March 31, 1983; effective May 1, 1983, as specified by the Agency.

Chapter 120-2-35, entitled "Book-Entry Securities," containing Rules 120-2-35-.01 through 120-2-35-.06 has been adopted. Filed March 31, 1983; effective May 1, 1983, as specified by the Agency.

Rule 120-2-10-.09 has been adopted. Filed July 1, 1983; effective August 1, 1983 as specified by the Agency.

Rule 120-2-18-.01 has been amended by the repeal of paragraph (2) and by the adoption of a new paragraph (2). Filed October 28, 1983; effective December 1, 1983, as specified by the Agency.

Chapter 120-2-28 has been repealed and a new Chapter 120-2-28 adopted. Filed October 28, 1983; effective December 1, 1983, as specified by the Agency.

Rule 120-2-35-.06 has been amended by deleting the word "not" in the second line of Part 1. (f) of Exhibit B. Filed October 28, 1983; effective December 1, 1983.

Chapter 120-2-16 has been repealed and Chapter number reserved. Filed December 1, 1983; effective January 1, 1984, as specified by the Agency.

Chapter 120-2-36, entitled "Workers' Compensation Insurance Statistical Agent-Forms and Rating Plans," containing Rules 120-2-36-.01 through 120-2-36-.12, has been adopted. Filed December 1, 1983; effective January 1, 1984, as specified by the Agency.

Chapter 120-2-37, entitled "Georgia Workers' Compensation Rate Filings," containing Rules 120-2-37-.01 through 120-2-37-.09, has been adopted. Filed December 1, 1983; effective January 1, 1984, as specified by the Agency.

Chapter 120-2-38, entitled "Georgia Workers' Compensation Insurance Plan," containing Rules 120-2-38-.01 through 120-2-38-.11, has been adopted. Filed December 1, 1983; effective January 1, 1984, as specified by the Agency.

Chapter 120-2-14 has been repealed and a new Chapter of the same title, containing Rules 120-2-14-.01 through 120-2-14-.17, adopted. Filed October 5, 1984; effective November 1, 1984, as specified by the Agency.

Rule 120-2-27-.03 has been amended by the repeal of paragraphs (2), (3) and (5) and by the adoption of new paragraphs (2) and (3); Rule has further been amended by the repeal of subparagraphs (2)(a) and (2)(c) and by the adoption of new subparagraphs (2)(a) and (2)(c). Filed December 7, 1984; effective June 1, 1985, as specified by the Agency.

Rule 120-2-27-.04 has been amended by the repeal of paragraph (2) and by the adoption of a new paragraph (2). Filed December 7, 1984; effective June 1, 1985, as specified by the Agency.

Rule 120-2-27-.07 has been repealed and a new Rule 120-2-27-.07 adopted. Filed December 7, 1984; effective June 1, 1985, as specified by the Agency.

Rule 120-2-27-.09 has been amended by the repeal of paragraphs (3), (4) and (5) and by the adoption of new paragraphs (3), (4) and (5). Filed December 7, 1984; effective June 1, 1985, as specified by the Agency.

Rule 120-2-27-.14 has been repealed and a new Rule 120-2-27-.14 adopted. Filed December 7, 1984; effective June 1, 1985, as specified by the Agency.

Rule 120-2-27-.18 has been repealed and a new Rule 120-2-27-.18 adopted. Filed December 7, 1984; effective June 1, 1985, as specified by the Agency.

Chapter 120-2-39, entitled "Annuity Mortality Table," containing Rules 120-2-39-.01 through 120-2-39-.07, has been adopted. Filed December 7, 1984; effective January 1, 1985, as specified by the Agency.

Chapter 120-2-32 has been repealed and a new Chapter of the same title containing Rules 120-2-32-.01 through 120-2-32-.14 adopted. Filed October 2, 1985; effective December 1, 1985, as specified by the Agency.

Rule 120-2-10-.11 has been renumbered as Rule 120-2-10-.13 and a new Rule 120-2-10-.11 adopted. Filed July 24, 1986; effective September 1, 1986, as specified by the Agency.

Rule 120-2-10-.12 has been renumbered as Rule 120-2-10-.14 and Rule 120-2-10-.12 reserved for future use. Filed July 24, 1986; effective September 1, 1986, as specified by the Agency.

Chapter 120-2-33 repealed and a new Chapter 120-2-33, entitled "Health Maintenance Organizations," containing Rules 120-2-33-.01 through 120-2-33-.15, adopted. Filed July 24, 1986; effective September 1, 1986, as specified by the Agency.

Rule 120-2-18-.04 has been amended by the repeal of paragraph (1) and by the adoption of a new paragraph (1). Filed January 14, 1987; effective February 15, 1987, as specified by the Agency.

Rule 120-2-18-.06 has been adopted. Filed January 14, 1987; effective February 15, 1987, as specified by the Agency.

Chapter 120-2-39 has been repealed and a new Chapter 120-2-39, entitled "Life and Annuity Mortality Tables," containing Rules 120-2-39-.01 through 120-2-39-.03, adopted. Filed January 14, 1987; effective February 15, 1987, as specified by the Agency.

Chapter 120-2-40, entitled "Public Self-Insurance Funds," containing Rules 120-2-40-.01 through 120-2-40-.21, adopted. Filed April 10, 1987; effective April 30, 1987.

Chapter 120-2-41, entitled "Modifications to Classifications of Risks," containing Rules 120-2-41-.01 through 120-2-41-.11, adopted. Filed November 10, 1987; effective January 1, 1988, as specified by the Agency.

Chapter 120-2-42, entitled "Readability Standards for Personal Lines Policies," containing Rules 120-2-42-.01 through 120-2-42-.09, adopted. Filed May 20, 1988; effective July 1, 1988, as specified by the Agency.

Rule 120-2-2-.13 has been repealed and a new Rule of the same title adopted. Filed January 17, 1989; effective February 15, 1989, as specified by the Agency.

Rule 120-2-2-.16 has been amended by the repeal of paragraph (4) and a new paragraph (4) adopted. Filed January 17, 1989; effective February 15, 1989, as specified by the Agency.

Chapter 120-2-5 has been repealed and a new chapter of the same title adopted. Filed January 17, 1989; effective February 15, 1989, as specified by the Agency.

Chapter 120-2-16 entitled "Long-Term Care Insurance Regulation," containing Rules 120-2-16-.01 through 120-2-16-.10, adopted. Filed January 17, 1989; effective February 15, 1989, as specified by the Agency.

Chapter 120-2-43 entitled "Medical or Life-style Questions on Applications and Underwriting Guidelines AIDS and ARC," containing Rules 120-2-43-.01 through 120-2-43-.06, adopted. Filed January 17, 1989; effective February 15, 1989, as specified by the Agency.

Chapter 120-2-44 entitled "Preferred Provider Arrangements," containing Rules 120-2-44-.01 through 120-2-44-.10, adopted. Filed February 9, 1989; effective March 1, 1989, as specified by the Agency.

Chapter 120-2-45 entitled "Captive Insurance Companies," containing Rules 120-2-45-.01 through 120-2-45-.17, adopted. Filed February 9, 1989; effective March 1, 1989, as specified by the Agency.

Chapter 120-2-46, entitled "Automobile Self-Insurance Regulation," containing Rules 120-2-46-.01 through 120-2-46-.09 has been adopted. Filed May 26, 1989; effective June 30, 1989, as specified by the Agency.

Chapter 120-2-1 has been repealed and a new Chapter of the same title adopted. Filed August 24, 1989; effective September 15, 1989, as specified by the Agency.

Rule 120-2-2-.02 has been repealed and reserved. Filed August 24, 1989; effective September 15, 1989, as specified by the Agency.

Rule 120-2-3-.03 has been repealed and a new Rule of the same title adopted. Filed August 24, 1989; effective September 15, 1989, as specified by the Agency.

Rule 120-2-4-.03 has been repealed and a new Rule of the same title adopted and Rule 120-2-4-.20 has been adopted. Filed August 24, 1989; effective September 15, 1989, as specified by the Agency.

Chapter 120-2-8 has been repealed and a new Chapter of the same title adopted. Filed August 24, 1989; effective September 15, 1989, as specified by the Agency.

Chapter 120-2-10 has been repealed and a new Chapter of the same titled adopted. Filed August 24, 1989; effective January 1, 1990, as specified by the Agency.

Chapter 120-2-16 has been repealed and a new Chapter of the same title adopted. Filed August 24, 1989; effective September 15, 1989, as specified by the Agency.

Chapter 120-2-35 has been repealed and a new Chapter of the same title adopted. Filed August 24, 1989; effective September 15, 1989, as specified by the Agency.

Chapter 120-2-47 has been adopted, containing Rules 120-2-47-.01 through 120-2-47-.12. Filed August 24, 1989; effective September 15, 1989, as specified by the Agency.

Rule 120-2-10-.12 has been repealed and Rule number reserved. Filed May 9, 1990; effective June 15, 1990, as specified by the Agency.

Chapter 120-2-18 has been repealed and a new Chapter, same title, adopted. Filed May 9, 1990; effective June 15, 1990, as specified by the Agency.

Chapter 120-2-34 has been repealed and a new Chapter, same title, adopted. Filed May 9, 1990; effective June 15, 1990, as specified by the Agency.

Rule 120-2-27-.03 has been repealed and a new Rule, same title, adopted. Filed May 9, 1990; effective June 15, 1990, as specified by the Agency.

Chapter 120-2-8 has been repealed and a new Chapter, same title, adopted. Filed September 18, 1990; effective December 1, 1990, as specified by the Agency.

Chapter 120-2-48, entitled "Group Coordination of Benefits," containing Rules 120-2-48-.01 to 120-2-48-.08, has been adopted. Filed September 18, 1990; effective January 1, 1991, as specified by the Agency.

Rule 120-2-3-.07 has been repealed and a new Rule, same title, adopted. Filed June 25, 1991; effective July 15, 1991.

Rule 120-2-4-.04 has been repealed and a new Rule, same title, adopted. Filed June 25, 1991; effective July 15, 1991.

Paragraph (4) of Rule 120-2-38-.06 has been adopted. Filed May 29, 1992; effective June 18, 1992.

Chapter 120-2-8 has been repealed and a new Chapter, same title, adopted. Filed July 9, 1992; effective July 29, 1992.

Chapter 120-2-23 has been repealed and a new Chapter entitled "Insurance Holding Company Regulations," containing Rules 120-2-23-.01 to 120-2-23-.19, adopted. Filed July 14, 1992; effective August 3, 1992.

Chapter 120-2-51 entitled "Continuing Care Providers and Facilities," containing Rules 120-2-51-.01 to 120-2-51-.03 adopted. Filed August 7, 1992; effective August 27, 1992.

Paragraph (5) has been repealed and a new paragraph adopted of Rule 120-2-44-.04. Filed August 26, 1992; effective September 17, 1992.

Chapter 120-2-3 has been repealed and a new Chapter entitled "Regulations Regarding Agents, Subagents, Adjusters and Counselors" adopted; Chapter 120-2-4 has been repealed. Filed September 10, 1992; effective September 30, 1992.

Rules 120-2-8-.04, .10(1), .13(1)(c) and .16(3)(d) were amended. Filed January 8, 1993; effective January 28, 1993.

Chapter 120-2-56 entitled "Workers' Compensation Health Benefits Pilot Projects" containing Rules 120-2-56-.01 and 120-2-56-.02 has been adopted. Filed February 9, 1993; effective March 1, 1993.

Chapter 120-2-50 entitled "Multiple Employer Self-Insured Health Plans" containing Rules 120-2-50-.01 to 120-2-50-.16 has been adopted. Filed March 19, 1993; effective April 8, 1993.

Chapter 120-2-49 entitled "Administrator Regulation", containing Rules 120-2-49-.01 to 120-2-49-.19, has been adopted. Filed May 19, 1993; effective June 8, 1993.

Rules 120-2-36-.06, .11, .12 have been repealed and new Rules adopted; Chapter 120-2-38 has been repealed and a new Chapter of same title adopted. Filed August 10, 1993; effective August 30, 1993.

Chapter 120-2-54 entitled "Regulation to Define Standards and Commissioner's Authority for Companies Deemed to be in Hazardous Financial Condition" containing Rules 120-2-54-.01 to 120-2-54-.05 and Chapter 120-2-55 entitled "Administrative Supervision" containing Rules 120-2-55-.01 to 120-2-55-.09 have been adopted. Filed August 19, 1993; effective September 8, 1993.

Rule 120-2-18-.07 has been amended; Chapter 120-2-61 entitled "Life and Health Reinsurance Agreements" containing Rules 120-2-61-.01 to 120-2-61-.08 has been adopted; Chapter 120-2-63 entitled "Purchasing Groups" containing Rules 120-2-63-.01 to 120-2-63-.04 has been adopted; Chapter 120-2-64 entitled "Producer Controlled Property and Casualty Insurers Regulation," containing Rules 120-2 64-.01 to 120-2-64-.04 has been adopted. Filed September 8, 1993; effective September 28, 1993.

Rule 120-2-49-.02 has been amended. Filed September 15, 1993; effective October 5, 1993.

Chapter 120-2-27 has been amended. Filed October 12, 1993; effective November 1, 1993.

Rules 120-2-27-.03, .07, .08, .09, .14 have been amended and .19 repealed. Filed December 6, 1993; effective December 26, 1993.

Chapter 120-2-59 entitled "Standard Claim Form for Accident and Sickness Insurance", containing Rules 120-2-59-.01 to .06, has been adopted. Filed January 11, 1994; effective January 31, 1994.

Chapter 120-2-52 entitled "Fair and Equitable Settlement of First Party Property Damage Claims," containing Rules 120-2-52-.01 to 120-2-52-.08 adopted. Filed March 29, 1994; effective April 18, 1994. Chapter 120-2-53, entitled "Cancellation and Nonrenewal Hearing Regulation Private Passenger Automobile and Motorcycle" containing Rules 120-2-53-.01 to .05, has been adopted. Filed April 7, 1994; effective April 27, 1994.

Chapter 120-2-15 repealed, new Chapter entitled "Reporting of Policy Cancellations, Nonrenewals and Declinations" adopted. Chapter 120-2-60 containing Rules 120-2-60-.01 to .16, Chapter 120-2-65 containing Rules 120-2-65-.01 to .07, and Chapter 120-2-66 containing Rules 120-2-66-.01 to .07 have been adopted. Filed October 7, 1994; effective October 27, 1994.

Chapter 120-2-62 entitled "Assumption Reinsurance" containing Rules 120-2-62-.01 to 120-2-62-.07 has been adopted. Filed August 11, 1995; effective August 31, 1995.

Chapter 120-2-67 entitled "Portability" containing Rules 120-2-67-.01 to 120-2-67-.11 has been adopted. Filed February 29, 1996; effective March 20, 1996.

Emergency Rule 120-2-8-0.4 entitled "Medicare Supplement Insurance Minimum Standards Regulation" containing Rules 120-2-8-0.4-.01 to 120-2-8-0.4-.23 was filed on April 30, 1996; effective April 28, 1996, to remain in effect for 120 days or until the effective date of permanent Rules covering the same subject matter superseding said Emergency Rule has been adopted, as specified by the Agency. Said Emergency Rule was adopted to comply with section 1882 of Title

XVIII of the Social Security Act. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Chapter 120-2-68 entitled "Child Wellness" containing Rules 120-2-68-.01 to 120-2-68-.07 has been adopted. Filed April 30, 1996; effective May 20, 1996.

Chapter 120-2-58 entitled "Certification of Private Review Agents" adopted. Filed May 23, 1996; effective June 12, 1996.

Chapter 120-2-35 has been repealed and a new Chapter adopted. Chapters 120-2-69 entitled "Requirements For Insurance Company Custodial Accounts", 120-2-71 entitled "Sale of Annuities By Financial Institutions" and 120-2-75 entitled "Regulation of Provider Sponsored Health Care Corporations" have been adopted. Filed July 19, 1996; effective August 8, 1996.

Chapters 120-2-15, 120-2-65 and 120-2-66 have been repealed and new Chapters adopted. Filed August 8, 1996; effective August 28, 1996.

Chapter 120-2-3 has been repealed and a new Chapter adopted. Filed August 9, 1996; effective August 29, 1996.

Emergency Rule 120-2-28-0.5-.15 was filed and effective on August 15, 1996, the date of adoption, to remain in effect for 120 days or until the effective date of a Permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. Said Emergency Rule was adopted to offer medical payments coverage to applicants for private passenger automobile insurance. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule 120-2-8-0.4 has been repealed and Chapter 120-2-8 has been adopted. Filed September 6, 1996; effective September 26, 1996.

Chapter 120-2-38 has been repealed and a new Chapter adopted. Filed September 12, 1996; effective October 2, 1996.

Chapters 120-2-6 and 120-2-28 have been repealed and new Chapters adopted. Rule 120-2-18-.07 has been amended. Chapter 120-2-73 entitled "Annuity and Deposit Fund Disclosure Regulation" has been adopted. Filed November 25, 1996; effective December 15, 1996.

Chapter 120-2-44 has been repealed and new chapter, same title, adopted. Filed January 21, 1997; effective February 10, 1997.

Chapters 120-2-72, entitled "Special Insurance Fraud Fund", 120-2-76, entitled "Sale of Insurance by Financial Institutions" have been adopted. Filed February 18, 1997; effective March 10, 1997.

Chapters 120-2-21 and 120-2-49 have been amended. Filed June 10, 1997; effective June 30, 1997.

Chapters 120-2-74 entitled "Actuarial Opinion and Memorandum Regulations" and 120-2-78 entitled "Credit for Reinsurance" have been adopted. Filed July 9, 1997; effective July 29, 1997.

Rules 120-2-14-.03, .04, .05 and 120-2-52-.03 have been amended. Filed September 5, 1997; effective September 25, 1997.

Chapter 120-2-53 has been repealed and a new Chapter entitled "Cancellation and Nonrenewal Regulation" adopted. Filed September 16, 1997; effective October 6, 1997.

Chapter 120-2-34 has been repealed and a new Chapter adopted. Filed November 4, 1997; effective November 24, 1997.

Emergency Rule 120-2-33-0.6-.06 was filed and effective on November 10, 1997, as specified by the Agency, to remain in effect for 120 days or until the effective date of a Permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted to comply with mandate in the Federal Health Insurance Portability and Accountability Act of 1996 and State of Georgia House Bill 654 (1997). (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule Chapter 120-2-67-0.7 was filed and effective on November 10, 1997, as specified by the Agency, to remain in effect for 120 days or until the effective date of a Permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted to comply with mandate in the Federal Health Insurance Portability and Accountability Act of 1996 and State of Georgia House Bill 654 (1997). (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule Chapter 120-2-81-0.8 was filed January 2, 1998; effective December 31, 1997, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted to comply with the Federal Health Insurance Portability and Accountability Act of 1996 and State of Georgia House Bill 654 (1997). (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule 120-2-10-0.9-.11 A was filed January 2, 1998; effective December 31, 1997, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted to comply with the Federal Health Insurance Portability and Accountability Act of 1996 and State of Georgia House Bill 654 (1997). (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Rule 120-2-33-.06 has been amended and Chapter 120-2-67 repealed and a new Chapter entitled "Portability and Renewability" adopted. Filed February 17, 1998; effective March 9, 1998.

Chapter 120-2-80 entitled "Patient Protection Act" has been adopted. Filed March 20, 1998; effective April 9, 1998.

Rule 120-2-10-.12 has been repealed and a new Rule adopted. Filed March 25, 1998; effective April 14, 1998.

Chapter 120-2-28 has been repealed and a new chapter adopted. Filed April 14, 1998; effective May 4, 1998.

Chapter 120-2-81 entitled "Individual Health Insurance Assignment Systems" and Rule 120-2-10-.11 A have been adopted. Filed April 29, 1998; effective May 19, 1998.

Chapter 120-2-3 has been amended. Filed July 23, 1998; effective August 12, 1998.

Chapter 120-2-77 entitled "Large Commercial Insurance Risk Rating" has been adopted. Filed December 22, 1998; effective January 11, 1999.

Chapter 120-2-8 has been repealed and a new Chapter adopted. Filed April 7, 1999; effective April 27, 1999.

Chapter 120-2-59 has been repealed and a new Chapter adopted. Filed April 30, 1999; effective May 20, 1999.

Chapter 120-2-82 entitled "Coverage for Management and Treatment of Diabetes" has been adopted. Filed November 12, 1999; effective December 2, 1999.

Emergency Rule Chapter 120-2-83-0.10 was filed and effective on November 24, 1999, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted "to provide for the implementation of the consumer choice option as defined in O.C.G.A. § 33-20A-9.1." (This Emergency Rule will not be published, copies may be obtained from the Agency.)

Rules 120-2-3-.06, .07, .09, .15, .21, .45, .46 and .47 have been amended. Filed January 14, 2000; effective February 3, 2000. Chapter 120-2-79 entitled "Health Plan Purchasing Cooperatives" has been adopted. Filed February 23, 2000; effective March 14, 2000.

Chapter 120-2-83 entitled "Consumer Choice Option" has been adopted. Filed March 3, 2000; effective March 23, 2000.

Rule 120-2-77-.03 has been amended. Filed August 25, 2000; effective September 14, 2000.

Chapter 120-2-87 entitled "Regulations Governing the Collection, Use, and Disclosure of Information Gathered in Connection with Insurance Transactions" has been adopted. Filed July 24, 2001; effective August 13, 2001.

Rule 120-2-10-.12 has been repealed and a new Rule adopted. Filed May 23, 2002; effective November 1, 2002, as specified by the Agency.

Rules 120-2-58-.03 and 120-2-80-.07 have been amended. Filed June 5, 2002; effective June 25, 2002.

Emergency Rule Chapter 120-2-88-0.11 has been adopted. Filed June 28, 2002; effective July 1, 2002, as specified by the Agency, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule adopted Rules for Standards of Diabetes Care. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Rule 120-2-10-.12 has been repealed and a new Rule adopted. Filed August 15, 2002; effective November 1, 2002, as specified by the Agency.

Chapter 120-2-82 has been repealed and a new Chapter adopted. Filed October 8, 2002; effective October 28, 2002.

Chapter 120-2-3 has been repealed and a new Chapter adopted. Chapter 120-2-89 entitled "Surplus Lines Insurance Regulation" has been adopted. Filed January 15, 2003; effective February 4, 2003.

Emergency Rule Chapter 120-2-18-0.12 adopted. Filed and effective July 8, 2003, the date of adoption, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule was adopted to encourage insurers to seek licensure in Georgia. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Chapter 120-2-18 has been repealed superseding Emergency Rule Chapter 120-2-18-0.12 and a new Chapter adopted. Filed November 5, 2003; effective November 25, 2003.

Rules 120-2-3-.07 and .09 have been amended. Rule 120-2-3-.16 has been repealed and a new Rule adopted. Filed August 23, 2004; effective September 12, 2004.

Emergency Rule Chapter 120-2-92-0.13 adopted. Filed October 4, 2004; effective August 3, 2004, the date of adoption, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule was adopted to amend the chapter on Health Maintenance Organizations. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule Chapter 120-2-92-0.14 adopted. Filed November 29, 2004; effective December 1, 2004, as specified by the Agency, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule was adopted to amend the chapter on Health Maintenance Organizations. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Rule 120-2-2-.25 has been repealed. Chapter 120-2-6 has been repealed and a new Chapter adopted. Rule 120-2-14-.04 has been repealed and a new Rule adopted. Chapter 120-2-90 entitled "Standard Nonforfeiture and Valuation for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits Regulation" has been adopted. Filed January 28, 2005; effective February 17, 2005.

Chapter 120-2-92 entitled "Independent Accreditation of Health Maintenance Organizations" has been adopted superseding Emergency Rules Chapters 120-2-92-0.13 and 120-2-92-0.14. Filed March 10, 2005; effective March 30, 2005.

Emergency Rule 120-2-72-0.15-.05 and Emergency Rule Chapter 120-2-91-0.16 adopted. Filed June 29, 2005; effective June 28, 2005, the date of adoption, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding these Emergency Rules are adopted, as specified by the Agency. These Emergency Rules were adopted to amend the Participation in Fund Rule and adopt a new chapter for Minimum Nonforfeiture Values for Individual Deferred Annuities. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Rule 120-2-72-.05 has been repealed and a new Rule adopted superseding Emergency Rule 120-2-72-0.15-.02. Chapter 120-2-91 entitled "Minimum Nonforfeiture Values for Individual Deferred Annuities" has been adopted superseding Emergency Rule Chapter 120-2-91-0.16. Filed June 24, 2005; effective July 14, 2005.

Rule 120-2-3-.28 has been amended. Chapter 120-2-8 has been repealed and a new Chapter adopted. Filed August 19, 2005; effective September 8, 2005.

Emergency Rule Chapter 120-2-47-0.17 adopted. Filed and effective September 16, 2005, the date of adoption, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding these Emergency Rules are adopted, as specified by the Agency. This Emergency Rules was adopted to amend Chapter 120-2-47 entitled "Vehicle and Automobile Club Service Contracts". (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Chapter 120-2-93 entitled "Life Settlements Regulation" has been adopted. Filed October 14, 2005; effective November 13, 2005.

Chapter 120-2-47 has been adopted superseding Emergency Rule Chapter 120-2-47-0.17.

Chapter 120-2-49 has been repealed and a new Chapter adopted. Filed December 9, 2005; effective December 29, 2005.

Emergency Rules 120-2-19-0.18-.01, and .03, and Emergency Rule Chapter 120-2-20-0.19 adopted. Filed and effective February 20, 2006, the date of adoption, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding these Emergency Rules are adopted, as specified by the Agency. This Emergency Rules was adopted to amend Chapter 120-2-19 entitled "Property Insurance Regulations" and Chapter 120-

2-20 entitled "Unfair Trade and Claims Settlement Practices". (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Emergency Rules 120-2-19-0.20-.01, and .03, and Emergency Rule Chapter 120-2-20-0.21 adopted. Filed June 13, 2006; effective June 20, 2006, as specified by the Agency, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding these Emergency Rules are adopted, as specified by the Agency. This Emergency Rules was adopted to amend Chapter 120-2-19 entitled "Property Insurance Regulations" and Chapter 120-2-20 entitled "Unfair Trade and Claims Settlement Practices". (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Rules 120-2-19-.01 and .03 have been adopted superseding Emergency Rules 120-2-19-0.20-.01 and .03. Chapter 120-2-20 has been adopted superseding Emergency Rule Chapter 120-2-20-0.21. Filed September 22, 2006; effective October 12, 2006.

Rules 120-2-60-.03 and .07 have been amended. Chapter 120-2-94 entitled "Suitability in Annuity Transactions" has been adopted. Filed October 10, 2006; effective October 30, 2006.

Chapter 120-2-90 has been repealed and a new Chapter adopted. Filed December 11, 2006; effective January 1, 2007, as specified by the Agency.

Chapter 120-2-7 submitted for publishing on March 6, 2007.

Chapters 120-2-11, 120-2-12, and 120-2-22 submitted for publishing on March 7, 2007.

Chapters 120-2-25, 120-2-26, 120-2-30, 120-2-37, 120-2-39, 120-2-41, 120-2-42, 120-2-43, and 120-2-46 submitted for publishing on March 15, 2007.

Chapters 120-2-24, 120-2-27, 120-2-31, 120-2-32, and 120-2-33 submitted for publishing on April 6, 2007.

Chapter 120-2-95 entitled "Military Sales Practices" has been adopted. Filed August 8, 2007; effective September 1, 2007, as specified by the Agency.

Rule 120-2-28-.06 has been repealed and a new Rule adopted. Filed December 7, 2007; effective December 27, 2007.

Chapter 120-2-16 has been repealed and a new Chapter adopted. Filed March 27, 2008; effective April 16, 2008.

Chapter 120-2-72 has been amended. Filed December 4, 2008; effective December 24, 2008.

Emergency Rule Chapter 120-2-8-0.22 adopted. Filed May 29, 2009; effective June 1, 2009, as specified by the Agency, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding these Emergency Rules are adopted, as specified by the Agency. This Emergency Rules was adopted to amend Chapter 120-2-8 entitled

"Medicare Supplement Insurance". (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Rules 120-2-3-.07, .08, .11, .14, .21, .23 to .25, .28, .32, .34, and .40 have been repealed and new Rules adopted. Rules 120-2-3-.09, .12, .15, .16, .19, .29, .31, .44 and 120-2-16-.34 have been amended. Filed July 16, 2009; effective August 5, 2009.

Chapter 120-2-8 has been adopted superseding Emergency Rule Chapter 120-2-8-0.22. Filed September 3, 2009; effective September 23, 2009.

Rule 120-2-10-.12 has been amended. Chapter 120-2-96 entitled "Georgia Affordable HSA Eligible High Deductible Health Plan" has been adopted. Filed October 20, 2009; effective November 9, 2009.

Chapter 120-2-93 has been repealed and a new Chapter adopted. Filed October 29, 2009; effective November 18, 2009.

Rules 120-2-60-.03 to .07, .09 to .16 have been repealed and new Rules adopted. Rules 120-2-60-.17 to .19 have been adopted. Filed November 19, 2009; effective December 9, 2009.

ER Chapter 120-2-.23 -98 adopted. F. Aug. 26, 2011; eff. Aug. 27, 2011, as specified by the Agency.

Chapter 120-2-100 entitled "Limited Purpose Subsidiaries" adopted. F. Nov. 8, 2011; eff. Nov. 28, 2011.

Chapter 120-2-99 entitled "Sale of Individual Health Insurance Products Approved in Other States" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Chapter 120-2-74 has been repealed and a new Chapter adopted. F. Dec. 17, 2010; eff. Jan. 6, 2011.

Chapter 120-2-98 adopted. F. Dec. 6, 2011; eff. Dec. 26, 2011.

Rule 120-2-20-.03 amended. F. Feb. 10, 2012; eff. Mar. 1, 2012.

Rule 120-2-20-.04 entitled "Severability" adopted. F. Feb. 10, 2012; eff. Mar. 1, 2012.

Chapter 120-2-97 entitled "Pharmacy Benefits Manager Regulation" adopted. Filed March 16, 2011; effective April 5, 2011.

Emergency Rules 120-2-3-.24 -.06, 120-2-3-.24 -.09, 120-2-3-.24 -.18, 120-2-3-.24 -.46, 120-2-3-.24 -.47, and 120-2-3-.24 -.48 adopted. F. Jun. 12, 2012; eff. Jun. 12, 2012, as specified by the Agency (This Emergency Rule will not be published; copies may be obtained from the Agency).

Emergency Rules 120-2-3-0.25-.05, 120-2-3-0.25-.15, 120-2-3-0.25-.16, 120-2-3-0.25-.19, 120-2-3-0.25-.29, 120-2-3-0.25-.31, 120-2-3-0.25-.34, 120-2-3-0.25-.35, 120-2-3-0.25-.39, 120-2-3-0.25-.45 adopted. F. Jun. 28, 2012; eff. Jun. 28, 2012, as specified by the Agency (This Emergency Rule will not be published; copies may be obtained from the Agency).

Emergency Rules 120-2-3-.24 -.06, 120-2-3-.24 -.09, 120-2-3-.24 -.18, 120-2-3-.24 -.46, 120-2-3-.24 -.47, and 120-2-3-.24 -.48 repealed. F. Sep. 10, 2012; eff. Sep. 30, 2012.

Emergency Rules 120-2-3-0.25-.05, 120-2-3-0.25-.15, 120-2-3-0.25-.16, 120-2-3-0.25-.19, 120-2-3-0.25-.29, 120-2-3-0.25-.31, 120-2-3-0.25-.34, 120-2-3-0.25-.35, 120-2-3-0.25-.39, and 120-2-3-0.25-.45 repealed. F. Sep. 10, 2012; eff. Sep. 30, 2012.

Rules 120-2-3-.05, 120-2-3-.15, 120-2-3-.16, 120-2-3-.19, 120-2-3-.20, 120-2-3-.31, 120-2-3-.34, 120-2-3-.35, 120-2-3-.39, 120-2-3-.45, 120-2-3-.06, 120-2-3-.09, 120-2-3-.18, 120-2-3-.46, 120-2-3-.47, and 120-2-3-.48 adopted. F. Sep. 10, 2012; eff. Sep. 30, 2012.

Rules 120-2-47-.02, 120-2-47-.03, 120-2-47-.05, 120-2-47-.08, 120-2-47-.10, 120-2-47-.13 amended. Rule 120-2-47-.12 repealed and reserved. F. Nov. 1, 2012; eff. Nov. 21, 2012.

Rules 120-2-3-.47 and 120-2-3-.48 repealed and readopted. Rule 120-2-3-.49 adopted. F. Nov. 26, 2012; eff. Dec. 16, 2012.

Chapter 120-2-101 and rules 120-2-101-.01 through 120-2-101-.06 adopted. F. Dec. 7, 2012; eff. Dec. 27, 2012.

Rules 120-2-54-.01, 120-2-54-.02, 120-2-54-.03, 120-2-54-.04 amended. F. Jan. 3, 2013; eff. Jan. 23, 2013.

Rules 120-2-3-.06, 120-2-3-.16, 120-2-3-.25, amended. Rule 120-2-3-.39 repealed and new rule adopted. F. Apr. 1, 2013; eff. Apr. 21, 2013.

Chapter 120-2-102 and Rules 120-2-102-.01 through 120-2-102-.10 adopted. F. Apr. 17, 2013; eff. May 7, 2013.

Chapter 120-2-103 and Rules 120-2-103-.01 through 120-2-103-.09 adopted. F. May 6, 2013; eff. May 26, 2013.

Rules 120-2-72-.04, 120-2-72-.05, 120-2-72-.06, and 120-2-72-.08 repealed and readopted. F. Jun. 7, 2013; eff. Jun. 27, 2013.

Emergency Rules 120-2-3-0.26-.08 and 120-2-3-0.27-.50 adopted. F. Jul. 9, 2013; eff. Jul. 9, 2013.

Chapter 120-2-104 and Rules 120-2-104-.01 through 120-2-104-.06 adopted. F. Sep. 6, 2013; eff. Sep. 26, 2013.

Emergency Rules 120-2-3-0.26-.08 and 120-2-3-0.27-.50 repealed. Rules 120-2-3-.08, 120-2-3-.48, 120-2-3-.49 repealed and new rules adopted. Rule 120-2-3-.50 adopted. F. Oct. 15, 2013; eff. Nov. 4, 2013.

Rules 120-2-23-.03, .04, .06, .07, .09 and .11 amended. Rules 120-2-23-.12 through 120-2-23-.19 repealed and new Rules adopted. Rules 120-2-23-.20 and .21 adopted. F. Nov. 6, 2013; eff. Nov. 26, 2013.

Rules 120-2-3-.09, 120-2-3-.15, 120-2-3-.19 amended. F. Apr. 16, 2014; eff. May 6, 2014.

Rule 120-2-39-.01 repealed and new rule adopted. Rules 120-2-39-.04 through .09 and Appendixes I through IV adopted. Rules 120-2-73-.01 and .02 amended. Appendix to Rule 120-2-73-.05 repealed and new Appendix adopted. F. Oct. 8, 2014; eff. Jan. 1, 2015, as specified by the Agency.

Rule 120-2-27-.06 repealed and new rule adopted. Rule 120-2-27-.08 amended. F. Feb. 20, 2015; eff. Mar. 12, 2015.

Editor's Note: Agency title changed. During the 2011-2012 Regular Session of the Georgia General Assembly, the legislature changed the title of this agency through Senate Bill 343. That bill amended the law in Chapter 5B of Title 50 of the Official Code of Georgia Annotated, relating to the State Accounting Office, so as to designate the state accounting office officer as the Comptroller General; to transfer the office, functions, duties, and responsibilities of the Comptroller General from the Commissioner of Insurance to the State Accounting Office; to provide for related matters; and to amend Chapter 14 of Title 45 of the Official Code of Georgia Annotated, relating to the Commissioner of Insurance, so as to conform such provisions to reflect the change in the transfer of the position and duties of the Comptroller General to the state accounting officer.

The title of this agency shall no longer include the Office of the Comptroller General. Accordingly, the title of this agency is amended from the "Office of Commissioner of Insurance, Safety Fire Commissioner, Industrial Loan Commissioner and Comptroller General" to the "Office of the Commissioner of Insurance, Safety Fire Commissioner and Industrial Loan Commissioner," as filed May 14, 2015, effective June 3, 2015. Therefore, the "Comptroller General" title as listed in any rule and regulation of this agency is hereby repealed.

Chapter 120-1 title amended from "Rules of Comptroller General Industrial Loan Department" to "Rules of Industrial Loan Commissioner." Chapter 120-2 title amended from "Rules of Comptroller General Office of Commissioner of Insurance" to "Rules of Commissioner of Insurance." Chapter 120-3 title amended from "Rules of Comptroller General Safety Fire Commissioner" to "Rules of Safety Fire Commissioner." F. May 14, 2015; eff. June 3, 2015.

Chapter 120-2-60 repealed and new chapter of same title adopted. F. June 25, 2015; eff. July 15, 2015.

Rule 120-2-23-.21 repealed and new rule adopted. Rule 120-2-.23 -.22 adopted. F. July 15, 2015; eff. Aug. 4, 2015.

Chapter 120-2-94 repealed and new chapter of same title adopted. F. Aug. 7, 2015; eff. Aug. 27, 2015.

Chapter 120-2-45 repealed and new chapter of same title adopted. Chapter 120-2-45 "Editor's Note" rescinded. Rule 120-2-72-.05 amended. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rules 120-2-3-.12, 120-2-3-.15 amended. F. Sep. 21, 2015; eff. Mar. 1, 2016, as specified by the Agency.

Rules 120-2-14-.04, .05, .07, .08, .13, .14 amended. Chapter 120-2-14 "Editor's Note" rescinded. Rules 120-2-20-.03, 120-2-60-.15 amended. F. Oct. 1, 2015; eff. Oct. 21, 2015.

Rule 120-2-2-.25 adopted. F. Feb. 3, 2016; eff. Feb. 23, 2016.

Chapter 120-2-51 repealed and new chapter of same title adopted. F. Mar. 24, 2016; eff. Apr. 13, 2016.

Rules 120-2-3-.06, .09, .18, .46 amended. F. June 6, 2016; eff. Aug. 1, 2016, as specified by the Agency.

Rule 120-2-18-.05 amended. F. Oct. 21, 2016; eff. Nov. 10, 2016.

Rule 120-2-72-.05 amended. F. Dec. 12, 2016; eff. Jan. 1, 2017.

Rule 120-2-44-.11 adopted. F. Mar. 9, 2017; eff. Mar. 29, 2017.

Rule 120-2-103-.07(1), **c**orrection of typographical error in paragraph (1) as submitted by the Agency on August 14, 2017, partial sentence ("*No person, wherever located, shall demand or request the issuance of a certificate of*") deleted and paragraph (1) in its entirety added as originally filed. Effective August 14, 2017.

Rules 120-2-3-.03, .05 amended. F. Jan. 25, 2018; eff. Feb. 14, 2018.

Emergency Rule 120-2-8-0.29-.09 adopted. F. Dec. 5, 2019; eff. Dec. 16, 2019. The Emergency Rule will be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Rule 120-2-3-.24 repealed and new rule adopted. Rule 120-2-23-.19 amended. Subject 120-2-2 repealed and new Subject of same title adopted. Subject 120-2-105 entitled "Corporate Governance Annual Disclosure" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-8-.09.1 adopted. Rules 120-2-49-.09, 120-2-72-.05 amended. F. Mar. 20, 2020; eff. Apr. 13, 2020, as specified by the Agency.

CHAPTER 120-3

The **Administrative History** following each Rule gives the date on which the Rule was originally filed and its effective date, as well as the date on which any amendment or repeal was filed and its effective date. Principal abbreviations used in the Administrative History are as follows:

f. - filed

eff. - effective

R. - Rule (Abbreviated only at the beginning of the control number)

Ch. - Chapter (Abbreviated only at the beginning of the control number)

ER. - Emergency Rule

Rev. -Revised

Note: Emergency Rules are listed in each Rule's Administrative History by Emergency Rule number, date filed and effective date. The Emergency Rule will be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency.

The contents of the Rules and Regulations of the Safety Fire Commissioner are not printed in the Official Compilation Rules and Regulations of the State of Georgia. By Ga. Laws 1967, p. 618 (Ga. Code Ann., Section 3A-124), the General Assembly of Georgia amended the Georgia Administrative Procedure Act (Ga. Laws 1964, p. 338; Ga. Code Ann., Chapter 3A) by the addition of the following provision relating to the filing of Rules and Regulations of the Safety Fire Commissioner.

"As to such regulations, standards and plans as required by law to be filed and kept on file with the Office of the Secretary of State, the Fire Safety Department and the Insurance Department of the Office of the Comptroller General may comply with the filing requirements of this Act by filing with the Office of the Secretary of State merely the name and designation of such regulations, standards and plans, provided such regulations, standards and plans are kept on file in the Office of the Comptroller General by the titles otherwise applicable under this Act, and such regulations, standards and plans are open for public examination and copying.

The Fire Safety Department and the Insurance Department of the Office of Comptroller General may also satisfy the procedure for conduct of hearings on contested cases and rule-making required under this Act by following the provisions of Chapter 2 of the Georgia Insurance Code, Chapter 56-2, Georgia Code, as amended."

On July 20, 1965, the Comptroller General filed with the Secretary of State Original Rules for the Fire Safety Department, but said Rules and Regulations were not in proper form for printing and distribution as a part of the Rules and Regulations of the State of Georgia. *Before said Rules and Regulations could be prepared in proper form for printing and distribution, the General Assembly enacted Ga. Laws 1967, p. 618, whereby the Rules and Regulations of the Fire Safety Department are filed with the Secretary of State by name and designation only.*

On January 29, 1968, the Comptroller General, as the Georgia Safety Fire Commissioner, filed with the Secretary of State, under Ga. Laws 1967, p. 618 (Ga. Code Ann., Section 3A-124), *the names and designations* of the Rules and Regulations (Chapters 120-3-1 through 120-3-7, and 120-3-10 through 120-3-16; Chapters 120-3-8 and 120-3-9 reserved.) relative to the Safety Fire Department.

Pursuant to said filing, the Comptroller General provided that as of April 1, 1968, all previous Rules and Regulations of the Georgia Safety Fire Department would be superseded by the Rules and Regulations as filed on January 29, 1968. **The Comptroller General stated that all of said Rules, Regulations and Standards are on file in the Office of Comptroller General and are open for public examination and copying.**

Chapter 120-3-1, entitled "Organization of the Office of the Safety Fire Commissioner," containing Rules 120-3-1-.01 through 120-3-1-.07, was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.

Chapter 120-3-2, entitled "Rules of Practice and Procedure," containing Rules 120-3-2-.01 through 120-3-2-.10, was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.

Chapter 120-3-3, entitled "The Prevention of Loss of Life and Property from Fire, Panic from Fear of Fire, Explosions or Related Hazards, in Buildings, Structures, Occupancies and Facilities as specified in the 1949 Georgia Safety Fire Act, as Amended, containing Rules 120-3-3-.01, was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.

Chapter 120-3-4, entitled "Fire Prevention Inspection and Licensing of Carnivals and Circuses," containing Rules 120-3-4-.01 through 120-3-4-.06, was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.

Chapter 120-3-5, entitled "Mobile/or Portable Classrooms," containing Rules 120-3-5-.01 through 120-3-5-.06, was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.

Chapter 120-3-6 reserved.

Chapter 120-3-7 reserved.

Chapter 120-3-8 reserved.

Chapter 120-3-9 reserved.

Chapter 120-3-10, entitled "Explosives and Blasting Agents," containing Rules 120-3-10-.01 through 120-3-10-.07, was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.

Chapter 120-3-11, entitled "Flammable and Combustible Liquids," containing Rules 120-3-11-.01 through 120-3-11-.26, was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.

Chapter 120-3-12, entitled "The Storing and Handling of Anhydrous Ammonia," containing Rules 120-3-12-.01 through 120-3-12-.05, was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.

Chapter 120-3-13, entitled "Welding Gases," containing Rules 120-3-13-.01 through 120-3-13-.06, was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.

Chapter 120-3-14, entitled "Natural Gas Systems," containing Rules 120-3-14-.01 through 120-3-14-.04, was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.

Chapter 120-3-15; entitled "Dry Cleaning Plants and Fluids," containing Rules 120-3-15-.01 through 120-3-15-.04, was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.

Chapter 120-3-16, entitled "Liquefied Petroleum Gases," containing Rules 120-3-16-.01 through 120-3-16-.09, was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.

Chapter 120-3-6, entitled "General Regulations," containing Rules 120-3-6-.01 through 120-3-6-.03, was filed on June 12, 1968; effective April 1, 1968, as specified by the Agency.

Rule 120-3-11-.05 has been amended. Filed June 12, 1968; effective April 1, 1968, as specified by the Agency.

Chapter 120-3-7, entitled "Factory Manufactured Movable Homes, Mobile Homes, Relocatable Homes," containing Rules 120-3-7-.01 through 120-3-7-.09, was filed on October 1, 1968; effective September 26, 1968, as specified by the Agency.

Chapter 120-3-18, entitled "Fire Safety Inspection and Certification of Motor Vehicle Racetracks and Grandstands," containing Rules 120-3-18-.01 through 120-3-18-.11, was filed on August 17, 1970; effective June 16, 1970, as specified by the Agency. (Chapter 120-3-17 reserved.)

Chapter 120-3-17, entitled "Liquefied Natural Gas," containing Rules 120-3-17-.01 through 120-3-17-.04, was filed on January 13, 1971; effective January 7, 1971, as specified by the Agency.

Rules 120-3-11-.01 through 120-3-11-.26 have been amended. Filed January 13, 1971; effective January 7, 1971, as specified by the Agency.

Chapter 120-3-7 has been repealed and a new Chapter 120-3-7, entitled "Factory Manufactured Mobile Homes," containing Rules 120-3-7-.01 through 120-3-7-.16, adopted. Filed August 8, 1974; effective September 1, 1974, as specified by the Agency.

Chapter 120-3-3 has been repealed and a new Chapter 120-3-3 of the same title, containing Rules 120-3-3-.01 through 120-3-3-.04, adopted. Filed February 8, 1979; effective March 1, 1979, as specified by the Agency.

Rule 120-3-3-.04 has been repealed and a new Rule 120-3-3-.04 adopted. Filed November 10, 1980; effective November 30, 1980.

Rule 120-3-3-.05 has been adopted. Filed November 10, 1980; effective November 30, 1980.

Chapter 120-3-11 has been repealed and a new Chapter 120-3-11 of the same title, containing Rules 120-3-11-.01 through 120-3-11-.12, adopted. Filed November 10, 1980; effective November 30, 1980.

Chapter 120-3-13 has been repealed and a new Chapter 120-3-13 of the same title, containing Rules 120-3-13-.01 through 120-3-13-.07, adopted. Filed November 10, 1980; effective November 30, 1980.

Chapter 120-3-14 has been repealed and a new Chapter 120-3-14 of the same title, containing Rules 120-3-14-.01 through 120-3-14-.08, adopted. Filed November 10, 1980; effective November 30, 1980.

Chapter 120-3-16 has been repealed and a new Chapter 120-3-16 of the same title, containing Rules 120-3-16-.01 through 120-3-16-.11, adopted. Filed November 10, 1980; effective November 30, 1980.

Chapter 120-3-17 has been repealed and a new Chapter 120-3-17 of the same title, containing Rules 120-3-17-.01 through 120-3-17-.07, adopted. Filed November 10, 1980; effective November 30, 1980.

Rule 120-3-18-.02 has been amended by the adoption of paragraph (5). Filed November 10, 1980; effective November 30, 1980.

Rule 120-3-3-.05 has been repealed and a new Rule 120-3-3-.05 adopted. Filed April 1, 1981; effective August 1, 1981, as specified by the Agency.

Rule 120-3-3-.06 has been adopted. Filed April 1, 1981; effective August 1, 1981, as specified by the Agency.

Rules 120-3-3-.01 has been amended by the repeal of paragraphs (2) and (3) and by renumbering paragraph (4) as (2). Filed August 6, 1982; effective September 1, 1982, as specified by the Agency.

Rule 120-3-3-.02 has been amended by the adoption of paragraphs (2) and (3). Filed August 6, 1982; effective September 1, 1982, as specified by the Agency.

Rule 120-3-3-.03 has been amended by: renumbering subparagraphs (8)(b), (c), (d), (e), (f), (g), (h), (i), (j), (k), and (l) as (8)(h), (i), (j), (k), (l), (m), (n), (o), (p), (q), and (r), respectively; renumbering subparagraph (8)(a) as (8)(e); and, by the adoption of new subparagraphs (8)(a), (b), (c), (d), (f), and (g). Filed August 6, 1982; effective September 1, 1982, as specified by the Agency.

Chapter 120-3-19, entitled "Fire Protection Sprinkler Contractors," containing Rules 120-3-19-.01 through 120-3-19-.06, has been adopted. Filed December 22, 1982; effective January 11, 1983.

Chapter 120-3-3 has been amended. Filed July 7, 1983; effective August 1, 1983, by Order of the Georgia Safety Fire Commissioner.

Chapter 120-3-7 has been repealed and a new Chapter 120-3-7 entitled "Rules and Regulations for Manufactured Homes," containing Rules 120-3-7-.01 through 120-3-7-.14, adopted. Filed May 23, 1984; effective July 1, 1984, as specified by the Agency.

Chapter 120-3-3 has been amended. Filed April 23, 1986; effective May 15, 1986, as specified by the Agency.

Chapter 120-3-1 has been repealed. Filed June 3, 1987; effective June 25, 1987, as specified by the Agency.

Chapter 120-3-2 has been repealed and a new Chapter 120-3-2 of the same title, containing Rules 120-3-2-.01 through 120-3-2-.03, adopted. Filed June 3, 1987; effective June 25, 1987, as specified by the Agency.

Chapter 120-3-4 has been repealed and a new Chapter 120-3-4 entitled "Rules and Regulations of Fire Prevention Inspection and Licensing of Carnivals and Circuses," containing Rules 120-3-4-.01 through 120-3-4-.07, adopted. Filed June 3, 1987; effective June 25, 1987, as specified by the Agency.

Chapter 120-3-5 has been repealed and a new Chapter 120-3-5 entitled "Rules and Regulations for Mobile/or Portable Classrooms," containing Rules 120-3-5-.01 through 120-3-5-.07, adopted. Filed June 3, 1987; effective June 25, 1987, as specified by the Agency.

Chapter 120-3-10 has been repealed and a new Chapter 120-3-10 entitled "Rules and Regulations for Explosives and Blasting Agents," containing Rules 120-3-10-.01 through 120-3-10-.07, adopted. Filed June 3, 1987; effective June 25, 1987, as specified by the Agency.

Chapter 120-3-11 has been repealed and a new Chapter 120-3-11 entitled "Rules and Regulations for Flammable and Combustible Liquids," containing Rules 120-3-11-.01 through 120-3-11-.12, adopted. Filed June 3, 1987; effective June 25, 1987, as specified by the Agency.

Chapter 120-3-12 has been repealed and a new Chapter 120-3-12 entitled "Rules and Regulations for the Storage and Handling of Anhydrous Ammonia," containing Rules 120-3-12-.01 through 120-3-12-.06, adopted. Filed June 3, 1987; effective June 25, 1987, as specified by the Agency.

Chapter 120-3-13 has been repealed and a new Chapter 120-3-13 entitled "Rules and Regulations for Welding Gases" containing Rules 120-3-13-.01 through 120-3-13-.07, adopted. Filed June 3, 1987; effective June 25, 1987, as specified by the Agency.

Chapter 120-3-14 has been repealed and a new Chapter 120-3-14 entitled "Rules and Regulations for Natural Gas Systems," containing Rules 120-3-14-.01 through 120-3-14-.08, adopted. Filed June 3, 1987; effective June 25, 1987, as specified by the Agency.

Chapter 120-3-16 has been repealed and a new Chapter 120-3-16 entitled "Rules and Regulations for Liquefied Petroleum Gases," containing Rules 120-3-16-.01 through 120-3-16-.10, adopted. Filed June 3, 1987; effective June 25, 1987, as specified by the Agency.

Chapter 120-3-17 has been repealed and a new Chapter 120-3-17 entitled "Rules and Regulations for Liquefied Natural Gas," containing Rules 120-3-17-.01 through 120-3-17-.07, adopted. Filed June 3, 1987; effective June 25, 1987, as specified by the Agency.

Chapter 120-3-18 has been repealed and a new Chapter 120-3-18 entitled "Rules and Regulations for Fire Safety Inspection and Certification of Motor Vehicle Racetracks and Grandstands," containing Rules 120-3-18-.01 through 120-3-18-.13, adopted. Filed June 3, 1987; effective June 25, 1987, as specified by the Agency.

Chapter 120-3-22 has been repealed and a new Chapter 120-3-22 entitled "Rules and Regulations Fireworks," containing Rules 120-3-22-.01 through 120-3-22-.11, adopted. Filed June 3, 1987; effective June 25, 1987, as specified by the Agency.

Chapter 120-3-3 has been repealed and a new Chapter 120-3-3, of the same title, containing Rules 120-3-3-.01 through 120-3-3-.07, adopted. Filed September 30, 1987; effective November 1, 1987, as specified by the Agency.

Chapter 120-3-21, entitled "Rules and Regulations for Residential Board and Care Occupancies (Personal Care Homes)," containing Rules 120-3-21-.01 through 120-3-21-.08, was filed on September 30, 1987; effective November 1, 1987, as specified by the Agency.

Chapters 120-3-3, 120-3-5, 120-3-11, 120-3-16 and 120-3-21 have been repealed and new Chapters, same titles, adopted. Filed December 3, 1990; effective January 1, 1991, as specified by the Agency.

Chapter 120-3-23 entitled "Rules and Regulations for Installation, Inspection, Recharging, Repairing, Servicing and Testing of Portable Fire Extinguishers or Fire Suppression Systems," containing Rules 120-3-23-.01 through 120-3-23-.09 adopted. Filed July 23, 1992; effective August 12, 1992.

Chapter 120-3-12 has been amended. Filed August 25, 1992; effective September 14, 1992.

Rules 120-3-13-.03 and .04 have been amended. Filed September 18, 1992; effective October 8, 1992.

Rule 120-3-17-.03 repealed and a new Rule entitled "Submission of Plans/Fees" adopted; 120-3-17-.04 repealed and a new Rule entitled "Reporting of Fires and Serious Accidents" adopted; 120-3-17-.05 adopted and Rules 120-3-17-.05, .06, .07 renumbered to .06, .07, .08. Filed October 7, 1992; effective October 27, 1992.

Rules 120-3-16-.03, .04, .06, .07 were amended and .11 adopted. Filed October 16, 1992; effective November 5, 1992.

Chapters 120-3-14 and 120-3-22 have been amended. Filed October 26, 1992; effective November 15, 1992.

Rules 120-3-7-.01, .03, .04, .07, .12 have been repealed and new Rules adopted. Rule 120-3-7-.02 has been amended. Rule 120-3-7-.14 has been repealed and a new Rule adopted. Rules 120-3-7-.15, .16, .17 and .18 have been adopted. Filed October 7, 1992; effective January 1, 1993, as specified by the Agency.

Rule 120-3-10-.02 has been amended. Rules 120-3-10-.05, .06 have been repealed and new Rules adopted. Rule 120-3-10-.08 has been adopted. Filed November 16, 1992; effective December 6, 1992.

Rules 120-3-5-.03, .04, .05 have been amended. Filed December 8, 1992; effective December 28, 1992.

Rules 120-3-18-.02, .03, .05, .07, .11, .13, .18 have been amended. Rule 120-3-18-.14 has been adopted. Filed December 31, 1992; effective January 20, 1993.

Rules 120-3-3-.01, .02, .04, .07 have been amended. Filed January 8, 1993; effective January 28, 1993.

Chapter 120-3-7 has been amended. Filed July 22, 1996; effective August 11, 1996.

Chapter 120-3-11 has been repealed and a new Chapter adopted.

Chapter 120-3-20 entitled "Access to and Use of Public Facilities by Handicapped Persons" has been adopted. Filed June 5, 1997; effective June 25, 1997.

Chapters 120-3-3, 120-3-10 and 120-3-11 have been repealed and new Chapters adopted. Filed July 9, 1998; effective July 29, 1998.

Chapters 120-3-13, 120-3-14, 120-3-17, 120-3-22 have been repealed and new Chapters adopted. Filed July 23, 1998; effective August 12, 1998.

Chapters 120-3-7, 120-3-16 have been repealed and new Chapters adopted. Filed August 6, 1998; effective August 26, 1998.

Chapter 120-3-3 has been repealed and a new Chapter adopted. Filed December 21, 1999; effective January 10, 2000.

Chapter 120-3-19 has been repealed and a new Chapter adopted. Filed November 7, 2001; effective November 27, 2001.

Chapter 120-3-10 has been repealed and a new Chapter adopted. Filed April 17, 2002; eff. May 7, 2002.

Emergency Rule 120-3-3-0.1-.04 adopted. Filed and effective May 14, 2003, the date of adoption, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule was adopted to amend the NFPA 101 code. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule Chapter 120-3-22-0.2 adopted. Filed and effective June 10, 2003, the date of adoption, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule was adopted to amend the chapter on fireworks. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Chapter 120-3-16 has been repealed and a new Chapter adopted. Filed July 23, 2003; effective August 12, 2003.

Chapter 120-3-3 has been repealed and a new Chapter adopted. Chapter 120-3-5 has been repealed. Filed August 21, 2003; effective September 10, 2003.

Emergency Rule Chapter 120-3-22-0.3 adopted. Filed and effective October 8, 2003, the date of adoption, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule was adopted to amend the chapter on fireworks. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Chapter 120-3-11 has been repealed and a new Chapter adopted. Filed December 16, 2003; effective January 5, 2004.

Chapter 120-3-22 has been repealed and a new Chapter adopted. Filed January 16, 2004; effective February 5, 2004.

Chapter 120-3-7 has been repealed and a new Chapter adopted. Filed November 30, 2004; effective December 20, 2004.

Emergency Rule Chapter 120-3-10-0.4 adopted. Filed and effective February 17, 2006, the date of adoption, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule was adopted to amend the chapter on explosives and blasting agents. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule Chapter 120-3-10-0.5 adopted. Filed and effective June 8, 2006, the date of adoption, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule was adopted to amend the chapter on explosives and blasting agents. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Chapter 120-3-10 has been adopted superseding Emergency Rule Chapter 120-3-10-0.5. Filed November 1, 2006; effective November 21, 2006.

Chapter 120-3-3 has been repealed and a new Chapter adopted. Filed January 12, 2007; effective February 1, 2007.

Chapter 120-3-23 has been repealed and a new Chapter adopted. Filed October 11, 2007; effective October 31, 2007.

Emergency Rule 120-3-3-0.6-.02 adopted. Filed and effective November 13, 2007, the date of adoption, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule was adopted to reduce the use of water in the testing of fire suppression systems when this water use reduction is determined to be necessary by the State or local governing authority. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule 120-3-16-0.7-.09 adopted. Filed March 7, 2008; effective March 3, 2008, the date of adoption, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule was adopted to aid investigations that could result in safer use, transportation, and storage of liquefied petroleum gas. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule Chapter 120-3-24-0.8 adopted. Filed March 7, 2008; effective March 6, 2008, as specified by the Agency, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule was adopted to establish minimum fire safety standards regarding potential industrial and manufacturing dust fires and explosions. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Chapter 120-3-11 has been repealed and a new Chapter adopted. Filed March 7, 2008; effective March 27, 2008.

Chapter 120-3-16 has been repealed and a new Chapter adopted. Filed January 7, 2010; effective January 27, 2010.

Emergency Rule 120-3-3-0.9-.02 adopted. Filed and effective March 31, 2008, the date of adoption, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule was adopted to reduce the use of water in the testing of fire suppression systems when this water use reduction is determined to be necessary by the State or local governing authority. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule 120-3-16-0.10-.09 adopted. Filed and effective July 2, 2008, the date of adoption, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule was adopted to aid investigations that could result in safer use, transportation, and storage of liquefied petroleum gas. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule Chapter 120-3-24-0.11 adopted. Filed and effective July 2, 2008, the date of adoption, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule was adopted to establish minimum fire safety standards regarding potential industrial and manufacturing dust fires and explosions. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule Chapter 120-3-24-0.12 adopted. Filed and effective October 29, 2008, the date of adoption, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule was adopted to establish minimum fire safety standards regarding potential industrial and manufacturing dust fires and explosions. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule Chapter 120-3-24-0.13 adopted. Filed February 26, 2009; effective February 25, 2009, the date of adoption, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule was adopted to establish minimum fire safety standards regarding potential industrial and manufacturing dust fires and explosions. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule Chapter 120-3-24-0.14 adopted. Filed and effective June 25, 2009, the date of adoption, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule was adopted to establish minimum fire safety standards regarding potential industrial and manufacturing dust fires and explosions. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule Chapter 120-3-24-0.15 adopted. Filed and effective October 19, 2009, the date of adoption, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. This Emergency Rule was adopted to establish minimum fire safety standards regarding potential industrial and manufacturing dust fires and explosions. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Chapter 120-3-16 has been repealed and a new Chapter adopted. Filed January 7, 2010; effective January 27, 2010.

Chapter 120-3-3 has been repealed and a new chapter adopted. Chapter 120-3-24 entitled "Rules and Regulations for Loss Prevention Due to Combustible Dust Explosions and Fire" has been adopted. Filed February 17, 2010; effective March 9, 2010.

Chapter 120-3-20 adopted. F. May 23, 2012; eff. Jun. 11, 2012.

Chapters 120-3-25 entitled "Rules and Regulations for Escalators and Elevators," 120-3-26 entitled "Rules and Regulations for Boiler and Pressure Vessels," 120-3-27 entitled "Rules and Regulations for Amusement Ride Safety" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Chapter 120-3-3 repealed and new Chapter adopted. Rules 120-3-25-.13, 102-3-25-.21, 120-3-26-.07, 120-3-26-.16 amended. Chapter 120-3-28 entitled "Rules and Regulations for Carnival Rides" adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.

Rules 120-3-3-.04 amended. Chapters 120-3-20 and 120-3-.25 repealed and new chapters with the same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.

Chapter 120-3-26 repealed and new Chapter adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.

Editor's Note: Agency title changed. During the 2011-2012 Regular Session of the Georgia General Assembly, the legislature changed the title of this agency through Senate Bill 343. That bill amended the law in Chapter 5B of Title 50 of the Official Code of Georgia Annotated, relating to the State Accounting Office, so as to designate the state accounting office officer as the Comptroller General; to transfer the office, functions, duties, and responsibilities of the Comptroller General from the Commissioner of Insurance to the State Accounting Office; to provide for related matters; and to amend Chapter 14 of Title 45 of the Official Code of Georgia Annotated, relating to the Commissioner of Insurance, so as to conform such provisions to reflect the change in the transfer of the position and duties of the Comptroller General to the state accounting officer.

The title of this agency shall no longer include the Office of the Comptroller General. Accordingly, the title of this agency is amended from the "Office of Commissioner of Insurance, Safety Fire Commissioner, Industrial Loan Commissioner and Comptroller General" to the "Office of the Commissioner of Insurance, Safety Fire Commissioner and Industrial Loan Commissioner," as filed May 14, 2015, effective June 3, 2015. Therefore, the "Comptroller General" title as listed in any rule and regulation of this agency is hereby repealed.

Chapter 120-1 title amended from "Rules of Comptroller General Industrial Loan Department" to "Rules of Industrial Loan Commissioner." Chapter 120-2 title amended from "Rules of Comptroller General Office of Commissioner of Insurance" to "Rules of Commissioner of Insurance." Chapter 120-3 title amended from "Rules of Comptroller General Safety Fire Commissioner" to "Rules of Safety Fire Commissioner." F. May 14, 2015; eff. June 3, 2015.

Chapter 120-3-16 repealed and new chapter with same title adopted. Chapter 120-3-22 repealed and new Chapter entitled "Manufacturing, Storage, Sales, Exhibitions and Displays of Fireworks and Pyrotechnics" adopted. F. July 24, 2015; eff. Aug. 13, 2015.

Note: Correction of error in Administrative History, "*Rule 120-3-16-.01 through .13 amended. F. July 24, 2015; eff. Aug. 13, 2015." and "Rule 120-3-22-.01 through .19 repealed and new rule adopted. F. July 24, 2015; eff. Aug. 13, 2015."* deleted, "*Chapter 120-3-16 repealed and new chapter with same title adopted. Chapter 120-3-22 repealed and new Chapter entitled "Manufacturing, Storage, Sales, Exhibitions and Displays of Fireworks and Pyrotechnics" adopted. F. July 24, 2015; eff. Aug. 13, 2015." a*dded, effective January 1, 2018.

Rules 120-3-3-.04, 120-3-28-.03, .05, .06 amended. F. Dec. 28, 2017; eff. Jan. 1, 2018, as specified by the Agency.

Subjects 120-3-3, 120-3-10 through 120-3-14, 120-3-16 amended, Subject 120-3-17 amended and title changed to "Rules and Regulations for Liquefied Natural Gas and Compressed Natural Gas", Subject 120-3-22 amended and title changed to "Manufacturing, Storage, Sales, Exhibitions and Displays of Fireworks and Pyrotechnics, Use of Flame Effects Before a Proximate Audience." F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Chapter 120-1. RULES OF COMPTROLLER GENERAL INDUSTRIAL LOAN DEPARTMENT [Repealed].

Chapter 120-2. RULES OF COMPTROLLER GENERAL OFFICE OF COMMISSIONER OF INSURANCE.

Subject 120-2-1. ORGANIZATION.

Rule 120-2-1-.01. The Commissioner of Insurance.

The Commissioner of Insurance of the State of Georgia is charged with the administration and enforcement of the Georgia Insurance Code. The Commissioner's duties, powers, and authority are those enumerated in the Georgia Insurance Code, codified as Title 33 of the Official Code of

Georgia Annotated, and related statutes. In the proper exercise of his duties, powers and authority, he has deemed it in the interest of the citizens of the State of Georgia to establish the following division of his office: Insurance Division, Industrial Loan Division, Safety Fire Division, and Administrative Division. The organization of the Office of Commissioner of Insurance and of the Insurance Divisions are depicted in Appendix A to this Rule. The Insurance Division shall consist of the Agents Licensing Section, Consumer Services Section, Regulatory Services Section, Life and Accident and Sickness Section, Property and Casualty Section, and Examinations Section. The division shall be headed by a director. Each section shall be under the supervision and direction of an assistant director.

Cite as Ga. Comp. R. & Regs. R. 120-2-1-.01
Authority: Ga. Laws 1960, pp. 289 and 306, as amended; O.C.G.A. Sec. 33-2-9.
History. Original Rule was filed and effective on July 20, 1965.
Repealed: New Rule entitled "The Commissioner of Insurance" was f. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.

Rule 120-2-1-.02. Agents Licensing Section.

(1) The Agents Licensing Section is charged with the responsibility of protecting the citizens of this State by approving for licensing and renewal only those applicants who possess the mental ability and the moral character that is needed to suppress misrepresentation of the product to be offered.

(2) This section endeavors to promote the dignity of career insurance representatives by strict enforcement of qualification requirements and by firm but fair disposition of violations of the Georgia Insurance Code, with no individual exceptions. Effort is also made to improve public acceptance of insurance by careful screening and testing of proposed representatives and by consistent elimination of those licensees who, through unethical, unfair, or illegal practices, tend to destroy confidence in the industry.

(3) In order to accomplish these desired results, the Agents Licensing Section has been given the authority and duties set forth in paragraph (4) of this Rule.

(4) The section shall:

   (a) Administer license qualifications prescribed by law and departmental regulations.

   (b) Approve formal classroom training courses required of applicants as agents for life and accident and sickness, property and allied lines, and casualty, surety and allied lines.

   (c) Issue temporary licenses and examination permits to qualified, first-time applicants. Upon receipt of completed application and proper fees, a qualified applicant is sent a temporary license or examination permit.

(d) Prepare or arrange for the preparation of an examination study manual. Study manuals are prepared by the Commissioner to aid applicants for licensing to gain knowledge required to pass the required written examination. Such manuals are available from the section upon payment of the applicable fee.

(e) Prepare and conduct all license examinations. The place, date, and time for conducting an examination shall be as specified on the examination permit. Questions, for courses in which a study manual has been prepared, shall come from such study manuals, otherwise, from reference materials recommended by departmental regulations. Applicants must present to the examiner a valid examination permit to be entitled to take the examination.

(f) Issue permanent licenses. The address of the licensee appearing on the license shall be the business address of property and casualty licenses; business address of life, accident and sickness licenses if, licensee's business and residence address are in the same city; and when the licensee's business and residence addresses are in different cities, licenses will reflect the licensee's residence address.

(g) Renew licenses. Renewal and applications will be sent to all licensees holding licenses during the current license year. Such applicants should request late renewal applications if no license was held during the current license year. The renewal application contains a replica of the agent's license; licensee shall check the replica for accuracy; space is provided to insert any corrections. Applicant for renewal shall answer all questions, date, and sign the application. Completed applications shall be submitted to the section with the proper renewal license fee.

(h) Collect all license and examination fees. License and examination fees are prescribed and required by law to be collected in advance.

(i) Work out reciprocal agreements with other states for nonresident applicants. The section shall see that Georgia licensees are admitted into other states on the same basis as such other states' licensees are admitted into Georgia. Since it is necessary to change these agreements from time to time because of changes in state insurance laws of the various states, any resident agent interested in securing such a license should contact the section for up-to-date information on the type of licenses which may be secured and the required fees.

(j) Provide letters of certification for Georgia agents seeking licenses in other states. Such letters will be provided if requested by the licensee, an insurance company official or an insurance regulatory official of such other state. Such letter shall be addressed and sent to whomever the requesting party designated. Such letter shall certify only as to those facts appearing in the records of the section.

(k) Handle complaints involving misappropriation of funds, conversion of funds to an agent's personal use, or withholding funds collected by an agent belonging to an insurer, insured, or a beneficiary as such complaints are filed by insurers against

agents. The section shall require the insurer to make the charge in writing and furnish proof. The agent shall be notified of the charge and requested to admit or deny such charges. If the agent denies the charge, the agent shall furnish proof to refute it. The section shall request the Administrative Law Section of the Administrative Division to conduct an investigation to determine the facts.

(l) Work in conjunction with the Consumer Services Section with other type complaints filed by insurers against agents for the purpose of determining the facts and coordinating action.

(m) Conduct such pre-hearing conferences with agents as may be necessary for determination if formal hearings are necessary.

(n) Request formal hearings for license revocations. If, in the opinion of the assistant director, satisfactory evidence or answers were not given at the pre-hearing conference, the agent shall be notified that he can either voluntarily surrender his license or attend a formal hearing to show cause why his license should not be revoked. If the agent desires a formal hearing, his file is passed to the Administrative Law Section of the Administrative Division with the request that an appropriate order be drawn.

(o) Advise all companies of any changes in the status of their agents' licenses for the purpose of restricting or curtailing an agent's authority to act or termination of the agent's services if the discrepancy warrants such action.

(5) The Agents Licensing Section is under the supervision and direction of an assistant director, and such section has been delegated responsibility for administering paragraph (4) of this Rule. All inquiries, requests, and submissions respecting the matters therein set forth should be directed to:

Agents Licensing Section

Office of Commissioner of Insurance

616 West Tower, Floyd Building

Two Martin Luther King, Jr., Drive

Atlanta, Georgia 30334

Cite as Ga. Comp. R. & Regs. R. 120-2-1-.02
Authority: Ga. Laws 1960, p. 289 at p. 305; O.C.G.A. Sec. 33-2-9.
History. Original Rule was filed and effective on July 20, 1965.
Amended: Filed February 7, 1975; effective February 27, 1975.
Repealed: New Rule entitled "Agents Licensing Section" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as

specified by the Agency.

Rule 120-2-1-.03. Consumer Services Section.

(1) The Consumer Services Section is the consumer assistance and investigative arm of the Office of Commissioner of Insurance and attempts to assure fair and honest dealings between insurers, agents, and policyholders in all insurance matters.

(2) The Consumer Services Section and the assistant director in charge have been vested with the authority and duties set forth in paragraph (3) of this Rule.

(3) This section shall:

(a) Receive requests for assistance from agents, insurers, and policyholders.

(b) Act upon either a written or telephone request or a personal visit to the office by a citizen.

(c) Record the request for assistance. Such record shall contain the name of the citizen requesting assistance, the person or party against whom assistance is needed, and a statement of the nature of the request.

(d) Assign the request for assistance to the consumer services personnel best qualified to make the particular type investigation involved.

(e) Obtain through investigation all available data necessary to properly evaluate the claim.

(f) Review the estimates of loss in all claims involving fire and casualty to determine if an offer is based on a legitimate estimate.

(g) Have an informal conference between policyholders and company adjusters where needed, so that the conference will bring about a meeting of minds. Often these conferences are successful and bring about an amicable settlement.

(h) Keep constantly alert for violations of the Unfair Trade Practices Act and investigation any apparent violations of such act; if an investigation discloses misrepresentation or any other unfair trade practice, the facts are submitted to the Commissioner for his determination as to the course to be followed to halt the practice.

(i) Promptly investigate all complaints of every kind and nature and take such action within the law as the facts and the relationship of the parties dictate. Investigation is made regardless of the amount involved and the policyholder is informed as to the section's view. If the claim is deemed uncollectible, the file is closed.

(j) Obtain and act upon an investigation from the appropriate personnel of the Office of Commissioner of Insurance if such investigation does not originate from the Consumer Services Section.

(k) Participate in valid automobile claims when it appears that the company is acting in bad faith; that the adjuster assigned to the loss has made no honest effort to conclude it; that the company will not accept estimates of reputable garages or dealerships but insists that estimates of disreputable garages or dealerships be the basis of settlement and when an informal discussion of all aspects of loss between adjuster and aggrieved party will accomplish the desired result.

(4) The section is under the supervision and direction of an assistant director, and such section has been delegated responsibility for administering paragraph (3) of this Rule. All inquiries, requests, and submissions respecting the matters therein set forth should be directed to:

Consumer Services Section

Office of Commissioner of Insurance

716 West Tower, Floyd Building

Two Martin Luther King, Jr., Drive

Atlanta, Georgia 30334

Cite as Ga. Comp. R. & Regs. R. 120-2-1-.03
Authority: Ga. Laws 1960, pp. 289 and 306, as amended; O.C.G.A. Sec. 33-2-9.
History. Original Rule was filed and effective on July 20, 1965.
Repealed: New Rule entitled "Consumer Services Section" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.

Rule 120-2-1-.04. Regulatory Services Section.

(1) The Regulatory Services Section provides insurance company regulatory oversight and related functions. It shall:

(a) Grant or deny applications for certificates of authority. Form GID-1 entitled 'Instructions for Filing an Application for Original Certificate of Authority.' sets forth in detail the filing requirements, information, and instructions for the filing of applications for original certificates of authority to transact insurance business in Georgia.

(b) Approve of disapprove all petitions filed with the Secretary of State for organizing domestic insurers. All such petitions are reviewed for the purpose of determining if petitioner's charter will enable petitioner to comply fully with the insurance laws. Such petition must be passed upon within forty-five (45) days of its submission to this section.

(c) Renew certificates of authority. Form GID-9 contains the instructions for reviewing certificates of authority. Certificates of authority expire annually on June 30.

(d) Determine when an insurer should be cited to show cause why its certificate of authority should not be suspended or revoked. The section may determine when a citation shall issue if the solvency of an insurer is in doubt, policyholder treatment is consistently less than fair and equitable, any false statement or misrepresentation is knowingly or willfully filed with the section that the insurer has engaged in any unfair trade practice, or for other violations of law.

(e) Recommend to the Commissioner when court action should be taken.

1. The section may recommend court proceedings when a citation has been ignored or defied.

2. Whenever under the laws of this State a receiver is to be appointed in delinquency proceedings for a domestic insurer the Commissioner should be appointed receiver; the Commissioner should be appointed ancillary receiver for foreign or alien insurers.

(f) Pass upon eligibility, soundness, and the amount of securities to be deposited by an insurer to qualify for a certificate of authority.

1. Eligibility and soundness shall be determined by the investment laws of this State.

2. The amount is determined by the security having both par and market value of not less than the amount required by statute plus a reasonable margin for market fluctuation.

(g) Determine when an insurer may be permitted to withdraw its securities.

1. Any deposit made in this state under the provisions of the Georgia Insurance Code shall be released:

(I) to the insurer upon extinguishment of all liability of the insurer for the security of which the deposit it held;

(II) to the insurer to the extent such deposit is in excess of the amount required; or

(III) upon proper order of a court of competent jurisdiction, to the receiver, conservator, rehabilitator, or liquidator of the insurer, or to any other properly designated official or officials who succeed to the management and control of the insurer's assets.

2. No such release of deposited funds shall be made except upon application to and the written order of the Commissioner. The Commissioner shall have no liability for any such release of any such deposit or part thereof so made by him in good faith.

(h) Review and recommend action to be taken upon all proposals for merger where a domestic insurer is a party. All proposals for merger are reviewed by this section for the purpose of determining if the resulting entity will be financially solvent and able to meet is obligations; that its capital structure and surplus are such as to comply with the Georgia Insurance Code; and that its management is familiar with the insurance industry and the management has no history of any involvement in any unfair trade practices.

(2) The Regulatory Services Section is under the supervision and direction of an assistant director and such section has been delegated responsibility for administering paragraph (1) of this Rule. All inquiries, requests, and submissions respecting the matters therein set forth should be directed to:

Regulatory Services Section

Office of Commissioner of Insurance

604 West Tower, Floyd Building

Two Martin Luther King, Jr., Drive

Atlanta, Georgia 30334

Cite as Ga. Comp. R. & Regs. R. 120-2-1-.04
Authority: Ga. Laws 1960, pp. 289 and 306, as amended. Acts 1964, pp. 338, 341, 342; O.C.G.A. Sec. 33-2-9.
History. Original Rule was filed and effective on July 20, 1965.
Amended: Rules 120-2-1-.04(7), (10), (11), (13) and (14) have been amended. Filed December 3, 1965; effective December 22, 1965.
Repealed: New Rule entitled "Regulatory Services Section" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.

Rule 120-2-1-.05. Life and Accident and Sickness Section.

(1) The Commissioner is charged by O.C.G.A. Section 33-24-9 with the responsibility of disapproving policy forms filed under such Code section or withdrawing any approval previously granted by him if he finds that such policies do not meet the requirements of O.C.G.A. Section 33-24-10. In complying with the provisions of O.C.G.A. Section 33-24-9, the Commissioner has deemed it appropriate to establish the Life and Accident and Sickness Section to assure that life and accident and sickness insurance policies issued with this State fully comply with the provisions of O.C.G.A. Title 33.

(2) A policy form shall be disapproved or any previous approval withdrawn if it:

(a) Is in any respect in violation of or does not comply with O.C.G.A. Title 33;

(b) Contains or incorporates by reference any inconsistent, ambiguous, or misleading policies, or exceptions and conditions which deceptively affect the risk purportedly assumed in the general coverage of the contract;

(c) Has any title, heading, or other indication of its provisions which is misleading;

(d) Is printed or otherwise reproduced in such manner as to render any provision of the form substantially illegible or not easily legible to persons of normal vision; or

(e) Contains provisions which are unfair or inequitable or contrary to the public policy of this State or would, because such provisions are unclear or deceptively worded, encourage misrepresentation.

(3) The section shall receive and pass upon all advertising proposed for use by insurance companies writing sickness, accident and hospitalization insurance as required by law or regulation.

(4) The Life and Accident and Sickness Section is under the supervision and direction of an assistant director and such section has been delegated responsibility for administering paragraphs (1) through (3) of this Rule. All inquiries, requests, and submissions respecting the matters therein set forth should be directed to:

Life and Accident and Sickness Section

Office of Commissioner of Insurance

708 West Tower, Floyd Building

Two Martin Luther King, Jr., Drive

Atlanta, Georgia 30334

Cite as Ga. Comp. R. & Regs. R. 120-2-1-.05
Authority: Ga. Laws 1960, pp. 289 and 306, as amended; O.C.G.A. Sec. 33-2-9.
History. Original Rule was filed and effective on July 20, 1965.
Repealed: New Rule entitled "Life and Accident and Sickness Section" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.

Rule 120-2-1-.06. Property and Casualty Section.

(1) The primary function of the Property and Casualty Section is the review of all property and casualty rate filings and deviation filings to determine whether such filings meet the requirements of O.C.G.A. Chapter 33-9. The section also is responsible for administering applicable statutes providing for the recording and reporting of loss and expense experience.

(2) The section reviews all property and casualty policy forms and endorsements.

(3) O.C.G.A. Title 33 requires the licensing of all rating organizations and advisory organizations. This function is performed by the section and new and renewal license fees are collected by this section.

(4) The section is responsible for the administration of the 'Georgia Automobile Insurance Plan' adopted pursuant to the direction contained in O.C.G.A. Section 40-9-100.

(5) The section shall license all rating organizations. Each applicant for licensing as a rating organization shall submit with its request for a license:

   (a) A copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its bylaws, rules and regulations governing the conduct of its business;

   (b) A list of its members and subscribers;

   (c) The name and address of a resident of this state upon whom notices or orders of the Commissioner or process affecting such rating organizations may be served;

   (d) A statement of its qualifications as a rating organization; and

   (e) A license fee of $100.00 for a license good for one (1) year, with an annual renewal license at a fee of $50.00.

(6) The section is to license all advisory organizations. Every advisory organization shall file with the Commissioner a copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its bylaws, rules and regulations governing its activities; a list of its members; the name and address of a resident of this State upon whom notices or orders of the Commissioner or process issued at his direction may be

served; and an agreement that the Commissioner may examine such advisory organization in accordance with the provisions of O.C.G.A. Section 33-9-22.

(7) The section shall collect fees from rating organizations which shall be licensed for a period of one (1) year with a license fee of $100.00 for such period.

(8) All fire and casualty rate filings and deviation filings shall be reviewed. Rates shall not be excessive, inadequate or unfairly discriminatory. Filings may be reviewed by this section for any reason not inconsistent with the provisions of the Georgia Insurance Code which the Commissioner shall deem necessary and appropriate to accomplish the purposes and objectives of such Code, including, without limitation:

(a) Whether the rating organization making the filing has made a valid interpretation and use of the data submitted;

(b) Whether such rating organization has used acceptable actuarial techniques;

(c) Whether the rates are consistent with the coverage provided; and

(d) Any other relevant factors.

(9) All property and casualty policy forms and endorsements shall be reviewed. Policy forms are reviewed by this section to determine that:

(a) Coverage is not unduly restrictive;

(b) Wording is not ambiguous;

(c) The coverage is not contrary to public policy;

(d) The coverage bears a relationship to the premium charged; and

(e) The contract covers a legitimate insurable interest.

(10) The section shall receive from statistical agencies and advisory organizations statistical plans reasonably adapted to each of the rating systems on file, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available at least annually in such forms and details as may be necessary to aid the section in determining whether rating systems comply with the standards set forth by law for the making of rates.

(11) This section shall supervise administration of the 'Georgia Automobile Insurance Plan.' After consultation with insurance companies authorized to issue automobile insurance policies in this State, the section shall recommend to the Commissioner for approval a reasonable plan or plans for the equitable apportionment among such companies of applicants for such policies, and for motor vehicle insurance policies from persons who

are in good faith entitled to such policies but are unable to procure such policies through ordinary methods. When any such plan has been approved, all such insurance companies shall subscribe thereto and participate therein. Any applicant for any such policy, any person insured under such plan, and any insurance company affected may appeal to the Commissioner from any ruling or decision of the manager or committee designated to operate such plan. Any person aggrieved hereunder by any order or act of the Commissioner may, within ten (10) days after notice thereof, file a petition in the superior court of the county of his residence for a review thereof.

(12) The section is under the supervision and direction of an assistant director and such section has been delegated responsibility for administering paragraphs (1) through (11) of this Rule. All inquiries, requests, and submissions respecting the matters therein set forth should be directed to:

Property and Casualty Section

Office of Commissioner of Insurance

616 West Tower, Floyd Building

Two Martin Luther King, Jr., Drive

Atlanta, Georgia 30334

Cite as Ga. Comp. R. & Regs. R. 120-2-1-.06
Authority: Ga. Laws 1960, pp. 289 and 306, as amended; O.C.G.A. Sec. 33-2-9.
History. Original Rule was filed and effective on July 20, 1965.
Repealed: New Rule entitled "Property and Casualty Section" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.

Rule 120-2-1-.07. Examinations Section.

(1) The Examinations Section is charged with the responsibility of conducting applicable financial, actuarial, rate, market conduct, and other forms of examinations of all persons or entities regulated by the Office of Commissioner of Insurance. The section works in conjunction with the Regulatory Services Section, the Property and Casualty Section, and the Life and Accident and Sickness Section in the performance of its duties.

(2) The Examinations Section is supervised by an assistant director who is designated as the chief examiner. All inquiries, requests, and submissions respecting the matters charged to the section should be directed to:

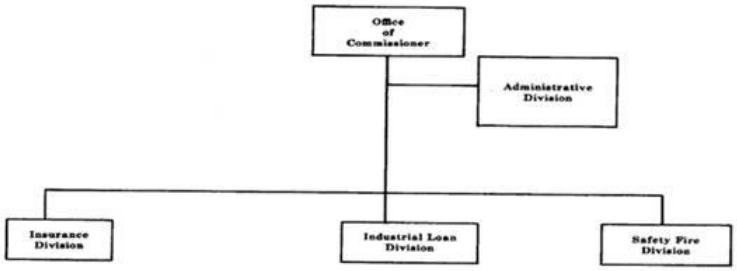
Examination Section

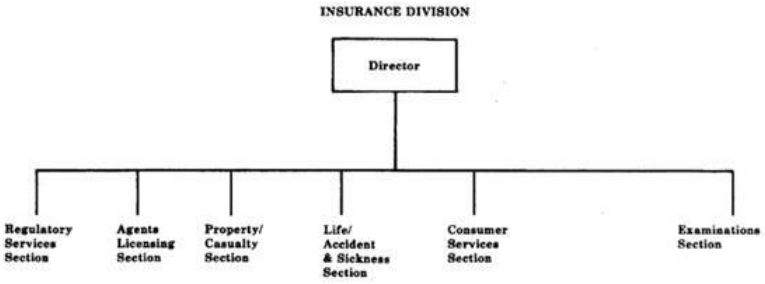
Office of Commissioner of Insurance

604 West Tower, Floyd Building

Two Martin Luther King, Jr., Drive

Atlanta, Georgia 30334





Cite as Ga. Comp. R. & Regs. R. 120-2-1-.07
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule was filed on September 5, 1967; effective August 28, 1967.
Repealed: New Rule entitled "Examinations Section" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.

Subject 120-2-2. PRACTICE AND PROCEDURE.

Rule 120-2-2-.01. Definitions.

The following words and terms as used in these rules shall have the meaning hereinafter ascribed to them:

1. "Adjudicator" means the Commissioner's duly appointed representative, appointed pursuant to O.C.G.A. § 33-2-6, whom he or she deems qualified by reason of training, experience and competence.

2. "Adjudication" means a trial type-proceeding that offers an opportunity for fact-finding before an adjudicator.

3. "Administrative record" includes the transcript or recording of the hearing and any transcribed or recorded conferences or oral arguments before the Adjudicator, all exhibits and stipulations filed in the adjudication, all exhibits excluded from the adjudication but preserved for purposes of administrative review, all party and limited participant filings, all written orders or decisions of the Adjudicator, any disclosure of ex parte contacts required under Rule 120-2-2-.09 (Ex Parte Communications), any written statements of settlement, and any other matters required or permitted under these rules to be included, whether with or without leave from the Adjudicator.

4. "APA" means the Georgia Administrative Procedure Act, O.C.G.A. Title 50, Chapter 13.

5. "Commissioner" means the Insurance Commissioner of the State of Georgia.

6. "Contested Case" means a proceeding, including but not restricted to rate making, price fixing, and licensing, in which the legal rights, duties, or privileges of a party are required by law to be determined after an opportunity for hearing.

7. "Department" means the Department of Insurance of the State of Georgia.

8. "Docketed Party" is a named person required by law to participate in an adjudication.

9. "Intervenor" is a person either entitled by law or permitted by the Department to participate with full or limited rights as a party, despite not being a Docketed Party to an adjudication.

10. "License" means and includes the whole or part of any Department permit, certificate, approval registration or similar form of permission with reference to any activity of continuing nature as provided for by the Georgia Insurance Code.

11. "Limited participant" is a person, who is not a party, permitted by agency discretion to participate in an adjudication.

12. "Motion" means a request made to the Adjudicator or to the Department, as may be appropriate.

13. "Notice of Hearing" means a written statement of the substance of a specific charge alleging violation of any rule or statute to be considered at a hearing to the person or

party affected or of the substance of a proposed rule to be considered which will afford actual notice to all interested persons. Such notice shall be served in accordance with Rule 120-2-2-.14(1)(c)(ii) that follows. Provided, however, that when the Commissioner certifies for the record that an emergency exists requiring the holding of a hearing upon notice less than twenty (20) days, a hearing may be held with less than twenty (20) days' notice but not less than 10 days' notice.

14. "Party" is a Docketed Party, agency, or intervenor in an adjudication.

15. "Person" includes an individual, partnership, corporation, association, public or private organization, or governmental agency.

16. "Petition" A written application from a person or persons to the Department or the Commissioner asking that authority be exercised to grant relief or privileges.

17. "Record" (noun) is a document or other information that is inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form.

18. "Record" (verb) means to preserve or convert proceedings, discussions, or other actions in permanent form via audio, video, stenographic, or other reasonable means.

19. "Rule" means each regulation, standard or statement of general applicability that implements, interprets or prescribes law or policy, or describes the organization, procedure or practice requirements. The term includes the amendment or repeal of a prior rule.

20. "Settlement Adjudicator" is an adjudicator other than the Adjudicator presiding over a case, whom the Commissioner appoints to facilitate settlement or other dispute resolution under Rule 120-2-2-.23 (Settlement and Alternative Dispute Resolution).

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.01
Authority: O.C.G.A. §§ 33-2-9, 33-2-17*et seq*.
History. Original Rule entitled "Definitions" adopted. F. and eff. July 20, 1965.
Repealed: New Rule of same title adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.02. Construction, Modification, or Waiver of Rules.

1. These rules apply to all hearings held under the authority granted to the Commissioner in O.C.G.A. § 33-2-17.

2. These rules must be liberally construed to secure the fair, expeditious, and inexpensive determination of all adjudications.

3. These rules must be interpreted, to the extent permissible, to be consistent with the Georgia Constitution, the APA, and other applicable statutory law. To the extent that any rule is not consistent, applicable constitutional or statutory law controls.

4. Except to the extent that waiver or modification would otherwise be contrary to law, the Adjudicator may, after adequate notice to all interested persons, modify or waive any of these rules upon a determination that no party will be prejudiced and that the ends of justice will be served.

5. On any procedural question not addressed by specific statute, the APA, or these rules, the Adjudicator is guided so far as practicable by Georgia's Civil Practice Act, found in OCGA § 9-11-1*et seq.*

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.02
Authority: O.C.G.A. §§ 33-2-9, 33-2-17*et seq*.
History. Original Rule entitled "Procedure for the Adoption of Regulations" was filed and effective on July 20, 1965.
Repealed: And reserved. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Adopted: New Rule entitled "Construction, Modification, or Waiver of Rules." F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.03. Adjudicator Assignment.

Adjudications must be presided over by an adjudicator designated by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.03
Authority: O.C.G.A. §§ 33-2-9, 33-2-17*et seq*.
History. Original Rule entitled "Petitions" was filed and effective on July 20, 1965.
Repealed: New Rule entitled "Adjudicator Assignment" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.04. Adjudicator Authority.

The Adjudicator has all authority necessary to conduct fair, expeditious, and impartial adjudications. Such authority includes the authority to:

1. administer oaths and affirmations;

2. issue subpoenas authorized by law;

3. receive relevant evidence and rule upon the admission of evidence and offers of proof;

4. preside over depositions or cause depositions to be taken when the ends of justice would be served;

5. regulate the course of the hearing and the conduct of persons at the hearing;

6. hold conferences for the settlement or simplification of the issues by consent of the parties or through means of alternative dispute resolution;

7. inform the parties as to the availability of one or more means of alternative dispute resolution and encourage use of such means;

8. require the attendance at any conference held pursuant to Rule 120-2-2-.24 of at least one representative of each party who has authority to negotiate concerning resolution of the issues in controversy;

9. dispose of procedural motions;

10. make or recommend decisions;

11. call and question witnesses;

12. order curative measures to remedy the filing or other disclosure of sensitive information, as identified in Rule 120-2-2-.13(3), that should have been redacted under these rules;

13. impose appropriate non-monetary sanctions against any party or person failing to obey her/his order, refusing to adhere to reasonable standards of orderly and ethical conduct, or refusing to act in good faith; and take any other action authorized by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.04
Authority: O.C.G.A. §§ 33-2-9, 33-2-16, 33-2-17, 33-2-18, 33-2-19, 33-2-20, 33-2-21*et seq*.
History. Original Rule entitled "Contested Cases; Notice; Hearing; Record" was filed and effective July 20, 1965.
Amended: Filed March 31, 1983; effective May 1, 1983, as specified by the Agency.
Repealed: New Rule entitled "Adjudicator Authority" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.05. Adjudicator Impartiality, Recusal or Disqualification, or Unavailability.

1. **Impartiality.** The Adjudicator must conduct her/his functions in an impartial manner.

2. **Recusal of Adjudicator.**
   a. **Recusal by Adjudicator.** The Adjudicator may at any time recuse her/himself.

   b. **Disqualification Sought by Party.**
      i. Before the filing of the Adjudicator's decision, any party may move that the Adjudicator recuse her/himself on the ground of personal bias or basis for other disqualification by filing with the Adjudicator promptly upon discovery

of the alleged facts an affidavit setting forth in detail the matters alleged to constitute grounds for disqualification.

ii. The Adjudicator must rule upon the motion, stating the grounds therefor. If the Adjudicator concludes that the motion is timely and has merit, the Adjudicator must promptly recuse her/himself and withdraw from the adjudication. If (s)he does not recuse her/himself and withdraw from the adjudication, (s)he must proceed with the adjudication.

iii. A party may seek review of the Adjudicator's denial of a motion for disqualification only at the conclusion of the adjudication, unless the requirements of Rule 120-2-2-.45 (Interlocutory Review) are satisfied.

3. **Unavailability of Adjudicator.** If the Commissioner finds that the Adjudicator is unable to perform her/his duties or otherwise becomes unavailable, the Commissioner must designate another adjudicator to serve.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.05
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Declaratory Rulings" was filed and effective on July 20, 1965.
Repealed: New Rule entitled "Adjudicator Impartiality, Recusal or Disqualification, or Unavailability" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.06. Individuals with Disabilities.

For any portion of the adjudication (including in connection with any conference or hearing), the Adjudicator must take due account of any disclosed physical or mental disability of a party, limited participant, representative, or witness.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.06
Authority: O.C.G.A. 33-2-9*et seq.*
History. Original Rule entitled "Intervention" was filed and effective on July 20, 1965.
Repealed: New Rule entitled "Individuals with Disabilities" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.07. Oral Testimony, Interpretation, and Interpreters.

1. Any party or limited participant who anticipates a need for an interpreter during any part or all of an adjudication must promptly notify the Adjudicator and identify any specific language and dialect for which an interpreter is needed and the participant or participants who will require the interpretation services.

2. An interpreter must establish her/his qualifications to the satisfaction of the Adjudicator and state, under oath, that the interpreter is (1) competent to interpret the identified language and dialect, and (2) will do so accurately to the best of the interpreter's ability, before performing interpretation services for the adjudication.

3. A qualified interpreter who testifies under oath as to her/his qualifications, and who promises to translate accurately to the best of her/his ability, is permitted to assist with the adjudication, subject to general rules of procedure or evidence applicable to any party, limited participant, or witness.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.07
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Unfair Trade Practices" was filed and effective on July 20, 1965.
Repealed: New Rule entitled "Oral Testimony, Interpretation, and Interpreters" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.08. Foreign-Language Documents and Translations.

1. All documents filed with the Department or offered for the administrative record of an adjudication must be in the English language or accompanied by an authenticated English translation.

2. An affidavit in English by a person who does not understand English must include a separate translator's affidavit under oath stating that the underlying affidavit has been read to the person in a language that the person understands and that, to the best of the translator's knowledge, the affiant understood it before signing. The translator's affidavit must also state facts demonstrating that the translator is competent to translate the language of the witness as well as a representation that the interpretation was true and accurate to the best of the translator's abilities.

3. A translator's affidavit authenticating the translation of a foreign-language document must be typed, signed by the translator, and identify and accompany the foreign-language document. If a translator's affidavit is filed in connection with the translation of multiple documents, the certification must specify the documents covered by the translator's affidavit. A translator's affidavit must include facts providing a basis to conclude that the translator is competent to translate the language of the document and a representation that the translation is true and accurate to the best of the translator's abilities.

4. A translated document accompanied by a proper translator's affidavit is admissible in the adjudication to the same extent as it would be if it were not translated.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.08
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Agents and Counselors. - Life, Accident and Sickness" was filed and effective on July 20, 1965.
Repealed: New Rule entitled "Foreign-Language Documents and Translations" adopted. F. Dec. 13, 2019; eff. Jan.

1, 2020, as specified by the Agency.

Rule 120-2-2-.09. Ex Parte Communications.

1. Except as required for the disposition of ex parte matters authorized by law, the Adjudicator may not consult a person or party on any matter relevant to the merits of the adjudication, unless on notice and opportunity for all parties to participate. This provision does not, however, preclude the Adjudicator from consulting with adjudicatory employees such as law clerks.

2. Except as required for the disposition of ex parte matters authorized by law,

   a. no interested person outside the Department may make or knowingly cause to be made to the Department or any of its personnel who is or may reasonably be expected to be involved in the decisional process an ex parte communication relevant to the merits of the adjudication;

   b. the Department or its personnel who are or may reasonably be expected to be involved in the decisional process of the adjudication may make or knowingly cause to be made to any interested person outside the Department an ex parte communication relevant to the merits of the adjudication.

3. The Adjudicator, or agency personnel who is or may reasonably be expected to be involved in the decisional process who receives, makes, or knowingly causes to be made a communication prohibited by this rule must place in the public administrative record:

   a. all such written communications;

   b. memoranda stating the substance of all such oral communications; and

   c. all written responses, and memoranda stating the substance of all oral responses, to the materials described in (a) and (b) above.

4. Upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this rule, the Commissioner or the Adjudicator may, to the extent consistent with the interests of justice, the policy of underlying statutes, and the Department's rules and precedents, require the party to show cause why its claim or interest in the adjudication should not be dismissed, denied, disregarded, or otherwise adversely affected by reason of such violation.

5. The prohibitions of this rule apply beginning on the date the Department became aware of the issue for adjudication but in no case do they begin to apply later than when an adjudication is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions apply upon her/his acquisition of such knowledge.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.09
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Agents, Solicitor, Brokers, Counselors and Adjusters, Property, Casualty, Surety and Allied Lines" was filed and effective on July 20, 1965.
Repealed: New Rule entitled "Ex Parte Communications" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.10. Separation of Functions.

1. The Adjudicator may not be responsible to, or subject to the supervision or direction of, personnel engaged in the performance of investigative or prosecutorial functions for the Department.

2. No officer, employee, or agent of the Department engaged in investigative or prosecutorial functions in connection with any adjudication may, in that adjudication or one that is factually related, participate or advise in the decision of the Adjudicator, except as a witness or counsel in the adjudication or its appellate review.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.10
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Demand for Hearing" was filed and effective on July 20, 1965.
Repealed: New Rule entitled "Separation of Functions" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.11. Rights of Parties, Intervenors, and Limited Participants.

1. The rights of a Party are determined by statute, these rules, and other applicable law.

2. The Adjudicator may, pursuant to statute, these rules, or other applicable law, restrict an intervenor's participation.

3. A limited participant may make oral submissions, written submissions, or both, as the Adjudicator permits.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.11
Authority: O.C.G.A. §§ 33-2-9, 33-2-21*et seq.*
History. Original Rule entitled "Examinations" was filed and effective July 20, 1965.
Repealed: New Rule entitled "Rights of Parties, Intervenors, and Limited Participants" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.12. Representation.

1. Any person may appear in an adjudication on her/his own behalf, by an attorney, or, if permitted by the Adjudicator or Department, by an authorized representative who qualifies under this rule. Each person, attorney, or authorized representative must file a notice of appearance. The notice must state the name of the case (and docket number if assigned), the person on whose behalf the appearance is made, and the person's or representative's mailing address, email address, and telephone number. Similar notice must also be given for any withdrawal of appearance.

2. An attorney must be a member in good standing of the State Bar of Georgia, another State, the District of Columbia, or any territory or commonwealth of the United States. (S)he must file with the Department a written affidavit that (s)he is currently qualified as provided by this subsection and is authorized to represent the person on whose behalf (s)he acts. Any attorney licensed outside the state of Georgia must submit to the Adjudicator a pro hac vice motion written in accordance with Rule 4.4 of the Uniform Superior Court Rules of the State of Georgia and its Appendix.

3. In the Adjudicator's discretion, an owner, majority shareholder, director, officer, registered agent, member, manager or partner of a corporation, limited liability company, or partnership may be allowed to represent the entity in a proceeding.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.12
Authority: O.C.G.A. § 33-2-9, 33-2-21***et seq.***
History. Original Rule entitled "Licensing" was filed and effective on July 20, 1965.
Repealed: New Rule entitled "Representation" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.13. Form and Content of Filed Documents; Privacy Protections for Filings.

1. **Necessary Information.** A filed document must state clearly:
   a. the name of the Department;
   b. the name of the adjudication;
   c. the name and designation (such as "applicant" "petitioner," or "respondent") of the filing party;
   d. the type of filing (e.g., petition, notice, motion to dismiss, etc.);
   e. any assigned docket number of the case; and
   f. the filing party's or other filing person's address, telephone number, fax number (if any), and email address (if any).

2. **Specifications.**

   a. All filed documents created by a party must:

      i. be 8 by 11 inches in size except, when necessary, tables, charts, and other attachments may be larger if folded to the size of the filed documents to which they are physically attached;

      ii. be only on one side of the page and be typewritten, printed, or otherwise reproduced in permanent and plainly legible form;

      iii. be double-spaced except for footnotes and long quotations, which may be single-spaced;

      iv. have a left margin of at least 1½ inches and other margins of at least 1 inch; and

      v. be bound on the left side, if bound.

   b. Illegible documents will not be accepted.

   c. All documents must be in the English language or, if in a foreign language, accompanied by an authenticated English translation.

3. **Confidentiality and Privacy Protections.**

   a. Unless the Department orders otherwise, in an electronic or paper filing with the Department that contains an individual's social-security number, driver's license number, passport number, taxpayer-identification number, birthdate, an individual's mother's maiden name, the name of an individual known to be a minor, an individual's physical or email address, an individual's telephone number, or a financial-account or credit-card number, a party or nonparty making the filing may include only

      i. the last four digits of any social-security number and any taxpayer-identification number;

      ii. the year of an individual's birth;

      iii. the first letter of an individual's mother's maiden name;

      iv. the city, state, and country of an individual's physical address;

      v. a minor's initials; and

      vi. the last four digits of the financial-account or credit-card number.

b. The redaction requirement under this subsection does not apply to the record of a court or other tribunal, if that record was not subject to a redaction requirement when Originally filed.

c. The Adjudicator may order that a filing be made under seal with or without redaction. The Adjudicator may later unseal the filing or may order the person who made the filing to file a redacted version for the public administrative record. The Department must retain the unredacted copy as part of the administrative record.

d. For good cause, the Adjudicator may order redaction of additional information, including national security, business-proprietary, medical, or other sensitive personal information.

e. A person waives the protection of this subsection as to the person's own information by filing it without redaction and not under seal.

4. **Signature.** The original of every filed document must be signed by the submitting party or its attorney or other authorized representative of record. Except as otherwise provided, filed documents need not be verified or accompanied by an affidavit. The signature constitutes a certification by the signing person that (s)he has read the filed document, that to the best of her/his knowledge, information, and belief the statements made therein are true, that it is not interposed for delay, and that it complies with this rule.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.13
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Renewal Licenses" was filed and effective on July 20, 1965.
Amended: Filed February 7, 1975; effective February 27, 1975.
Amended: Rule repealed and a new Rule of the same title adopted. Filed May 5, 1981; effective June 1, 1981, as specified by Agency.
Amended: Rule repealed and a new Rule of the same title adopted. Filed January 17, 1989; effective February 15, 1989, as specified by the Agency.
Editor's Note: In accordance with Ga. Laws 1967, p. 618, Ga. Code Ann., Section 3A-124, the content of this Rule is not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. This Regulation is on file in the office of the Comptroller General and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Repealed: New Rule entitled "Form and Content of Filed Documents; Privacy Protections for Filings" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.14. Service and Filing of Documents.

1. **Service.** All documents in the adjudication must be served as set forth below.

   a. **Service by the Department.** The Department or the Adjudicator must serve one copy of all subpoenas, orders, notices, decisions, rulings on motions, and similar documents issued by the Department or the Adjudicator upon each party and limited participant in accordance with Rule 120-2-2-.14(1)(c) below. Every document

served by the Department or the Adjudicator must be accompanied by a certificate of service that provides the information in the form described in Rule 120-2-2-.14(3)(b) below.

b. **Service by Party or Limited Participant.**

i. **In General.** Unless these rules provide otherwise or the Adjudicator orders otherwise, each of the following papers must be served on every party and limited participant:

1. a document filed after the document initiating the adjudication under Rule 120-2-2-.20 (Initiation of Adjudication);

2. a written motion, except one that may be heard ex parte;

3. a written notice or appearance or any similar document; and

4. any other document permitted to be filed by the Department rules or by the Adjudicator.

ii. **If a Party Fails to Appear.** No service is required on a party who is in default for failing to appear. But a document that asserts a new claim against such a party must be served on that party.

c. **Service: How Made.**

i. **Service on Whom.**

1. If a party or limited participant is represented by an attorney or authorized representative, service under this rule must be made on the attorney or authorized representative unless the Adjudicator orders service on the party or limited participant.

2. If a party or a limited participant is not represented, service under this rule must be made on the party and limited participant her/himself.

ii. **Service in General.** A document is served under this rule by:

1. handing it to the person;

2. leaving it at the person's office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; or if the person has no office or the office is closed, at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there;

3. mailing it to the person's last known address, in which event service is complete upon mailing;

4. leaving it with the Department's clerk if the person has no known address;

5. sending it by electronic means in which event service is complete upon transmission, but is not effective if the serving party learns that it did not reach the person to be served; or

6. delivering it by any other means that the person consented to in writing, in which event service is complete when the person making service delivers it to the agent designated to make delivery.

iii. **Using the Department Facilities.** Parties or limited participants who lack access to technology capable of making electronic service may request that the Department permit the use of the Department's electronic-transmission facilities to make service.

2. **Filing.**

a. **Required Filings; Certificate of Service.** Any document after the document initiating the adjudication that is required to be served-together with a certificate of service-must be filed within a reasonable time after service.

b. **How Filing Is Made-In General.** A document is filed by delivering it to:

i. the appropriate office designated by the Department; or

ii. an adjudicator who agrees to accept it for filing, and who must then note the filing date on the document and promptly send it to the Department.

c. **Electronic Filing, Signing, or Verification.** Documents may be filed, signed, or verified by electronic means, so long as the electronic means comply with any applicable Department rule.

d. **Acceptance by the Department.** The appropriate office designated by the Department must not refuse to file a document solely because it is not in the form prescribed by these rules or by a Department practice.

3. **Certificate of Service.**

a. Every document filed with the Department or the Adjudicator and required to be served upon all parties and limited participants must be accompanied by a certificate

of service signed by (or on behalf of) the party making the service that provides the information in the form described in Rule 120-2-2-.14(3)(b) below.

b. Certificates of service should be in substantially the following form:

"I hereby certify that I have this day served the foregoing document(s) upon the following parties and limited participants in this adjudication at the address indicated by [specify the method]:

(a) [name/address]

(b) [name/address]

Date: [Month, Day, Year]

Signature _____

For _____

Capacity _____"

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.14
Authority: O.C.G.A. §§ 33-2-9, 33-2-17, 33-2-19, 33-2-21*et seq.*
History. Original Rule entitled "First-Time Applicants" was filed and effective on July 20, 1965.
Amended: Rule repealed and a new Rule of the same title adopted. Filed May 5, 1981; effective June 1, 1981, as specified by the Agency.
Editor's Note: In accordance with Ga. Laws 1967, p. 618, Ga. Code Ann., Section 3A-124, the content of this Rule is not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. This Regulation is on file in the office of the Comptroller General and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Repealed: New Rule entitled "Service and Filing of Documents" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.15. Amendment or Supplementation of Filed Documents.

1. Until the adjudication concludes, or the Adjudicator or Agency has made a dispositive ruling, a party must amend or supplement a previously filed document upon learning that the filing is incomplete or incorrect in some material respect.

2. The Adjudicator may approve other amendments or supplements to filed documents, when justice so requires.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.15
Authority: O.C.G.A. § 33-2-9*et seq.*

History. Original Rule entitled "Appointment and Cancellation of Agents" was filed and effective on July 20, 1965.
Amended: Rule repealed. Filed May 5, 1981; effective June 1, 1981, as specified by the Agency.
Amended Rule entitled "Continuing Education Requirements" adopted. Filed on May 21, 1982.
Editor's Note: In accordance with Ga. Laws 1967, p. 618, Ga. Code Ann., Section 3A-124, the content of this Rule is not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. This Regulation is on file in the office of the Comptroller General and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Repealed: New Rule entitled "Amendment or Supplementation of Filed Documents" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.16. Time Computation.

1. In computing any time period prescribed in these rules, the day from which the designated period begins to run is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or state holiday. Intermediate Saturdays, Sundays, and state holidays are included in the computation.

2. When a party may or must act within a specified time after being served and service is made under Rule 120-2-2-.14(1)(c)(ii)(3) (mail), (4) (leaving it with the Department), or (5) (other means consented to), three days are added after the period would otherwise expire under Rule 120-2-2-.16(1).

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.16
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Service Representative Permits" was filed and effective on July 20, 1965.
Amended: Rule repealed. Filed May 5, 1981; effective June 1, 1981, as specified by the Agency.
Amended: Rule entitled "Advisory Committee; Course and Instructor Approval for Continuing Education Requirements, Certification" adopted. Filed May 21, 1982; effective June 1, 1982.
Amended: Filed January 17, 1989; effective February 15, 1989, as specified by the agency.
Editor's Note: In accordance with Ga. Laws 1967, p. 618, Ga. Code Ann., Section 3A-124, the content of this Rule is not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. This Regulation is on file in the office of the Comptroller General and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Repealed: New Rule entitled "Time Computation" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.17. Motions.

1. **How Made.**
   a. All motions must state the basis for the specific relief requested and be in writing, except as provided in Rule 120-2-2-.17(1)(b).

   b. Unless the Adjudicator orders otherwise, a motion may be made orally during a conference or hearing. After providing an opportunity for response, the Adjudicator

may rule on the motion immediately or may order that the motion and response be submitted in writing pursuant to Rule 120-2-2-.17(1)(a).

2. Unless the Adjudicator orders otherwise, any party may file a response in support of or in opposition to any written motion within 5 days after service of the motion. If no response is filed within the response period, the party failing to respond will be deemed to have waived any objection to the granting of the motion. The movant will have no right to reply to the response, although the Adjudicator may in her/his discretion permit a reply to be filed.

3. Except for procedural matters, the Adjudicator may not, without assent of the parties, grant a written motion prior to the expiration of the time for filing responses. Any party adversely affected by the ex parte grant of a motion for a procedural order may request reconsideration, vacation, or modification of the order within 10 days of service of the order. The Adjudicator may deny a written motion without awaiting a response or may allow oral argument (including that made by telephone).

4. The Adjudicator may summarily deny dilatory, repetitive, or frivolous motions. Unless the Adjudicator orders otherwise, the filing of a motion does not stay an adjudication.

5. All motions and responses thereto must comply with Rule 120-2-2-.14 (Service and Filing of Documents).

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.17
Authority: O.C.G.A. §§ 33-2-9, 33-2-21*et seq*.
History. Original Rule entitled "Vending Machine Licenses" was filed and effective on July 20, 1965.
Repealed: New Rule entitled "Motions" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.18. Subpoenas.

1. Upon a party's request, a subpoena for testimony, records, or things shall be issued by the Department.

2. Upon motion of a person served with a subpoena (or by a party), the Adjudicator may quash or modify the subpoena for good cause shown.

3. Subpoenas must be served on all parties.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.18
Authority: O.C.G.A. §§ 33-2-9, 33-2-16*et seq*.
History. Original Rule entitled "Surplus Lines Brokers Licenses" was filed and effective on July 20, 1965.
Repealed: New Rule entitled "Subpoenas" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.19. Withdrawal or Dismissal.

1. **Withdrawal.**
   a. An adjudication may be withdrawn without an order of the Adjudicator
      i. by filing a stipulation of all parties who have appeared in the adjudication, or
      ii. by filing a notice of withdrawal by the party initiating the adjudication at any time before another party has served a document responding to the petition or, if there is none, before the introduction of evidence at the hearing.
   b. A notice of withdrawal may not be filed by a party who has previously withdrawn or been dismissed from an adjudication based on (or including) the same claim.
   c. Unless otherwise stated in the notice of withdrawal or stipulation, a withdrawal is without prejudice.
   d. Except as provided above, an adjudication may not be withdrawn except by order of the Adjudicator and upon such terms and conditions as the Adjudicator deems proper.
2. **Dismissal.**
   a. Any party may move to dismiss the adjudication or any request for relief sought therein for:
      i. failure of another party to comply with these rules or with any order of the Adjudicator, or
      ii. failure to prosecute the adjudication.
   b. Unless the Adjudicator specifies otherwise, a dismissal under this subsection, other than a dismissal for lack of jurisdiction, operates as an adjudication upon the merits.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.19
Authority: O.C.G.A. §§ 33-2-9, 33-2-21*et seq*.
History. Original Rule entitled "Letters of Certification" was filed and effective on July 20, 1965.
Repealed: New Rule entitled "Withdrawal or Dismissal" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.20. Initiation of Adjudication.

1. An adjudication is initiated when a party files a petition.
2. The petition may be sent to the Department by either:

a. Mail: ATTN: Administrative Procedure Division,

Department of Insurance

2 Martin Luther King Jr. Dr.

716 West Tower, Floyd Bldg.

Atlanta, GA 30334, or

b. Email: AdminProc@oci.ga.gov

3. The petition must contain the following:
   a. addressed to the Commissioner;
   b. signed by the petitioner or his/her counsel;
   c. a brief statement of the nature of the proceeding,
   d. the identity of known parties,
   e. the jurisdiction under which the adjudication is initiated,
   f. a brief statement of the general allegations of fact and the issues to be adjudicated,
   g. the legal authority that constitutes a basis for the adjudication, and
   h. a brief statement of the nature of the relief sought.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.20
Authority: O.C.G.A. §§ 33-2-9, 33-2-17*et seq*.
History. Original Rule entitled "Bonds" was filed and effective on July 20, 1965.
Repealed: New Rule entitled "Initiation of Adjudication" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.21. Consolidation or Severance of Adjudication.

1. **Consolidation.** The Adjudicator may, upon a party's motion or on her/his own authority, with reasonable notice and opportunity to object provided to all parties affected, consolidate any or all matters at issue in two or more adjudications docketed under these rules where common fact questions or applicable law exist and where such consolidation would expedite or simplify consideration of the issues and the interests of justice would be served. Consolidation must not prejudice any rights under these rules and must not affect the right of any party to raise issues that could have been raised if consolidation had not

occurred. For purposes of this rule, no distinction is made between joinder and consolidation of adjudications.

2. **Severance.** Unless the Department or Adjudicator orders otherwise, the Adjudicator may by motion or on her/his own authority, for good cause shown, order any adjudication severed with respect to some or all parties, claims, and issues.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.21
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Approval of Formal Classroom Training Courses" was filed and effective on July 20, 1965.
Repealed: New Rule entitled "Consolidation or Severance of Adjudication" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.22. Intervention.

1. Any person who desires to participate in an adjudication as an intervenor must file a motion to intervene. Unless ordered otherwise by the Adjudicator, a motion to intervene must be filed not later than 15 days after initiation of the adjudication.

2. A motion to intervene must:
   a. specify the legal basis that supports the motion to intervene;
   b. set forth the movant's property, financial, or other interest in the adjudication;
   c. specify the aspect or aspects of the adjudication as to which the movant wishes to intervene; and
   d. state any other facts or reasons why the movant should be permitted to intervene.

3. Any party may file a response within 5 days after a motion to intervene is filed.

4. In ruling on a motion to intervene, the Adjudicator must consider the factors in Rule 120-2-2-.22(2). The Adjudicator must also specify whether the movant, if granted intervenor status, has full or limited participatory rights. If the Adjudicator grants limited participatory rights, the Adjudicator must specify the nature of the limitations.

5. If the Adjudicator determines that a movant does not meet the requirements under this rule to intervene, the Adjudicator may view the motion to intervene as if it had been timely filed as a motion to participate as a limited participant under Rule 120-2-2-.23 (Limited Participation).

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.22
Authority: O.C.G.A. §§ 33-2-9, 33-2-21*et seq.*
History. Original Rule entitled "Ordering Study Manuals" was filed and effective on July 20, 1965.

Amended: Filed August 20, 1968; effective July 1, 1968.
Amended: Rule repealed and a new Rule entitled "Study Manuals and Materials" adopted. Filed May 5, 1981; effective June 1, 1981, as specified by the Agency.
Amended: Filed May 21, 1982; effective June 10, 1982.
Editor's Note: In accordance with Ga. Laws 1967, p. 618, Ga. Code Ann., Section 3A-124, the content of this Rule is not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. This Regulation is on file in the office of the Comptroller General and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Repealed: New Rule entitled "Intervention" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.23. Limited Participation.

1. A person wishing to participate in an adjudication other than as a party must file a motion to participate as a limited participant. The motion must state concisely the reasons why the movant wishes to participate in the adjudication and the extent of participation desired.

2. Any party may file a response within 10 days after a motion to participate as a limited participant is filed.

3. The Adjudicator may grant the motion, in whole or part, upon finding that the movant will contribute materially to the Adjudicator's ability to make an informed decision in the adjudication. The Adjudicator must give the movant notice of her/his decision on the motion.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.23
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Procedures-Claims and Investigation Division" was filed and effective on July 20, 1965.
Repealed: New Rule entitled "Limited Participation" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.24. Settlement and Alternative Dispute Resolution.

1. **Availability.** The parties may have the opportunity to submit a settlement to the Adjudicator or submit a request for alternative dispute resolution under Rule 120-2-2-.24(4).

2. **Form.** A settlement must be in the form of a proposed settlement agreement, a consent order, and a motion for its entry, which must include the reasons it should be accepted and must be signed by the consenting parties or their authorized representatives.

3. **Content of Settlement Agreement.** The proposed settlement agreement must contain the following:

    a. an admission of all jurisdictional facts;

b. an express waiver of further procedural steps before the Adjudicator or the Department, of any right to challenge or contest the validity of the order entered into in accordance with the agreement, and of all rights to seek judicial review or otherwise to contest the validity of the consent order;

c. a statement that the order will have the same force and effect as an order made after full hearing; and

d. a statement that matters in the parties' filings required to be adjudicated, if any, have been resolved by the proposed settlement agreement and consent order.

4. **Settlement Adjudicator; Alternative Dispute Resolution.**

a. The Adjudicator, upon motion of a party or upon her/his own authority, may request that the Commissioner appoint a Settlement Adjudicator to conduct settlement negotiations or remit the adjudication to alternative dispute resolution as the Department may provide or to which the parties may agree. The order appointing the Settlement Adjudicator may confine the scope of settlement negotiations to specified issues. The order must direct the Settlement Adjudicator to report to the Commissioner at specified times.

b. If a Settlement Adjudicator is appointed, (s)he must:

i. convene and preside over conferences and settlement negotiations between the parties and assess the practicalities of a potential settlement,

ii. report to the Adjudicator describing the status of the settlement negotiations and recommending the termination or continuation of the settlement negotiations, and

iii. not discuss the merits of the case with the Adjudicator or any other person who does not have a need to know under Department rules, and not appear as a witness in the case.

c. Settlement negotiations conducted by the Settlement Adjudicator must terminate upon the order of the Commissioner issued after consultation with the Settlement Adjudicator.

d. Notwithstanding the provisions of Rule 120-2-2-.45 (Interlocutory Review), no decision concerning the appointment of a Settlement Adjudicator or the termination of the settlement negotiation is subject to review or rehearing by the Adjudicator or the Department.

5. The Adjudicator (or Settlement Adjudicator) may require that the attorney or other representative of each party be present and that the parties, or agents having full settlement authority, also be present or available by telephone.

6. None of the following is admissible in evidence-on behalf of any party-either to prove or disprove the validity or amount of a disputed claim or to impeach by a prior inconsistent statement or a contradiction:
    a. furnishing, promising, or offering (or accepting, promising to accept, or offering to accept) a valuable consideration in compromising or attempting to compromise the claim; or
    b. conduct or a statement made during compromise negotiations about the claim.
7. The Adjudicator (or Settlement Adjudicator) may impose on the parties and persons having an interest in the outcome of the Adjudication such other and additional requirements as are necessary for the efficient resolution of the case, consistent with Agency precedent.
8. The conduct of settlement negotiations must not unduly delay the adjudication.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.24
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Procedures - Policy Forms Division" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Settlement and Alternative Dispute Resolution" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.25. Prehearing Statement.

1. The Adjudicator may require all parties to prepare prehearing statement(s) at a time and in the manner to be established by the Adjudicator.
2. Prehearing statement(s) must, unless the Adjudicator orders otherwise, set forth briefly the following matters:
    a. issues involved in the adjudication;
    b. stipulated facts together with a statement that the party (or parties) have communicated or conferred in a good-faith effort to reach stipulations to the fullest extent possible;
    c. facts in dispute;
    d. a list of witnesses, including expert witnesses, and exhibits to be presented during the hearing, including any stipulations relating to authenticity of records and expert witnesses;
    e. a brief statement of applicable law;
    f. the proposed legal conclusions to be drawn and remedies sought; and

g. estimated time required for presentation of the party's (or parties') case.

3. Failure to file a prehearing statement, unless a waiver has been granted by the Adjudicator, may result in dismissal of a party from the adjudication, dismissal of a document initiating the adjudication (if any), entry of decision against the party, or imposition of such other sanctions or curative measures as may be appropriate in the circumstances.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.25
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Procedures - General Administrative Insurance Regulatory Laws Division" adopted. F. and eff. July 20, 1965.
Repealed: F. Jan. 28, 2005; eff. Feb. 17, 2005.
Adopted: New Rule entitled "Trade Secret Assertions." F. Feb. 3, 2016; eff. Feb. 23, 2016.
Repealed: New Rule entitled "Prehearing Statement" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.26. Summary Decision.

1. Any party may, after commencement of the adjudication and at least 30 days before the date fixed for the hearing, move with or without supporting affidavits for full or partial summary decision in her/his favor. Any other party may, within 20 days after service of the motion, serve opposing affidavits or counter-move for full or partial summary decision. The Adjudicator has discretion to set the matter for argument and call for the submission of briefs.

2. Affidavits, if any, must set forth such facts as would be admissible in evidence and must show affirmatively that the affiant is competent to testify to the matters stated therein.

3. When a motion for summary decision is made and supported as provided in this rule, a party opposing the motion must set forth specific facts, by affidavits or as otherwise provided in this rule, showing that there is a genuine issue of material fact for the hearing. If a party opposing the motion declares via affidavit the reasons why that party cannot present, by affidavit or other evidence, facts essential to justify her/his opposition, the Adjudicator may deny the motion for summary decision or may order a continuance to permit affidavits or other evidence to be obtained or may make such other order as is just.

4. The Adjudicator may grant summary decision if the filed documents, affidavits, material obtained by discovery or otherwise, or matters officially noted show that there is no genuine issue as to any material fact and that a party is entitled to a summary decision.

5. The Adjudicator shall rule on a motion for summary determination in writing.

6. A ruling on all or any part of a motion for summary decision is not subject to interlocutory review, except to the extent such a ruling qualifies for interlocutory review as provided in Rule 120-2-2-.45 (Interlocutory Review).

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.26
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Rating Division" adopted. F. and eff. July 20, 1965.
Amended: F. Dec. 3, 1965; eff. Dec. 22, 1965.
Repealed: New Rule entitled "Rating Division Regulations" adopted. F. Jan. 13, 1971; eff. Feb. 2, 1971
Editor's Note: In accordance with Ga. Laws 1967, p. 618, Ga. Code Ann., Section 3A-124, the content of this Rule is not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. This Regulation is on file in the office of the Comptroller General and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Repealed: New Rule entitled "Summary Decision" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.27. Scheduling, Location, and Notice of Hearing.

1. Unless the Department provides otherwise, the Adjudicator is responsible for scheduling the hearing with due regard for the convenience and expense to the parties, their representatives, and witnesses, and the availability of suitable hearing facilities and other relevant factors. The Adjudicator must provide written notice to all parties of the time, place, and date for the hearing, the legal authority under which the hearing is to be held, and the matters at issue, at least 10 days before the date set for hearing. The hearing must be open to the public, unless the Adjudicator orders otherwise.

2. A request for a change in the time, place, or date of the hearing may be entertained by the Adjudicator. A hearing may be postponed by the Adjudicator for good cause, upon motion of a party or upon her/his own authority. A motion to postpone a hearing must be received at least 5 days prior to the date set for hearing. A motion for postponement received less than 5 days prior to the scheduled hearing will generally be denied unless good cause is shown for late filing.

3. At any time after commencement of an adjudication, any party may move to expedite the scheduling of a proceeding consistent with an agency's expedited hearing procedures. A party moving to expedite a proceeding must:
   a. describe the circumstances justifying expedition, and
   b. include affidavits to support any factual representations with the motion.

4. Following timely receipt of the motion and any responses, the Adjudicator may expedite pleading or filing schedules, prehearing conferences, and the hearing, as appropriate.

5. If the Commissioner or the Adjudicator finds that the public health, safety or welfare requires emergency action and incorporates a finding to that effect, notice shall be given and an emergency hearing will be held.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.27
Authority: O.C.G.A. §§ 33-2-9, 33-2-18, 33-2-19, *et seq.*
History. Editor's Note: Chapter 120-2-2 of the Rules and Regulations of the Georgia Insurance Department entitled "Practice and Procedure" has been amended by adding a new Rule 120-2-2-.27 entitled "Examinations Under Open

Competition Rating Law." This Regulation is on file in the office of the Comptroller General and is open for public examination and copying.
Original Rule entitled "Examinations Under Open Competition Rating Law" adopted. F. July 17, 1967; eff. July 10, 1967, as specified by the Agency.
In accordance with Ga. Laws 1967, p. 618; Ga. Code Ann., Section 3A-124, the contents of this Rule is not filed with or published by the Secretary of State; only the names and designations are filed, printed and distributed.
Repealed: New Rule entitled "Scheduling, Location, and Notice of Hearing" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.28. Type or Manner of Hearings.

1. The Adjudicator has discretion, as consistent with agency policy and practice, to determine what type or manner of hearing is appropriate, including in-person hearings or remote hearings conducted by video conference or teleconference.

2. Before permitting the use of remote hearings the Adjudicator must determine that the use of such communications will not jeopardize the rights of any party to the hearing.

3. Hearings may be in the form of a notice to show cause stating that action may be taken by the Commissioner or the Department unless the party shows cause at the hearing, why the proposed action should not be taken.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.28
Authority: O.C.G.A. §§ 33-2-9, 33-2-16, 33-2-17, 33-2-18, 33-2-19, 33-2-20, 33-2-21*et seq.*
History. Original Rule entitled "Type or Manner of Hearings" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.29. Sequestration of Witnesses.

1.

2. The Adjudicator, upon motion of a party or upon her/his own authority, may sequester witnesses to ensure that their testimony will not be influenced by the testimony of other witnesses.

3. As part of her/his sequestration order, the Adjudicator must notify the affected witnesses and parties of the terms of the sequestration.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.29
Authority: O.C.G.A. §§ 33-2-9, 33-2-16, 33-2-17, 33-2-18, 33-2-19, 33-2-20, 33-2-21*et seq.*
History. Original Rule entitled "Sequestration of Witnesses" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.30. Failure of Party to Appear.

The Adjudicator may enter summary decision against a party for failure to appear at a scheduled hearing unless that party shows good cause for the failure to appear.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.30
Authority: O.C.G.A. § 33-2-9, 33-2-22*et seq.*
History. Original Rule entitled "Failure of Party to Appear" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.31. Admissibility of Evidence.

1. The Adjudicator may apply the rules of evidence as applied in the trial of civil nonjury cases in the superior courts and may, when necessary to ascertain facts not reasonably susceptible of proof under such rules, consider evidence not otherwise admissible in superior court if it is of a type commonly relied upon by reasonably prudent persons.

2. A party is entitled to present her/his case or defense by any evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Any evidence may be received, but the Adjudicator must provide for the exclusion of irrelevant, immaterial, privileged, or unduly repetitious evidence.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.31
Authority: O.C.G.A. §§ 33-2-9, 33-2-21*et seq.*
History. Original Rule entitled "Admissibility of Evidence" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.32. Confidential, Sensitive, and Privileged Information.

1. Unless the Adjudicator orders otherwise, the parties must redact all evidence proffered for admission in the same manner as required under Rule 120-2-2-.13 (Form and Content of Filed Documents; Privacy Protections for Filings). The provisions of Rule 120-2-2-.13 concerning filing under seal, waiver, and the application of redaction requirements to additional information apply to proffered evidence for admission.

2. Nothing in this rule limits the discretion of the Adjudicator to give effect to applicable privileges or permit full disclosure of the evidence without redaction as necessary for fair consideration of the evidence.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.32
Authority: O.C.G.A. § 33-2-9, *et seq.*
History. Original Rule entitled "Confidential, Sensitive, and Privileged Information" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.33. Official Notice.

The Adjudicator may officially notice such matters as might be judicially noticed by courts or such facts within the specialized knowledge of the Department as an expert body. When a decision or part thereof rests on the official notice of a material fact not appearing in the evidence in the administrative record, any party, upon timely request, must have an opportunity to show the contrary. The fact of official notice, if taken with or without a party's challenge, must be stated in the decision.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.33
Authority: O.C.G.A. §§ 33-2-9, 33-2-21*et seq.*
History. Original Rule entitled "Official Notice" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.34. Evidentiary Stipulations.

1. The parties may stipulate in writing at any stage of the adjudication, or agree orally at the hearing, to any or all pertinent facts in the adjudication, unless the stipulation is determined by the Adjudicator to be contrary to law. Stipulations may be received in evidence before or at the hearing, and when received in evidence, will be binding on the parties to the stipulation. The Adjudicator may, for good cause shown, permit a party to introduce facts or argue points of law outside the scope of the facts and law outlined or stipulated to in prehearing statements.

2. Parties waive their right to a hearing on any stipulated fact(s) and their right to any hearing whatsoever if they stipulate all pertinent facts.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.34
Authority: O.C.G.A. §§ 33-2-9, 33-2-21*et seq.*
History. Original Rule entitled "Evidentiary Stipulations" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.35. Written Testimony.

1. The Adjudicator may accept and enter into the administrative record direct testimony of witnesses made by verified written statement rather than by oral presentation at the hearing. Witnesses whose testimony is presented by verified written statement must be available for cross-examination as may be required under Rule 120-2-2-.31.

2. Testimony presented by written statement must be made under oath and verified by a notary public.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.35
Authority: O.C.G.A. §§ 33-2-9, 33-2-21*et seq.*
History. Original Rule entitled "Written Testimony" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the

Agency.

Rule 120-2-2-.36. Oaths and Oral Examination.

1. Witnesses must testify under oath or affirmation. Interpreters must also ascribe by oath or affirmation to the accuracy of the translation.

2. To the extent that cross-examination is permissible or required under Rule 120-2-2-.31 (Admissibility of Evidence) or other law, cross-examination is limited to the scope of the direct examination and, subject to the Adjudicator's discretion, may be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. The Adjudicator has discretion to permit inquiry into additional matters as if on direct examination, particularly when it would obviate the need to recall the witness.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.36
Authority: O.C.G.A. §§ 33-2-9, 33-2-21*et seq*.
History. Original Rule entitled "Oaths and Oral Examination" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.37. Exhibits and Records.

1. All exhibits offered in evidence by a party must be marked for identification before or during the hearing and must be numbered and marked with a designation identifying the sponsor. The Original of each exhibit offered in evidence or marked for identification must be filed and retained in the administrative record of the adjudication, unless the Adjudicator permits the substitution of copies for the Original record. The sponsoring party must supply copies of each exhibit to the Adjudicator and to each other party. A party may withdraw an exhibit from the administrative record during the hearing or at the conclusion of the hearing only with the Adjudicator's permission.

2. All exhibits offered but denied admission into evidence, except exhibits denied admission because of excessive size, weight, or other characteristic that prohibits convenient transportation or storage, must be placed in a separate file designated for rejected exhibits. A party may offer into evidence photographs, models, or other representations of any exhibit denied admission because of excessive size, weight, or other characteristic that prohibits convenient transportation or storage

3. Unless the Adjudicator orders otherwise, proposed exhibits to be offered upon direct examination must be exchanged 5 days prior to the hearing. Proposed exhibits not so exchanged in accordance with the Adjudicator's order may be denied admission as evidence. A party concedes the authenticity of all exhibits submitted or exchanged prior to the hearing, under the Adjudicator's direction, unless that party files and serves on all

parties written objection, or unless good cause is shown for failure to file and serve such written objection.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.37
Authority: O.C.G.A. §§ 33-2-9, 33-2-21*et seq.*
History. Original Rule entitled "Exhibits and Records" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.38. Witness Fees; Refusal to Testify.

1. **Fees.** Witnesses, other than employees of the Department or employees otherwise compensated by another agency or employer, summoned in an adjudication are entitled to the same fees and mileage as witnesses in the courts of the State of Georgia, and witnesses whose depositions are taken and the persons taking the same will severally be entitled to the same fees as are paid for like services in the courts of the State of Georgia. Witness fees and mileage must be paid by the party at whose instance the witness appears, whether at a deposition or hearing.

2. **Failure or Refusal to Testify.** If a witness fails or refuses to testify, the failure or refusal to answer any question that the Adjudicator deems proper may be grounds for striking all or part of the testimony that the witness may have given, or for any other action that the Adjudicator deems appropriate.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.38
Authority: O.C.G.A. §§ 33-2-9, 33-2-16, 33-2-21*et seq.*
History. Original Rule entitled "Witness Fees; Refusal to Testify" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.39. Burden of Proof.

1. In any case involving an administrative enforcement order, or the revocation, suspension, amendment, or non-renewal of a license, the holder of the license and the person against whom an order is issued shall bear the burden as to any affirmative defenses raised.

2. A party challenging the issuance, revocation, suspension, amendment, or non-renewal of a license who is not the licensee shall bear the burden.

3. An applicant for a license that has been denied shall bear the burden.

4. Any licensee that appeals the conditions, requirements, or restrictions placed on a license shall bear the burden.

5. Unless otherwise provided for in (1)-(4) of this Rule the proponent of a factual proposition has the burden of introducing evidence to support that proposition.

6. Unless otherwise provided by law, the standard of proof on all issues in a hearing shall be a preponderance of the evidence.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.39
Authority: O.C.G.A. §§ 33-2-9, 33-2-21*et seq*.
History. Original Rule entitled "Burden of Proof" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.40. Closing of the Administrative Record.

1. At the conclusion of the hearing, the Adjudicator, unless ordering otherwise, must close the administrative record. Once the administrative record is closed, no additional evidence will be accepted except upon a showing that the evidence is material and that there was good cause for failure to produce it prior to closing the administrative record.

2. Should the Adjudicator request the preparation of a transcript or require or authorize the filing of proposed findings of fact and conclusions of law, or briefs, the record shall be deemed closed upon the receipt of the transcript or upon the expiration of the time allowed for the required or authorized filings, whichever date is later.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.40
Authority: O.C.G.A. §§ 33-2-9, 33-2-21*et seq*.
History. Original Rule entitled "Closing of the Administrative Record" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.41. Proposed Findings; Closing Arguments; Briefs.

1. Before the Adjudicator's decision and upon such terms that the Adjudicator may find reasonable, any party is entitled to file a brief, and propose findings of fact, conclusions of law, and orders. The Adjudicator has discretion to hear oral argument. Any brief, proposed findings of fact, conclusions of law, orders, and any oral argument must be included as part of the administrative record.

2. When providing oral decisions from the bench, the Adjudicator may permit or preclude the filing of briefs.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.41
Authority: O.C.G.A. §§ 33-2-9, 33-2-21*et seq*.
History. Original Rule entitled "Proposed Findings; Closing Arguments; Briefs" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.42. Record of Hearing.

1. All hearings must be recorded and made part of the administrative record. Exhibits admitted into evidence, or exhibits proffered and rejected by the Adjudicator and placed in a rejected exhibit file, and evidentiary stipulations at the hearing, become part of the administrative record.

2. The Adjudicator must reflect in the administrative record any approved correction to the transcript.

3. All pleadings and motions, all recordings or transcripts of oral hearings or arguments, all written direct testimony, all other data, studies, reports, documentation, information, and other written material of any kind submitted in the proceedings, a statement of matters officially noticed, all proposed findings of fact, conclusions of law, and briefs, as well as the Initial or Final Decision shall be a part of the hearing record and shall be available to the public, except as provided by law according confidentiality.

4. Evidentiary hearings shall be either stenographically reported verbatim or recorded by electronic means. Upon written request, a copy of the record of any oral proceeding shall be furnished to the Department at no cost and to any other party at the requesting party's expense.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.42
Authority: O.C.G.A. §§ 33-2-9, 33-2-21*et seq*.
History. Original Rule entitled "Record of Hearing" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.43. Decision of Adjudicator.

The Adjudicator must prepare a decision containing:

1. findings of fact, conclusions of law, and discretionary determinations based on consideration of the whole administrative record;

2. an order recommending the final disposition of the case, including relief, if appropriate;

3. the date upon which the decision will become effective (e.g., the day of issuance); and

4. a statement of further right to review.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.43
Authority: O.C.G.A. §§ 33-2-9, 33-2-21, 33-2-23*et seq*.
History. Original Rule entitled "Decision of Adjudicator" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.44. Reopening of Case.

1. A decision that has otherwise become final may be reopened:
   a. upon the Adjudicator's order, within 30 days of the notice of the decision to correct a clerical error or for good cause shown;
   b. upon a party's motion to reopen for good cause filed within 60 days of the notice of the decision; or
   c. upon the Adjudicator's order at any time if there is evidence that the hearing decision may have been procured by fraud or similar fault.
2. "Good cause" for reopening requires both
   a. new and material evidence that was not i. available to the proponent and ii. actually or constructively known by the proponent, and
   b. an obvious error was made at the time of the decision.
3. For purposes of reopening a case, evidence is "new and material" when:
   a. the evidence is not part of the existing administrative record;
   b. the evidence is relevant to issues adjudicated in the prior decision; and
   c. the evidence shows that the decision may be contrary to the weight of the evidence, whether or not a different conclusion is ultimately reached after reopening.
4. If the Adjudicator determines that good cause exists to reopen the decision, Rule 120-2-2-.31 (Admissibility of Evidence) governs the admissibility of new evidence.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.44
Authority: O.C.G.A. §§ 33-2-9, 33-2-21*et seq*.
History. Original Rule entitled "Reopening of Case" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.45. Interlocutory Review.

1. Interlocutory review should be handled on an expedited basis.
2. A party that seeks interlocutory review of an adjudicator's decision, or part thereof, must file a petition with the Adjudicator. The petition must:
   a. be filed with the Adjudicator within 10 days after the Adjudicator's decision;

b. designate the decision (or part thereof) from which review is sought; and

c. set forth the grounds on which review is sought, including all applicable points of fact and law, and the reasons why interlocutory review is warranted under Rule 120-2-2-.45(4).

3. Any party that opposes the petition may file a response within 5 days after service of the petition.

4. The Adjudicator must certify the ruling for interlocutory review by the Commissioner if the Adjudicator determines that:

   a. the decision involves a controlling question of law about which there is substantial ground for difference of opinion; and

   b. an immediate review will materially advance the completion of the adjudication, or subsequent review by Commissioner will provide an inadequate remedy.

5. Within 5 days after the Adjudicator's ruling on a petition to certify a decision under Rule 120-2-2-.45(2), the petitioner may apply to the Commissioner, whether or not the Adjudicator has certified the decision under Rule 120-2-2-.45(4), to allow the interlocutory review sought in the petition. The application must reference the petition filed under Rule 120-2-2-.45(2), all filings made with the Adjudicator in support of or in opposition to the petition, and the Adjudicator's decision on the petition. The application must not otherwise set forth the grounds on which interlocutory review is sought or contain any argument, unless the Commissioner orders otherwise. No response to any application made under this subsection may be permitted unless the Commissioner orders otherwise.

6. Any petition or application filed under this rule may be summarily dismissed whenever the Adjudicator or the Commissioner, respectively, determines that review is not appropriate.

7. The Adjudicator may, on his or her own motion, certify an order for interlocutory review under this rule in its discretion.

8. If the Commissioner decides to allow interlocutory review, the Commissioner must decide the matter on the basis of the administrative record and briefs submitted to the Adjudicator, without further briefs or oral argument, unless the Commissioner orders otherwise.

9. The filing of an application for interlocutory review and the certification of a ruling for interlocutory review does not stay proceedings before the Adjudicator unless (s)he or the Commissioner so orders.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.45
Authority: O.C.G.A. §§ 33-2-9, 33-2-21*et seq.*
History. Original Rule entitled "Interlocutory Review" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by

the Agency.

Rule 120-2-2-.46. Petitions for Review.

1. Any party may file with the Department a petition for review within 30 days after issuance of the Adjudicator's decision. Two or more parties may join in the same petition.

2. A petition for review, no more than 2000 words, must be filed only upon one or more of the following grounds:

   a. a finding of material fact is not supported by substantial evidence;

   b. a necessary legal conclusion is erroneous;

   c. the decision is contrary to law or to the duly promulgated rules or decisions of the Department;

   d. a substantial question of law, policy, or discretion is involved; or

   e. a prejudicial error of procedure was committed.

3. Each issue must be plainly and concisely stated and must be supported by citations to the administrative record when assignments of error are based on the administrative record, and by statutes, regulations, cases, or other principal authorities relied upon. Except for good cause shown, no assignment of error by any party may rely on any question of fact or law not presented to the Adjudicator.

4. A statement in opposition to the petition for review may be filed, within 15 days after the date on which petitions are due.

5. Review by the Commissioner is not a matter of right, but within the sound discretion of the Commissioner. A petition not granted within 30 days after the issuance of the Adjudicator's decision is deemed denied.

6. The Commissioner, at any time within 30 days after the issuance of the Adjudicator's decision, may review the decision on its own authority.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.46
Authority: O.C.G.A. §§ 33-2-9, 33-2-21*et seq*.
History. Original Rule entitled "Petitions for Review" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.47. Record Before the Department.

The Adjudicator must decide each matter on the basis of the whole administrative record.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.47
Authority: O.C.G.A. §§ 33-2-9, 33-2-21*et seq.*
History. Original Rule entitled "Record Before the Department" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.48. Appellate Briefs.

1. Unless the Commissioner orders otherwise, a party must file a brief in support of its petition for review within 30 days after the Commissioner grants the petition. If a petitioner fails to file a timely brief, the order granting review may be vacated. Other parties may file any briefs they wish considered by the Commissioner within 15 days after the petitioner's brief is served. If the Adjudicator orders review on his or her own motion, all parties must file any briefs they wish considered by the Commissioner within 30 days of the order, unless the Adjudicator otherwise orders.

2. Except by permission of the Commissioner, a brief must not exceed 2000 words.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.48
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Appellate Briefs" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.49. Oral Argument.

When a petition for review has been filed the Commissioner may permit oral argument in his/her discretion. The order scheduling a case for oral argument must contain the allotment of time for each party and order of presentation for oral argument before the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.49
Authority: O.C.G.A. §§ 33-2-9, 33-2-21*et seq.*
History. Original Rule entitled "Oral Argument" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.50. Final Decision.

1. Upon conclusion of the hearing, the Adjudicator will write a reasoned opinion explaining his findings of facts and conclusions of law and furnish each party a copy within fifteen (15) days after concluding the hearing.

2. The Adjudicator, will certify the entire record of the case and send it, along with his opinion to the Commissioner for review.

3. The Commissioner will render his final decision within thirty (30) days. The Commissioner's final decision should be expressed in clear and intelligible language so that all parties will understand the outcome of the case and the actions required to be taken if any.

4. If no petition for review is filed, and the Commissioner has not taken review of the Adjudicator's decision on its own authority, the decision becomes the final decision of the Commissioner 30 days after issuance.

5. When a case stands submitted for final decision on the merits, the Department will dispose of the issues presented by entering an appropriate order, which will include findings and conclusions and the reasons or bases therefor.

6. In appropriate cases, the Commissioner may simply adopt the Adjudicator's decision.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.50
Authority: O.C.G.A. §§ 33-2-9, 33-2-23*et seq.*
History. Original Rule entitled "Final Decision" adopted. F. Dec. 12, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.51. News Coverage of Hearings.

In all adjudications open to the public, persons desiring to broadcast, record, or photograph any portion of the hearing must file a timely written request with the Adjudicator prior to the hearing. The request shall specify the particular hearing for which such coverage is requested, the type of equipment to be used in the courtroom, and the person responsible for installation and operation of such equipment. The Adjudicator shall resolve such request in the manner prescribed for such a request by the Uniform Rules of the Superior Courts of the State of Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.51
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "News Coverage of Hearings" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.52. Declaratory Rulings.

(1) An interested person may, by petition setting forth all the facts, obtain declaratory rulings by the Commissioner as to the applicability of any rule or order of the Commissioner.

(2) An interested person may, by petition setting forth all the facts, obtain declaratory rulings by the Commissioner as to the applicability of any statutory provisions.

(3) All such petitions requesting declaratory rulings shall set forth actual facts or situations. The Commissioner will make no ruling on untrue or hypothetical facts.

(4) All rulings hereunder shall be contingent upon the truthfulness of the facts set forth in the petition requesting a declaratory ruling.

(5) Within thirty (30) days of the date of filing such petition, the Commissioner will rule thereon, provided, however, the Commissioner may by order extend such thirty (30) day period if he recites in such extension order the reasons therefor.

(6) The date of filing shall be the date received by the Commissioner.

(7) The date of filing shall be prominently affixed to the petition.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.52
Authority: O.C.G.A. § 33-2-9 et seq.
History. Original Rule entitled "Declaratory Rulings" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.53. Unfair Trade Practices.

(1) Except to the extent provided for in this rule, proceedings by the Department for an alleged unfair method of competition or an unfair or deceptive act or practice shall be in conformity with the provisions of Rules 120-2-2-.04 -120-2-2-.50.

   (a) a hearing shall be held not less than fifteen (15) days after the date of service of the charges;

   (b) at the hearing, a party charged with an unfair method of competition or an unfair and deceptive act or practice shall have an opportunity to be heard and to show cause why an order should not be entered requiring the party to cease and desist from the acts, methods or practices complained of.

(2) The Adjudicator, at a hearing pursuant to Rule 120-2-2-.53(1) shall have the power and authority to do the following in addition to the power and authority granted in Rules 120-2-2-.04 -120-2-2-.50:

   (a) examine and cross-examine witnesses;

   (b) require the production of books, papers, records, correspondence or other documents which he deems relevant.

(3) If after a hearing, the Adjudicator determines that the method of competition is in violation of Title 33, Chapter 6 of the Official Code of Georgia, he or she shall:

   (a) reduce his or her findings to writing;

   (b) issue and serve an order requiring the party to cease and desist the act or practice.

(4) The Commissioner may at any time, before notice of appeal is served upon him, or after the expiration of the time allowed by law for the serving of such notice, if no such notice has been served, amend or set aside in whole or in part any order issued by him under Rule 120-2-2-.53, whenever, in his opinion:

(a) the facts and circumstances surrounding the case have so changed as to require such action; or

(b) if the public interest requires it.

(5) No change of an order in a manner unfavorable to the person changed, or to the parties at interest, shall be made except after notice and opportunity for hearing as provided for in Rule 120-2-2-.53.

(6) The date of the Adjudicator's last order shall be the point of time from which it may be reviewed by appeal.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.53
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Unfair Trade Practices" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.54. Licensing.

When the grant, denial of renewal of any license, not specifically provided for in these rules, is required by law to be preceded by notice and opportunity for hearing, the provisions of Rules 120-2-2-.04 -120-2-2-.50 shall apply.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.54
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Licensing" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.55. Renewal Licenses.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.55
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Renewal Licenses" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.
Editor's Note:

Chapter 120-2-2 of the Rules and Regulations of the Georgia Insurance Department entitled "Practice and Procedure" has been amended by adding a new Rule 120-2-2-.55 entitled "Renewal Licenses" This Regulation is on file in the office of the Comptroller General and is open for public examination and copying. Original Rule entitled "Renewal Licenses" adopted. F. July 17, 1967; eff. July 10, 1967, as specified by the Agency. In accordance with Ga. Laws 1967, p. 618; Ga. Code Ann., Section 3A-124, the contents of this Rule is not filed with or published by the Secretary of State; only the names and designations are filed, printed and distributed.

Rule 120-2-2-.56. First-Time Applicants.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.56
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "First-Time Applicants" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.
Editor's Note:

Chapter 120-2-2 of the Rules and Regulations of the Georgia Insurance Department entitled "Practice and Procedure" has been amended by adding a new Rule 120-2-2-.56 entitled "First-Time Applicants" This Regulation is on file in the office of the Comptroller General and is open for public examination and copying. Original Rule entitled "First-Time Applicants" adopted. F. July 17, 1967; eff. July 10, 1967, as specified by the Agency. In accordance with Ga. Laws 1967, p. 618; Ga. Code Ann., Section 3A-124, the contents of this Rule is not filed with or published by the Secretary of State; only the names and designations are filed, printed and distributed.

Rule 120-2-2-.57. Continuing Education Requirements.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.57
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Continuing Education Requirements" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.
Editor's Note:

Chapter 120-2-2 of the Rules and Regulations of the Georgia Insurance Department entitled "Practice and Procedure" has been amended by adding a new Rule 120-2-2-.57 entitled "Continuing Education Requirements" This Regulation is on file in the office of the Comptroller General and is open for public examination and copying. Original Rule entitled "Continuing Education Requirements" adopted. F. July 17, 1967; eff. July 10, 1967, as specified by the Agency. In accordance with Ga. Laws 1967, p. 618; Ga. Code Ann., Section 3A-124, the contents of this Rule is not filed with or published by the Secretary of State; only the names and designations are filed, printed and distributed.

Rule 120-2-2-.58. Advisory Committee; Course and Instructor Approval for Continuing Education Requirements; Certificate.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.58
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Advisory Committee; Course and Instructor Approval for Continuing Education Requirements; Certificate" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.
Editor's Note:

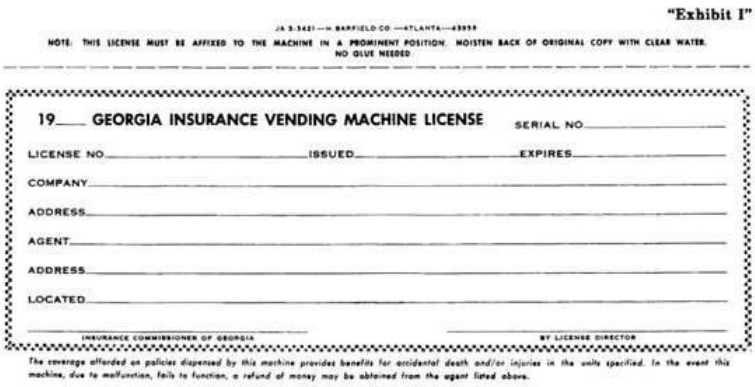
Chapter 120-2-2 of the Rules and Regulations of the Georgia Insurance Department entitled "Practice and Procedure" has been amended by adding a new Rule 120-2-2-.58 entitled "Advisory Committee; Course and Instructor Approval for Continuing Education Requirements; Certificate" This Regulation is on file in the office of the Comptroller General and is open for public examination and copying. Original Rule entitled "Advisory Committee; Course and Instructor Approval for Continuing Education Requirements; Certificate" adopted. F. July

17, 1967; eff. July 10, 1967, as specified by the Agency. In accordance with Ga. Laws 1967, p. 618; Ga. Code Ann., Section 3A-124, the contents of this Rule is not filed with or published by the Secretary of State; only the names and designations are filed, printed and distributed.

Rule 120-2-2-.59. Vending Machine Licenses (Travel Accident or Baggage Insurance).

(1) A licensed resident agent or broker may solicit applications for and issue policies of personal travel accident or baggage insurance by means of mechanical vending machines if he obtains a vending machine license for each such machine supervised by him. For each vending machine, the agent or broker shall submit a completed form GID-108, entitled "Georgia Insurance Vending Machine License," attached hereto as "Exhibit I",* and incorporated herein.

(2) The applicant shall enter the serial number of the vending machine, the name and address of the insurer, the name and address of the agent, and the place where the machine is to be in operation.



"Exhibit I"

JA 3-3421 — H. BARFIELD CO. — ATLANTA — 43959

NOTE: THIS LICENSE MUST BE AFFIXED TO THE MACHINE IN A PROMINENT POSITION. MOISTEN BACK OF ORIGINAL COPY WITH CLEAR WATER. NO GLUE NEEDED.

19____ GEORGIA INSURANCE VENDING MACHINE LICENSE SERIAL NO._____

LICENSE NO._____ ISSUED_____ EXPIRES_____

COMPANY_____

ADDRESS_____

AGENT_____

ADDRESS_____

LOCATED_____

_____ INSURANCE COMMISSIONER OF GEORGIA _____ BY LICENSE DIRECTOR

The coverage afforded on policies dispensed by this machine provides benefits for accidental death and/or injuries in the units specified. In the event this machine, due to malfunction, fails to function, a refund of money may be obtained from the agent listed above.

GEORGIA INSURANCE DEPARTMENT
AGENTS LICENSING DIVISION — ROOM 132 STATE CAPITOL
ATLANTA, GEORGIA

JAMES L. BENTLEY
INSURANCE COMMISSIONER

SURPLUS LINES BROKER LICENSE APPLICATION

TO THE INSURANCE COMMISSIONER OF THE STATE OF GEORGIA:

The undersigned hereby applies for a license as a surplus lines broker and submits the following information:

1. Full Name _____
(Last) (First) (Middle)

2. Business Address _____
(Name of Agency)

_____
(Street and Number) (City) (County) (State)

Residence Address _____
(Street and Number) (City) (County) (State)

3. I hold a current Georgia resident license as ( ) Agent, ( ) Broker for Property and Allied Lines; Casualty, Surety and Allied Lines.

4. My current Georgia insurance license number is: _____

5. Enclosures:

( ) $300 License Fee

( ) $20,000 Surplus Lines Brokers Bond

I have read, understand, and will abide by the Surplus Lines Insurance Law (Sections 56-613 through 56-628 of the Georgia Insurance Code), and I hereby certify that all the information in this application is true and correct to the best of my knowledge and belief.

Subscribed and sworn to before me

this ____ *day of* _____ *19* __

_____
(Signature of Applicant)

_____
(Notary Public)

GID-109

(3) Upon receipt of the completed application and the required $5 license fee as provided in Section 56-1301 of the Georgia Insurance Code, the agent will be issued a vending machine license, which must be affixed to the machine in a prominent position.

(4) Application forms GID-108, used for procuring vending machine licenses, may be obtained by submitting a request to the Georgia Insurance Department, Agents Licensing Division, Room 132, State Capitol Building, Atlanta, Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.59
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Vending Machine Licenses (Travel Accident or Baggage Insurance)" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.60. Surplus Lines Brokers Licenses.

(1) Any person, while licensed as a resident agent or broker as to Property, Casualty and Surety insurance, and who is deemed by the Commissioner to be competent and trustworthy, may be licensed as a surplus lines broker. The applicant shall submit a

completed form GID-109, entitled "Surplus Lines Broker License Application", attached hereto as "Exhibit J", and incorporated herein.

(2) The applicant shall enter his name and license number as it appears on his current license, his business and residence addresses, and the type license he holds (whether agent or broker). He must also certify that he has read and understands the Surplus Lines Insurance Law (Sections 56-613 through 56-628 of the Georgia Insurance Code). Applicant shall date and sign the application and have his signature notarized. Applicant must submit with his application a $20,000 Surplus Lines Brokers Bond form GID-114.

(3) Upon receipt of the completed application, the $20,000 bond and the required $300 license fee as provided in Section 56-618 and 56-1301 of the Georgia Insurance Code, if qualified therefor, the applicant will be issued a Surplus Lines Broker's license.

(4) Application forms GID-109 and bond forms GID-114, used for procuring surplus lines broker's licenses, may be obtained by submitting a request to the Georgia Insurance Department, Agents Licensing Division, Room 132, State Capitol Building, Atlanta, Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.60
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Surplus Lines Brokers Licenses" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.61. Letters of Certification.

(1) Upon request, the Commissioner issues letters of certification, indicating the license history or status of anyone who has held or currently holds an insurance license in this State. This information is furnished on form GID-111, attached hereto as "Exhibit K", and incorporated herein. There is no charge for this service.

JAMES L. BENTLEY
INSURANCE COMMISSIONER

GEORGIA INSURANCE DEPARTMENT
STATE CAPITOL
ATLANTA, GEORGIA

I, James L. Bentley, Insurance Commissioner of the State of Georgia, do hereby certify that:

_____

_____

_____

IS CURRENTLY LICENSED IN THE STATE OF GEORGIA AS:

☐ Agent ☐ Adjuster ☐ Broker ☐ Counselor ☐ Solicitor

FOR THE FOLLOWING KINDS OF INSURANCE:

☐ Life
☐ Credit Life
☐ Accident and Sickness
☐ Credit Accident and Sickness
☐ Property and Allied Lines
☐ Limited Property
☐ Limited Automobile Physical Damage
☐ Casualty, Surety, and Allied Lines
☐ Limited Casualty
☐ Limited Surety
☐ Other_____

SUBJECT QUALIFIED FOR THIS LICENSE BY:

☐ Satisfactorily passing the required written examination.
☐ Being licensed prior to qualification law.
☐ Holding temporary license pending examinations.

Temporary issued_____ Expires_____

SUBJECT'S LICENSE WILL EXPIRE_____

SUBJECT'S LICENSE WAS CANCELLED_____

☐ At subject's request
☐ At company's request ☐ With prejudice ☐ Without prejudice.

☐ THERE IS NOTHING DEROGATORY AGAINST SUBJECT'S RECORD.

REMARKS:_____

In witness whereof, I have hereunto set my hand and caused my official seal to be affixed, at the City of Atlanta, this _____ day of_____, 19____

_____
INSURANCE COMMISSIONER

By_____

INSURANCE BROKER'S BOND

(Georgia)

KNOW ALL MEN BY THESE PRESENTS, that _____

_____, whose residence is in _____

(City)

_____, and place of business is in _____

(State) (City)

_____, and _____, as surety,

(State)

are held and firmly bound unto James L. Bentley, Comptroller General, Ex-officio Insurance Commissioner of Georgia, and his successors in office in the penal sum of Twenty-five Hundred ($2,500) Dollars, lawful money of the United States of America, for the payment of which well and truly to be made, we bind ourselves and our and each of our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT if the above bounden _____ shall faithfully account to all persons requesting the said

_____ to obtain insurance for them for all monies or premiums collected in connection therewith as provided in Section 56-837b of the Georgia Insurance Code of 1960, then this obligation shall be void, otherwise to remain in full force and effect.

IN WITNESS WHEREOF, the said principal has caused these presents to be executed by affixing hereto his or her signature, and the said surety has caused these presents to be executed by the signature of its _____

(Agent or Attorney-in-fact

_____ and its corporate seal to be affixed of Surety Company)

hereto, attested by its _____, this the

_____ day of _____, 19__.

(SEAL)

_____(Seal)

(Principal)

_____(Seal)

(Surety)

(Note Attach to this Bond a By: _____

properly certified copy of (Title)

power of attorney or representative of surety _____(Seal)

company who signs Bond.) (Attorney-in-Fact)

_____

(Licensed Resident Agent)

PUBLIC ADJUSTER'S S BOND

(Georgia)

KNOW ALL MEN BY THESE PRESENTS, that _____

_____, whose residence is in _____,

Georgia, and place of business is in _____,

Georgia, as principal, and _____ as surety, are held and firmly bound unto James L. Bentley, Comptroller General, Ex-officio Insurance Commissioner of Georgia, and his successors in office, in the penal sum of Twenty-five Hundred ($2,500) Dollars, lawful money of the United States of America, for the payment of which well and truly to be made, we bind ourselves, and our and each of our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents:

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT

if the above bounden _____ shall faithfully account to any insured whose claim he is handling for all monies or any settlement received in connection therewith as provided in Section 56-845b of the Georgia Insurance Code of 1960, then this obligation shall be void, otherwise to remain in full force and effect.

IN WITNESS WHEREOF, the said principal has caused these presents to be executed by affixing hereto his or her signature, and the said surety has caused these presents to be executed by the signature of its

_____ and its

(Agent or Attorney-in-Fact of Surety Company)

corporate seal to be affixed hereto, attested by its

_____ this the _____ day of

_____, 19__.

_____(Seal)

(SEAL) (Principal)

_____(Seal)

(Surety)

(Note: Attach to this Bond a By: _____

properly certified copy of Title:

power of attorney of _____(Seal)

representative of surety Attorney-in-Fact company who signs Bond.)
_____

Licensed Resident Agent.

SURPLUS LINES BROKER'S BOND

STATE OF GEORGIA

COUNTY OF _____

KNOW ALL MEN BY THESE PRESENTS:

That _____,

whose residence or place of business is in the City of _____,

State of Georgia, as Principal, and _____
as Surety, a corporation duly authorized to write surety bonds in this State, are held and firmly bound unto JAMES L. BENTLEY, Comptroller General, Ex-officio Insurance Commissioner of the State of Georgia, and his successors in office in the penal sum of Twenty Thousand Dollars ($20,000.00) lawful money of the United States of America, for the payment of which well and truly to be made, we bind ourselves, and our and each of our heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents:

The Conditions of the above obligation are such that:

WHEREAS, the above bounden Principal pursuant to the provisions of the Georgia Insurance Code of 1960 (Sections 56-613 through 56-628), as amended, is about to apply or has applied to the Insurance Commissioner of the State of Georgia for a license to place surplus lines of insurance in companies or with insurers not admitted to do business in this State;

NOW, THEREFORE, if the said above bounden Principal shall fully and faithfully comply with the requirements of the said Georgia Insurance Code of 1960, as amended, and shall file with the Insurance Commissioner of Georgia on or before April 15th of each year and quarterly thereafter, a sworn statement of the gross premiums charged for insurance placed, and the gross premiums returned on such insurance cancelled under such license during the preceding quarter, and at the time of filing such statement shall pay to the insurance Commissioner of the State of Georgia a sum equal to four percentum of such gross premiums, less return premiums, so reported; and shall faithfully account to all persons requesting him to obtain insurance for them for monies or premiums collected is connection therewith; and will in all other respects fully comply with the provision of the said Georgia Insurance Code of 1960, as amended; then this obligation is to be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, the said principal has caused these presents to be executed by affixing hereto his or her signature, and the said surety has caused these presents to be executed by the signature of its
_____ and its (Agent or Attorney-in-Fact of Surety Company) corporate seal to be affixed hereto, attested by its

_____, this the _____ day of _____, 19__.

(SEAL)

_____(Seal)

(Principal)

_____(Seal)

(Surety)

(NOTE: Attach a certified By: _____ copy of Power of Attorney As _____ of Surety of Representative of (Title) Surety Company who signs Attest:_____ bonds). (If required by power of attorney)

As _____ of Surety

(Title)

_____

(Licensed Resident Agent)

(2) Letters of certification may be obtained by submitting a request to the Georgia Insurance Department, Agents Licensing Division, Room 132, State Capitol Building, Atlanta, Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.61
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Letters of Certification" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.62. Bonds.

(1) Kinds of Bonds Required:

(a) To secure a broker's license, whether resident or nonresident, along with the application, a bond must be submitted on form GID-112, entitled "Insurance Broker's Bond", attached hereto as "Exhibit L", and incorporated herein;

(b) To secure a public adjuster's license, along with the application a bond must be submitted on Form GID-113, entitled, "Public Adjuster's Bond", attached hereto as "Exhibit M", and incorporated herein;

(c) To secure a surplus lines broker's license, along with the application, a bond must be submitted on form GID-114, entitled "Surplus Lines Broker's Bond", attached hereto as "Exhibit N", and incorporated herein.

(2) Completing the Bond Forms:

(a) Bond forms must be completed by inserting information in the spaces provided and must be signed by the principal, by an official or attorney-in-fact of a corporate surety authorized to do business in this State, and by a licensed resident agent of such corporate surety. Attached to the bond must be a properly certified copy of power of attorney of representative of surety company who signs bonds.

(3) Bond forms GID-112, GID-113, and GID-114 may be obtained by submitting a request to the Georgia Insurance Department, Agents Licensing Division, Room 132, State Capitol Building, Atlanta, Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.62
Authority: O.C.G.A. § 33-2-9*et seq.*

History. Original Rule entitled "Bonds" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.63. Approval of Formal Classroom Training Courses.

Complying with the pertinent regulations, an insurer may seek approval of a training course by submitting a complete outline of the subjects to be taught each hour, the instructor for each subject, using a minimum of forty (40) hours of actual classroom instructions, a resume of each instructor showing his background of training and experience, a statement describing the classroom facilities, physical equipment and instructional material to be used. The insurer is notified of approval, or upon disapproval, such notification shall indicate wherein the submitted material does not comply with the pertinent regulations.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.63
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Approval of Formal Classroom Training Courses" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.64. Study Manuals and Materials.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.64
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Study Manuals and Materials" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.
Editor's Note:

Chapter 120-2-2 of the Rules and Regulations of the Georgia Insurance Department entitled "Practice and Procedure" has been amended by adding a new Rule 120-2-2-.64 entitled "Study Manuals and Materials" This Regulation is on file in the office of the Comptroller General and is open for public examination and copying. Original Rule entitled "Study Manuals and Materials" adopted. F. July 17, 1967; eff. July 10, 1967, as specified by the Agency. In accordance with Ga. Laws 1967, p. 618; Ga. Code Ann., Section 3A-124, the contents of this Rule is not filed with or published by the Secretary of State; only the names and designations are filed, printed and distributed.

Rule 120-2-2-.65. Procedures-Claims and Investigation Division.

(1) Action by this Division is instigated by either a written complaint or a personal visit to the office by a complainant.

(2) A record is made of the complaint. Such record contains the name of the complainant, the person or party against whom the complaint is made and a statement of the nature of the complaint.

(3) The complaint is then assigned to the investigator best qualified to make the particular investigation.

(4) The investigator obtains through investigation all available data necessary to properly evaluate the claim. The investigator will obtain copies of the statement of the claim made by the claimant; all available medical data; and the policy will be thoroughly evaluated to determine if a legitimate claim has been denied.

(5) The Division reviews the estimates of loss in all claims involving fire and casualty to determine if an offer is based on a legitimate estimate.

(6) If an investigation discloses misrepresentation or any other unfair trade practice, the facts are submitted to the Commissioner for his determination as to the course the Department will follow to halt the practice.

(7) Investigation is made regardless of amount and the policyholder is informed as to the Division's view and if the claim is uncollectible, the file is closed.

(8) The Division will not actively participate in third party claims unless it is obvious on the face of the complaint that either party is acting in bad faith.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.65
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Procedures-Claims and Investigation Division" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.66. Procedures-Policy Forms Division.

(1) Filing Policies:

(a) All domestic foreign and alien life and accident and sickness insurers doing business within the State of Georgia shall file a single copy of each policy form used by such insurers with duplicate letters of transmittal;

(b) Policies filed with this division will be evaluated for the purposes of determining if the policy meets the minimum requirements of law; determining if the policy is actuarially sound; determining that policies are not detrimental to the public interest; and determining if construction of the policy renders terms or language conflicting or ambiguous;

(c) After thorough evaluation a policy is either approved or denied, however, approval may consist of outright approval or conditional approval or additional information may be required prior to any action by this Division. A policy may be deemed approved by operation of law if not acted upon within 30 days after filing; an extension of 30 days may be granted by the Commissioner. Policy form approval once granted may be withdrawn after notice and cause shown.

(2) Advertising, Sickness, Accident and Hospitalization Insurers:

(a) All insurance companies doing business in the State of Georgia and writing accident and sickness or hospitalization insurance shall file with the office of the Insurance Commissioner any and all advertising of every kind and description which is intended to be issued, circulated, distributed, published or used in any manner in the sale of accident and sickness or hospitalization insurance in this State;

(b) When forwarding advertising material to this Division for approval, write on each advertisement the form number of the policy or endorsement, or both which provide the benefits so advertised; send or designate one copy of each policy form or endorsement which contain said benefits so advertised; furnish any additional information that will enable this Division to identify the policy to which advertisement relates;

(c) Advertising shall truthfully and clearly represent the benefits provided by the policy and shall be designed to avoid drawing of untrue and misleading conclusions therefrom. Advertising should not have the capacity or the tendency to mislead those to whom the appeal is made;

(d) Any company filing such advertising shall attach therewith a certification over the signature of an official or authorized representative of the company stating that to their best knowledge and belief the advertising so submitted meets the requirements of Georgia's ethical standards of advertising. On such filing the Commissioner will accept same subject to his subsequent review and action should said advertising be found to be misleading to the general public and fail to meet such ethical standards as provided by law and rules and regulations of the Commissioner;

(e) In the absence of certification that the advertising material meets such ethical standards, prior approval of such advertising material shall be obtained from the Policy Forms Division of the Department of Insurance, State of Georgia.

(3) Regulation of non-profit hospital and non-profit medical service corporations:

(a) Plans of operation. Plans of operation shall be submitted at any time, any phase of the operation changes, i.e., change rates, change policy forms, change area of operation or contract with new hospitals or change or terminate contract with an old hospital. Plans of operation shall be submitted to the Policy Forms Division in duplicate, approval or disapproval shall be stamped upon the face of the duplicate plan and returned to the submitting corporation, however, approval may consist of outright approval or conditional approval or additional information may be required to be submitted prior to action thereon. Plans of operation shall include, but not be limited to, the coverage provided by the membership certificates, services to be rendered by the associations, fees to be charged for the services, the general course and method of transacting business, the area of operation of such

association and the schedule of charges payable under authority of contracts with participating hospitals or doctors;

(b) Membership certificates and contracts between associations and hospitals. Each non-profit hospital service corporation and non-profit medical service corporation shall submit one copy of each membership certificate proposed for use by such corporation with duplicate letters of transmittal to the Policy Forms Division. After thorough evaluation, a membership certificate will be either approved or denied, however, approval may consist of outright approval or conditional approval or additional information may be required to be submitted prior to action thereon. Approval or disapproval shall be stamped upon the face of a duplicate letter of transmittal and returned to the submitting corporation. All contracts between associations and hospitals or doctors shall be submitted to the Policy Forms Division in duplicate. The Division's action thereon shall be stamped upon the face of the duplicate contract and returned to the submitting corporation. Approval may consist of outright approval or conditional approval or additional information may be required to be submitted prior to action thereon;

(c) Fees charged for membership certificates. Each hospital service corporation and medical service corporation shall submit all pertinent supporting data and duplicate fee schedules to the Policy Forms Division and approval or disapproval shall be stamped on the face of a duplicate fee schedule and returned to the submitting corporation indicating the Division's action thereon. Approval may consist of outright approval or conditional approval or additional information may be required to be submitted prior to action thereon by this Division.

(d) Annual Statements. Annual Statements shall be submitted annually on or before March 1, verified by at least two of the principal officers of said corporation, showing its financial condition on December 31, the next preceding; which statement shall be on form GID-25F;

(e) Annual Budgets. Annual budgets are examined by this Division to assure that projected income, claims expense and operating expense are in proper proportion.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.66
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Procedures-Policy Forms Division" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.67. Trade Secret Assertions.

(a) Any entity that is required by law, regulation, bid or request for proposal to submit to an agency records that it wishes to be confidential under O.C.G.A. Section 50-18-72(a)(34), shall attach to the records an affidavit that includes the following:

(1) An affirmative declaration that specific information in the records constitutes trade secrets pursuant to Article 27 of Chapter 1 of Title 10;

(2) An identification of the specific information by page number, document, exhibit or other identifying characteristic;

(3) An affirmative declaration that the entity does not wish the information to be made public;

(4) An affirmative declaration that the information is not commonly known by or available to the public;

(5) An affirmative declaration that the entity derives economic value, actual or potential, from the information not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(6) An affirmative declaration that the information is the subject of reasonable efforts under the circumstances to maintain its secrecy.

(b) The affidavit must be submitted at the same time that the records are submitted.

(c) Nothing in this rule affects any other protections under the law that may be applicable to records submitted to the Department.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.67
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Trade Secret Assertions" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.68. Rating Division Regulations.

(1) Purpose of Rate Regulation Statutes

(2) Filing of Rates, Rating Plans, Rating Systems, Underwriting Rules, Policy and Bond Forms

(3) Insurer's Membership in Rating Organizations

(4) Prior Approval of Policy and Bond Forms

(5) Changes in Rates, Rating Plans, Rating Systems and Underwriting Rules

(6) Rules for Submitting Property, Marine and Transportation, and Casualty (Excluding Accident and Sickness) Policies and Forms.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.68
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Rating Division Regulations" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-2-.69. Examinations Under Open Competition Rating Law.

Cite as Ga. Comp. R. & Regs. R. 120-2-2-.69
Authority: O.C.G.A. § 33-2-9*et seq.*
History. Original Rule entitled "Examinations Under Open Competition Rating Law" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.
Editor's Note:

Chapter 120-2-2 of the Rules and Regulations of the Georgia Insurance Department entitled "Practice and Procedure" has been amended by adding a new Rule 120-2-2-.69 entitled "Examinations Under Open Competition Rating Law." This Regulation is on file in the office of the Comptroller General and is open for public examination and copying. Original Rule entitled "Examinations Under Open Competition Rating Law" adopted. F. July 17, 1967; eff. July 10, 1967, as specified by the Agency. In accordance with Ga. Laws 1967, p. 618; Ga. Code Ann., Section 3A-124, the contents of this Rule is not filed with or published by the Secretary of State; only the names and designations are filed, printed and distributed.

Subject 120-2-3. REGULATIONS REGARDING AGENTS, SUBAGENTS, COUNSELORS, ADJUSTERS, SURPLUS LINES BROKERS, AND AGENCIES.

Rule 120-2-3-.01. Authority.

This Regulation is adopted and promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. §§ 33-2-9 and 33-23-44.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-23-44.
History. Original Rule entitled "Scope and Purpose" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Authority" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-3-.02. Purpose and Applicability.

The purpose of this Regulation is to set forth rules and procedural requirements which the Commissioner deems necessary to carry out the provisions of Chapter 23 of Title 33 of the Official Code of Georgia Annotated relating to the licensing of agents, subagents, adjusters, counselors, agencies, and surplus line brokers. The information called for by this Regulation is hereby declared to be necessary and appropriate in the public interest and for the protection of the public in this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-23-44.
History. Original Rule entitled "Kinds of Licenses Issued for Life, Accident and Sickness Insurance" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Purpose and Applicability" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-3-.03. Use of Terms and Exemptions.

(1) "Purchaser," as that term is used in Code Section 33-23-1(a)(11), shall include but is not limited to a current or prospective coemployer, or one of its employees, of a "professional employer organization," as that term is defined in subsection (a) of Code Section 34-7-6.

(2) Policy Servicing and Administration

(a) Serving the master policyholder of group insurance in administering the details of such insurance, pursuant to O.C.G.A. § 33-23-1(b)(6), or engaging in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, pursuant to O.C.G.A. § 33-23-4(h)(2)(C), includes but is not limited to the following types of activities:

1. Creating or implementing a recordkeeping system to track contribution and benefit payments, to maintain participant information, and to accurately comply with government reporting requirements;

2. Acquiring evidence of coverage and plan member information booklets or materials from insurers to distribute to employees;

3. Collecting employee information to enroll employees in the group plan as necessary (e.g., social security number, date of birth, job title, salary) and transmitting such information to the insurer;

4. Deducting premiums from an employee's wages as necessary;

5. Remitting premiums from employees to the insurer;

6. Collecting and reporting to the insurer changes regarding an employee's family status (e.g., marriages, divorce, death, birth of child) or work status (e.g., terminations, new hires, change in employee's work hours - full-time/part-time); and

7. Administering or facilitating the termination of benefits or the extension of COBRA coverage.

(b)

1. A license as an agent, subagent, or counselor is not required for a person to serve as the master policyholder of group insurance in administering the details of such plan pursuant to O.C.G.A. § 33-23-1(b)(6).

2. A license as an agent, subagent, or counselor is not required to engage in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates pursuant to O.C.G.A. § 33-23-4(h)(2)(C).

3. When a person performs activities that fall within the definition of "sell," "solicit," or "negotiate," as set forth in O.C.G.A. § 33-23-1, as to those activities, such person is not exempt from licensure in accordance with the exemptions set forth in O.C.G.A. § 33-23-1(b)(6) or O.C.G.A. § 33-23-4(h)(2)(C).

(3) Unless the context otherwise requires, terms found in this Regulation are used as defined in O.C.G.A § 33-1-2, § 33-23-1, or this Regulation. Other terminology is used in accordance with the Georgia Insurance Code or industry usage if not defined in the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.03
Authority: O.C.G.A. §§ 33-2-9, 33-23-1, 33-23-4, 33-23-44.
History. Original Rule entitled "Qualifications Required for Eligibility to Take License Examination" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Agents, Counselors, License Applications: Qualifications" adopted. F. May 21, 1982, eff. June 10, 1982.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule entitled "Definitions" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Amended: New title "Use of Terms and Exemptions." F. Jan. 25, 2018; eff. Feb. 14, 2018.

Rule 120-2-3-.04. Forms of Filings.

(1) Unless otherwise indicated, and to the extent provided, each filing required under this Regulation Chapter is to be made on forms prescribed by the Commissioner. Such forms can be obtained from the Office of Commissioner of Insurance.

(2) Forms may be reproduced and may be altered to accommodate manual or automated processing provided the same information is presented in the same order as in the forms obtained from the Office of Commissioner of Insurance.

(3) The Commissioner may allow or require submissions and filings required by Chapter 23 of Title 33 of the Official Code of Georgia Annotated and/or this Regulation to be made by electronic means.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-23-44.
History. Original Rule entitled "Required or Approved Study Material for Meetings Requirements for License Examinations" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Agent Preexamination Qualifications, Standards for Classroom Courses" adopted. F. May 21, 1982; eff. June 10, 1982.
Repealed: New Rule entitled "Form of Filings" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: Rule retitled "Forms of Filings". F. Aug. 9, 1996: eff. Aug. 29, 1996.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-3-.05. Licensure of Agencies.

(1) For the purposes of O.C.G.A. § 33-23-3, a principal office of an agency shall be defined as the primary location of an agency or agency organization with multiple locations. An agency or organization with multiple locations seeking licensure must designate one agency location as the principal office of such organization. A branch office of an agency shall be defined as all other locations of the agency or agency organization.

(2) In order to be eligible for an agency license issued in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(3) In accordance with O.C.G.A. § 33-23-3, an application for an agency license must be accompanied by the appropriate form containing the designation of the principal office of the agency. For filings regarding an agency branch office location, the name and address of the agency's principal office location will be required.

(4) Each principal office and branch office shall remit the fee prescribed in O.C.G.A. § 33-8-1 with the agency licensing application. Effective July 1, 2012, all new agency licenses will be issued on a biennial basis.

(5) Each agency location must have at least one licensed agent whose primary place of business is that agency location.

(6) A business entity must be licensed as an agency if it employs an individual who is required to be licensed as an agent pursuant to O.C.G.A. § 33-23-1 et seq. and this Regulation, and such individual is selling, soliciting, or negotiating insurance on behalf of that business entity.

(7) The lines of authority of an agency cannot be greater than the lines of authority held by the agent or agents whose primary place of business is that agency location.

(8) An agency license does not eliminate the need for an agent license for any individual that sells, solicits, or negotiates insurance.

(9) License renewal:

(a) All agency licenses issued prior to July 1, 2012 expire on December 31 of the year issued; an agency is required to renew the license prior to expiration on forms prescribed by the Commissioner. The appropriate fee as prescribed in O.C.G.A. § 33-8-1 must accompany the renewal application.

(b) The appropriate fee as prescribed in O.C.G.A. § 33-8-1 must accompany the renewal application. Beginning July 1, 2012, upon renewal, all agency licenses will be converted to a biennial license.

(10) A licensed entity under Chapter 3 of Title 7 of the Official Code of Georgia Annotated shall be deemed licensed under this Regulation.

(11) The license issued in accordance with this Rule must be available for public inspection in the agency location.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.05
Authority: O.C.G.A. §§ 33-2-9, 33-8-1, 33-23-1, 33-23-2, 33-23-3, 33-23-44.
History. Original Rule entitled "Examinations for License; Passing Grade; Waiting Period Between Examinations" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Examinations for Licenses; Passing Grades; Waiting Between Examinations" adopted. F. July 1, 1970; eff. July 21, 1970.
Repealed: New Rule entitled "Registration of Agency" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule entitled "Licensure of Agencies" adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Repealed: New Emergency Rule adopted. F. Jun. 28, 2012; eff. Jun. 28, 2012, as specified by the agency.
Repealed: New Rule of same title adopted. F. Sep. 10, 2012; eff. Sep. 30, 2012.
Amended: F. Jan. 25, 2018; eff. Feb. 14, 2018.

Rule 120-2-3-.06. Kinds of Licenses Issued.

(1) Agent and agency licenses will be issued in the following categories:

(a) Life - insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.

(b) Accident and sickness - insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income.

(c) Property - insurance coverage for the direct or consequential loss or damage to property of every kind.

(d) Casualty - insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property; also includes surety.

(e) Variable products - insurance coverage provided under variable life and variable annuity contracts.

(f) Personal lines - property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

(g) Credit - limited line credit insurance.

(h) Any other line of insurance permitted by Georgia law or regulation.

(2) A limited subagent license may be issued in accordance with Rules 120-2-3-.29 and 120-2-3-.31.

(3) Other licenses may be issued as follows:

(a) Adjuster license for the following categories that are not exempt from the definition of adjuster pursuant to the Official Code of Georgia Annotated § 33-23-1(a)(1):

1. Adjuster - an adjuster who works on behalf of an insurer and/ or an adjusting firm whose licensure is limited to property and casualty. An adjuster may not represent an insured individual.

2. Public adjuster - an adjuster who works on behalf of insured individuals and whose licensure is limited to property and casualty. A public adjuster may not represent an insurer.

3. Workers' Compensation adjuster - an adjuster whose scope of licensure is limited to Workers' Compensation insurance. A workers' compensation adjuster may not represent an insured individual.

4. Crop hail adjuster - an adjuster whose scope of licensure is limited to crop hail and multi-peril crop insurance. A crop hail adjuster may not represent an insured.

(b) Counselor license for the following categories:

1. Counselor license limited to property and casualty.

2. Counselor license limited to life, accident and sickness.

3. Limited Health Counselor License limited to accident and sickness.

(c) Temporary agent license:

1. May be issued for any category or combination of categories listed under Paragraph (1) of this Section except for credit and variable products.

2. May only be issued in compliance with O.C.G.A. § 33-23-13.

(d) Nonresident license:

1. May be issued for any category or categories listed under Paragraph (1) of this Section.

2. May not be granted authority for any line or limited line of insurance not granted under the license held pursuant to the laws of the state of residence except as provided for in O.C.G.A. § 33-23-16(h).

(e) Nonactive agent license - the type of license described in O.C.G.A. §§ 33-23-4(f) and 33-23-18(e).

(f) Surplus line brokers.

(g) Other limited licenses as provided in this Regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.06
Authority: O.C.G.A. §§ 33-2-9, 33-23-1, 33-23-3, 33-23-4, 33-23-11 to 33-23-13, 33-23-16, 33-23-18, 33-23-37.
History. Original Rule entitled "Written Authority to Take Examination" adopted. F. and eff. July 20, 1965.
Repealed: F. May 21, 1982; eff. June 10, 1982.
Amended: New Rule entitled "Kinds of Licenses Issued" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Amended: F. Jan. 14, 2000; eff. Feb. 3, 2000.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Amended: ER. 120-2-3-.24 -.06 adopted. F. Jun. 12, 2012; eff. Jun. 12, 2012, as specified by the Agency.
Repealed: New rule with same title adopted. F. Sep. 10, 2012; eff. Sep. 30, 2012.
Amended: F. Apr. 1, 2013; eff. Apr 21, 2013.
Amended: F. June 6, 2016; eff. Aug. 1, 2016, as specified by the Agency.

Rule 120-2-3-.07. Resident Agent License Requirements.

(1) In order to be eligible for any resident agent insurance license issued in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(2) The application process for an agent license shall include sponsorship by an insurer licensed to do business in this state. Prior to issuance of the license, the sponsor shall agree to appoint the applicant as a representative of the company. The sponsor shall affirm that an investigation on the general character of the applicant has been conducted

by an agency not affiliated with the insurer and that the sponsor recommends the applicant for a license. Such investigation shall include a criminal background check.

(a) Effective January 1, 2010, the application process for an agent license will no longer require sponsorship by an insurer. Upon issuance of the agent license, the licensee must obtain a certificate of authority from each insurer that they will represent.

(b) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(3) The resident agent applicant must complete an approved prelicensing course unless specifically exempted by Chapter 23 of Title 33 of the Official Code of Georgia Annotated or this Regulation. All prelicensing courses must contain a minimum of twenty (20) hours of instruction per major line of authority; the major lines are

(a) Life;

(b) Accident and Sickness;

(c) Property;

(d) Casualty; and

(e) Personal Lines.

(4) The applicant must pass the required examination for licensure within 12 months of the completion of the prelicensing course. All applicants must apply for licensure within 12 months from receiving a passing grade on the examination.

(5) Exceptions to the 20 hour prelicensing course requirements:

(a) Applicants for licenses in lines or sublines of property or casualty insurance who hold the designation of Chartered Property and Casualty Underwriter (CPCU), Certified Insurance Counselor (CIC), Certified Insurance Representative (CISR), Certified Risk Manager (CRM);

(b) Applicants for licenses in the lines or sublines of life or health insurance who hold the designation of Chartered Life Underwriter (CLU) or Fellow Life Management Institute (FLMI);

(c) Applicants for temporary licenses;

(d) Applicants for credit insurance agent licenses;

(e) Applicants who provide satisfactory evidence such as a transcript from a college or university indicating successful completion of two (2) college or university courses related to insurance. Such courses must relate to the lines of authority for which the Applicant has applied;

(f) Applicants who hold college degrees in insurance;

(g) Applicants who qualify for exemption under O.C.G.A. §§ 33-23-5(a)(5)(A) and 33-23-5(a)(5)(B);

(h) Applicants for agent licenses as referenced in Rules 120-2-3-.23, .29, .32, .41, and .44 of this Regulation Chapter;

(i) Other applicants as the Commissioner at his discretion may determine.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-8-1, 33-23-4, 33-23-5, 33-23-5.1, 33-23-8, 33-23-10, 33-23-12, 33-23-44.
History. Original Rule entitled "Schedule of License Examinations" adopted. F. and eff. July 20, 1965.
Repealed: New Rule of same title adopted. F. May 21, 1982; eff. June 10, 1982.
Repealed: New Rule of same title adopted. F. June 25, 1991; eff. July 15, 1991.
Repealed: New Rule entitled "License Applications" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Amended: F. Jan. 14, 2000; eff. Feb. 3, 2000.
Repealed: New Rule entitled "Resident Agent License Requirements" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Amended: F. Aug. 23, 2004; eff. Sept. 12, 2004.
Repealed: New Rule of same title adopted. F. July 16, 2009; eff. Aug. 5, 2009.

Rule 120-2-3-.08. Prelicensing Course and Provider Approval.

(1) All agent and adjuster prelicensing courses must contain a minimum of twenty (20) hours of instruction per major line of authority; the major lines are

(a) Life;

(b) Accident and Sickness;

(c) Property;

(d) Casualty; and

(e) Personal Lines.

(2) Limited subagent courses must contain a minimum of twenty (20) hours per combination lines of life, accident and sickness or property and casualty.

(3) Navigator prelicensing courses must contain a minimum of ten (10) hours of instruction in health benefit insurance, the exchange provision of the federal act, the medical assistance program provided for by Article 7 of Chapter 4 of Title 49, and the PeachCare for Kids Program provided for by Article 13 of Chapter 5 of Title 49, information pertaining to state licensing laws and any other information which will give the applicant a proficient knowledge of state insurance laws.

(4) Additionally, all prelicensing courses must meet the following standard:

(a) Instructors must have had training or educational experience satisfactory to the Commissioner in order to be certified to teach any part of an approved prelicensing course. Each instructor must have three (3) or more years in insurance work or otherwise qualify with equivalent educational and teaching experience and be approved by the Commissioner prior to teaching any prelicensing course, or any part of any course.

(b) Reference materials such as sample policy forms, manuals, the Georgia Insurance Code, textbooks, Georgia Insurance Department study manuals as appropriate, programmed textual materials, and other illustrative materials are required to be readily available for student use.

(c) All classrooms used shall be rooms separate from other activities while instruction is being given and shall provide comfortable physical facilities for the students. Such classrooms must be properly equipped with sufficient desk or table space to accommodate the number of students taking the course and must contain sufficient teaching aids to facilitate a learning atmosphere for those students.

(d) The subject matter of the prelicensing course must pertain to the category or categories of license for which the applicant has applied or is intending to apply and must include all of the following to such extent as the information applies to the categories of license sought by the applicant:

1. The Georgia Agents' Licensing Study Manual Life and Health, and the Georgia Agents' Licensing Study Manual Property and Casualty;

2. Chapters 5, 6, 7, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 39, 42, 43, 44, 50, and 51 of Title 33 of the Official Code of Georgia Annotated and corresponding regulations;

3. Fundamental needs of various kinds of insurance;

4. Study and analysis of various kinds of policies, endorsements, riders, and other policy contract documents;

5. Study and analysis of various rating plans and systems; and

6. Such additional material as the commissioner may from time to time require by notice to course sponsors.

(e) All prelicensing courses must include O.C.G.A. §§ 33-1-9, 33-1-16 and this Regulation.

(f) If the prelicensing course is conducted in a virtual classroom setting, for example as a web cast or internet based course, system security must be in place to ensure user attendance.

(4) Any person, including but not limited to, colleges and universities, insurers, adult education centers, and associations may seek approval as a provider of prelicensing courses.

(5) Course providers must obtain approval from the Commissioner prior to the beginning of any course. To request approval, the provider shall file with the Commissioner the appropriate required form and pay the appropriate fees, and the following:

(a) An outline of the proposed course, including instructional time for each course major component;

(b) A list of all instructional materials to be used;

(c) A description of the facility to be used as a classroom and a statement that adequate parking facilities are available and that handicap access is provided;

(d) The name or names of the instructors; and

(e) The category or categories of license for which the course is intended to prepare applicants for licensing.

(6) The Commissioner may require further detail of the proposed course content or filing of copies of any instructional materials to be used as are necessary to determine the adequacy of the proposed instruction.

(7) Course providers must provide a listing of examination sites and times to each applicant. The Commissioner will notify all course sponsors of any changes in the information.

(8) Nothing in this Regulation is intended to prohibit any person upon payment of any required fees from taking any prelicensing course whether or not such person has applied for or intends to apply for a license under Chapter 23 of Title 33 of the Official Code of Georgia Annotated.

(9) Course providers must certify to the Commissioner and the student on the appropriate required form, the contact hours completed by each applicant.

(a) The course provider name and instructor name must appear on certification; the instructor must sign such certification.

(b) False certification shall be cause for withdrawal of approval of the course provider or instructor and shall be deemed a violation of Chapter 23 of Title 33 of the Official Code of Georgia Annotated.

(c) The Commissioner may require certification of course completions to be reported electronically. Such reporting must be submitted within fourteen (14) days from course completion.

(10) Instructors may receive the same credit for courses as applicants when their attendance is certified in the same manner as provided in Paragraph (7) of this Section.

(11) The Commissioner may review any approved program, instructor or course and may cancel approval of such program, instructor or course with regard to all future offerings. Once a program, instructor or course provider has been canceled, such program, instructor or course provider shall not reapply for approval for a period of five (5) years from the date of cancellation.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-8-1, 33-23-5, 33-23-9, 33-23-44, 33-23-200, 33-23-201, 33-23-202, 33-23-203, 33-23-204, 33-23-205.
History. Original Rule entitled "One Temporary License" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Prelicensing Courses" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Amended: F. July 23, 1998; eff. Aug. 12, 1998.
Repealed: New Rule entitled "Prelicensing Course and Provider Approval" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Repealed: New Rule of same title adopted. F. July 16, 2009; eff. Aug. 5, 2009.
Repealed: New Rule of same title adopted. F. Oct. 15, 2013; eff. Nov. 4, 2013.

Rule 120-2-3-.09. Examinations.

(1) All resident applicants required under Chapter 23 of Title 33 of the Official Code of Georgia Annotated shall submit to examination by the Commissioner except:

(a) Applicants for agent licenses in lines or sublines of life or health insurance who hold the designation of CLU or FLMI;

(b) Applicants for agent licenses in lines or sublines of property and casualty who hold the designation of CPCU;

(c) Applicants for licenses as counselors who hold the designation of Certified Insurance Counselor (CIC), Accredited Advisor in Insurance (AAI), Registered

Employee Benefits Consultant (REBC), CPCU as specified in Rule 120-2-3-.09(1)(b), CLU or FLMI as specified in Rule 120-2-3-.09(1)(a), or applicants deemed by the Commissioner to have sufficient experience and qualifications in the lines of authority for which the applicant seeks licensure;

(d) Applicants for Limited Health Counselor licensure that have five (5) years' experience licensed as an agent in the line of accident and sickness;

(e) Applicants for Limited Health Counselor licensure that hold the designation of CIC, CLU, FLMI, REBC and Registered Health Underwriter (RHU);

(f) Applicants for limited licenses in accordance with Rules 120-2-3-.29, .31, .32, .39, .44, .45, and .47 of this Regulation Chapter;

(g) Applicants holding a Ph.D. in Risk Management;

(h) Adjusters who are salaried employees of insurers;

(i) Applicants for temporary licenses;

(j) Applicants for credit insurance agent or agency licenses;

(k) Applicants for a workers compensation adjuster license who hold the designation of Certified Workers Compensation Professional (CWCP);

(l) Applicants for adjuster licenses who hold the designation of Universal Claims Certification (UCC);

(m) Such other applicants as the Commissioner may, at his discretion, determine.

(n) The applicant who was previously licensed for the same lines of authority in another state shall not be required to complete any prelicensing education or examination. This exemption is only available if the individual is currently licensed in that state or if the application is received within 90 days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer data base records maintained by the National Association of Insurance Commissioners (NAIC), its affiliates, or subsidiaries indicate that the applicant is or was licensed in good standing for the line of authority requested.

(2) The passing grade on examinations for licenses shall be seventy percent (70%).

(3) Any person taking an examination for licensing and not receiving a passing grade shall not be entitled to retake the examination until two (2) weeks have elapsed, and will be required to pay the appropriate fee. A person who completes a prelicensing course

through an independent provider who fails to pass an examination after taking it three (3) times must take a prelicensing course from a different provider prior to retaking the exam. A person who took a prelicensing course taught via a virtual classroom who fails to pass an examination after taking it three (3) times must take an in-classroom prelicensing course prior to retaking the exam.

(4) A person who has not completed the licensing requirements within twelve (12) months of the date of receiving a passing exam score will be required to retake the examination.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.09
Authority: O.C.G.A. §§ 33-2-9, 33-8-1, 33-23-5, 33-23-10, 33-23-44.
History. Original Rule entitled "Temporary License for One Company Only" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Examinations" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Amended: F. July 23, 1998; eff. Aug. 12, 1998.
Amended: F. Jan. 14, 2000; eff. Feb. 3, 2000.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Amended: F. Aug. 23, 2004; eff. Sept. 12, 2004.
Amended: F. July 16, 2009; eff. Aug. 5, 2009.
Amended: ER. 120-2-3-.24 -.09 adopted. F. Jun. 12, 2012; eff. Jun. 12, 2012, as specified by the Agency.
Repealed: New rule with same title adopted. F. Sep. 10, 2012; eff. Sep. 30, 2012.
Amended: F. Apr. 16, 2014; eff. May 6, 2014.
Amended: F. June 6, 2016; eff. Aug. 1, 2016, as specified by the Agency.
Amended: F. Aug. 8, 2018; eff. Aug. 28, 2018.

Rule 120-2-3-.10. Testing - Authority for Alternate Means.

The Commissioner may enter into agreements with persons for the purpose of providing licensing testing services to the Department. In addition to the fees required, applicants tested under such agreements will be required to pay directly to the provider the cost of such service.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-8-1, 33-23-10, 33-23-44.
History. Original Rule entitled "Form G.I.D.A. - 105; Termination of Services of Agents" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Testing - Authority for Alternate Means" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-3-.11. Background Investigation.

(1) Any natural person filing an application or other filing with the Commissioner under Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation must give his or her permission for a criminal background investigation.

(2) Effective January 1, 2010, all new resident applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.11
Authority: O.C.G.A. Secs. 33-2-9, 33-23-5, 33-23-5.1, 33-23-8, 33-23-44.
History. Original Rule entitled "Background Investigation" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended. F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Repealed: New Rule of same title adopted. F. July 16, 2009; eff. Aug. 5, 2009.

Rule 120-2-3-.12. Continuing Education Courses and Provider Approval.

(1) Considerations for program or course qualification and approval shall be based on improving the student's knowledge in the insurance areas in which the student is licensed.

(a) The overriding consideration in determining whether a specific program or course qualifies as acceptable continuing education is that it be a formal program of learning which contributes directly to the professional or technical competence of a licensed individual. Sales, motivational, self- improvement, telephone techniques, office techniques (except to the extent of improving service to the public when combined with other eligible instruction), election of officers, installation of officers, attendance at conventions and other similar activities, programs, or courses will not be approved.

(b) Programs or courses must be related directly to the types of insurance business or accounts for which a continuation of licenses is sought. In general, subjects would be acceptable if they contribute to the technical competence of the individual person in the capacity for which such person is licensed.

(c) The training required under 120-2-3-.15(2)(f) shall consist of topics related to long term care insurance, long term care services and qualified state long term care insurance Partnership programs under Rule 120-2-16-.34(5), including but not limited to

1. State and federal regulations and requirements and the relationship between qualified state long term care insurance Partnership programs and other public and private coverage of long term care services, including Medicaid;

2. Available long term services and providers;

3. Changes or improvements in long term care services or providers;

4. Alternatives to the purchase of private long term care insurance;

5. The effect of inflation on benefits and the importance of inflation protection;

6. Consumer suitability standards and guidelines;

7. Said course must contain a minimum of two (2) hours instruction covering Georgia Medicaid provisions.

(d) The training required under 120-2-3-.15(2)(g) can be approved to be delivered as a classroom course or self-study; the course shall not include any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products; the training required shall consist of topics related to annuities and annuity suitability and must include the following:

1. The types of annuities and various classifications of annuities;

2. Identification of the parties to an annuity;

3. How fixed, variable and indexed annuity contract provisions affect consumers;

4. The application of income taxation of qualified and non-qualified annuities;

5. The primary uses of annuities; and

6. Appropriate sales practices, replacement and disclosure requirements.

(2) The general requirements for course or program conduct shall be:

(a) An outline of the program must be prepared by the program director or instructor and provided to each student;

(b) The program must be conducted by a person whose formal training and experience qualify such person as an instructor;

(c) Hours of continuing education credit earned shall be calculated in full hours only;

(d) Throughout the entire program, the program provider and the licensee must maintain a record of registration and attendance;

(e) Such courses or program must be filed with the Commissioner at least forty-five (45) days in advance of the date when such approval is desired;

(f) Credit will be given for contact hours only, except:

1. University or college credit courses - each semester credit hour shall equal three (3) hours toward the requirement, each quarter hour shall equal two (2) hours;

2. Noncredit courses from a college or university - each classroom hour shall be deemed to be one hour of continuing education.

(g) Correspondence or other individual study programs (including taped study programs) will qualify if they:

1. Have received the prior approval of the Commissioner;

2. Require registration; and

3. Certify satisfactory completion, including a proctored final examination.

(h) If any scheduled course or program is to be cancelled by the provider, the provider must notify the Department and all registrants at least 10 days prior to the previously scheduled start of the course or program provided, however, that this restriction shall not apply if, at the time of registration, the provider notifies registrants in writing that the class is subject to cancellation and registrants are notified of the cancellation a reasonable time in advance of the scheduled start of the course or program.

(3) The program or course filing requirements are:

(a) Continuing education sponsors must complete the appropriate form, pay the required fees, and must submit those items required in Rules 120-2-3-.08(3) and (4);

(b) The Commissioner, at his discretion, may verify the information submitted by the program, instructor or course provider. The Commissioner may review any approved program, instructor or course and may cancel approval of such program, instructor or course with regard to all future offerings. Once a program, instructor or course provider has been canceled, such program, instructor or course provider shall not reapply for approval for a period of five (5) years from the date of the cancellation.

(4) For courses, seminars, or programs offered in Georgia, the person, group, association, or institution making such courses or programs available would be the program provider, seeking its approval for continuing education purposes, and monitoring and certifying students' performance or attendance.

(5) For out-of-state courses, seminars, or programs offered by regional or national professional associations or societies, the national professional association may assume

the role of sponsor. However, local or state chapters or affiliates of the national professional association may, through their local offices, assume the role of Georgia provider of the national course, seminar, or program, seeking course approval for continuing education purposes and monitoring and certifying students' performance and attendance.

(6) The following standards will be used to measure the hours of credit to be given for acceptable continuing education programs/ courses completed by any individual:

(a) Programs requiring class attendance:

1. All programs will be measured in terms of contact hours. The shortest recognized program will consist of one (1) contact hour. A contact hour is fifty (50) minutes of continuous participation in a course or program. Under this standard, credit is granted only for full contact hours. For example, a course or program lasting between fifty (50) and one hundred (100) minutes would count for only one (1) hour.

2. For continuous programs or courses, when individual segments are less than fifty (50) minutes, the sum of the segments should be considered one (1) total program.

3. Program providers must monitor group programs in order to accurately assign the appropriate number of credit hours for participants who arrive late or leave before a program is completed.

4. Credit will be allowed for a question and answer period at the rate of fifty percent (50%) of the number of minutes devoted to questions and answers. Credit will not be allowed for introductions, announcements or other such activity which may be a part of the program.

5. Only hours in class, or the equivalent, will be counted. No credit will be allowed for time devoted to preparation.

6. Each semester hour of credit from a college or university shall be deemed to be three (3) hours of continuing education credit, and each quarter hour of credit shall be deemed to be two (2) hours of continuing education credit.

7. Each classroom hour of noncredit courses from a college or university shall be counted as one (1) hour of continuing professional education.

(b) Correspondence and other individual study programs:

1. In determining the amount of credit to be allowed for specific correspondence and individual study programs, each course provider must certify the hours of study, on the average, required to complete a course

successfully. Credit will be given for fifty percent (50%) of hours so certified upon certification of successful completion.

2. Successful completion must include a proctored final examination.

3. Credit will be allowed in the renewal period in which the course is completed.

(7) A program provider may request that its materials furnished for certification be kept confidential on the grounds that they are of a proprietary nature and intended only for program attendees, its agents or employees. The Commissioner or his designee will promptly review and return such materials.

(8) Course providers must certify contact hours to the Commissioner electronically or by means prescribed by the Commissioner. Such reporting must be submitted within fourteen (14) days from course completion. Failure to do so may result in administrative action taken against the provider. Course providers must provide certification to each person taking the course in the same manner as provided in Rule 120-2-3-.08(7).

(9) Instructors may receive the same credit for courses as applicants when their attendance is certified as provided in Paragraph (8) of this Section.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.12
Authority: O.C.G.A. Secs. 33-2-9, 33-8-1, 33-23-8, 33-23-18, 33-23-44, 33-42-6, 33-42-7.
History. Original Rule entitled "Continuing Education" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule entitled "Continuing Education Courses and Provider Approval" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Amended: F. July 16, 2009; eff. Aug. 5, 2009.
Amended: F. Sep. 21, 2015; eff. Mar. 1, 2016, as specified by the Agency.

Rule 120-2-3-.13. Renewal of Educational Providers and Instructors.

(1) All approved educational providers and instructors must file a renewal application and pay the required fees on or before October 1 of each year.

(2) Approval is hereby withdrawn without further notice for any provider or instructor not renewing as required in paragraph (1). Failure to renew will result in the cancellation of all educational providers, courses, and instructors.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.13
Authority: O.C.G.A. Secs. 33-2-9, 33-8-1, 33-23-18, 33-23-44.
History. Original Rule entitled "Refiling of Existing Educational Courses; New Application for Sponsors and Instructors: Renewals" adopted. F. Sept. 10, 1992; eff. Sept. 30 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.

Repealed: New Rule entitled "Renewal of Educational Providers and Instructors" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-3-.14. Resident Agent Personal Lines License.

(1) In order to be eligible for a resident agent personal lines license in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(2) The application process for an agent license shall include sponsorship by an insurer licensed to do business in this state. Prior to issuance of the license, the sponsor shall agree to appoint the applicant as a representative of the company. The sponsor shall affirm that an investigation on the general character of the applicant has been conducted by an agency not affiliated with the insurer and that the sponsor recommends the applicant for a license. Such investigation shall include a criminal background check.

   (a) Effective January 1, 2010, the application process for an agent license will no longer require sponsorship by an insurer. Upon issuance of the agent license, the licensee must obtain a certificate of authority from each insurer that they will represent.

   (b) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(3) The resident agent applicant must complete an approved prelicensing course in personal lines unless specifically exempted by Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation. All prelicensing courses must contain a minimum of twenty (20) hours of instruction. The applicant must pass the required examination for licensure within 12 months of the completion of the prelicensing course. All applicants must apply for licensure within 12 months from receiving a passing grade on the examination.

(4) Exceptions to prelicensing course:

   (a) Applicants who hold a designation of Chartered Property and Casualty Underwriter (CPCU);

   (b) Applicants who qualify for exemption under O.C.G.A. §§ 33-23-5(a)(5)(A) and 33-235(a)(5)(B);

   (c) Applicants for temporary licenses;

(d) Applicants who provide satisfactory evidence such as a transcript from a college or university indicating successful completion of two (2) college or university courses related to insurance. Such courses must relate to the lines of authority for which the Applicant has applied;

(e) Applicants who hold college degrees in insurance;

(f) Other applicants at the Commissioner's discretion.

(5) All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 apply to personal lines licenses.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.14
Authority: O.C.G.A. Secs. 33-2-9, 33-8-1, 33-23-5, 33-23-5.1, 33-23-8, 33-23-10, 33-23-12, 33-23-44.
History. Original Rule entitled "Existing License - Provision for Transition" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule entitled "Resident Agent Personal Lines License" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Repealed: New Rule of same title adopted. F. July 16, 2009; eff. Aug. 5, 2009.

Rule 120-2-3-.15. Resident Continuing Education Requirements.

(1) Continuing education requirements.

Each resident licensee licensed for less than 20 years must complete a minimum of twenty four (24) continuing education hours, three (3) of which must be completed in Ethics, by the dates specified in Rule 120-2-3-.16. For resident licensees continually licensed for 20 years or longer, a minimum of twenty (20) continuing education hours, three (3) of which must be completed in Ethics, by the dates specified in Rule 120-2-3-.16. The continuing education hours may be completed at any time during the current biennial license period as long as the hours are completed prior to the license expiration date.

(2) Continuing education hours may be completed in any subject area for which he or she is licensed, provided licensees complete a minimum of three (3) hours of their continuing education requirement in the subject area of Ethics biennially. The Ethics requirement may be satisfied by completing courses in the subject area of Ethical practices, Legislative updates or Federal or Departmental Regulatory changes in insurance, current issues and other such topics that the Commissioner may at his or her discretion approve.

(a) Credit Insurance Exception. For any person holding a multiple line license where one of the lines is Credit insurance, no more than five (5) hours can come in the area of Credit insurance self-study. The remainder of the continuing education

requirement must come from the other lines of insurance. If licensed for credit insurance only, the Ethics course requirement does not apply.

(b) Limited Subagent Exception. For any person holding multiple license types, where one of the licenses is for a Limited Subagent, no more than five (5) hours of continuing education credit can come from the subject area that coincides with the Limited Subagent license. The remainder of the continuing education requirement must come from the lines of insurance held under the agent, adjuster or counselor license. If licensed only as a Limited Subagent, the Ethics course requirement does not apply.

(c) Workers' Compensation Adjuster Exception. Licensee may either complete 10 hours of approved continuing education courses through the State Workers' Compensation Board; or complete the normal continuing education requirement specifically in the lines of property and casualty. If licensed as a workers' compensation adjuster only, the ethics requirement does not apply. After conversion to a biennial license, each resident licensee must complete twenty (20) hours of approved continuing education courses through the State Workers' Compensation Board or complete the normal continuing education requirement specifically in the lines of property and casualty, by the dates specified in Rule 120-2-3-.16.

(d) Persons newly licensed prior to July 1, 2012. Newly licensed persons who have taken the required prelicensing course will be considered to have met the initial requirements for continuing education by filing a copy of the prelicensing course certificate with the required renewal form. This exemption only applies to continuing education requirements for the first year of licensure for those who obtained their license prior to July 1, 2012.

(e) Agents licensed in the property line of authority that will be selling through the National Flood Insurance Program (NFIP) must complete a one-time three (3) hour continuing education course related to NFIP. This three (3) hour course will count towards the agent's continuing education requirement and can be used toward the Ethics requirement.

(f) On or after January 1, 2009, an Agent may not sell, solicit or negotiate a long term care partnership policy unless the individual has completed an initial eight (8) hour long term care training course. Agent must also complete ongoing training consisting of a four (4) hour continuing education course every 24 months. Such training must meet the requirements as outlined in Section 120-2-3-.12. To meet the 24-month timing requirements, an agent must complete this long term care continuing education course during each biennial license cycle required of all other continuing education requirements as set out in Section 120-2-3-.16 measured from the date of completion of the agent's initial eight (8) hour long term care training course.

1. Resident agents that have taken another state's qualified long term care partnership course may receive credit for up to six (6) hours toward the Georgia partnership training course requirement. Such resident agent must complete an approved two (2) hour Georgia specific Medicaid course in order to meet the eight (8) hour training requirement.

2. Insurers offering a long term care partnership policy shall obtain verification that an agent has received the training required in 120-2-3-.12(1)(c) and this section before the agent is permitted to sell, solicit or negotiate the insurer's long term care partnership policy.

3. Each insurer shall maintain records with respect to the training of its agents qualified to sell, solicit or negotiate long term care partnership policies, to include training received and that the agent has demonstrated an understanding of the partnership policies and their relationship to public and private coverage of long term care, including Medicaid. These records shall be maintained for a period of not less than five years and shall be made available to the Commissioner upon request.

(g) On or after March 1, 2016, an Agent may not sell, solicit or negotiate an annuity product unless the individual has completed a one- time four (4) hour Annuity Suitability continuing education course approved by the department of insurance and provided by a department approved education provider.

1. Insurance producers who hold a life insurance line of authority on the effective date of this regulation and who desire to sell annuities shall complete the requirements of this subsection within six (6) months after the effective date of this regulation.

2. Individuals who obtain a life insurance line of authority on or after the effective date of this regulation may not engage in the sale of annuities until the annuity training course required under this subsection has been completed.

3. The satisfaction of the training requirements of another State that are substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this State.

4. An insurer shall verify that an insurance producer has completed the annuity training course required under 120-2-3-.12(1)(d) and this subsection before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this subsection by obtaining certificates of completion of the training course or obtaining reports provided by Commissioner-sponsored database systems or vendors or from a reasonably

reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

(3) Following the initial reporting date for new licensees, each person shall report on the date specified in Rule 120-2-3-.16 of this Regulation the appropriate number of hours for the previous reporting period.

(4) Credit will not be given for the same Continuing Education course taken multiple times within the same Continuing Education reporting period.

(5) Credit for continuing education earned in one filing period in excess of the hours required may be carried forward to the next filing period, provided that credit carried forward shall not exceed fifty percent (50%) of biennial continuing education requirement.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.15
Authority: O.C.G.A. Secs. 33-2-9, 33-23-12, 33-23-15, 33-23-18, 33-23-44, 33-42-6, 33-42-7.
History. Original Rule entitled "Continuing Education Hours Required" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: Rule retitled "Continuing Education Requirements". F. Aug. 9, 1996; eff. Aug. 29, 1996.
Amended: F. July 23, 1998; eff. Aug. 12, 1998.
Amended: F. Jan. 14, 2000; eff. Feb. 3, 2000.
Repealed: New Rule entitled "Resident Continuing Education Requirements" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Amended: F. July 16, 2009; eff. Aug. 5, 2009.
Repealed: New Emergency Rule adopted. F. Jun. 28, 2012; eff. Jun. 28, 2012, as specified by the agency.
Repealed: New Rule of same title adopted. F. Sep. 10, 2012; eff. Sep. 30, 2012.
Amended: F. Apr. 16, 2014; eff. May 6, 2014.
Amended: F. Sep. 21, 2015; eff. Mar. 1, 2016, as specified by the Agency.

Rule 120-2-3-.16. Dates for Resident License Renewal and Required Filing of Continuing Education Credits.

(1) For resident licenses issued prior to July 1, 2012, license renewals must be filed by November 1st of each year on forms prescribed by the Commissioner. Failure to timely file the required license renewal forms along with the appropriate fee shall result in the expiration of the license as of December 31st of the year in question.

(2) For renewals filed July 1, 2012 through December 31st 2012, fees will be prorated for the transition to biennial licenses. The prorated renewal fee for the transition year will be calculated by dividing the two year fee by 24 months multiplied by the number of months the license will be held determined by birth month. The prorated fee will be rounded to the nearest .25 cents.

(3) Upon renewal the following schedule will be used for the transition from fixed date expiration of December 31, 2012 to birth month expiration:

BIRTH MONTH	TRANSITION EXPIRATON DATE	LENGTH OF TRANSITION LICENSE
January	01/31/2015	25 Months
February	02/28/2015	26 Months
March	03/31/2015	27 Months
April	04/30/2015	28 Months
May	05/31/2015	29 Months
June	06/30/2014	18 Months
July	07/31/2014	19 Months
August	08/31/2014	20 Months
September	09/30/2014	21 Months
October	10/31/2014	22 Months
November	11/30/2014	23 Months
December	12/31/2014	24 Months

(a) Beginning July 1, 2012, upon renewal, each licensee's expiration date will be converted to a birth month expiration;

(b) After conversion to birth month expiration, license renewals and appropriate fees will be due on the last day of the licensee's birth month;

(c) Licensee may file a late renewal with appropriate late fee within 15 days of the last day of the licensee's birth month;

(d) Failure to file the required license renewal form along with the appropriate fee shall result in the expiration of the license as of the last day of the licensee's birth month of the year in question.

(4) For licenses issued prior to July 1, 2012, all continuing education requirements must be completed on or before December 31, 2012.

(a) Upon renewal in 2012, continuing education completion deadlines will be converted to a biennial date based on birth month.

(b) After this conversion, continuing education requirements must be completed biennially on or before the last day of the licensee's birth month.

(5) Failure to file the complete and correct renewal with required attachments and/or evidence of completion of required continuing education by the required filing date will result in a penalty being assessed when licensee applies for late renewal reinstatement.

(a) The penalty assessed will be $150; this penalty is in addition to any required renewal and late fees. The penalty and required fees are to be paid at the time of submission of late renewal reinstatement.

(b) If late renewal reinstatement is received 6 or more months after the expiration date, the licensee is required to submit electronic fingerprints in addition to the $150 penalty and required renewal and late fees.

(6) If an individual fails to file for late renewal reinstatement prior to one (1) year from the license expiration date, the licensee will be required to reapply for the license and satisfy all prelicensing requirements.

(7) A licensed insurance producer who is unable to comply with license renewal procedures due to military service may request a waiver of those procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.16
Authority: O.C.G.A Secs. 33-2-9, 33-23-5, 33-23-18, 33-23-21, 33-23-44.
History. Original Rule entitled "Dates for Required Filing of Continuing Education Credits" adopted. F. Sept. 10, 1992; eff. Sept 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule entitled "Dates for Resident License Renewal and Required Filing of Continuing Education Credits" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Repealed: New Rule of same title adopted. F. Aug. 23, 2004; eff. Sept. 12, 2004.
Amended: F. July 16, 2009; eff. Aug. 5, 2009.
Repealed: New Emergency Rule adopted. F. Jun. 28, 2012; eff. Jun. 28, 2012, as specified by the agency.
Repealed: New Rule of same title adopted. F. Sep. 10, 2012; eff. Sep. 30, 2012.
Amended: F. Apr. 1, 2013; eff. Apr. 21, 2013.

Rule 120-2-3-.17. Conversion of Resident Surety Licenses.

(1) Effective July 1, 2002, all licensees who currently hold a surety agent license will be issued a casualty agent license in lieu of their current license; all licensees who currently hold a limited subagent surety license will be issued a limited subagent casualty license in lieu of their current license.

(2) All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 continue to apply after July 1, 2002.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.17
Authority: O.C.G.A Secs. 33-2-9, 33-23-10, 33-23-12, 33-23-18, 33-23-21, 33-23-44.
History. Original Rule entitled "Rounding of Continuing Education Hours" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule entitled "Conversion of Resident Surety Licenses" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-3-.18. Resident Bond Requirements.

(1) Bonds are required of resident licensees in the following amounts:

(a) Public adjuster, $5,000;

(b) Insurance counselor and Limited Health Counselor, $5,000;

(c) Surplus lines broker, as specified in O.C.G.A. § 33-23-37.

(2) Bonds shall be in favor of the Commissioner and shall be contingent upon:

(a) Proper accounting for any monies;

(b) Proper reporting to any principal;

(c) Payment to the Commissioner of any fees or administrative fines.

(3) Bonds shall be continuous in nature.

(4) Release of any bond shall be contingent upon:

(a) Expiration of five (5) years following the termination of the license requiring such bond; or

(b) Replacement of the bond by another bond which covers any unreported acts or claims occurring during the term of the bond so replaced.

(5) Failure to maintain the bond required above will result in the cancellation of the said license.

(6) The Commissioner may prescribe the form of any bond required.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.18
Authority: O.C.G.A. §§ 33-2-9, 33-23-6, 33-23-7, 33-23-37, 33-23-44.
History. Original Rule entitled "Bond Requirements" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule entitled "Resident Bond Requirements" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Amended: ER. 120-2-3-.24 -.18 adopted. F. Jun. 12, 2012; eff. Jun. 12, 2012, as specified by the Agency.
Repealed: New rule with same title adopted. F. Sep. 10, 2012; eff. Sep. 30, 2012.
Amended: F. June 6, 2016; eff. Aug. 1, 2016, as specified by the Agency.

Rule 120-2-3-.19. Exemptions or Reductions in Requirements for Continuing Education.

(1) On approval of the Commissioner, persons holding professional designations in insurance may receive a reduction or exemption from continuing education requirements provided:

(a) The organization sponsoring or granting the professional designation requests such exemption in writing setting forth the continuing education requirements for such designation;

(b) The holder of such designation provides proof of exemption with the Commissioner on or before the date required for filing continuing education credits;

(c) Such exemption or reduction shall only be to the extent of contact hours of continuing education received; and

(d) Exemption or reduction claimed under this Section may be subject to verification by the Commissioner.

(2) Any organization requesting an exemption under Subparagraph (1)(a) of this section must notify the Commissioner in writing within thirty (30) days of any change in its continuing education requirements.

(3) Upon filing the required form on or before the date required for filing continuing education credits with the Commissioner, and at the discretion of the Commissioner, any person may receive a reduction or exemption in continuing education hours required to the extent of the time spent on insurance related activities during the previous year. Such activity shall include, but not be limited to, the following related or occupational duties:

(a) Teaching courses in insurance related topics; or

(b) Insurance related legislative activities; or

(c) Journalism activities involving insurance related topics; or

(d) Projects involving research of insurance laws and regulations; or

(e) Active participation in professional insurance associations. Active members are eligible for a maximum of 3 hours subject to verification from association.

(4) Individuals holding the professional designation of CPCU, CLU, Fellow Life Management Institute (FLMI), CIC, Certified Employee Benefit Specialist (CEBS), Chartered Financial Consultant (ChFC), Accredited Advisor in Insurance (AAI), Certified Financial Planner (CFP), CRM, CISR or a major BBA in Risk Management and Insurance from an accredited college will receive a reduction of continuing education hours required. Holders of these designations are required to complete six (6) hours of continuing education annually, with a minimum of three (3) hours of their continuing education requirement to be completed in the subject area of Ethics. To claim this reduction in continuing education hours, the licensee must attach documentation of achieving such designation. After conversion to a biennial license, holders of these designations are required to complete twelve (12) hours of continuing education with a minimum of three (3) hours to be completed in Ethics. Hours must be completed by the dates specified in Rule 120-2-3-.16.

(5) Individuals holding the professional designation of Universal Claims Certification (UCC) will be exempt from all continuing education required of adjusters.

(6) Individuals holding a non-resident license who are required to meet continuing education in their state of residence will be considered in compliance with the continuing education requirements under this chapter, provided the non-resident licensee's home state reciprocates with Georgia licensees in the same manner.

(7) Agents holding a nonactive license as provided in O.C.G.A. §§ 33-23-4(f) and 33-23-18(e)are exempt from Continuing Education requirements provided:

   (a) The holder of such license files for renewal on or before the date required.

   (b) Such exemption shall only be valid during the period the license is nonactive.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.19
Authority: O.C.G.A. §§ 33-2-9, 33-23-4, 33-23-6, 33-23-16, 33-23-18, 33-23-44.
History. Original Rule entitled "Exemptions or Reductions in Requirements for Continuing Education" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Amended: F. July 16, 2009; eff. Aug. 5, 2009.
Repealed: New Emergency Rule adopted. F. Jun. 28, 2012; eff. Jun. 28, 2012, as specified by the agency.
Repealed: New Rule of same title adopted. F. Sep. 10, 2012; eff. Sep. 30, 2012.
Amended: F. Apr. 16, 2014; eff. May 6, 2014.
Amended: F. Aug. 8, 2018; eff. Aug. 28, 2018.

Rule 120-2-3-.20. Resident Surplus Lines Brokers.

(1) In order to be eligible for a resident surplus lines broker license in accordance with Chapters 5 and 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(2) The applicant must be a licensed resident agent for property and casualty insurance. Failure to maintain a current property and casualty agent's license will result in the cancellation of the surplus lines broker license.

(3) The applicant must include with his/her application a surplus lines broker bond in accordance with Rule 120-2-3-.18.

(4) The applicant must pass the required surplus lines examination and apply for licensure within 12 months from receiving the passing grade. Exceptions to the examination requirement will be made in the following circumstances:

(a) An applicant who was previously licensed as a surplus lines broker in another state shall be exempt from the surplus lines examination. This exemption is only available if the individual is currently licensed in that state or if the application is received within 90 days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer data base records maintained by the NAIC, its affiliates, or subsidiaries indicate that the applicant is or was licensed in good standing for the line of authority requested.

(b) An applicant who holds a designation of CPCU shall be exempt from the surplus lines examination.

(5) All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 apply.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.20
Authority: O.C.G.A Secs. 33-2-9, 33-8-1, 33-23-26, 33-23-37, 33-23-44.
History. Original Rule entitled "Dates for Filing Certificates of Authority" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule entitled "Resident Surplus Lines Brokers" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-3-.21. Agent Certificate of Authority.

(1) Insurers shall file the appropriate fees and file requests for certificates of authority and terminations of certificates of authority immediately upon the appointment or termination of an agent. The request for a certificate of authority must be submitted within fifteen (15) days from the date the agency contract is executed or the first insurance application is submitted.

(a) When filing for a new certificate of authority, the insurer shall notify the agent when the insurer receives confirmation of the issuance of the certificate of authority.

(b) The certificate of authority is deemed effective immediately upon the submission of the request by the insurer; however this does not relieve the insurer of the responsibility of verifying that the certificate of authority has actually been issued.

(2) The insurer shall affirm that an investigation on the general character of the agent has been made and that the insurer recommends the agent for a certificate of authority. Such investigation shall include a report concerning the general character of the applicant by an agency not affiliated with the insurer. Such investigation shall include a criminal background check. The presence of any criminal charges or dispositions related thereto must be disclosed to the Department.

(3) The Commissioner will provide a certificate of authority renewal listing to all insurers annually. The certificate of authority renewal listing will include all eligible licensees appointed with said company by December 31st of the previous year. All insurers shall renew their certificates of authority annually and pay the required fees.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.21
Authority: O.C.G.A Secs. 33-2-9, 33-8-1, 33-23-26, 33-23-44.
History. Original Rule entitled "Agent Certificates of Authority Periodic Update" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Amended: F. July 23, 1998; eff. Aug. 12, 1998.
Amended: F. Jan. 14, 2000; eff. Feb. 3, 2000.
Repealed: New Rule entitled "Agent Certificate of Authority" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Repealed: New Rule of same title adopted. F. July 16, 2009; eff. Aug. 5, 2009.

Rule 120-2-3-.22. Subagent Certificate of Authority.

(1) Agents shall file new applications and submit the required fees for a subagent certificate of authority immediately upon appointment of a subagent.

(2) Every three (3) years, each subagent certificate of authority must be renewed with the Commissioner. The Commissioner will provide a subagent certificate of authority renewal notice to all sponsoring agents prior to the expiration date. The sponsoring agent shall renew the subagent certificate of authority and pay the required fee.

(3) The sponsoring agent immediately upon termination of any subagent's certificate of authority must file the appropriate required form.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.22
Authority: O.C.G.A Secs. 33-2-9, 33-8-1, 33-23-27, 33-23-28, 33-23-44.
History. Original Rule entitled "Subagent Certificate of Authority - Renewal and Changes" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule entitled "Subagent Certificate of Authority" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003 .

Rule 120-2-3-.23. Resident Variable Products.

(1) Effective July 1, 2002, all licensees who currently hold a variable annuity or variable life license will be issued a variable products license in lieu of their current variable annuity or variable life license. All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 continue to apply after July 1, 2002.

(2) In order for all other resident applicants to be eligible for a variable products license in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(3) The application process for an agent license shall include sponsorship by an insurer licensed to do business in this state. Prior to issuance of the license, the sponsor shall agree to appoint the applicant as a representative of the company. The sponsor shall affirm that an investigation on the general character of the applicant has been conducted by an agency not affiliated with the insurer and that the sponsor recommends the applicant for a license. Such investigation shall include a criminal background check.

(a) Effective January 1, 2010, the application process for an agent license will no longer require sponsorship by an insurer. Upon issuance of the agent license, the licensee must obtain a certificate of authority from each insurer that they will represent.

(b) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(4) All resident applicants must hold a valid resident agent license for life insurance. Failure to maintain a current agent's license for life insurance will result in the cancellation of the variable products license.

(5) All resident applicants must provide proof of current National Association of Securities Dealers (NASD) Series 6, 7, Investment Representative (IR) or General Securities (GS) registration; such proof shall accompany the license application.

(6) All resident applicants must complete an approved 8 hour prelicensing course in variable products and provide proof of completion in conjunction with the required application. The applicant must pass the required examination for licensure within 12 months of the completion of the prelicensing course. All applicants must pass the required variable products examination and apply for licensure within 12 months from receiving a passing grade on the examination. The only applicants exempt from the prelicensing and examination requirements are those who qualify for exemption under O.C.G.A. §§ 33-23-5(a)(5)(A) and 33-23-5(a)(5)(B).

(7) All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 apply to personal lines licensees.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.23
Authority: O.C.G.A. Secs. 33-2-9, 33-8-1, 33-11-66, 33-11-67, 33-23-5, 33-23-5.1, 33-23-10, 33-23-12, 33-23-18, 33-23-28, 33-23-44.
History. Original Rule entitled "Subagent Record of Transaction" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.

Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule entitled "Resident Variable Products" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Repealed: New Rule of same title adopted. F. July 16, 2009; eff. Aug. 5, 2009.

Rule 120-2-3-.24. Procedures for Registering Staff Adjusters.

(1) "Staff adjusters" are salaried employees who adjust claims in this state, regardless of where such employees are located. Each insurer which employs staff adjusters shall electronically file a list of such employees with the Commissioner by March 31 of each year (Annual Filing). Annual Filings submitted after the March 31 filing deadline will result in a $15 late fee per staff adjuster.

No staff adjuster registration shall be required for an employee of a property and casualty insurer licensed to do business in this state if such employee handles only claims with respect to residential property insurance in which the amount of the coverage for the applicable type of loss is contractually limited to $500.00 or less.

(2) Annual filings shall include any person who directly supervises persons required to be included in the Annual Filing under Paragraph (1).

(3) Insurers must electronically file changes to the Annual Filing within thirty (30) days of the date of the change(s). For billing purposes, an insertion or deletion of a staff adjuster from the Annual Filing is considered an amendment to the Annual Filing.

(4) The Annual Filing must be filed with the Department electronically through the Georgia Company Portal.

(5) All filings must include all adjusters employed as staff adjusters at the time of filing.

(6) The Filings must include the insurer's designated staff adjuster coordinator, who is the person that is responsible for the staff adjuster filings. The filing must include the person's name, address, e-mail address, phone number, as well as any additional information the Commissioner deems necessary.

(7) Filings of staff adjusters that are employed by more than one company in an NAIC group must contain consistent employee identification numbers.

(8) Electronic staff adjuster filings will be invoiced monthly according to fees set forth in O.C.G.A. § 33-8-1. Said invoice must be paid within thirty (30) days of receipt of the invoice to avoid any late fees. If payment is late, a $15 late fee will be assessed per staff adjuster will be assessed.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.24
Authority: O.C.G.A. §§ 33-2-9, 33-8-1, 33-23-44.
History. Original Rule entitled "Procedures for Licensing Adjusters Who Are Employees of Insurers" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.

Repealed: New Rule entitled "Procedures for Registering Staff Adjusters" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Repealed: New Rule of same title adopted. F. July 16, 2009; eff. Aug. 5, 2009.
Repealed: New Rule of same title adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-3-.25. Resident Adjusters, Public Adjusters, Workers Compensation Adjusters, Crop Hail Adjusters and Emergency Disaster Adjusters.

(1) Adjuster:

(a) Effective July 1, 2002, all licensees who currently hold an adjusting company adjuster or an independent adjuster license will be issued an adjuster license in lieu of their current license. All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 continue to apply after July 1, 2002.

(b) In order for all other resident applicants to be eligible for an adjuster license in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(c) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(d) The resident adjuster applicant must complete an approved Prelicensing course in property and casualty unless specifically exempted by Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation. All prelicensing courses must contain a minimum of twenty (20) hours of instruction per major line of authority. The applicant must pass the required examination for licensure within 12 months of the completion of the prelicensing course. All applicants must pass the required adjuster examination and apply for licensure within 12 months from receiving a passing grade on the examination. Applicants are exempt from the examination requirement if they qualify for the exemption outlined in Rule 120-2-3-.09(1)(k) or hold either the designation of Chartered Property and Casualty Underwriter (CPCU) or Universal Claims Certification (UCC).

(e) All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 apply to adjuster licensees.

(f) Exceptions to prelicensing course:

1. Applicants who hold a designation of CPCU or UCC;

2. Applicants who qualify for exemption under O.C.G.A. §§ 33-23-5(a)(5)(A) and 33-23-5(a)(5)(B);

3. Applicants who provide satisfactory evidence such as a transcript from a college or university indicating successful completion of two (2) college or university courses related to insurance. Such courses must relate to the lines of authority for which the Applicant has applied;

4. Applicants who hold college degrees in insurance;

5. Other applicants at the Commissioner's discretion.

(2) Public adjuster:

(a) To be eligible for a resident public adjuster license in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(b) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(c) The resident public adjuster applicant must complete an approved prelicensing course in property and casualty unless specifically exempted by Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation. All prelicensing courses must contain a minimum of twenty (20) hours of instruction per major line of authority. The applicant must pass the required examination for licensure within 12 months of the completion of the prelicensing course. All applicants must pass the required public adjuster examination and apply for licensure within 12 months from receiving a passing grade on the examination. Applicants are exempt from the examination requirement if they qualify for the exemption outlined in Rule 120-2-3-.09(1)(k) or hold the designation of CPCU.

(d) All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 apply to public adjusters.

(e) The applicant must include with his/her application a public adjuster bond in accordance with Rule 120-2-3-.18.

(f) Exceptions to prelicensing course:

1. Applicants who hold a designation of CPCU;

2. Applicants who qualify for exemption under O.C.G.A. §§ 33-23-5(a)(5)(A) and 33-23-5(a)(5)(B);

3. Applicants who provide satisfactory evidence such as a transcript from a college or university indicating successful completion of two (2) college or university courses related to insurance. Such courses must relate to the lines of authority for which the Applicant has applied;

4. Applicants who hold college degrees in insurance;

5. Other applicants at the Commissioner's discretion.

(3) Workers' Compensation adjuster:

(a) To be eligible for a resident workers' compensation adjuster license in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(b) Applicants must hold and submit proof of the designation of CWCP, CPCU, or UCC, or qualify under Rule 120-2-3-.09(1)(k).

(c) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(d) All continuing education requirements as outlined in Rule 120-2-3-.15(2)(c) and all renewal requirements as outlined in Rule 120-2-3-.16 apply to workers' compensation adjusters.

(4) Crop Hail adjuster:

(a) To be eligible for a resident crop hail adjuster license in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(b) All applicants must complete an approved proficiency testing program. Applicants are exempt from the proficiency testing program requirements if they qualify for the exemption outlined in Rule 120-2-3-.09(1)(k) or hold either the designation of CPCU or UCC.

(c) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(d) All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 apply to crop hail adjusters.

(5) Emergency Disaster adjuster:

(a) In the event of a Georgia Emergency Management Authority (GEMA) declared disaster or catastrophe, the insurer will be required to electronically file with the Department a list of non-licensed salaried staff adjusters and out of state licensees that will be handling claims relating to the catastrophe/disaster. Upon proper filing, Disaster Re-entry Permits will be assigned to each insurer. These re-entry permits are to be temporarily assigned to each adjuster for a period not to exceed 60 days.

(b) The Insurer's electronic emergency adjuster filing must include information regarding its adjuster Coordinator. The filing must include the adjuster coordinator's name, address, e-mail address, phone and fax number, as well as any additional information the Commissioner deems necessary. The adjuster coordinator will be responsible for the emergency disaster adjuster filings and assignment of the re-entry permits.

(c) In the event of a non-GEMA declared disaster, nonresident adjusters licensed in another state may enter Georgia for a period not to exceed 60 days. The adjuster must notify the Department prior to entry into this state. Such notification must include the adjuster's name, address, date of anticipated entry into this state and any other information that the Commissioner deems necessary to complete the filing. If the adjuster will be in this state for a period exceeding 60 days, the individual must apply for adjuster licensure.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.25
Authority: O.C.G.A. §§ 33-2-9, 33-8-1, 33-23-1, 33-23-5, 33-23-5.1, 33-23-6, 33-23-8, 33-23-10, 33-23-15, 33-23-18, 33-23-29, 33-23-44.
History. Original Rule entitled "Adjuster - Temporary Emergency Work" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule entitled "Resident Adjusters, Public Adjusters, Workers' Compensation Adjusters, and Crop Hail Adjusters" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Repealed: New Rule entitled "Resident Adjusters, Public Adjusters, Workers Compensation Adjusters, Crop Hail Adjusters and Emergency Disaster Adjusters" adopted. F. July 16, 2009; eff. Aug. 5, 2009.
Amended: F. Apr. 1, 2013; eff. Apr. 21, 2013.
Amended: F. Aug. 8, 2018; eff. Aug. 28, 2018.

Rule 120-2-3-.26. Fees.

(1) Unless otherwise specified, all fees shall be in accordance with O.C.G.A. § 33-8-1.

(2) Fees in connection with applications, filings or notifications required under Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation shall accompany such application, filing or notification. However, the Commissioner may establish a billing procedure where practicable.

(3) The Commissioner may allow or require payment of fees by electronic means.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.26
Authority: O.C.G.A. Secs. 33-2-9, 33-8-1, 33-23-44.
History. Original Rule entitled "Fees" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-3-.27. Complaints.

(1) All licensees under Chapter 23 of Title 33 of the Official Code of Georgia Annotated shall maintain a record of any complaint made against them by any person. For purposes of this requirement, a complaint is defined as a written complaint that alleges any violation of state or federal law, or of any regulation, directive or bulletin of the Department.

(2) Such record shall identify the complaint and the file, if any, the nature of the complaint and the steps taken to resolve the complaint, all in such detail as may be necessary to reconstruct the matter.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.27
Authority: O.C.G.A. Secs. 33-2-9, 33-23-34, 33-23-44.
History. Original Rule entitled "Complaints" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-3-.28. Resident Counselors.

(1) In order to be eligible for a resident counselor license in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(2) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to

submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(3) The applicant must have 5 years of experience as a licensed agent, subagent or adjuster or in some other phase of the insurance business or provide evidence of sufficient teaching, educational qualifications and or experience in the lines of authority for which applicant seeks licensure as a counselor.

(4) The applicant must include with his/her application a counselor bond in accordance with Rule 120-2-3-.18.

(5) The Applicant must pass the required counselor examination and apply for licensure within 12 months from receiving the passing grade. Exceptions to the experience requirement and examination requirement will be made in the following circumstances:

(a) An applicant who was previously licensed as a counselor in another state shall be exempt from the examination. This exemption is only available if the individual is currently licensed in that state or if the application is received within 90 days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer data base records maintained by the NAIC, its affiliates, or subsidiaries indicate that the applicant is or was licensed in good standing for the line of authority requested.

(b) An applicant who holds the designation of CPCU or AAI shall be exempt from the property and casualty counselor examination.

(c) An applicant who holds the designation of CLU or FLMI shall be exempt from the life, accident and sickness counselor examination.

(d) An applicant who holds the designation of CIC shall be exempt from the life, accident and sickness counselor examination and/or the property and casualty counselor examination.

(e) The Commissioner may, at his or her discretion, exempt an applicant from examination if the applicant has sufficient experience and qualifications in the lines of authority for which the applicant seeks licensure.

(6) All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 apply.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.28
Authority: O.C.G.A. Secs. 33-2-9, 33-23-1, 33-23-1.1, 33-23-5, 33-23-5.1, 33-23-6 to 33-23-8, 33-23-10, 33-23-15, 33-23-18, 33-23-44.
History. Original Rule entitled "Renewal Required" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule entitled "Resident Counselors" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Amended: F. Aug. 19, 2005; eff. Sept. 8, 2005.

Repealed: New Rule of same title adopted. F. July 16, 2009; eff. Aug. 5, 2009.

Rule 120-2-3-.29. Resident Credit Insurance Agents and Limited Subagents.

(1) Agent:

(a) In order to be eligible for a resident credit insurance agent license issued in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees. Upon application to the Commissioner, a license for an agent limited to credit insurance shall be issued to any resident individual provided:

1. The individual otherwise meets the requirements for an agent license under Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation; and

2. The application process shall include sponsorship by an insurer licensed to do business in this state. Prior to issuance of the license, the sponsor shall agree to appoint the applicant as a representative of the company. The sponsor shall affirm that an investigation of the general character of the applicant has been conducted by an agency not affiliated with the insurer and that the sponsor recommends the applicant for a license. Such investigation shall include a criminal background check; and

3. The insurer and applicant certify that the applicant has read the following laws and regulations:

(i) Chapters 6, 7, 24, 27, 30, and 31 of Title 33 of the Official Code of Georgia Annotated; and O.C.G.A. §§ 33-1-9, 33-1-16, 33-2-12, and 33-2-15.

(ii) Insurance Department Regulation 120-2-27.

(b) No prelicensing education shall be required other than the certification of compliance with Rules 120-2-3-.29(1)(a)3.(i) and (ii).

(c) No examination shall be required for the issuance of such license.

(d) Effective January 1, 2010, the application process for an agent license will no longer require sponsorship by an insurer. Upon issuance of the agent license, the licensee must obtain a certificate of authority from each insurer that they will represent.

(e) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall

be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(2) Limited Subagent:

(a) In order to be eligible for a resident limited subagent credit license issued in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees. The application shall include sponsorship by a licensed resident agent who agrees to assume responsibility for the limited subagent's acts; and,

1. The application process shall include sponsorship by a resident agent licensed to do business in this state. Prior to issuance of the license, the sponsoring agent shall agree to appoint the applicant as a representative of the agent. The sponsoring agent shall affirm that an investigation of the general character of the applicant has been conducted by an agency not affiliated with the agent and that the sponsoring agent recommends the applicant for a license. Such investigation shall include a criminal background check; and

2. Both the applicant and the sponsoring agent certify that the applicant has read the following laws and regulations:

(i) Chapters 6, 7, 24, 27, 30, and 31 of Title 33 of the Official Code of Georgia Annotated; and O.C.G.A. §§ 33-1-9, 33-1-16, 33-2-12, and 33-2-15.

(ii) Insurance Department Regulation 120-2-27.

(b) No prelicensing education shall be required other than the certification of compliance with Rules 120-2-3-.29(2)(a)3.(i) and (ii).

(c) No examination shall be required for issuance of such license.

(d) The sponsoring agent shall hold the credit insurance limited subagent's license and return such license to the Commissioner upon termination of the subagent's authority.

(e) The termination, cancellation, or nonrenewal of the sponsoring agent's license will result in the cancellation of the limited subagent's license.

(f) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the

Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(3) License Renewal and Continuing Education Filing Requirements. Each year by the dates specified in Rule 120-2-3-.16, license renewals must be filed on forms prescribed by the Commissioner, accompanied by the appropriate fee; additionally, credit insurance agents and limited subagents must file as follows:

(a) Agent. The insurer shall certify to the Commissioner that the credit insurance agent has spent a minimum of five (5) hours of self-study during the preceding year in credit insurance subjects specified in Rules 120-2-3-.29(1)(a)3.(i) and (ii). In lieu of such certification, the agent may submit evidence of completion of a minimum of five (5) hours of classroom study or equivalent correspondence or other individual study programs as provided in this Regulation, provided such study includes credit insurance subjects specified in Rules 120-2-3-.29(1)(a)3.(i) and (ii). After conversion to a biennial license and upon subsequent renewal, each credit licensee is required to provide proof of ten (10) hours of self-study or continuing education.

(b) Limited Subagent. The sponsoring agent shall certify to the Commissioner that the credit insurance limited subagent has received at least five (5) hours of self-study during the preceding year in credit insurance subjects specified in Rules 120-2-3-.29(2)(a)3.(i) and (ii). In lieu of such certification, the limited subagent may submit evidence of completion of a minimum of five (5) hours of classroom study or equivalent correspondence or other individual study programs as provided in this Regulation, provided such study includes credit insurance subjects specified in Rules 120-2-3-.29(2)(a)3.(i) and (ii). The limited subagent certificate of authority must be renewed in conjunction with the limited subagent license renewal. After conversion to biennial license and upon subsequent renewal, each credit licensee is required to provide proof of ten (10) hours of self-study or continuing education.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.29
Authority: O.C.G.A. Secs. 33-2-9, 33-23-5, 33-23-5.1, 33-23-8, 33-23-10, 33-23-12, 33-23-15, 33-23-17, 33-23-18, 33-23-27, 33-23-28, 33-23-44.
History. Original Rule entitled "Credit Insurance Subagent" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: Rule retitled "Credit Insurance". F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule entitled "Resident Credit Insurance Agents and Limited Subagents" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Amended: F. July 16, 2009; eff. Aug. 5, 2009.
Repealed: New Emergency Rule adopted. F. Jun. 28, 2012; eff. Jun. 28, 2012, as specified by the agency.
Repealed: New Rule of same title adopted. F. Sep. 10, 2012; eff. Sep. 30, 2012.

Rule 120-2-3-.30. Nonactive License.

(1) A nonactive license may be issued to any agent who:

(a) Is currently licensed as an agent;

(b) Has held a license continuously for ten (10) years or more and does not perform any of the functions specified in O.C.G.A. § 33-23-1(a)(3) other than the receipt of renewal or deferred commissions.

(c) Files a written request with the Commissioner, accompanied by all required license amendment fees, which states the agent's name, license number, and contains a statement from the agent acknowledging that the agent meets eligibility requirements as set forth in O.C.G.A. §§ 33-23-4(f), 33-23-18(e), and subparagraph (1)(b) of this section.

(2) The agent must return the current license at the time of the request and a new license, indicating the nonactive designation, will be issued.

(3) The nonactive licensee must file for renewal and pay all renewal fees annually.

(4) Failure to file for renewal annually may result in the revocation of the nonactive license or other administrative action. The Commissioner will notify the licensee in writing that the required filing has not been received or is deficient in some manner. If a correct filing, along with the appropriate late fee and/or administrative fine is not received within thirty (30) days of such notice, the license will be noncontinued. If an individual fails to file for late renewal reinstatement prior to one (1) year from the expiration date and seeks to be relicensed at a later date, the licensee will be required to reapply for the license, including satisfying all prelicensing requirements. At the discretion of the Commissioner, exceptions may be made in the event of extreme hardship.

(5) If a nonactive agent will perform any of the functions specified in O.C.G.A. § 33-23-1(a)(3) other than the receipt of renewal or deferred commissions, said agent must obtain prior approval from the Commissioner by making proper application as required in Rule 120-2-3-.07.

(a) No examination shall be required for the issuance of such license.

(b) No prelicensing education shall be required for the issuance of such license.

(6) Upon reissuance of the license, the agent will be subject to all certificate of authority and continuing education requirements for the year in which the license became active.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.30
Authority: O.C.G.A. Secs. 33-2-9, 33-23-4, 33-23-5, 33-23-8, 33-23-12, 33-23-18, 33-23-44.
History. Original Rule entitled "Limited Subagent Replacement for Solicitor License" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: Rule retitled "Nonactive License". F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-3-.31. Limited Subagent License.

(1) Limited subagent means an individual licensed pursuant to O.C.G.A. 33-23-12(a)under the sponsorship of a licensed agent. With the scope of authority set forth in Chapter 23 of Title 33 of the Official Code of Georgia Annotated, a limited subagent license may be issued, limiting the insurance activity to the following:

(a) Personal lines-property and casualty;

(b) Personal insurance-life, accident and sickness.

(2) In order to be eligible for a limited subagent license issued in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(a) The application process shall include sponsorship by a resident agent licensed to do business in this state. Prior to issuance of the license, the sponsoring agent shall agree to appoint the applicant as a representative of the agent. The sponsoring agent shall affirm that an investigation on the general character of the applicant has been conducted by an agency not affiliated with the agent and that the sponsoring agent recommends the applicant for a license. Such investigation shall include a criminal background check.

(b) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(c) The applicant may not become licensed in a category of insurance not included in the license of the sponsoring agent.

(d) The applicant shall provide evidence of completion of an approved limited subagent prelicensing course in the lines for which he/she seeks licensure. Such evidence shall accompany the application. Such completion will only be accepted if the prelicensing course has been taken within twelve (12) months of filing the application for licensure.

(3) No examination shall be required.

(4) The sponsoring agent shall retain the limited subagent's license. In the event the relationship with the limited subagent is terminated, the sponsoring agent shall return the license to the Commissioner with a request for termination of the limited subagent license.

(5) Each year by the dates specified in Rule 120-2-3-.16, license renewals, and evidence of at least five (5) hours of continuing education must be filed each year on forms specified by

the Commissioner and accompanied by the required fees. After conversion to a biennial license and upon subsequent renewal, each limited subagent licensee is required to provide proof of ten (10) hours of continuing education.

(6) The limited subagent certificate of authority must be renewed in conjunction with the limited subagent license renewal.

(7) The termination, cancellation, or nonrenewal of the sponsoring agent's license will result in the cancellation of the limited subagent license.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.31
Authority: O.C.G.A. Secs. 33-2-9, 33-23-5, 33-23-5.1, 33-23-8, 33-23-10, 33-23-12, 33-23-18, 33-23-27, 33-23-44.
History. Original Rule entitled "Limited Subagent License" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Amended: F. July 16, 2009; eff. Aug. 5, 2009.
Repealed: New Emergency Rule adopted. F. Jun. 28, 2012; eff. Jun. 28, 2012, as specified by the agency.
Repealed: New Rule of same title adopted. F. Sep. 10, 2012; eff. Sep. 30, 2012.

Rule 120-2-3-.32. Limited Travel Agent License, also Known as Travel Accident and Sickness License, and Travel Ticket.

(1) In order for persons engaged in the business of selling tickets for travel on public carriers to be eligible for a limited travel agent license in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(2) The application process for a limited travel agent license shall include sponsorship by an insurer licensed to do business in this state. Prior to issuance of the license, the sponsor shall agree to appoint the applicant as a representative of the company. The sponsor shall affirm that an investigation on the general character of the applicant has been conducted by an agency not affiliated with the insurer and that the sponsor recommends the applicant for a license. Such investigation shall include a criminal background check.

(a) Effective January 1, 2010, the application process for an agent license will no longer require sponsorship by an insurer. Upon issuance of the agent license, the licensee must obtain a certificate of authority from each insurer that they will represent.

(b) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(3) Each year by the dates specified in Rule 120-2-3-.16, license renewals, accompanied by the required fees, must be filed on forms prescribed by the Commissioner.

(4) No prelicensing education is required.

(5) No examination shall be required for this license.

(6) No continuing education shall be required for this license.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.32
Authority: O.C.G.A. Secs. 33-2-9, 33-23-5, 33-23-5.1, 33-23-8, 33-23-10, 33-23-12, 33-23-18, 33-23-44.
History. Original Rule entitled "Limited Travel Agent License" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule entitled "Limited Travel Agent License, also Known as Travel Accident and Sickness License, and Travel Ticket License" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Repealed: New Rule of same title adopted. F. July 16, 2009; eff. Aug. 5, 2009.

Rule 120-2-3-.33. Conversion of Nonresident Limited Property, Limited Casualty, Limited Surety, Limited Automobile, Surety, Variable Annuity, Variable Life, Adjusting Company Adjuster, and Independent Adjuster Licenses.

(1) Effective July 1, 2002, all nonresident agent licensees who currently hold a limited property, limited casualty, limited surety, or a limited automobile license will be issued a nonresident personal lines license in lieu of their current limited license.

(2) Effective July 1, 2002, all nonresident agent licensees who currently hold a surety license will be issued a nonresident casualty license in lieu of their current surety license.

(3) Effective July 1, 2002, all nonresident agent licensees who currently hold a variable annuity or variable life license will be issued a nonresident variable products license in lieu of their current license.

(4) Effective July 1, 2002, all nonresident licensees who currently hold an adjusting company adjuster or independent adjuster license will be issued a nonresident adjuster license in lieu of their current license.

(5) All renewal requirements as outlined in Rule 120-2-3-.35 apply to all converted licenses.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.33
Authority: O.C.G.A. Secs. 33-2-9, 33-11-66, 33-11-67, 33-23-12, 33-23-14, 33-23-16, 33-23-18, 33-23-44.
History. Original Rule entitled "Travel Accident Vending Machine License" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule entitled "Conversion of Nonresident Limited Property, Limited Casualty, Limited Surety, Limited Automobile, Surety, Variable Annuity, Variable Life, Adjusting Company Adjuster, and Independent

Adjuster Licenses" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-3-.34. Nonresident License Requirements.

(1) A nonresident person shall receive a nonresident agent license if all requirements set forth in O.C.G.A. § 33-23-16 have been met. All applicants for a Variable Products license must also have a valid agent license for life insurance and provide proof of current NASD Series 6, 7, IR or GS registration; such proof shall accompany the license application. Failure to maintain a current agent's license for life insurance will result in the cancellation of the variable products license.

(2) A nonresident person shall receive a nonresident adjuster license if all requirements set forth in O.C.G.A. § 33-23-29 have been met.

(3) A nonresident person shall receive a nonresident counselor license if all requirements set forth in O.C.G.A. § 33-23-29.1 have been met.

(4) A nonresident person shall receive a nonresident surplus lines broker license if all requirements set forth in O.C.G.A. § 33-23-16 have been met. The applicant must also hold a nonresident agent license for property and casualty insurance. Failure to maintain a current nonresident property and casualty agent's license will result in the cancellation of the surplus lines broker license.

(5) A nonresident applicant shall receive a nonresident agency license if all requirements set forth in O.C.G.A. §§ 33-23-3, 33-23-16 and Rule 120-2-3-.05 have been met.

(6) All nonresident agent, adjuster, counselor, and surplus lines broker licenses issued before July 1, 2012, expire or expired December 31 of the year issued. Effective July 1, 2012, all new licenses will be issued on a biennial basis with a birth month expiration.

(7) Prior to the issuance of a nonresident license, verification that the nonresident applicant is currently licensed as a resident in good standing in such person's home state shall be provided to the Commissioner. Applicant's home state license will be verified on the NAIC producer database. If an applicant's license information can not be verified through this site, an original certification letter from the applicant's home state dated within 90 days of submission to the Commissioner will satisfy this requirement.

(8) Applicants for agent, adjuster, counselor and surplus lines broker licenses whose resident state does not require a license to transact business may be licensed in this state provided that

   (a) Proper application is made on the required forms, accompanied by the required fees;

   (b) The applicant takes the examination issued by the Commissioner where required pursuant to Chapter 23 of Title 33 of the Official Code of Georgia Annotated; and

(c) The applicant submits written documentation from their resident state demonstrating the lack of a licensing requirement and the state's reciprocity with residents from this state.

(9) On or after January 1, 2009, a nonresident Agent may not sell, solicit or negotiate a long term care partnership policy in Georgia or to a Georgia resident unless the individual has completed an initial eight (8) hour long term care training course. Such training must meet the requirements as outlined in Section 120-2-3-.12. If the nonresident agent has completed a non Georgia approved long term care partnership course for a minimum of six (6) hours, regardless of whether the long term care partnership course has a state specific Medicaid requirement, said agent must complete a minimum of a two (2) hour course covering Georgia specific Medicaid provisions to meet the full requirement for Georgia long term care partnership agent training requirements under Rule 120-2-16-.34(5). After satisfying the initial eight (8) hour long term care partnership training requirements, agent must also complete ongoing training consisting of a four (4) hour long term care continuing education course every 24 months.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.34
Authority: O.C.G.A. Secs. 33-2-9, 33-8-1, 33-23-5, 33-23-8, 33-23-16, 33-23-29, 33-23-29.1, 33-23-41, 33-23-44, 33-42-6, 33-42-7.
History. Original Rule entitled "Conversion of Broker License" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: Rule retitled "Nonresident Licensees-Ninety (90) Day Rule". F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule entitled "Nonresident License Requirements" adopted. F. Jan. 15, 2003; eff Feb. 4, 2003.
Repealed: New Rule of same title adopted. F. July 16, 2009; eff Aug. 5, 2009.
Repealed: New Emergency Rule adopted. F. Jun. 28, 2012; eff Jun. 28, 2012, as specified by the agency.
Repealed: New Rule of same title adopted. F. Sep. 10, 2012; eff Sep. 30, 2012.

Rule 120-2-3-.35. Nonresident License Renewals.

(1) Agents, adjusters, counselors, and surplus lines brokers are required to renew the license prior to expiration on forms prescribed by the Commissioner and pay the required fees.

(2) Any licensee who fails to timely renew will be required to reapply for licensure and meet all initial application and fee requirements.

(3) Prior to the renewal of a nonresident license, verification that the nonresident applicant is currently licensed as a resident in good standing in such person's home state shall be provided to the Commissioner.

(4) Upon renewal the following schedule will be used for the transition from fixed date expiration of December 31, 2102 to birth month expiration:

BIRTH MONTH	TRANSITION EXPIRATON DATE	LENGTH OF TRANSITION LICENSE
January	01/31/2015	25 Months

February	02/28/2015	26 Months
March	03/31/2015	27 Months
April	04/30/2015	28 Months
May	05/31/2015	29 Months
June	06/30/2014	18 Months
July	07/31/2014	19 Months
August	08/31/2014	20 Months
September	09/30/2014	21 Months
October	10/31/2014	22 Months
November	11/30/2014	23 Months
December	12/31/2014	24 Months

(a) Beginning July 1, 2012, upon renewal, each licensee's expiration date will be converted to a birth month expiration;

(b) After conversion to birth month expiration, license renewals and appropriate fees will be due on the last day of the licensee's birth month;

(c) Licensee may file a late renewal with appropriate late fee within 15 days of the last day of the licensee's birth month;

(d) Failure to file the required license renewal form along with the appropriate fee shall result in the expiration of the license as of last day of the licensee's birth month of the year in question.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.35
Authority: O.C.G.A. Secs. 33-2-9, 33-8-1, 33-23-16, 33-23-44.
History. Original Rule entitled "Nonresident License Renewals" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: Rule retitled "Nonresident Licenses and Renewals". F. Aug. 9, 1996; eff. Aug. 29, 1996.
Amended: F. July 23, 1998; eff. Aug. 12, 1998.
Repealed: New Rule entitled "Nonresident License Renewals" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Repealed: New Emergency Rule adopted. F. Jun. 28, 2012; eff. Jun. 28, 2012, as specified by the agency.
Repealed: New Rule of same title adopted. F. Sep. 10, 2012; eff. Sep. 30, 2012.

Rule 120-2-3-.36. Other Information Required.

The Commissioner may require any other information in conjunction with any filing required under Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation as he may, at his discretion, determine to be necessary for compliance with Title 33 of the Official Code of Georgia Annotated and the Rules and Regulation of the Georgia Insurance Department.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.36
Authority: O.C.G.A. Secs. 33-2-9, 33-23-36, 33-23-44.

History. Original Rule entitled "Other Information Required" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-3-.37. Changes in Filed Information.

Unless otherwise specified in this Regulation, all licensees and others required to make filings with or application to the Commissioner shall notify the Commissioner of any change in the information included in such filings or applications within thirty (30) days of such change.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.37
Authority: O.C.G.A. Secs. 33-2-9, 33-23-44.
History. Original Rule entitled "Changes in Filed Information" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-3-.38. Service Representatives Permits.

(1) Each insurer having employees who are not licensed agents whose duties include service to agents outside the employees' office or prospecting for new agents, wherever such employees are located, shall file a list of such employees with the Commissioner on or before March 1 of each year.

(2) Changes in such listing shall be filed no later than June 1, September 1, and December 1 of each year.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.38
Authority: O.C.G.A. Secs. 33-2-9, 33-23-24, 33-23-44.
History. Original Rule entitled "Service Representatives Permits" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-3-.39. Retail Vendors of Portable Electronics Limited License.

(1) Upon application to the Commissioner on the required form, a limited license for retail vendors of portable electronics shall be issued provided that:

(a) The retail vendor of portable electronics meets the requirements for licensure under Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation;

(b) Each applicant for licensure must remit the fee required by O.C.G.A. § 33-8-1.

(2) An applicant is not required to be sponsored by an insurer for licensure nor are they required to obtain a certificate of authority.

(3) No examination is required.

(4) No continuing education is required.

(5) A license is required only for the principal location or home office.

(6) An applicant is required to certify that all employees have received basic training as to the types of insurance products specified in O.C.G.A. § 33-23-12(d)(5).

(7) An instructor and the prelicensing training program must be approved by the Department prior to making application for licensure.

(8) To request approval, an applicant must submit a course outline and the instructor's resume to the Department.

(9) In lieu of creating a specific course, taught by an approved instructor, for his or her employees, an applicant may require their employees to complete the property and casualty prelicensing course from an approved provider.

(10) All licenses issued prior to July 1, 2102 expire on December 31 of the year issued. All licenses issued July 1, 2012, and thereafter are issued on a biennial basis. Licensees are required to renew the license prior to expiration on forms prescribed by the Commissioner and remit a fee required by O.C.G.A. § 33-8-1 for the renewal of said license.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.39
Authority: O.C.G.A. Secs. 33-2-9, 33-23-4, 33-23-12, 33-23-44.
History. Original Rule entitled "Specific Certificate of Authority" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule entitled "Retail Vendors of Communications Equipment Limited License" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Repealed: New Emergency Rule adopted. F. Jun. 28, 2012; eff. Jun. 28, 2012, as specified by the agency.
Repealed: New Rule of same title adopted. F. Sep. 10, 2012; eff. Sep. 30, 2012.
Repealed: New Rule entitled "Retail Vendors of Portable Electronics Limited License" adopted. F. Apr. 1, 2013; eff. Apr 21, 2013.

Rule 120-2-3-.40. Resident Temporary License.

(1) In order to be eligible for any resident temporary insurance license issued in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(2) The application process shall include the following:

(a) The application process shall include sponsorship by an insurer licensed to do business in this state unless applicant is for a temporary hardship license. Prior to issuance of the license, the sponsor shall agree to appoint the applicant as a representative of the company. The sponsor shall affirm that an investigation of the general character of the applicant has been conducted by an agency not affiliated with the insurer and that the sponsor recommends the applicant for a license. Such investigation shall include a criminal background check;

(b) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting;

(c) The name and license number of the supervising resident agent for the temporary licensee.

(3) The temporary license is valid for a period of six (6) months from original issue date and renewable thereafter for three (3) month periods. In no instance, however, shall the licensee hold a temporary license beyond fifteen (15) months from the original issue date. This continuous fifteen (15) month eligibility period is not altered by lapses or changes in sponsoring insurers. The applicant is eligible for only one fifteen (15) month temporary license in the same lines of authority.

(4) If an individual chooses to change sponsoring insurers, the application process must be completed by the applicant and the new sponsoring insurer.

(5) Renewal of a temporary license may be requested by filing the required application and the required fees with the Commissioner.

(6) Upon receipt of proof of a temporary licensee's completion of the required prelicensing course and passing prelicensing examination as set forth in Rules 120-2-3-.08 and 120-2-3-.09, an agent license (non-temporary) shall be issued.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.40
Authority: O.C.G.A. Secs. 33-2-9, 33-8-1, 33-23-5, 33-23-5.1, 33-23-8, 33-23-10, 33-23-13, 33-23-44.
History. Original Rule entitled "Temporary License" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule entitled "Resident Temporary License" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Repealed: New Rule of same title adopted. F. July 16, 2009; eff. Aug. 5, 2009.

Rule 120-2-3-.41. Registration of Foreign Military Representative.

A domestic insurer may register a representative to represent such insurer by filing the required form with the Commissioner and paying the required fees.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.41
Authority: O.C.G.A. Secs. 33-2-9, 33-23-17, 33-23-44.
History. Original Rule entitled "Registration of Foreign Military Representative" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-3-.42. Certificate of Licensure.

(1) Upon request, the Commissioner shall issue a Certificate of Licensure to any licensee currently licensed in accordance with the Georgia Insurance Code and this Regulation.

(2) A Certificate of Licensure may be requested by filing the required form accompanied by the required fee with the Commissioner.

(3) The Certificate of Licensure shall state licensee's name, license number, kind(s) of insurance covered, and other conditions of licensing.

(4) Once issued, the form and content of the Certificate of Licensure shall not be altered in any way.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.42
Authority: O.C.G.A. Secs. 33-2-9, 33-23-11, 33-23-44.
History. Original Rule entitled "Severability" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: Rule retitled "Certificate of Licensure". F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-3-.43. Letters of Status or Clearance.

(1) Upon request, the Commissioner shall issue Letters of Status or Clearance, indicating the license history or status of anyone that has held or currently holds an insurance license in this state.

(2) A Status or Clearance letter may be requested by filing the required form and required fee with the Commissioner.

(3) The Status or Clearance letter shall state licensee's name, license number, type of license held, kind(s) of insurance covered, and other conditions of licensing.

(4) The form and content of the Status or Clearance letter once issued shall not be altered in any way.

(5) For individuals requesting a Status or Clearance letter whose licensing history is no longer available, a Cannot Confirm or Deny letter will be issued.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.43
Authority: O.C.G.A. Secs. 33-2-9, 33-8-1, 33-23-44.
History. Original Rule entitled "Violations" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.
Amended: Rule retitled "Letters of Status or Clearance". F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-3-.44. Resident Title Agent License.

(1) Upon application to the Commissioner on the required form, accompanied by the required fee, a license to sell title insurance shall be issued to any resident provided that

(a) The individual meets the requirements for an agent license under Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation;

(b) The application process shall include sponsorship by an insurer authorized to do business in this state. Prior to issuance of the license, the sponsor shall agree to appoint the applicant as a representative of the company. The sponsor shall affirm that an investigation on the general character of the applicant has been conducted by an agency not affiliated with the insurer and that the sponsor recommends the applicant for a license. Such investigation shall include a criminal background check.

(c) Effective January 1, 2010, the application process for an agent license will no longer require sponsorship by an insurer. Upon issuance of the agent license, the licensee must obtain a certificate of authority from each insurer that they will represent.

(d) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(2) No prelicensing education or examination shall be required.

(3) Each year by the dates specified in Rule 120-2-3-.16 of this Regulation, license renewals, accompanied by the required fees, must be filed on forms prescribed by the Commissioner.

(4) No continuing education shall be required for this license.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.44
Authority: O.C.G.A. Secs. 33-2-9, 33-8-1, 33-23-5, 33-23-5.1, 33-23-12, 33-23-18, 33-23-44.

History. Original Rule entitled "Violations" adopted. F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule entitled "Limited Title Agent License" adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Repealed: New Rule entitled "Resident Title Agent License" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Amended: F. July 16, 2009; eff. Aug. 5, 2009.

Rule 120-2-3-.45. Rental Company License.

(1) Upon application to the Commissioner on the required form, a limited license for rental companies shall be issued provided that:

   (a) The rental company meets the requirements for licensure under Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation;

   (b) Each applicant for licensure must remit the fee required by O.C.G.A. § 33-8-1.

(2) The applicant is not required to be sponsored by an insurer for licensure nor are they required to obtain a certificate of authority.

(3) No examination is required.

(4) The license is required for the principal location or home office only.

(5) The applicant is required to certify that all employees have received basic training as to the types of insurance products specified in O.C.G.A. § 33-23-12(c)(5).

   (a) The instructor and prelicensing training program must be approved by the Department prior to making application for licensure;

   (b) To request approval, the applicant must submit a course outline and instructor resume to the Department;

   (c) In lieu of creating a specific course for their employees, applicants may require their employees to complete the property and casualty prelicensing course from an approved entity.

(6) All licenses issued prior to July 1, 2012 expire December 31 of the year issued. Effective July 1, 2012, all new licenses will be issued on a biennial basis. Licensees are required to renew the license prior to expiration on forms prescribed by the Commissioner and remit a fee required by O.C.G.A. § 33-8-1 for renewal of said license.

   (a) As part of the renewal application, the licensee will certify that each employee has received two (2) hours of continuing education training relative to the types of insurance offered by said company;

   (b) The instructor and continuing education courses must be approved by the Department prior to making application for renewal;

(c) To request approval, the applicant must submit a course outline and instructor resume to the Department;

(d) In lieu of creating a specific course for their employees, applicants may require their employees to complete the two hours from approved property and casualty continuing education course provider.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.45
Authority: O.C.G.A. Secs. 33-2-9, 33-23-12, 33-23-18, 33-23-44.
History. Original Rule entitled "Severability" adopted. F. Aug. 9, 1996; eff. Aug. 29, 1996.
Repealed: New Rule entitled "Violations" adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Repealed: New Rule entitled "Rental Company License" adopted. F. Jan. 14, 2000; eff. Feb. 3, 2000.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Repealed: New Emergency Rule adopted. F. Jun. 28, 2012; eff. Jun. 28, 2012, as specified by the agency.
Repealed: New Rule of same title adopted. F. Sep. 10, 2012; eff. Sep. 30, 2012.

Rule 120-2-3-.46. Limited Health Counselor.

(1) In order to be eligible for a resident limited health counselor license in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(2) All new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(3) The applicant must include with his/her application a limited health counselor bond in accordance with Rule 120-2-3-.18.

(4) The Applicant must pass the required limited health counselor examination and apply for licensure within 12 months from receiving the passing grade. Exceptions to the examination requirement will be made in the following circumstances:

(a) An applicant that has 5 years of experience licensed as an agent in the line of accident and sickness shall be exempt from the examination.

(b) An applicant who was previously licensed as a counselor in another state shall be exempt from the examination. This exemption is only available if the individual is currently licensed in that state or if the application is received within 90 days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer data base records maintained by the NAIC, its affiliates, or subsidiaries indicate that the applicant is or was licensed in good standing for the line of authority requested.

(c) An applicant who holds the designation of CIC, CLU, FLMI, REBC or RHU shall be exempt from the limited health counselor examination.

(5) All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 apply.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.46
Authority: O.C.G.A. §§ 33-2-9, 33-23-1, 33-23-1.1, 33-23-5, 33-23-5.1, 33-23-6, 33-23-7, 33-23-8, 33-23-10, 33-23-12, 33-23-15, 33-23-18, 33-23-44.
History. Original Rule entitled "Severability" adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Repealed: New Rule entitled "Violations" adopted. F. Jan. 14, 2000; eff. Feb. 3, 2000.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Amended: ER. 120-2-3-.24 -.46 adopted. F. Jun. 12, 2012; eff. Jun. 12, 2012, as specified by the Agency.
Repealed: New rule entitled "Limited Group Health Counselor" adopted. F. Sep. 10, 2012; eff. Sep. 30, 2012.
Amended: New title "Limited Health Counselor." F. June 6, 2016; eff. Aug. 1, 2016, as specified by the Agency.

Rule 120-2-3-.47. Self Storage Provider.

(1) Upon application to the Commissioner on the required form, a limited license for a self-storage provider shall be issued provided that:

(a) The self-storage provider meets the requirements for licensure under Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation;

(b) An applicant for licensure must remit the fee required by O.C.G.A. § 33-8-1.

(2) An applicant is not required to be sponsored by an insurer for licensure nor are they required to obtain a certificate of authority.

(3) No examination is required.

(4) A license is required only for the principal location or home office.

(5) An applicant is required to certify that all employees have received basic training as to the types of insurance products specified in O.C.G.A. § 33-23-12(e).

(6) In order to become an approved instructor, an instructor's resume must be submitted to the Department with the application for licensure.

(7) In lieu of creating a specific course, taught by an approved instructor, for his or her employees, an applicant may require his or her employees to complete the property and casualty prelicensing course from an approved entity.

(8) Licenses will be issued on a biennial basis and will expire December 31 of the end of the biennial term. Licensees are required to renew the license prior to expiration on forms

prescribed by the Commissioner and remit a fee required by O.C.G.A. § 33-8-1 for the renewal of said license.

(9) Each certificate of insurance or policy must prominently display the possibility of duplicative coverage as outlined in 33-23-12(e)(4)(B). This display must be in all capital letters and 14 point font.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.47
Authority: O.C.G.A. Secs. 33-2-9, 33-23-12, 33-23-18, 33-23-44.
History. Original Rule entitled "Severability" adopted. F. Jan. 14, 2000; eff. Feb. 3, 2000.
Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.
Amended: ER. 120-2-3-.24 -.47 adopted. F. Jun. 12, 2012; eff. Jun. 12, 2012, as specified by the Agency.
Repealed: New rule entitled "Severability" adopted. F. Sep. 10, 2012; eff. Sep. 30, 2012.
Repealed: New rule entitled "Self Storage Provider" adopted. F. Nov. 26, 2012; eff. Dec. 16, 2012.

Rule 120-2-3-.48. Navigator.

(1) No person shall act as a Navigator, as defined in O.C.G.A. 33-23-201(3), without first obtaining a license to act as such from the Commissioner.

(2) The Commissioner may not issue a Navigator license to any applicant until such applicant has:

(a) Submitted an application on forms provided by the Commissioner. Such form shall include an acknowledgement from the applicant that such applicant understands that a Navigator license is not alone sufficient to sell, solicit, or negotiate insurance in the State of Georgia;

(b) Submitted an application fee of 50 dollars pursuant to O.C.G.A. § 33-8-1(6)(Z);

(c) Submitted a résumé listing the applicant's educational background and experience related to the functions of a Navigator;

(d) Successfully completed not less than 35 hours of instruction;

(e) Passed an exam as required by the Commissioner;

(f) Attained the age of 18;

(g) Submitted electronic fingerprints through a vendor selected by the Department to run criminal background checks. The applicant shall bear the cost for electronic fingerprinting; and

(h) Submitted proof satisfactory to the Commissioner that such applicant (or such applicant's sponsoring entity) has been approved by the federal authorities, by

being awarded a grant or otherwise, to act as Navigator, as defined in O.C.G.A. § 33-23-201(3).

(3) Each Navigator license shall expire August 31.

(4) In determining whether any applicant has satisfied the pre-licensing education requirement set forth in subparagraph (d) of paragraph (2) of this regulation, the Commissioner may consider any training provided by federal authorities to act as a Navigator, as defined in O.C.G.A. § 33-23-201(3). Up to 25 hours of pre-licensing training may consist of education provided by federal authorities provided that the applicant submits documentation, satisfactory to the Commissioner that the applicant has, in fact, spent the amount of time requested engaged in federal pre-licensing training. If the applicant completes 25 hours of federal navigator training, the remaining 10 hours must be satisfied by completing the 10 hour Navigator prelicensing course through an approved provider.

(5) The Commissioner may not renew a Navigator license until such applicant has:

(a) Submitted a license renewal on forms prescribed by the Commissioner;

(b) Submitted a fee of 50 dollars pursuant to O.C.G.A. § 33-8-1(6)(Z);

(c) License renewals are due on or before the August 31 expiration date;

(d) Licensee may file a late renewal with appropriate late fee within 15 days of the expiration date of the license;

(e) Failure to file the required license renewal form along with the appropriate fee shall result in the expiration of the license.

(f) Completed 15 hours of Continuing education; hours must be completed annually on or before the expiration date of the license. Up to 10 hours of Continuing Education may consist of education provided by federal authorities provided that the licensee submits documentation, satisfactory to the Commissioner that the licensee has, in fact, spent the amount of time requested engaged in federal training.

(g) Submitted proof satisfactory to the Commissioner that such applicant (or such applicant's sponsoring entity) has been approved, by being awarded a federal grant or otherwise, to act as a Navigator.

(6) Resident licensees that fail to file the complete and correct renewal with required attachments, fees and/or evidence of completion of required continuing education by the required filing date will result in a penalty being assessed when licensee applies for late renewal reinstatement.

(a) The penalty assessed will be $150; this penalty is in addition to any required renewal and late fees. The penalty and required fees are to be paid at the time of submission of late renewal reinstatement.

(b) If late renewal reinstatement is received 6 or more months after the expiration date, the licensee is required to submit electronic fingerprints in addition to the $150 penalty and required renewal and late fees.

(c) If an individual fails to file for late renewal reinstatement prior to one (1) year from the license expiration date, the licensee will be required to reapply for the license and satisfy all prelicensing requirements.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.48
Authority: O.C.G.A. Secs. 33-2-9, 33-8-1, 33-23-5, 33-23-5.1, 33-23-10, 33-23-9, 33-23-44, 33-23-200, 33-23-201, 33-23-202, 33-23-203, 33-23-204, 33-23-205.
History. New rule entitled "Severability" adopted. F. Sep. 10, 2012; eff. Sep. 30, 2012.
Repealed: New rule entitled "Violations" adopted. F. Nov. 26, 2012; eff. Dec. 16, 2012.
Repealed: New Rule entitled "Navigator" adopted. F. Oct. 15, 2013; eff. Nov. 4, 2013.

Rule 120-2-3-.49. Limited Credit Agency License.

(1) Upon application to the Commissioner, a limited credit insurance agency license shall be issued provided that:

(a) Application is made on such form or forms as are prescribed by the Commissioner for this purpose, and shall include at least the following:

(i) A list of individual employees who will be selling, soliciting and/or negotiating insurance on behalf of the applicant in accordance with O.C.G.A. § 33-23-12(b.1) who are not licensed as agents pursuant to Chapter 23 of Title 33. Such employees shall be considered registered with the Department for purposes of O.C.G.A. § 33-23-12(b.1) and this Regulation. This list shall include any specific information as is required by the Commissioner including but not limited to the following for each employee:

1. Name;

2. Social security number;

3. Date of birth;

4. Certification that applicant has examined the character and fitness of each individual employee, including but not limited to performance

of a background check, and is satisfied that such employee is of good character;

5. Certification, including an attached certificate of completion for each employee, that such employees have received the training required by O.C.G.A. § 33-23-12(b.1); and

(ii) A list of locations where credit insurance will be sold, solicited and/or negotiated on behalf of the applicant. Such locations shall be considered registered with the Department for purposes of O.C.G.A. § 33-23-12(b.1) and this Regulation. This list shall include any specific information regarding such locations as is required by the Commissioner including but not limited to address, FEIN number (if applicable) and contact person;

(b) The applicant meets the requirements for licensure pursuant to Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation; and

(c) The applicant remits the fee required by O.C.G.A. § 33-8-1 for a principal agency license as well as $100 per registered employee, as set forth in 120-2-3-.49(1)(a)(i) above, and $20 per registered location, as set forth in 120-2-3-.49(1)(a)(ii) above.

(2) No examination is required for licensure

(3) Should the information set forth in 120-2-3-.49(1)(a)(i) or (ii) above that was submitted as part of the limited credit insurance agency licensee's initial license application change at any time during the period of licensure, such licensee shall notify the Department on such form or forms as are prescribed by the Commissioner for this purpose. Additionally, licensee shall remit $50 per additional registered employee, as set forth in 120-2-3-.49(1)(a)(i) above, and $50 per additional registered location, as set forth in 120-2-3-.49(1)(a)(ii) above.

(4) Limited credit insurance agency licenses shall renew biennially on December 31 of the applicable renewal year in accordance with § 33-23-12(b.1)(7). Licensees must submit a renewal application prior to expiration on such form or forms as are prescribed by the Commissioner for this purpose and remit the fee required pursuant to O.C.G.A. § 33-8-1 for renewal of a principal agency license as well as $100 per registered employee and $20 per registered location.

(5) If the licensee fails to file the complete and correct renewal with all required attachments and fees remitted, it will be required to reapply for the licensee and satisfy all initial application requirements regarding the limited credit insurance agency license as set forth in Chapter 23 and herein.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.49
Authority: O.C.G.A. §§ 33-2-9, 33-8-1, 33-23-12, 33-23-44.
History. Original Rule entitled "Severability" adopted. F. Nov. 26, 2012; eff. Dec. 16, 2012.
Repealed: New Rule entitled "Violations" adopted. F. Oct. 15, 2013; eff. Nov. 4, 2013.
Repealed: New Rule entitled "Limited Credit Agency License" adopted. F. Dec. 4, 2018; eff. Dec. 26, 2018, as specified by the Agency.

Rule 120-2-3-.50. Violations.

Any violation of this Regulation shall be a violation of Chapter 23 of Title 33 of the Official Code of Georgia Annotated.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.50
Authority: O.C.G.A. §§ 33-2-9, 33-23-44.
History. Original Rule entitled "Severability" adopted. F. Oct. 15, 2013; eff. Nov. 4, 2013.
Repealed: New Rule entitled "Violations" adopted. F. Dec. 4, 2018; eff. Dec. 26, 2018, as specified by the Agency.

Rule 120-2-3-.51. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.51
Authority: O.C.G.A. §§ 33-2-9, 33-23-44.
History. Original Rule entitled "Severability" adopted.F. Dec. 4, 2018; eff. Dec. 26, 2018, as specified by the Agency.

Subject 120-2-4. Repealed.

Rule 120-2-4-.01. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.01
Authority: Ga. L. 1960, p. 289 at pp. 305, 430 and 447, as amended.
History. Original Rule entitled "Scope and Purpose: Authority" was filed and effective on July 20, 1965.
Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Rule 120-2-4-.02. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.02
Authority: Ga. L. 1960, p. 289 at pp. 305, 430 and 447, as amended.
History. Original Rule entitled "Kinds of Licenses Issued for Property and Allied Lines and Casualty, Surety and Allied Lines" was filed and effective on July 20, 1965.
Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Rule 120-2-4-.03. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.03
Authority: Ga. L. 1960, p. 289 at pp. 305, 430 and 447, as amended; O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Qualifications Required for Eligibility to Take License Examination" was filed and effective on July 20, 1965.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Rule 120-2-4-.04. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.04
Authority: Secs. 56-216, 56-803. 1a, 56-810a and 56-814b of the Ga. Insurance Code; Ga. L. 1960, p. 289, 305; Ga. L. 1981, pp. 1789-1793; O.C.G.A. Secs. 33-2-9, 33-23-4(a)(2).
History. Original Rule entitled "Required or Approved Study Material for Meeting Requirements for License Examinations" was filed and effective on July 20, 1965.
Amended: Rule repealed and a new Rule entitled "Schedule of License Examinations" adopted. Filed May 21, 1982; effective June 10, 1982.
Repealed: New Rule same title, adopted. F. Jun. 25, 1991; eff. Jul. 15, 1991.
Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Rule 120-2-4-.05. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.05
Authority: Ga. L. 1960, p. 289 at pp. 305, 430 and 447, as amended.
History. Original Rule entitled "Standards for Evaluating Approved Classroom Courses Sponsored by Colleges, Extension Divisions, Associations and Companies" was filed and effective on July 20, 1965.
Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Rule 120-2-4-.06. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.06
Authority: Ga. L. 1960, p. 289 at pp. 305, 430 and 447, as amended.
History. Original Rule entitled "Classroom Courses" was filed and effective on July 20, 1965.
Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Rule 120-2-4-.07. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.07
Authority: Ga. L. 1960, p. 289 at pp. 305, 430 and 447, as amended.
History. Original Rule entitled "College Courses" was filed and effective on July 20, 1965.
Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Rule 120-2-4-.08. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.08
Authority: Ga. L. 1960, p. 289 at pp. 305, 430 and 447, as amended.
History. Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Rule 120-2-4-.09. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.09
Authority: Ga. L. 1960, p. 289 at pp. 305, 430 and 447, as amended.
History. Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Rule 120-2-4-.10. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.10
Authority: Ga. L. 1960, p. 289 at pp. 305, 430 and 447, as amended.
History. Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Rule 120-2-4-.11. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.11
Authority: Ga. L. 1960, p. 289 at pp. 305, 430 and 447, as amended.
History. Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Rule 120-2-4-.12. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.12
Authority: Ga. L. 1960, p. 289 at pp. 305, 430 and 447, as amended.
History. Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Rule 120-2-4-.13. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.13
Authority: Ga. L. 1960, p. 289 at pp. 305, 430 and 447, as amended.
History. Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Rule 120-2-4-.14. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.14
Authority: Ga. L. 1960, p. 289 at pp. 305, 430 and 447, as amended.
History. Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Rule 120-2-4-.15. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.15
History. Original Rule was filed on July 20, 1965.
Amended: Filed July 1, 1970; effective July 1, 1970.
Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Rule 120-2-4-.16. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.16
Authority: Ga. L. 1960, p. 289 at pp. 305, 430 and 447, as amended.
History. Original Rule entitled "Written Authority to Take Examination" was filed and effective on July 20, 1965.
Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Rule 120-2-4-.17. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.17
Authority: Ga. L. 1960, p. 289 at pp. 305, 430 and 447, as amended.
History. Original Rule entitled "Schedule of License Examination" was filed and effective on July 20, 1965.
Amended: Rule repealed. Filed May 21, 1982; effective June 10, 1982.
Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Rule 120-2-4-.18. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.18
Authority: Ga. L. 1960, p. 289 at pp. 305, 430 and 447, as amended.
History. Original Rule entitled "Form G.I.D.A.-105; Termination of Services of Agents" was filed and effective on July 20, 1965.
Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Rule 120-2-4-.19. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.19
Authority: Ga. L. 1960, p. 289 at pp. 305, 430 and 447, as amended.
History. Original Rule entitled "Employment and/ or Licensing of Adjusters, Physical Damage Appraisers; Scope of Authority and Duties of Same; and Other Related Requirements" was filed and effective on July 20, 1965.
Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Rule 120-2-4-.20. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-4-.20
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Surplus Line Placement with Alien Insurers" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989.
Repealed: F. Sept. 10, 1992; eff. Sept. 30, 1992.

Subject 120-2-5. VALUATION PROCEDURES AND INSTRUCTIONS FOR BONDS AND STOCKS.

Rule 120-2-5-.01. Establishing Values.

(1) Each insurer reporting stocks and bonds as admitted assets in its annual statement shall be responsible for establishing a value for such securities. Except as otherwise provided by law, the procedures for establishing such values where applicable shall be as follows:

(a) Other than the nonadmissible exceptions listed in paragraph (2) of this Rule, values must comply with the rules for valuation contained in the National Association of Insurance Commissioner's valuation of Securities Task publication, *Valuation of Securities*, for the applicable year.

(b) Securities not listed in the National Association of Insurance Commissioner's Committee on Valuation of Securities publication *Valuation of Securities* shall have no value, unless, upon application to such Committee on Valuation of Securities and submission of all relevant material required by the committee, and such committee establishes a value for the securities.

(2) Except as otherwise provided by law, the nonadmissible exceptions to paragraph (1) of this Rule include:

(a) Letters of credit issued by banks for reinsurance purposes;

(b) Put and call options;

(c) Futures contracts; and

(d) Any other securities not admissible as assets under O.C.G.A. Title 33.

Cite as Ga. Comp. R. & Regs. R. 120-2-5-.01
Authority: O.C.G.A. Sections 31-22-9.2, 33-2-9 and 33-42-6.
History. Original Chapter 120-2-5 was filed on July 20, 1965 and contained Rules 120-2-5-.01 through 120-2-5-.09. Chapter 120-2-5 was amended by the repeal of the Original Chapter 120-2-5 and by the adoption of a new Chapter 120-2-5 containing Rules 120-2-5-.01 through 120-2-5-.10. As far as the titles of the said Rules are concerned, the Original Rules .01 through .09 correspond basically to the titles of the new Rules 120-2-5-.02 through .10 and Rules 120-2-5-.01 was newly adopted. The amendment to Chapter 120-2-5 was filed on December 3, 1965; effective December 22, 1965. Since the amendments were filed before the original printing of the Official Compilation Rules and Regulations of the State of Georgia, said amendments were included in the first printing of the Official Compilation. Therefore, in 1971 when the Official Compilation was revised, Chapter 120-2-5 was not reprinted, except for pages 183 and 184 which were reprinted to include this **Editor's Note**.
Amended: Chapter repealed and a new chapter of the same title adopted. Filed January 17, 1989; effective February 15, 1989, as specified by the agency.

Rule 120-2-5-.02 through 120-2-5-.10. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-5-.02 through 120-2-5-.10

Subject 120-2-6. PREMIUM TAX.

Rule 120-2-6-.01. Premium Tax Return for Insurance Companies.

(1) On or before March 1 of each year, each insurer doing business in Georgia shall file an "Annual Premium Tax Return" on a form prescribed by the Commissioner, representing such insurer's insurance transactions necessary to complete such form.

(2) Premium tax return shall be accompanied by remittance. When necessary, companies should attach statement of reconciliation to the tax return for the purpose of reconciling the figures from the Annual Premium Tax Return with the "Business in the State of Georgia" page and "Schedule T" of the Association form of the annual statement. The statement of reconciliation shall be accompanied by a "Georgia Retaliatory Tax Computation" on a form prescribed by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-6-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-8-4 to 33-8-6.
History. Original Rule entitled "Calculation for Abatement of Gross Premium Tax" adopted. F. and eff. July 20, 1965.
Repealed: New Rule of same title adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.
Repealed: New Rule entitled "Premium Tax Return for Insurance Companies" adopted. F. Jan. 28, 2005; eff. Feb. 17, 2005.

Rule 120-2-6-.02. Calculation for Abatement of Gross Premium Tax.

On or before March 1 of each year, each insurer claiming abatement of gross premium tax shall file with the Commissioner a calculation for abatement of gross premium tax on a form prescribed by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-6-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-8-4 to 33-8-6.
History. Original Rule entitled "Claim for Retaliatory Tax Credit" adopted. F. and eff. July 20, 1965.
Repealed: New Rule of same title adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.
Repealed: New Rule entitled "Calculation for Abatement of Gross Premium Tax" adopted. F. Jan. 28, 2005; eff. Feb. 17, 2005.

Rule 120-2-6-.03. Claim for Retaliatory Tax Credit.

On or before March 1 of each year, each domestic insurer claiming retaliatory tax credit shall file a statement in support of claims for retaliatory credit entitled "Statement in Support of Claim for Retaliatory Tax Credits" on a form prescribed by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-6-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-8-4 to 33-8-7.
History. Original Rule entitled "Return for Life, Fire and Marine, Accident and Miscellaneous Insurance Companies" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Return for Insurance Companies" adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.
Repealed: New Rule entitled "Claim for Retaliatory Tax Credit" adopted. F. Jan. 28, 2005; eff. Feb. 17, 2005.

Rule 120-2-6-.04. Form of filings.

(1) Unless otherwise indicated, and to the extent provided, each filing required under this Regulation Chapter is to be made on forms or electronic format obtained from the Commissioner.

(2) Forms may be reproduced and the format of the forms may be altered to accommodate manual or automated processing provided the content is unchanged and the same information is presented in the same order as in the forms or electronic format obtained from the Commissioner.

(3) Any report filed electronically requiring a signature shall contain the electronic signature of the person filing the report, as defined in O.C.G.A. § 10-12-3.

(4) The Commissioner may approve a method or methods of electronic filing.

Cite as Ga. Comp. R. & Regs. R. 120-2-6-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-8-4 to 33-8-6.
History. Original Rule entitled "Form of Filings" adopted. F. Jan. 28, 2005; eff. Feb. 17, 2005.

Rule 120-2-6-.05. Severability.

If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and the applicability of such provisions to other circumstances shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-2-6-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-8-4 to 33-8-6.
History. Original Rule entitled "Severability" adopted. F. Jan. 28, 2005; eff. Feb. 17, 2005.

Subject 120-2-7. REGULATIONS REGARDING PROXIES, CONSENTS AND AUTHORIZATIONS OF DOMESTIC STOCK INSURERS SUBAGENTS, COUNSELORS, ADJUSTERS, SURPLUS LINES BROKERS, AND AGENCIES.

Rule 120-2-7-.01. Application of Regulation.

This regulation is applicable to each domestic stock insurer which has any class of equity security held of record by one hundred or more persons; provided, however, that this regulation shall not apply to an insurer if ninety-five percent or more of its equity securities are owned or controlled by a parent or an affiliated insurer and the remaining securities are held of record by less than five hundred persons. A domestic stock insurer which files with the Securities and Exchange Commission forms of proxies, consents and authorizations complying with the requirements of the Securities Exchange Act of 1934, as amended, and the applicable regulations promulgated thereunder, shall be exempt from the provisions of this regulation with respect to any class of securities subject to SEC jurisdiction.

Cite as Ga. Comp. R. & Regs. R. 120-2-7-.01
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-14.
History. Original Rule entitled "Application of Regulation" adopted. F. and eff. July 20, 1965.
Amended: F. Dec. 3, 1965; eff. Dec. 22, 1965.
Amended: F. Jan. 28, 1970; eff. Jan. 1, 1970, as specified by the Agency.
Submitted for Publishing: Mar. 6, 2007.

Rule 120-2-7-.02. Proxies, Consents and Authorizations.

No domestic stock insurer, or any director, officer or employee of such insurer subject to Rule 120-2-7-.01 hereof, or any other person, shall solicit, or permit the use of his name to solicit, by mail or otherwise, any proxy, consent or authorization in respect of any class of equity security of such insurer held of record by one hundred or more persons in contravention of this regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-7-.02
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-14.
History. Original Rule entitled "Proxies, Consents and Authorizations" adopted. F. and eff. July 20, 1965.
Amended: F. Dec. 3, 1965; eff. Dec. 22, 1965.
Amended: F. Jan. 28, 1970; eff. Jan. 1, 1970, as specified by the Agency.
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Rule 120-2-7-.03. Disclosure of Equivalent Information.

Unless proxies, consents or authorizations in respect of any class of equity security of a domestic insurer subject to Rule 120-2-7-.01 hereof are solicited by or on behalf of the management of such insurer from the holders of record of such security in accordance with this regulation prior to any annual or other meeting of such securityholders, such insurer shall, in accordance with this regulation and/or such further regulations as the Commissioner may adopt, file with the Commissioner and transmit to all securityholders of record information substantially equivalent to the information which would be required to be transmitted if a solicitation were made. Such insurer shall transmit a written information statement containing the information specified in subsection (4) of Rule 120-2-7-.05 to every securityholder who is entitled to vote in regard to any matter to be acted upon at the meeting and from whom a proxy is not solicited on behalf of the management of insurer provided, that in the case of a class of securities in unregistered or

bearer form such statement need be transmitted only to those securityholders whose names and addresses are known to the insurer.

Cite as Ga. Comp. R. & Regs. R. 120-2-7-.03
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-14.
History. Original Rule entitled "Disclosure of Equivalent Information" adopted. F. and eff. July 20, 1965.
Amended: F. Dec. 3, 1965; eff. Dec. 22, 1965.
Amended: F. Jan. 28, 1970; eff. Jan. 1, 1970, as specified by the Agency.
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Rule 120-2-7-.04. Definitions.

(1) The definitions and instructions set out in "Stockholder Information Supplement to Annual Statement" as promulgated by the Commissioner, shall be applicable for purposes of this regulation.

(2) The terms "solicit" and "solicitation" for purposes of this regulation shall include:

(a) Any request for a proxy, whether or not accompanied by or included in a form of proxy; or

(b) Any request to execute or note to execute or to revoke, a proxy; or

(c) The furnishing of a proxy or other communication to securityholders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy.

(3) The terms "solicit" and "solicitation" shall not include:

(a) Any solicitation by a person in respect of securities of which he is the beneficial owner;

(b) Action by a broker or other person in respect to securities carried in his name or in the name of his nominee in forwarding to the beneficial owner of such security soliciting material received from the company, or impartially instructing such beneficial owner to forward a proxy to the person, if any, to whom the beneficial owner desires to give a proxy, or impartially requesting instructions from the beneficial owner with respect to the authority to be conferred by the proxy and stating that a proxy will be given if the instructions are received by a certain date;

(c) The furnishing of a form of proxy to a securityholder upon the unsolicited request of such securityholder, or the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

Cite as Ga. Comp. R. & Regs. R. 120-2-7-.04
Authority: Ga. L. 1960, pp. 289, 305, 1965, pp. 378 to 380.
History. Original Rule entitled "Definitions" adopted. F. and eff. July 20, 1965.

Amended: F. Dec. 3, 1965; eff. Dec. 22, 1965.
Submitted for Publishing: Mar. 6, 2007.

Rule 120-2-7-.05. Information to be Furnished to Security Holders.

(1) No solicitation subject to this regulation shall be made unless each person solicited is concurrently furnished or has previously been furnished with a written proxy statement containing the information specified in Rule 120-2-7-.12 hereof.

(2) If the solicitation is made on behalf of the management of the insurer and relates to an annual meeting of securityholders at which directors are to be elected, each proxy statement furnished pursuant to (1) hereof shall be accompanied or preceded by an annual report (in preliminary or final form) to such securityholders containing such financial statements for the last fiscal year as are referred to in "Stockholder Information Supplement to Annual Statement" under the heading "Financial Reporting to Stockholders." Subject to the foregoing requirements with respect to financial statements, the annual report to securityholders may be in any form deemed suitable by the management.

(3) Two copies of each report sent to the securityholders pursuant to this section shall be mailed to the Commissioner, not later than the date on which such report is first sent or given to securityholders or the date on which preliminary copies of solicitation material are filed with the Commissioner pursuant to Rule 120-2-7-.07(1), whichever date is later.

(4) If no solicitation is being made by management of the insurer with respect to any annual or other meeting, such insurer shall mail to every securityholder of record at least twenty days prior to the meeting date, an information statement as required by Rule 120-2-7-.03, which would be applicable to any matter to be acted upon at the meeting if proxies were to be solicited in connection with the meeting. If such information statement relates to an annual meeting at which directors are to be elected, it shall be accompanied by an annual report to such securityholders in the form provided in subsection (2) hereof.

Cite as Ga. Comp. R. & Regs. R. 120-2-7-.05
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-14.
History. Original Rule entitled "Information to Be Furnished to Security Holders" adopted. F. and eff. July 20, 1965.
Amended: F. Dec. 3, 1965; eff. Dec. 22, 1965.
Amended: F. Jan. 28, 1970; eff. Jan. 1, 1970, as specified by the Agency.
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Rule 120-2-7-.06. Requirements as to Proxy.

(1) The form of proxy:

(a) shall indicate in bold-face type whether or not the proxy is solicited on behalf of the management,

(b) shall provide a specifically designated blank space for dating the proxy and

(c) shall identify clearly and impartially each matter or group of related matters intended to be acted upon, whether proposed by the management, or securityholders. No reference need be made to proposals as to which discretionary authority is conferred pursuant to subsection (3) hereof.

(2)

(a) Means shall be provided in the proxy for the person solicited to specify by ballot a choice between approval or disapproval of each matter or group of related matters referred to therein, other than elections to office. A proxy may confer discretionary authority with respect to matters as to which a choice is not so specified if the form of proxy states in bold-faced type how it is intended to vote the shares or authorization represented by the proxy in each such case.

(b) A form of proxy which provides both for elections to office and for action on other specified matters shall be prepared so as to clearly provide, by a box or otherwise, means by which the securityholder may withhold authority to vote for elections to office. Any such form of proxy which is executed by the securityholder in such manner as not to withhold authority to vote for elections to office shall be deemed to grant such authority, provided the form of proxy so states in bold-faced type.

(3) A proxy may confer discretionary authority with respect to other matters which may come before the meeting, provided the persons on whose behalf the solicitation is made are not aware a reasonable time prior to the time the solicitation is made that any other matters are to be presented for action at the meeting and provided further that a specific statement to that effect is made in the proxy statement or in the form of proxy.

(4) No proxy shall confer authority:

(a) to vote for the election of any person to any office for which a bona fide nominee is not named in the proxy statement, or

(b) to vote at any annual meeting other than the next annual meeting (or any adjournment thereof) to be held after the date on which the proxy statement and form of proxy are first sent or given to securityholders.

(5) The proxy statement or form of proxy shall provide, subject to reasonable specified conditions, that the proxy will be voted and that where the person solicited specifies by means of ballot provided pursuant to subsection (2) hereof a choice with respect to any matter to be acted upon, the vote will be in accordance with the specifications so made.

(6) The information included in the proxy statement or information statement shall be clearly presented and the statements made shall be divided into groups according to subject matter, with appropriate headings. All printed proxy statements or information statements shall be clearly and legibly presented.

Cite as Ga. Comp. R. & Regs. R. 120-2-7-.06
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-14.
History. Original Rule entitled "Requirements as to Proxy" adopted. F. and eff. July 20, 1965.
Amended: F. Dec. 3, 1965; eff. Dec. 22, 1965.
Amended: F. Jan. 28, 1970; eff. Jan. 1, 1970, as specified by the Agency.
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Rule 120-2-7-.07. Material Required to be Filed.

(1) Two preliminary copies of the information statement or proxy statement and form of proxy and any other soliciting material to be furnished to the securityholders concurrently therewith shall be filed with the Commissioner at least ten days prior to the date definitive copies of such material are first sent or given to securityholders, or such shorter period prior to that date as the Commissioner may authorize upon a showing of good cause therefor.

(2) Two preliminary copies of any additional soliciting material relating to the same meeting or subject matter to be furnished to securityholders subsequent to the proxy statements shall be filed with the Commissioner at least two days (exclusive of Saturdays, Sundays or holidays) prior to the date copies of this material are first sent or given to securityholders or a shorter period prior to such date as the Commissioner may authorize upon a showing of good cause therefor.

(3) Two definitive copies of the information statement or proxy statement, form of proxy and all other soliciting material, in the form in which this material is furnished to securityholders, shall be filed with or mailed for filing to the Commissioner not later than the date such material is first sent or given to the securityholders.

(4) Where any information statement or proxy statement, form of proxy or other material filed pursuant to these rules is amended or revised, two of the copies shall be marked to clearly show such changes.

(5) Copies of replies to inquiries from securityholders requesting further information and copies of communications which do no more than request that forms of proxy theretofore solicited be signed and returned need not be filed pursuant to this section.

(6) Notwithstanding the provisions of subsections (1) and (2) hereof and of 120-2-7-.11(5), copies of soliciting material in the form of speeches, press releases and radio or television scripts may, but need not, be filed with the Commissioner prior to use or publication. Definitive copies, however, shall be filed with or mailed for filing to the Commissioner as

required by subsection (3) hereof not later than the date such material is used or published. The provisions of subsections (1) and (2) hereof and Rule 120-2-7-.11(5) shall apply, however, to any reprints or reproductions of all or any part of such material.

Cite as Ga. Comp. R. & Regs. R. 120-2-7-.07
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-14.
History. Original Rule entitled "Material Required to Be Filed" adopted. F. and eff. July 20, 1965.
Amended: F. Dec. 3, 1965; eff. Dec. 22, 1965.
Amended: F. Jan. 28, 1970; eff. Jan. 1, 1970, as specified by the Agency.
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Rule 120-2-7-.08. Proposals of Securityholders. (Reserved).

Cite as Ga. Comp. R. & Regs. R. 120-2-7-.08

Rule 120-2-7-.09. False or Misleading Statements.

No proxy statement, form of proxy, notice of meeting, information statement, or other communication, written or oral, subject to this regulation, shall contain any statement which at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the same meeting or subject matter which has become false or misleading.

Cite as Ga. Comp. R. & Regs. R. 120-2-7-.09
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-14.
History. Original Rule entitled "False or Misleading Statements" adopted. F. and eff. July 20, 1965.
Amended: F. Dec. 3, 1965; eff. Dec. 22, 1965.
Amended: F. Jan. 28, 1970; eff. Jan. 1, 1970, as specified by the Agency.
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Rule 120-2-7-.10. Prohibition of Certain Solicitations.

No person making a solicitation which is subject to this regulation shall solicit any undated or postdated proxy or any proxy which provides that it shall be deemed to be dated as of any date subsequent to the date on which it is signed by the securityholder.

Cite as Ga. Comp. R. & Regs. R. 120-2-7-.10
Authority: Ga. L. 1960, pp. 289, 305, 1965, pp. 378 to 380.
History. Original Rule entitled "Prohibition of Certain Solicitations" adopted. F. and eff. July 20, 1965.
Amended: F. Dec. 3, 1965; eff. Dec. 22, 1965.
Submitted for Publishing: Mar. 6, 2007.

Rule 120-2-7-.11. Special Provisions Applicable to Election Contests.

(1) Applicability. This section shall apply to any solicitation subject to this regulation by any person or group for the purpose of opposing a solicitation subject to this regulation by any other person or group with respect to the election or removal of directors at any annual or special meeting of securityholders.

(2) "Participant" or "Participant in a Solicitation."

(a) For purposes of this section the terms "participant" and "participant in a solicitation" include:

1. the insurer;

2. any director of the insurer, and any nominee for whose election as a director proxies are solicited;

3. any other person, acting alone or with one or more other person, committee or groups, in organizing, directing or financing the solicitation.

(b) For the purposes of this section the terms "participant" and "participant in a solicitation" do not include:

1. a bank, broker or dealer who, in the ordinary course of business, lends money or executes orders for the purchase or sale of securities and who is not otherwise a participant;

2. any person or organization retained or employed by a participant to solicit securityholders or any person who merely transmits proxy soliciting material or performs ministerial or clerical duties;

3. any person employed in the capacity of attorney, accountant, or advertising, public relations or financial adviser, and whose activities are limited to the performance of his duties in the course of such employment;

4. any person regularly employed as an officer or employee of the insurer or any of its subsidiaries or affiliates who is not otherwise a participant; or

5. any officer or director of, or any person regularly employed by any other participant, if such officer, director, or employee is not otherwise a participant.

(3) Filing of information required by Rule 120-2-7-.13.

(a) No solicitation subject to this section shall be made by any person other than the management of an insurer unless at least five business days prior thereto, or such shorter period as the Commissioner may authorize upon a showing of good cause therefor, there has been filed, with the Commissioner by or on behalf of each participant in such solicitation, a statement in duplicate containing the information

specified in Rule 120-2-7-.13 and a copy of any material proposed to be distributed to securityholders in furtherance of such solicitation. Where preliminary copies of any materials are filed, distribution to securityholders should be deferred until the Commissioner's comments have been received and complied with.

(b) Within five business days after a solicitation subject to this section is made by the management of an insurer, or such longer periods as the Commissioner may authorize upon a showing of good cause therefor, there shall be filed with the Commissioner by or on behalf of each participant in such solicitation, other than the insurer, and by or on behalf of each management nominee for director, a statement in duplicate containing the information specified by Rule 120-2-7-.13 hereof.

(c) If any solicitation on behalf of management or any other person has been made, or if proxy material is ready for distribution, prior to a solicitation subject to this section in opposition thereto, a statement in duplicate containing the information specified in Rule 120-2-7-.13 shall be filed with the Commissioner, by or on behalf of each participant in such prior solicitation, other than the insurer, as soon as reasonably practicable after the commencement of the solicitation in opposition thereto.

(d) If, subsequent to the filing of the statements required by paragraphs (a), (b), and (c) of this Rule, additional persons become participants in a solicitation subject to this rule, there shall be filed with the Commissioner, by or on behalf of each such person, a statement in duplicate containing the information specified in Rule 120-2-7-.13, within three business days after such person becomes a participant, or such longer period as the Commissioner may authorize upon a showing of good cause therefor.

(e) If any material change occurs in the facts reported in any statement filed by or on behalf of any participant, an appropriate amendment to such statement shall be filed promptly with the Commissioner.

(f) Each statement and amendment thereto filed pursuant to this Subsection (3) shall be part of the public files of the Commissioner.

(4) Solicitation prior to furnishing required written proxy statement. Notwithstanding the provisions of Rule 120-2-7-.05(1), a solicitation subject to this section may be made prior to furnishing securityholders a written proxy statement containing the information specified in Rule 120-2-7-.12 with respect to such solicitation, provided that:

(a) The statements required by subsection (3) hereof are filed by or on behalf of each participant in such solicitation.

(b) No form of proxy is furnished to securityholders prior to the time the written proxy statement required by Rule 120-2-7-.05(1) is furnished to such persons: Provided, however, that this paragraph (b) shall not apply where a proxy statement then meeting the requirements of Rule 120-2-7-.12 has been furnished to securityholders.

(c) At least the information specified in paragraphs (b) and (c) of the statements required by subsection (3) hereof to be filed by each participant, or an appropriate summary thereof, are included in each communication sent or given to securityholders in connection with the solicitation.

(d) A written proxy statement containing the information specified in Rule 120-2-7-.12 with respect to a solicitation is sent or given securityholders at the earliest practicable date.

(5) Solicitations prior to furnishing required written proxy statements - Filing Requirements. Two copies of any soliciting material proposed to be sent or given to securityholders prior to the furnishing of the written proxy statement required by Rule 120-2-7-.05(1) shall be filed with the Commissioner in preliminary form at least five business days prior to the date definitive copies of such material are first sent or given to such person, or such shorter period as the Commissioner may authorize upon a showing of good cause therefor.

(6) Application of this Section to Report. Notwithstanding the provisions of Rule 120-2-7-.05(2) and 120-2-7-.05(3) two copies of any portion of the report referred to in Rule 120-2-7-.05(2) which comments upon or refers to any solicitation subject to this section, or to any participant in any such solicitation, other than the solicitation by the management, shall be filed with the Commissioner as proxy material subject to this regulation. Such portion of the report shall be filed with the Commissioner in preliminary form at least five business days prior to the date copies of the report are first sent or given to securityholders.

Cite as Ga. Comp. R. & Regs. R. 120-2-7-.11
Authority: Ga. L. 1960, pp. 289, 305, 1965, pp. 378 to 380.
History. Original Rule entitled "Special Provisions Applicable to Election Contests" adopted. F. and eff. July 20, 1965.
Amended: F. Dec. 3, 1965; eff. Dec. 22, 1965.
Submitted for Publishing: Mar. 6, 2007.

Rule 120-2-7-.12. Information Required in Proxy Statement.

(1) Revocability of Proxy. State whether or not a person giving the proxy has the power to revoke it. If the right of revocation before the proxy is exercised is limited or is subject to compliance with any formal procedure, briefly describe such limitation or procedure.

(2) Dissenters' Rights of Appraisal. Outline briefly the rights of appraisal or similar rights of dissenting securityholders with respect to any matter to be acted upon and indicate any statutory procedure required to be followed by such securityholders in order to perfect their rights. Where such rights may be exercised only within a limited time after the date of the adoption of a proposal, the filing of a charter amendment, or other similar act, state whether the person solicited will be notified of such date.

(3) Persons Making Solicitations Not Subject to Rule 120-2-7-.11.

(a) If the solicitation is made by the management of the insurer, so state. Give the name of any director of the insurer who has informed the management in writing that he intends to oppose any action intended to be taken by the management and indicate the action which he intends to oppose.

(b) If the solicitation is made otherwise than by the management of the insurer, state the names and addresses of the persons by whom and on whose behalf it is made and the names and addresses of the persons by whom the cost of solicitation has been or will be borne, directly or indirectly.

(c) If the solicitation is to be made by specially engaged employees or paid solicitors, state

1. the material features of any contract or arrangement for such solicitation and identify the parties, and

2. the cost or anticipated cost thereof.

(4) Interest of Certain persons in matters to be acted upon. Describe briefly any substantial interest, direct or indirect, by securityholdings or otherwise, of any director, nominee for election as director, officer and, if the solicitation is made otherwise than on behalf of management, each person on whose behalf the solicitation is made, in any matter to be acted upon other than elections to office.

(5) Securities and Principal Securityholders.

(a) State, as to each class of voting security of the insurer entitled to be voted at the meeting, the number of shares outstanding and the number of votes to which each class is entitled.

(b) Give the date as of which the record list of securityholders entitled to vote at the meeting will be determined. If the right to vote is not limited to securityholders of record on that date, indicate the conditions under which other securityholders may be entitled to vote.

(c) If action is to be taken with respect to the election of directors and if the persons solicited have cumulative voting rights, make a statement that they have such rights and state briefly the conditions precedent to the exercise thereof.

(6) Nominees and Directors. If action is to be taken with respect to the election of directors furnish the following information, in tabular form to the extent practicable with respect to each person nominated for election as a director and each other person whose term of office as a director will continue after the meeting.

(a) Name each such person, state when his term of office or the term of office for which he is a nominee will expire, and all other positions and offices with the insurer presently held by him, and indicate which persons are nominees for election as directors at the meeting.

(b) State his present principal occupation or employment and give the name and principal business of any corporation or other organization in which such employment is carried on. Furnish similar information as to all of his principal occupations or employments during the last five years, unless he is now a director and was elected to his present term of office by a vote of securityholders at a meeting for which proxies were solicited under this regulation.

(c) If he is or has previously been a director of the insurer, state the period or periods during which he has served as such.

(d) State, as of the most recent practicable date, the approximate amount of each class of securities of the insurer or any of its parents, subsidiaries or affiliates other than directors' qualifying shares, beneficially owned directly or indirectly by him. If he is not the beneficial owner of any such securities make a statement to that effect.

(7) Remuneration and other transactions with management and others. Furnish the information reported or required in Item One of "Stockholder Information Supplement to Annual Statement" under the heading "Information Regarding Management and Directors" if action is to be taken with respect to

(a) the election of directors,

(b) any renumeration plan, contract or arrangement in which any director, nominee for election as a director, or officer of the insurer will participate,

(c) any pension or retirement plan in which any such person will participate, or

(d) the granting or extension to any such person of any options, warrants or rights to purchase any securities, other than warrants or rights issued to securityholders, as such, on a pro rata basis. If the solicitation is made on behalf of persons other than the management information shall be furnished only as to Item One-A of the aforesaid heading of "Stockholder Information Supplement to Annual Statement."

(8) Bonus, profit sharing and other remuneration plans. If action is to be taken with respect to any bonus, profit sharing, or other remuneration plan, of the insurer furnish the following information:

(a) a brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each such class, and the basis of such participation,

(b) the amounts which would have been distributable under the plan during the last calendar year to

1. each person named in subsection (7) hereof,

2. directors and officers as a group, and

3. to all other employees as a group, if the plan had been in effect,

(c) if the plan to be acted upon may be amended (other than by a vote of securityholders) in a manner which would materially increase the cost thereof to the insurer or to materially alter the allocation of the benefits as between the groups specified in paragraph (b) of this subsection, the nature of such amendments should be specified.

(9) Pension and retirement plan. If action is to be taken with respect to any pension or retirement plan of the insurer, furnish the following information:

(a) a brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each such class, and the basis of such participation,

(b) state

1. the approximate total amount necessary to fund the plan with respect to past services, the period over which such amount is to be paid, and the estimated annual payments necessary to pay the total amount over such period;

2. the estimated annual payment to be made with respect to current services; and

3. the amount of such annual payments to be made for the benefit of

(i) each person named in subsection (7) hereof,

(ii) directors and officers as a group, and

(iii) employees as a group,

(c) if the plan to be acted upon may be amended (other than by a vote of securityholders) in a manner which would materially increase the cost thereof to the insurer or to materially alter the allocation of the benefits as between the

groups specified in sub-paragraph (b)(3) of this subsection, the nature of such amendments should be specified.

(10) Options, Warrants, or Rights. If action is to be taken with respect to the granting or extension of any options, warrants or rights (all referred to herein as "warrants") to purchase securities of the insurer or any subsidiary or affiliate, other than warrants issued to all securityholders on a pro rata basis, furnish the following information:

(a) the title and amount of security called for or to be called for, the prices, expiration dates and other material conditions upon which the warrants may be exercised, the consideration received or to be received by the insurer, subsidiary or affiliate for the granting or extension of the warrants and the market value of the security called for or to be called for by the warrants, as of the latest practicable date,

(b) if known, state separately the amount of securities called for or to be called for by warrants received or to be received by the following person, naming each such person:

1. each person named in subsection (7), and

2. each other person who will be entitled to acquire five percent or more of the securities called for or to be called for by such warrants,

(c) if known, state also the total amount of securities called for or to be called for by such warrants, received or to be received by all directors and officers of the company as a group and all employees, without naming them.

(11) Authorization of issuance of securities.

(a) if action is to be taken with respect to the authorization or issuance of any security of the insurer furnish the title, amount and description of the security to be authorized or issued,

(b) if the securities are other than additional shares of common stock of a class outstanding, furnish a brief summary of the following, if applicable: dividend, voting, liquidation, preemptive, and conversion rights, redemption and sinking fund provisions, interest rate and date of maturity,

(c) if the securities to be authorized or issued are other than additional shares of common stock of a class outstanding, the Commissioner may require financial statements comparable to those contained in the annual report.

(12) Mergers, Consolidations, Acquisitions and Similar Matters.

(a) if action is to be taken with respect to merger, consolidation, acquisition, or similar matter, furnish in brief outline the following information:

1. the rights of appraisal or similar of dissenters with respect to any matters to be acted upon. Indicate any procedure required to be followed by dissenting securityholders in order to perfect such rights,

2. the material features of the plan or agreement,

3. the business done by the company to be acquired or whose assets are being acquired,

4. if available, the high and low sales prices for each quarterly period within two years,

5. the percentage of outstanding shares which must approve the transaction before it is consummated,

(b) for each company involved in a merger, consolidation or acquisition, the following financial statements should be furnished:

1. a comparative balance sheet as of the close of the last two fiscal years,

2. a comparative statement of operating income and expenses for each of the last two fiscal years and, as a continuation of each statement, a statement of earning per share after related taxes and cash dividends paid per share,

3. a pro forma combined balance sheet and income and expense statement for the last fiscal year giving effect to the necessary adjustments with respect to the resulting company.

(13) Restatement of accounts. If action is to be taken with respect to the restatement of any asset, capital, or surplus of the insurer, furnish the following information:

(a) state the nature of the restatement and the date as of which it is to be effective,

(b) outline briefly the reasons for the restatement and for the selection of the particular effective date,

(c) state the name and amount of each account affected by the restatement and the effect of the restatement thereon.

(14) Matters not required to be submitted. If action is to be taken with respect to any matter which is not required to be submitted to a vote of securityholders, state the nature of such matter, the reason for submitting it to a vote of securityholders and what action is intended to be taken by the management in the event of a negative vote on the matter by the securityholders.

(15) amendment of charter, by-laws, or other documents. If action is to be taken with respect to any amendment of the insurer's charter, by-laws or other documents as to which information is not required above, state briefly the reasons for and general effect of such amendment and the vote needed for its approval.

Cite as Ga. Comp. R. & Regs. R. 120-2-7-.12
Authority: Ga. L. 1960, pp. 289, 305, 1965, pp. 378 to 380.
History. Original Rule entitled "Information Required in Proxy Statement" adopted. F. and eff. July 20, 1965.
Amended: F. Dec. 3, 1965; eff. Dec. 22, 1965.
Submitted for Publishing: Mar. 6, 2007.

Rule 120-2-7-.13. Information to be Included in Statements Filed by or on Behalf of a Participant (Other Than the Insurer) in a Proxy Solicitation in an Election Contest.

(1) Insurer. State the name and address of the insurer.

(2) Identity and Background.

(a) state the following:

1. participant's name and business address.

2. participant's present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is carried on.

(b) state the following:

1. participant's residence address.

2. information as to all material occupations, positions, offices or employments during the last ten years, giving starting and ending dates of each and the name, principal business and address of any business corporation or other business organization in which each such occupation, position, office or employment was carried on.

(c) state whether or not participant is or has been a participant in any other proxy contest involving this company or other companies within the past ten years. If so, identify the principals, the subject matter and participant's relationship to the parties and the outcome.

(d) state whether or not, during the past ten years, participant has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give dates, nature of conviction, name and location of court, and penalty

imposed or other disposition of the case. A negative answer to this requirement need not be included in the proxy statement or other proxy soliciting material.

(3) Interest in stock of the insurer.

(a) state the amount of each class of securities of the insurer which participant owns beneficially, directly or indirectly.

(b) state the amount of each class of securities of the insurer which participant owns of record but not beneficially.

(c) state, with respect to all securities of the insurer, the amounts acquired or sold within the past two years, the dates on which they were purchased or sold and the amount purchased or sold on each date.

(d) if any part of the purchase price or market value of any of the securities specified in (c) is represented by funds borrowed or otherwise obtained for the purpose of acquiring or holding such securities, so state and indicate the amount of the indebtedness as of the latest practicable date. If such funds were borrowed or obtained otherwise than pursuant to a margin account or bank loan in the regular course of business of a bank, broker or dealer, briefly describe the transaction, and state the names of the parties.

(e) state whether or not participant is a party to any contracts, arrangements or understandings with any persons with respect to any securities of the insurer, including but not limited to joint ventures, loan or option arrangements, puts or calls, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. If so, name the persons with whom such contracts, arrangements, or understandings exist and give the details thereof.

(f) state the amount of securities of the insurer owned beneficially, directly or indirectly, by each of participant's associates and the name and address of each such associate.

(g) state the amount of each class of securities of any parent, subsidiary or affiliate of the insurer which participant owns beneficially, directly or indirectly.

(4) Further Matters.

(a) describe the time and circumstances under which participant became a participant in the solicitation and state the nature and extent of participant's activities or proposed activities as a participant.

(b) describe briefly, and where practicable state the approximate amount of, any material interest, direct or indirect, of participant and of each of participant's associates in any material transactions since the beginning of the company's last

fiscal year, or in any material proposed transactions, to which the company or any of its subsidiaries or affiliates was or is to be a party.

(c) state whether or not participant or any of participant's associates have any arrangements or understanding with any person:

1. with respect to any future employment by the insurer or its subsidiaries or affiliates; or

2. with respect to any future transactions to which the insurer or any of its subsidiaries or affiliates will or may be a party. If so, describe such arrangement or understanding and state the names of the parties thereto.

(5) Certification, Signature. The participant or his authorized representative shall certify as to the truthfulness, completeness and correctness, to the best of their knowledge and belief and shall date and sign such statement.

Cite as Ga. Comp. R. & Regs. R. 120-2-7-.13
Authority: Ga. L. 1960, pp. 289, 305, 1965, pp. 378 to 380.
History. Original Rule entitled "Information to Be Included in Statements Filed by or on Behalf of a Participant (Other Than the Insurer) in a Proxy Solicitation in an Election Contest" adopted. F. and eff. July 20, 1965.
Amended: F. Dec. 3, 1965; eff. Dec. 22, 1965.
Amended: F. Jan. 28, 1970; eff. Jan. 1, 1970, as specified by the Agency.
Submitted for Publishing: Mar. 6, 2007.

Subject 120-2-8. MEDICARE SUPPLEMENT INSURANCE.

Rule 120-2-8-.01. Purpose.

The purpose of this regulation is to provide for the reasonable standardization of coverage and simplification of terms and benefits of Medicare supplement policies; to facilitate public understanding and comparison of such policies; to eliminate provisions contained in such policies that may be misleading or confusing in connection with the purchase of such policies or with the settlement of claims; and to provide for full disclosures in the sale of accident and sickness insurance coverages to persons eligible for Medicare.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3 to 33-43-6.
History. Original Rule entitled "Participating Policies, Payment of Dividend" adopted. F. and eff. July 20, 1965.
Repealed: F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
Amended: New Rule entitled "Authority" adopted. F. Oct. 28, 1980; eff. Nov. 17, 1980.
Repealed: New Rule entitled "Purpose" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989.
Repealed: New Rule of same title adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule of same title adopted. F. July 9, 1992; eff. July 29, 1992.
Amended: ER. 120-2-8-0.4-.01 adopted. F. Apr. 30, 1996; eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule of same title adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.

Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.01 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.02. Authority.

This regulation is issued pursuant to the authority vested in the Commissioner under Chapter 2 of Title 33 and O.C.G.A. Sections 33-43-3, 33-43-4 and 33-43-5.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3 to 33-43-6.
History. Original Rule entitled "Purpose" adopted. F. Oct. 28, 1980; eff. Nov. 17, 1980.
Repealed: New Rule entitled "Authority" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989.
Repealed: New Rule of same title adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule of same title adopted. F. July 9, 1992; eff. July 29, 1992.
Amended: ER. 120-2-8-0.4-.02 adopted. F. Apr. 30, 1996; eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule of same title adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.02 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.03. Applicability and Scope.

(1) Except as otherwise specifically provided in Sections 120-2-8-.07, 120-2-8-.13, 120-2-8-.14, 120-2-8-.17 and 120-2-8-.22, this regulation shall apply to:

   (a) All Medicare supplement policies delivered or issued for delivery in this state on or after the effective date of this regulation; and

   (b) All certificates issued under group Medicare supplement policies which certificates have been delivered or issued for delivery in this state.

(2) This regulation shall not apply to a policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3 to 33-43-6.
History. Original Rule entitled "Applicability and Scope" adopted. F. Oct. 28, 1980; eff. Nov. 17, 1980.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989.
Repealed: New Rule of same title adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule of same title adopted. F. July 9, 1992; eff. July 29, 1992.

Amended: ER. 120-2-8-0.4-.03 adopted. F. Apr. 30, 1996; eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule of same title adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.03 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.04. Definitions.

(1) "Applicant" means:

(a) In the case of an individual Medicare supplement policy, the person who seeks to contract for insurance benefits, and

(b) In the case of a group Medicare supplement policy, the proposed certificateholder.

(2) "Bankruptcy" means when a Medicare Advantage organization that is not an issuer has filed, or has had filed against it, a petition for declaration of bankruptcy and has ceased doing business in the state.

(3) "Certificate" means any certificate delivered or issued for delivery in this state under a group Medicare supplement policy.

(4) "Certificate form" means the form on which the certificate is delivered or issued for delivery by the issuer.

(5) "Continuous period of creditable coverage" means the period during which an individual was covered by creditable coverage, if during the period of the coverage the individual had no breaks in coverage greater than sixty-three (63) days.

(6)

(a) "Creditable coverage" means, with respect to an individual, coverage of the individual provided under any of the following:

1. A group health plan;

2. Health insurance coverage;

3. Part A or Part B of Title XVIII of the Social Security Act (Medicare);

4. Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under section 1928;

5. Chapter 55 of Title 10 United States Code (CHAMPUS);

6. A medical care program of the Indian Health Service or of a tribal organization;

7. A State health benefits risk pool;

8. A health plan offered under chapter 89 of Title 5 United States Code (Federal Employees Health Benefits Program);

9. A public health plan as defined in federal regulation; and

10. A health benefit plan under Section 5(e) of the Peace Corps Act (22 United States Code 2504(e)).

(b) "Creditable coverage" shall not include one or more, or any combination of, the following:

1. Coverage only for accident or disability income insurance, or any combination thereof;

2. Coverage issued as a supplement to liability insurance;

3. Liability insurance, including general liability insurance and automobile liability insurance;

4. Workers' compensation or similar insurance;

5. Automobile medical payment insurance;

6. Credit-only insurance;

7. Coverage for on-site medical clinics; and

8. Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

(c) "Creditable coverage" shall not include the following benefits if they are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of the plan:

1. Limited scope dental or vision benefits;

2. Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and

3. Such other similar, limited benefits as are specified in federal regulations.

(d) "Creditable coverage" shall not include the following benefits if offered as independent, noncoordinated benefits:

1. Coverage only for a specified disease or illness; and

2. Hospital indemnity or other fixed indemnity insurance.

(e) "Creditable coverage" shall not include the following if it is offered as a separate policy, certificate or contract of insurance:

1. Medicare supplemental health insurance as defined under section 1882(g)(1) of the Social Security Act;

2. Coverage supplemental to the coverage provided under chapter 55 of Title 10, United States Code; and

3. Similar supplemental coverage provided to coverage under a group health plan.

(7) "Employee welfare benefit plan" means a plan, fund or program of employee benefits as defined in 29 U.S.C. Section 1002 (Employee Retirement Income Security Act).

(8) "Insolvency" means when an issuer, licensed to transact the business of insurance in this state, has had a final order of liquidation entered against it with a finding of insolvency by a court of competent jurisdiction in the issuer's state of domicile.

(9) "Issuer" includes insurance companies, fraternal benefit societies, health care service plans, health maintenance organizations, and any other entity delivering or issuing for delivery in this state Medicare supplement policies or certificates.

(10) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

(11) "Medicare Advantage plan" means a plan of coverage for health benefits under Medicare Part C as defined in 42 U.S.C. 1395 w - 28(b)(1), and includes:

(a) Coordinated care plans that provide health care services, including but not limited to health maintenance organization plans (with or without a point-of-service option), plans offered by provider-sponsored organizations, and preferred provider organization plans;

(b) Medical savings account plans coupled with a contribution into a Medicare Advantage medical savings account; and

(c) Medicare Advantage private fee-for-service plans.

(12) "Medicare supplement policy" means a group or individual policy of accident and sickness insurance or a subscriber contract of hospital and medical service associations or health maintenance organizations, other than a policy issued pursuant to a contract under Section 1876 of the federal Social Security Act (42 U.S.C. Section 1395*et seq.*) or an issued policy under a demonstration project specified in 42 U.S.C. § 1395 ss(g)(1), which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare. "Medicare supplement policy" does not include Medicare Advantage plans established under Medicare Part C, Outpatient Prescription Drug plans established under Medicare D, or any Health Care Prepayment Plan (HCPP) that provides benefits pursuant to an agreement under § 1833(a)(1)(A) of the Social Security Act.

(13) "Policy form" means the form on which the policy is delivered or issued for delivery by the issuer.

(14) "Pre-Standardized Medicare supplement benefit plan," "Pre-Standardized benefit plan" or "Pre-Standardized plan" means a group or individual policy of Medicare supplement insurance issued prior to December 1, 1990.

(15) "Secretary" means the Secretary of the United States Department of Health and Human Services.

(16) "1990 Standardized Medicare supplement benefit plan," "1990 Standardized benefit plan" or "1990 plan" means a group or individual policy of Medicare supplement insurance issued on or after December 1, 1990 and with an effective date for coverage prior to June 1, 2010 and includes Medicare supplement insurance policies and certificates renewed on or after that date which are not replaced by the issuer at the request of the insured.

(17) "2010 Standardized Medicare supplement benefit plan," "2010 Standardized benefit plan" or "2010 plan" means a group or individual policy of Medicare supplement insurance issued with an effective date for coverage on or after June 1, 2010.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-43-1, 33-43-3 to 33-43-6.
History. Original Rule entitled "Definitions" adopted. F. Oct. 28, 1980; eff. Nov. 17, 1980.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989.
Repealed: New Rule of same title adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule of same title adopted. F. July 9, 1992; eff. July 29, 1992.
Amended: F. Jan. 8, 1993; eff. Jan. 28, 1993.
Amended: ER. 120-2-8-0.4-.04 adopted. F. Apr. 30, 1996; eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule of same title adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.04 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.05. Policy Definitions and Terms.

No policy or certificate may be advertised, solicited or issued for delivery in this State as a Medicare supplement policy or certificate unless the policy or certificate contains definitions or terms that conform to the requirements of this section.

(1) "Accident," "accidental injury," or "accidental means" shall be defined to employ "result" language and shall not include words that establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or characterization.

   (a) The definition shall not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person that is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force."

   (b) The definition may provide that injuries shall not include injuries for which benefits are provided or available under any workers' compensation, employer's liability or similar law, or motor vehicle no-fault plan, unless prohibited by law.

(2) "Benefit period" or "Medicare benefit period" shall not be defined more restrictively than as defined in the Medicare program.

(3) "Convalescent nursing home," "extended care facility," or "skilled nursing facility" shall not be defined more restrictively than as defined in the Medicare program.

(4) "Health care expenses" means, for purposes of Section 120-2-8-.14, expenses of health maintenance organizations associated with the delivery of health care services, which expenses are analogous to incurred losses of insurers.

(5) "Hospital" may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals, but not more restrictively than as defined in the Medicare program.

(6) "Medicare" shall be defined in the policy and certificate. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.

(7) "Medicare eligible expenses" shall mean expenses of the kinds covered by Medicare Parts A and B, to the extent recognized as reasonable and medically necessary by Medicare.

(8) "Physician" shall not be defined more restrictively than as defined in the Medicare program.

(9) "Sickness" shall not be defined to be more restrictive than the following: "Sickness means illness or disease of an insured person that first manifests itself after the effective date of insurance and while the insurance is in force." The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability or similar law.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3 to 33-43-6.
History. Original Rule entitled "General Requirements" adopted. F. Oct. 28, 1980; eff. Nov. 17, 1980.
Repealed: New Rule entitled "Policy Definitions and Terms" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989.
Repealed: New Rule of same title adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule of same title adopted. F. July 9, 1992; eff. July 29, 1992.
Amended: ER. 120-2-8-0.4-.05 adopted. F. Apr. 30, 1996; eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule of same title adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.05 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.06. Policy Provisions.

(1) Except for permitted preexisting condition clauses as described in Sections 120-2-8-.07(a)1. 120 -2-8-.08(1)(a), and Section 120-2-8-.08(5)(a) 1. of this regulation, no policy or certificate may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy if the policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

(2) No Medicare supplement policy or certificate may use waivers to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

(3) No Medicare supplement policy or certificate in force in the state shall contain benefits that duplicate benefits provided by Medicare.

(4)

(a) Subject to Sections 120-2-8-.07(1)(d), (e) and (g), and 120-2-8-.08(1)(d) and (e) of this regulation a Medicare supplement policy with benefits for outpatient prescription drugs in existence prior to January 1, 2006 shall be renewed for current policyholders who do not enroll in Part D at the option of the policyholder.

(b) A Medicare supplement policy with benefits for outpatient prescription drugs shall not be issued after December 31, 2005.

(c) After December 31, 2005, a Medicare supplement policy with benefits for outpatient prescription drugs may not be renewed after the policyholder enrolls in Medicare Part D unless:

1. The policy is modified to eliminate outpatient prescription coverage for expenses of outpatient prescription drugs incurred after the effective date of the individual's coverage under a Part D plan and;

2. Premiums are adjusted to reflect the elimination of outpatient prescription drug coverage at the time of Medicare Part D enrollment, accounting for any claims paid, if applicable.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3 to 33-43-6.
History. Original Rule entitled "Prohibited Policy Provisions" adopted. F. Oct. 28, 1980; eff. Nov. 17, 1980.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989.
Repealed: New Rule of same title adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Policy Provisions" adopted. F. July 9, 1992; eff. July 29, 1992.
Amended: ER. 120-2-8-0.4-.06 adopted. F. Apr. 30, 1996; eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule of same title adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.06 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.07. Minimum Benefit Standards for Pre-Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery Prior to the Effective Date of This Regulation.

No policy or certificate may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy or certificate unless it meets or exceeds the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits that are not inconsistent with these standards.

(1) General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

(a) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

(b) A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(c) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, copayment, or coinsurance amounts. Premiums may be modified through filings as otherwise provided within this Regulation Chapter to correspond with such changes.

(d) A "noncancellable," "guaranteed renewable," or "noncancellable and guaranteed renewable" Medicare supplement policy shall not:

1. Provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium; or

2. Be cancelled or nonrenewed by the issuer solely on the grounds of deterioration of health.

(e)

1. Except as authorized by the Commissioner of Insurance of this State, an issuer shall neither cancel nor nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

2. If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in Paragraph (e)4., the issuer shall offer certificateholders an individual Medicare supplement policy. The issuer shall offer the certificateholder at least the following choices:

   (i) An individual Medicare supplement policy currently offered by the issuer having comparable benefits to those contained in the terminated group Medicare supplement policy; and

   (ii) An individual Medicare supplement policy that provides only such benefits as are required to meet the minimum standards as defined in Section 120-2-8-.08(5)(b) of this regulation.

3. If membership in a group is terminated, the issuer shall:

   (i) Offer the certificateholder the conversion opportunities described in Subparagraph (ii); or

   (ii) At the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

4. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(f) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss that commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or to payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

(g) If a Medicare supplement policy eliminates an outpatient prescription drug benefit as a result of requirements imposed by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, the modified policy shall be deemed to satisfy the guaranteed renewal requirements of this subsection.

(2) Minimum Benefit Standards.

(a) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(b) Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount;

(c) Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

(d) Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety percent (90%) of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

(e) Coverage under Medicare Part A for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B;

(f) Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital

confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible [$100];

(g) Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3 to 33-43-6.
History. Original Rule entitled "Minimum Standards for Benefits" adopted. F. Oct. 28, 1980; eff. Nov. 17, 1980.
Repealed: New Rule entitled "Minimum Benefit Standards" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989.
Repealed: New Rule entitled "Benefit Conversion Requirements During Transition" adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Minimum Benefit Standards for Policies or Certificates Issued for Delivery Prior to the Effective Date of this Regulation" adopted. F. July 9, 1992; eff. July 29, 1992.
Amended: ER. 120-2-8-0.4-.07 adopted. F. Apr. 30, 1996; eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule of same title adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.07 entitled "Minimum Benefit Standards for Pre-Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery Prior to the Effective Date of This Regulation" adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.08. Benefit Standards for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued or Delivered on or After September 30, 2005 and With an Effective Date for Coverage Prior to June 1, 2010.

The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after September 30, 2005 and with an effective date for coverage prior to June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards.

(1) General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

(a) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which

medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

(b) A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(c) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, copayment, or coinsurance amounts. Premiums may be modified through filings as otherwise provided within this Regulation Chapter to correspond with such changes.

(d) No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

(e) Each Medicare supplement policy shall be guaranteed renewable.

1. The issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual;

2. The issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation;

3. If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under Section 8(1)(e)5., the issuer shall offer certificateholders an individual Medicare supplement policy that (at the option of the certificateholder)

   (i) Provides for continuation of the benefits contained in the group policy, or

   (ii) Provides for benefits that otherwise meet the requirements of this subsection.

4. If an individual is a certificateholder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall:

   (i) Offer the certificateholder the conversion opportunity described in Section 8(1)(e)3., or

   (ii) At the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

5. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer

of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

6. If a Medicare supplement policy eliminates an outpatient prescription drug benefit as a result of requirements imposed by the Medicare Prescription Drug, Improvement and Modernization Act of 2003, the modified policy shall be deemed to satisfy the guaranteed renewal requirements of this paragraph.

(f) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss that commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

(g)

1. A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificateholder for the period (not to exceed twenty-four (24) months) in which the policyholder or certificateholder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificateholder notifies the issuer of the policy or certificate within ninety (90) days after the date the individual becomes entitled to assistance.

2. If suspension occurs and if the policyholder or certificateholder loses entitlement to medical assistance, the policy or certificate shall be automatically reinstituted effective as of the date of termination of entitlement if the policyholder or certificateholder provides notice of loss of entitlement within ninety (90) days after the date of loss and pays the premium attributable to the period.

3. Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226(b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862(b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, the policy shall be automatically reinstituted (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within

ninety (90) days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of enrollment in the group health plan.

4. Reinstitution of coverages as described in Subparagraphs 2. and 3.:

   (i) Shall not provide for any waiting period with respect to treatment of preexisting conditions;

   (ii) Shall provide for resumption of coverage that is substantially equivalent to coverage in effect before the date of suspension. If the suspended Medicare supplement policy provided coverage for outpatient prescription drugs, reinstitution of the policy for Medicare Part D enrollees shall be without coverage for outpatient prescription drugs and shall otherwise provide substantially equivalent coverage to the coverage in effect before the date of suspension; and

   (iii) Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificateholder as the premium classification terms that would have applied to the policyholder or certificateholder had the coverage not been suspended.

(h) If an issuer makes a written offer to the Medicare Supplement policyholders or certificateholders of one or more of its plans, to exchange during a specified period from his or her 1990 Standardized plan (as described in Section 120-2-8-.09 of this regulation) to a 2010 Standardized plan (as described in Section 120-2-8-.09(8) of this regulation), the offer and subsequent exchange shall comply with the following requirements:

1. An issuer need not provide justification to the Commissioner if the insured replaces a 1990 Standardized policy or certificate with an issue age rated 2010 Standardized policy or certificate at the insured's original issue age. If an insured's policy or certificate to be replaced is priced on an issue age rate schedule at the time of such offer, the rate charged to the insured for the new exchanged policy shall recognize the policy reserve buildup, due to the pre-funding inherent in the use of an issue age rate basis, for the benefit of the insured. The method proposed to be used by an issuer must be filed with the Commissioner.

2. The rating class of the new policy or certificate shall be the class closest to the insured's class of the replaced coverage.

3. An issuer may not apply new pre-existing condition limitations or a new incontestability period to the new policy for those benefits contained in the exchanged 1990 Standardized policy or certificate of the insured, but may

apply pre-existing condition limitations of no more than six (6) months to any added benefits contained in the new 2010 Standardized policy or certificate not contained in the exchanged policy.

4. The new policy or certificate shall be offered to all policyholders or certificateholders within a given plan, except where the offer or issue would be in violation of state or federal law.

(2) Standards for Basic (Core) Benefits Common to Benefit Plans A to J. Every issuer shall make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare Supplement Insurance Benefit Plans in addition to the basic core package, but not in lieu of it.

(a) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(b) Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used;

(c) Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of one hundred percent (100%) of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance;

(d) Coverage under Medicare Parts A and B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations;

(e) Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible;

(3) Standards for Additional Benefits. The following additional benefits shall be included in Medicare Supplement Benefit Plans "B" through "J" only as provided by Section 120-2-8-.09 of this regulation.

(a) Medicare Part A Deductible: Coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period.

(b) Skilled Nursing Facility Care: Coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A.

(c) Medicare Part B Deductible: Coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

(d) Eighty Percent (80%) of the Medicare Part B Excess Charges: Coverage for eighty percent (80%) of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

(e) One Hundred Percent (100%) of the Medicare Part B Excess Charges: Coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

(f) Basic Outpatient Prescription Drug Benefit: Coverage for fifty percent (50%) of outpatient prescription drug charges, after a $250 calendar year deductible, to a maximum of $1,250 in benefits received by the insured per calendar year, to the extent not covered by Medicare. The outpatient prescription drug benefit may be included for sale or issuance in a Medicare supplement policy until January 1, 2006.

(g) Extended Outpatient Prescription Drug Benefit: Coverage for fifty percent (50%) of outpatient prescription drug charges, after a $250 calendar year deductible to a maximum of $3,000 in benefits received by the insured per calendar year, to the extent not covered by Medicare. The outpatient prescription drug benefit may be included for sale or issuance in a Medicare supplement policy until January 1, 2006.

(h) Medically Necessary Emergency Care in a Foreign Country: Coverage to the extent not covered by Medicare for eighty percent (80%) of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first sixty (60) consecutive days of each trip outside the United States, subject to a calendar year deductible of $250, and a lifetime maximum benefit of $50,000. For purposes of this benefit, "emergency care" shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

(i)

1. Preventive Medical Care Benefit: Coverage for the following preventive health services not covered by Medicare:

(i) An annual clinical preventive medical history and physical examination that may include tests and services from Subparagraph (ii) and patient education to address preventive health care measures;

(ii) Preventive screening tests or preventive services, the selection and frequency of which is determined to be medically appropriate by the attending physician.

2. Reimbursement shall be for the actual charges up to one hundred percent (100%) of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, to a maximum of $120 annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare.

(j) At-Home Recovery Benefit: Coverage for services to provide short term, at-home assistance with activities of daily living for those recovering from an illness, injury or surgery.

1. For purposes of this benefit, the following definitions shall apply:

(i) "Activities of daily living" include, but are not limited to bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings.

(ii) "Care provider" means a duly qualified or licensed home health aide or homemaker, personal care aide or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

(iii) "Home" shall mean any place used by the insured as a place of residence, provided that the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence.

(iv) "At-home recovery visit" means the period of a visit required to provide at home recovery care, without limit on the duration of the visit, except each consecutive four (4) hours in a twenty-four-hour period of services provided by a care provider is one visit.

2. Coverage Requirements and Limitations.

(i) At-home recovery services provided must be primarily services which assist in activities of daily living.

(ii) The insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare.

(iii) Coverage is limited to:

(I) No more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare approved home health care visits under a Medicare approved home care plan of treatment;

(II) The actual charges for each visit up to a maximum reimbursement of $40 per visit;

(III) $1,600 per calendar year;

(IV) Seven (7) visits in any one week;

(V) Care furnished on a visiting basis in the insured's home;

(VI) Services provided by a care provider as defined in this section;

(VII) At-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded;

(VIII) At-home recovery visits received during the period the insured is receiving Medicare approved home care services or no more than eight (8) weeks after the service date of the last Medicare approved home health care visit.

3. Coverage is excluded for:

(i) Home care visits paid for by Medicare or other government programs; and

(ii) Care provided by family members, unpaid volunteers or providers who are not care providers.

(4) Standards for Plans K and L.

(a) Standardized Medicare supplement benefit plan "K" shall consist of the following:

1. Coverage of one hundred percent (100%) of the Part A hospital coinsurance amount for each day used from the 61st through the 90th day in any Medicare benefit period;

2. Coverage of one hundred percent (100%) of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the 91st through the 150th day in any Medicare benefit period;

3. Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of one hundred percent (100%) of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance;

4. Medicare Part A Deductible: Coverage for fifty percent (50%) of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in Subparagraph 10.;

5. Skilled Nursing Facility Care: Coverage for fifty percent (50%) of the coinsurance amount for each day used from the 21st day through the 100th day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in Subparagraph 10.;

6. Hospice Care: Coverage for fifty percent (50%) of cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in Subparagraph 10.;

7. Coverage for fifty percent (50%), under Medicare Part A or B, of the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations until the out-of-pocket limitation is met as described in Subparagraph 10.;

8. Except for coverage provided in Subparagraph 9. below, coverage for fifty percent (50%) of the cost sharing otherwise applicable under Medicare Part B after the policyholder pays the Part B deductible until the out-of-pocket limitation is met as described in Subparagraph 10. below;

9. Coverage of one hundred percent (100%) of the cost sharing for Medicare Part B preventive services after the policyholder pays the Part B deductible; and

10. Coverage of one hundred percent (100%) of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of $4000 in 2006, indexed each year by the appropriate inflation adjustment specified by the Secretary of the U.S. Department of Health and Human Services.

(b) Standardized Medicare supplement benefit plan "L" shall consist of the following:

1. The benefits described in Paragraphs (a)1., 2., 3. and 9.;

2. The benefit described in Paragraphs (a)4., 5., 6., 7. and 8., but substituting seventy-five percent (75%) for fifty percent (50%); and

3. The benefit described in Paragraph (a)10., but substituting $2000 for $4000.

(5) Benefit Standards for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates with an Effective Date for Coverage on or After June 1, 2010

The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state with an effective date for coverage on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this state as a Medicare Supplement policy unless it complies with these benefit standards. No issuer may offer any 1990 Standardized Medicare supplement benefit plan for sale on or after June 1, 2010. Benefit standards applicable to Medicare supplement policies and certificates issued with an effective date for coverage before June 1, 2010 remain subject to the requirements of Rule 120-2-8-.08.

(a) General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

1. A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

2. A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

3. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, copayment, or coinsurance amounts. Premiums may be modified to correspond with such changes.

4. No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

5. Each Medicare supplement policy shall be guaranteed renewable.

   (i) The issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual.

   (ii) The issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.

   (iii) If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under Section 120-2-8-.08(5)(a) 5.(v) of this regulation, the issuer shall offer certificateholders an individual Medicare supplement policy which (at the option of the certificateholder):

      (I) Provides for continuation of the benefits contained in the group policy; or

      (II) Provides for benefits that otherwise meet the requirements of this Subsection.

   (iv) If an individual is a certificateholder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall

      (I) Offer the certificateholder the conversion opportunity described in Section 120-2-8-.08(5)(a)5.(iii) of this regulation; or

      (II) At the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

   (v) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the

issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(vi) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

(vii)

(I) Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificateholder for the period (not to exceed twenty-four (24) months) in which the policyholder or certificateholder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificateholder notifies the issuer of the policy or certificate within ninety (90) days after the date the individual becomes entitled to assistance.

(II) If suspension occurs and if the policyholder or certificateholder loses entitlement to medical assistance, the policy or certificate shall be automatically reinstituted (effective as of the date of termination of entitlement) as of the termination of entitlement if the policyholder or certificateholder provides notice of loss of entitlement within ninety (90) days after the date of loss and pays the premium attributable to the period, effective as of the date of termination of entitlement.

(III) Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226(b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862(b)(1)(A)(v) of the Social Security

Act). If suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, the policy shall be automatically reinstituted (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within ninety (90) days after the date of the loss.

(IV) Reinstitution of coverages as described in Subparagraphs (ii) and (iii):

I. Shall not provide for any waiting period with respect to treatment of preexisting conditions;

II. Shall provide for resumption of coverage that is substantially equivalent to coverage in effect before the date of suspension; and

III. Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificateholder as the premium classification terms that would have applied to the policyholder or certificateholder had the coverage not been suspended.

(b) Standards for Basic (Core) Benefits Common to Medicare Supplement Insurance Benefit Plans A, B, C, D, F, F with High Deductible, G, M and N. Every issuer of Medicare supplement insurance benefit plans shall make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare Supplement Insurance Benefit Plans in addition to the basic core package, but not in lieu of it.

1. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

2. Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used;

3. Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of one hundred percent (100%) of the Medicare Part A eligible expenses for hospitalization paid at the applicable

prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance;

4. Coverage under Medicare Parts A and B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations;

5. Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible;

6. Hospice Care: Coverage of cost sharing for all Part A Medicare eligible hospice care and respite care expenses.

(c) Standards for Additional Benefits. The following additional benefits shall be included in Medicare supplement benefit Plans B, C, D, F, F with High Deductible, G, M, and N as provided by Section 120-2-8-.09(8) of this regulation. Benefits for Plans K and L are set by The Medicare Prescription Drug, Improvement and Modernization Act of 2003, and can be found in Rule Sections 120-2-8-.09(8)(e) 8. and 9. of this regulation.

1. Medicare Part A Deductible: Coverage for one hundred percent (100%) of the Medicare Part A inpatient hospital deductible amount per benefit period.

2. Medicare Part A Deductible: Coverage for fifty percent (50%) of the Medicare Part A inpatient hospital deductible amount per benefit period.

3. Skilled Nursing Facility Care: Coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A.

4. Medicare Part B Deductible: Coverage for one hundred percent (100%) of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

5. One Hundred Percent (100%) of the Medicare Part B Excess Charges: Coverage for all of the difference between the actual Medicare Part B charges as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

6. Medically Necessary Emergency Care in a Foreign Country: Coverage to the extent not covered by Medicare for eighty percent (80%) of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first sixty (60) consecutive days of each trip outside the United States, subject to a calendar year deductible of $250, and a lifetime maximum benefit of $50,000. For purposes of this benefit, "emergency care" shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

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Repealed: New Rule entitled "Standards for Claims Payment" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989.
Repealed: New Rule entitled "Minimum Benefit Standards" adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Benefit Standards for Policies or Certificates Issued or Delivered on or After the Effective Date of this Regulation" adopted. F. July 9, 1992; eff. July 29, 1992.
Amended: ER. 120-2-8-0.4-.08 entitled "Benefit Standards for Policies or Certificates Issued for Delivery on or After the Effective Date of this Regulation" adopted. F. Apr. 30, 1996; eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule entitled "Benefit Standards for Policies or Certificates Issued for Delivery on or After the Effective Date of this Regulation" adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.08 entitled "Benefit Standards for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued or Delivered on or After September 30, 2005 and Prior to June 1, 2010" adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Repealed: New Rule entitled "Benefit Standards for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued or Delivered on or After September 30, 2005 and with an Effective Date for Coverage Prior to June 1, 2010" adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.09. Standard Medicare Supplement Benefit Plans for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery on or After September 8, 2005 and With an Effective Date for Coverage Prior to June 1, 2010.

(1) An issuer shall make available to each prospective policyholder and certificateholder a policy form or certificate form containing only the basic core benefits, as defined in Section 120-2-8-.08(2) of this regulation.

(2) No groups, packages or combinations of Medicare supplement benefits other than those listed in this section shall be offered for sale in this state, except as may be permitted in Section 120-2-8-.09(7) and in Section 120-2-8-.10 of this regulation.

(3) Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans "A" through "L" listed in this subsection and conform to the definitions in 120-2-8-.04 of this regulation. Each benefit shall be structured in accordance with the format provided in Sections 120-2-8-.08(2) and 120-2-8-.08(3), or 120-2-8-.08(4) and list the benefits in the order shown in this subsection. For purposes of this section," structure, language, and format" means style, arrangement and overall content of a benefit.

(4) An issuer may use, in addition to the benefit plan designations required in Subsection (3), other designations to the extent permitted by law.

(5) Make-up of benefit plans:

(a) Standardized Medicare supplement benefit plan "A" shall be limited to the basic (core) benefits common to all benefit plans, as defined in Section 120-2-8-.08(2) of this regulation.

(b) Standardized Medicare supplement benefit plan "B" shall include only the following: The core benefit as defined in Section 120-2-8-.08(2) of this regulation, plus the Medicare Part A deductible as defined in Section 120-2-8-.08(3)(a).

(c) Standardized Medicare supplement benefit plan "C" shall include only the following: The core benefit as defined in Section 120-2-8-.08(2) of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible and medically necessary emergency care in a foreign country as defined in Sections 120-2-8-.08(3)(a), (b), (c) and (h) respectively.

(d) Standardized Medicare supplement benefit plan "D" shall include only the following: The core benefit (as defined in Section 120-2-8-.08(2) of this regulation), plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in an foreign country and the at-home recovery benefit as defined in Sections 120-2-8-.08(3)(a), (b), (h) and (j) respectively.

(e) Standardized Medicare supplement benefit plan "E" shall include only the following: The core benefit as defined in Section 120-2-8-.08(2) of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country and preventive medical care as defined in Sections 120-2-8-.08(3)(a), (b), (h) and (i) respectively.

(f) Standardized Medicare supplement benefit plan "F" shall include only the following: The core benefit as defined in Section 120-2-8-.08(2) of this regulation, plus the Medicare Part A deductible, the skilled nursing facility care, the Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Sections 120-2-8-.08(3)(a), (b), (c), (e) and (h) respectively.

(g) Standardized Medicare supplement benefit high deductible plan "F" shall include only the following: 100% of covered expenses following the payment of the annual high deductible plan "F" deductible. The covered expenses include the core benefit as defined in Section 120-2-8-.08(2) of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, the Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Sections 120-2-8-.08(3)(a), (b), (c), (e) and (h) respectively. The annual high deductible plan "F" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "F" policy, and shall be in addition to any other specific benefit deductibles. The annual high deductible Plan "F" deductible shall be $1500 for 1998 and 1999, and shall be based on the calendar year. It shall be adjusted annually thereafter by the Secretary to reflect the change in the Consumer Price Index for all urban consumers for the twelve-month period ending with August of the preceding year, and rounded to the nearest multiple of $10.

(h) Standardized Medicare supplement benefit plan "G" shall include only the following: The core benefit as defined in Section 120-2-8-.08(2) of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, eighty percent (80%) of the Medicare Part B excess charges, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in Sections 120-2-8-.08(3)(a), (b), (d), (h) and (j) respectively.

(i) Standardized Medicare supplement benefit plan "H" shall consist of only the following: The core benefit as defined in Section 120-2-8-.08(2) of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, basic prescription drug benefit and medically necessary emergency care in a foreign country as defined in Sections 120-2-8-.08(3)(a), (b), (f) and (h) respectively. The outpatient prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005.

(j) Standardized Medicare supplement benefit plan "I" shall consist of only the following: The core benefit as defined in Section 120-2-8-.08(2) of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, one hundred percent (100%) of the Medicare Part B excess charges, basic prescription drug benefit, medically necessary emergency care in a foreign country and at-home recovery benefit as defined in Sections 120-2-8-.08(3)(a), (b), (e), (f), (h) and (j) respectively. The outpatient prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005.

(k) Standardized Medicare supplement benefit plan "J" shall consist of only the following: The core benefit as defined in Section 120-2-8-.08(2) of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges,

extended prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care and at-home recovery benefit as defined in Sections 120-2-8-.08(3)(a), (b), (c), (e), (g), (h), (i) and (j) respectively. The outpatient prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005.

(l) Standardized Medicare supplement benefit high deductible plan "J" shall consist of only the following: 100% of covered expenses following the payment of the annual high deductible plan "J" deductible. The covered expenses include the core benefit as defined in Section 120-2-8-.08(2) of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, extended outpatient prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care benefit and at-home recovery benefit as defined in Sections 120-2-8-.08(3)(a), (b), (c), (e), (g), (h), (i) and (j) respectively. The annual high deductible plan "J" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "J" policy, and shall be in addition to any other specific benefit deductibles. The annual deductible shall be $1500 for 1998 and 1999, and shall be based on a calendar year. It shall be adjusted annually thereafter by the Secretary to reflect the change in the Consumer Price Index for all urban consumers for the twelve-month period ending with August of the preceding year, and rounded to the nearest multiple of $10. The outpatient prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005.

(6) Make-up of two Medicare supplement plans mandated by The Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA);

(a) Standardized Medicare supplement benefit plan "K" shall consist of only those benefits described in Section 120-2-8-.08(4)(a).

(b) Standardized Medicare supplement benefit plan "L" shall consist of only those benefits described in Section 120-2-8-.08(4)(b).

(7) New or Innovative Benefits: An issuer may, with the prior approval of the Commissioner, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost-effective, and offered in a manner that is consistent with the goal of simplification of Medicare supplement policies. After December 31, 2005, the innovative benefit shall not include an outpatient prescription drug benefit.

(8) Standard Medicare Supplement Benefit Plans for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates with an Effective Date for Coverage on or After June 1, 2010.

The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state with an effective date for coverage on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit plan standards. Benefit plan standards applicable to Medicare supplement policies and certificates with an effective date for coverage before June 1, 2010 remain subject to the requirements of Rule 120-2-8-.08.

(a)

1. An issuer shall make available to each prospective policyholder and certificateholder a policy form or certificate form containing only the basic (core) benefits, as defined in Rule Section 120-2-8-.08(5)(b) of this regulation.

2. If an issuer makes available any of the additional benefits described in Rule Section 120-2-8-.08(5)(c), or offers standardized benefit Plans K or L (as described in Sections 120-2-8-.09(8)(e) 8. and 9. of this regulation), then the issuer shall make available to each prospective policyholder and certificateholder, in addition to a policy form or certificate form with only the basic (core) benefits as described in subsection (1)(a) above, a policy form or certificate form containing either standardized benefit Plan C (as described in Rule Section 120-2-8-.09(8)(c) of this regulation) or standardized benefit Plan F (as described in Rule Section 120-2-8-.09(8)(e) 5. of this regulation).

(b) No groups, packages or combinations of Medicare supplement benefits other than those listed in this Section shall be offered for sale in this state, except as may be permitted in Section 120-2-8-.09(8)(e) and in Section 120-2-8-.10 of this regulation.

(c) Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans listed in this Subsection and conform to the definitions in Section 4 of this regulation. Each benefit shall be structured in accordance with the format provided in Sections 120-2-8-.08(5)(b) and 120-2-8-.08(5)(c) of this regulation; or, in the case of plans K or L, in Sections 120-2-8-.09(8)(e) 8. or 9. of this regulation and list the benefits in the order shown. For purposes of this Section, "structure, language, and format" means style, arrangement and overall content of a benefit.

(d) In addition to the benefit plan designations required in Subsection C of this section, an issuer may use other designations to the extent permitted by law.

(e) Make-up of 2010 Standardized Benefit Plans:

1. Standardized Medicare supplement benefit Plan A shall include only the following: The basic (core) benefits as defined in 120-2-8-.08(5)(b) of this regulation.

2. Standardized Medicare supplement benefit Plan B shall include only the following: The basic (core) benefit as defined in Section 120-2-8-.08(5)(b) of this regulation, plus one hundred percent (100%) of the Medicare Part A deductible as defined in Rule Section 120-2-8-.08(5)(c) 1. of this regulation.

3. Standardized Medicare supplement benefit Plan C shall include only the following: The basic (core) benefit as defined in Section 120-2-8-.08(5)(b) of this regulation, plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, one hundred percent (100%) of the Medicare Part B deductible, and medically necessary emergency care in a foreign country as defined in Rule Sections 120-2-8-.08(5)(c) 1., 2., 4., and 6. of this regulation, respectively.

4. Standardized Medicare supplement benefit Plan D shall include only the following: The basic (core) benefit (as defined in Section 120-2-8-.08(5)(b) of this regulation), plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in an foreign country as defined in Rule Sections 120-2-8-.08(5)(c) 1., 3., and 6. of this regulation, respectively.

5. Standardized Medicare supplement [regular] Plan F shall include only the following: The basic (core) benefit as defined in Section 120-2-8-.08(5)(b) of this regulation, plus one hundred percent (100%) of the Medicare Part A deductible, the skilled nursing facility care, one hundred percent (100%) of the Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Rule Sections 120-2-8-.08(5)(c) 1., 2., 4., 5., and 6. respectively.

6. Standardized Medicare supplement Plan F With High Deductible shall include only the following: one hundred percent (100%) of covered expenses following the payment of the annual deductible set forth in Subparagraph 2.

   (i) The basic (core) benefit as defined in Section 120-2-8-.08(5)(b) of this regulation, plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, one hundred percent (100%) of the Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Rule

Sections 120-2-8-.08(5)(c) 1., 2., 4., 5., and 6. of this regulation, respectively.

(ii) The annual deductible in Plan F With High Deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by [regular] Plan F, and shall be in addition to any other specific benefit deductibles. The basis for the deductible shall be $1,500 and shall be adjusted annually from 1999 by the Secretary of the U.S. Department of Health and Human Services to reflect the change in the Consumer Price Index for all urban consumers for the twelve-month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars ($10).

7. Standardized Medicare supplement benefit Plan G shall include only the following: The basic (core) benefit as defined in Section 120-2-8-.08(5)(b) of this regulation, plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Rule Sections 120-2-8-.08(5)(c) 1., 3., 5. and 6., respectively.

8. Standardized Medicare supplement Plan K is mandated by The Medicare Prescription Drug, Improvement and Modernization Act of 2003, and shall include only the following:

   (i) Part A Hospital Coinsurance 61st through 90th days: Coverage of one hundred percent (100%) of the Part A hospital coinsurance amount for each day used from the 61st through the 90th day in any Medicare benefit period;

   (ii) Part A Hospital Coinsurance, 91st through 150th days: Coverage of one hundred percent (100%) of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the 91st through the 150th day in any Medicare benefit period;

   (iii) Part A Hospitalization After 150 Days: Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of one hundred percent (100%) of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance;

(iv) Medicare Part A Deductible: Coverage for fifty percent (50%) of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in Subparagraph 10.;

(v) Skilled Nursing Facility Care: Coverage for fifty percent (50%) of the coinsurance amount for each day used from the 21st day through the 100th day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in Subparagraph 10.;

(vi) Hospice Care: Coverage for fifty percent (50%) of cost sharing for all Part A Medicare eligible expenses and respite care until the out of-pocket limitation is met as described in Subparagraph (x);

(vii) Blood: Coverage for fifty percent (50%), under Medicare Part A or B, of the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations until the out-of-pocket limitation is met as described in Subparagraph (x);

(viii) Part B Cost Sharing: Except for coverage provided in Subparagraph (i), coverage for fifty percent (50%) of the cost sharing otherwise applicable under Medicare Part B after the policyholder pays the Part B deductible until the out-of-pocket limitation is met as described in Subparagraph (x);

(ix) Part B Preventive Services: Coverage of one hundred percent (100%) of the cost sharing for Medicare Part B preventive services after the policyholder pays the Part B deductible; and

(x) Cost Sharing After Out-of-Pocket Limits: Coverage of one hundred percent (100%) of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of $4000 in 2006, indexed each year by the appropriate inflation adjustment specified by the Secretary of the U.S. Department of Health and Human Services.

9. Standardized Medicare supplement Plan L is mandated by The Medicare Prescription Drug, Improvement and Modernization Act of 2003, and shall include only the following:

(i) The benefits described in Rule sections 120-2-8-.09(8)(e) 8.(i), (ii), (iii) and (ix);

(ii) The benefit described in Rule sections 120-2-8-.09(8)(e) 8.(iv), (v), (vi), (vii) and (viii), but substituting seventy-five percent (75%) for fifty percent (50%); and

(iii) The benefit described in Rule 120-2-8-.09(8)(e)8.(x)., but substituting $2000 for $4000.

10. Standardized Medicare supplement Plan M shall include only the following: The basic (core) benefit as defined in Rule 120-2-8-.08(5)(b) of this regulation, plus fifty percent (50%) of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in Rule 120-2-8-.08(5)(c)1., 3. and 6. of this regulation, respectively.

11. Standardized Medicare supplement Plan N shall include only the following: The basic (core) benefit as defined in Section 120-2-8-.08(5)(b) of this regulation, plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in Rule 120-2-8-.08(5)(c)1., 3. and 6. of this regulation, respectively, with copayments in the following amounts:

    (i) the lesser of twenty dollars ($20) or the Medicare Part B coinsurance or copayment for each covered health care provider office visit (including visits to medical specialists); and

    (ii) the lesser of fifty dollars ($50) or the Medicare Part B coinsurance or copayment for each covered emergency room visit, however, this copayment shall be waived if the insured is admitted to any hospital and the emergency visit is subsequently covered as a Medicare Part A expense.

(f) New or Innovative Benefits: An issuer may, with the prior approval of the Commissioner, offer policies or certificates with new or innovative benefits, in addition to the standardized benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits shall include only benefits that are appropriate to Medicare supplement insurance, are new or innovative, are not otherwise available, and are cost-effective. Approval of new or innovative benefits must not adversely impact the goal of Medicare supplement simplification. New or innovative benefits shall not include an outpatient prescription drug benefit. New or innovative benefits shall not be used

to change or reduce benefits, including a change of any cost-sharing provision, in any standardized plan.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3 to 33-43-6.
History. Original Rule entitled "Requirements for Replacement" adopted. F. Oct. 28, 1980; eff. Nov. 17, 1980.
Repealed: New Rule entitled "Loss Ratio Standards" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989.
Repealed: New Rule entitled "Standards for Claims Payment" adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Standard Medicare Supplement Benefit Plans" adopted. F. July 9, 1992; eff. July 29, 1992.
Amended: ER. 120-2-8-0.4-.09 adopted. F. Apr. 30, 1996; eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule of same title adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.09 entitled "Standard Medicare Supplement Benefit Plans for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery on or After September 8, 2005 and Prior to June 1, 2010" adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule entitled "Standard Medicare Supplement Benefit Plans for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery on or After September 8, 2005 and With an Effective Date for Coverage Prior to June 1, 2010" adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.09.1. Standard Medicare Supplement Benefit Plans for 2020 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery to Individuals Newly Eligible for Medicare on or After January 1, 2020.

The Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) requires that the following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state to individuals newly eligible for Medicare on or after January 1, 2020. No policy or certificate that provides coverage of the Medicare Part B deductible may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate to individuals newly eligible for Medicare on or after January 1, 2020. All policies must comply with the following benefit standards. Benefit plan standards applicable to Medicare supplement policies and certificates issued to individuals eligible for Medicare before January 1, 2020, remain subject to the requirements of Rules 120-2-8-.07, 120-2-8-.08, and 120-2-8-.09.

1. Benefit Requirements. The standards and requirements of Rule 120-2-8-.09 shall apply to all Medicare supplement policies or certificates delivered or issued for delivery to individuals newly eligible for Medicare on or after January 1, 2020, with the following exceptions:
    a. Standardized Medicare supplement benefit Plan C is redesignated as Plan D and shall provide the benefits contained in Rule 120-2-8-.09(8)(e) but shall not provide

coverage for one hundred percent (100%) or any portion of the Medicare Part B deductible.

b. Standardized Medicare supplement benefit Plan F is redesignated as Plan G and shall provide the benefits contained in Rule 120-2-8-.09(8)(e) but shall not provide coverage for one hundred percent (100%) or any portion of the Medicare Part B deductible.

c. Standardized Medicare supplement benefit plans C, F, and F with High Deductible may not be offered to individuals newly eligible for Medicare on or after January 1, 2020.

d. Standardized Medicare supplement benefit Plan F With High Deductible is redesignated as Plan G With High Deductible and shall provide the benefits contained in Rule 120-2-8-.09(8)(e) but shall not provide coverage for one hundred percent (100%) or any portion of the Medicare Part B deductible; provided further that, the Medicare Part B deductible paid by the beneficiary shall be considered an out-of-pocket expense in meeting the annual high deductible.

2. Applicability to Certain Individuals. Rule 120-2-8-.09.1 applies to only individuals that are newly eligible for Medicare on or after January 1, 2020:

   a. By reason of attaining age 65 on or after January 1, 2020; or

   b. By reason of entitlement to benefits under part A pursuant to Section 226(b) or 226A of the Social Security Act, or who is deemed to be eligible for benefits under Section 226(a) of the Social Security Act on or after January 1, 2020.

3. Guaranteed Issue for Eligible Persons. For purposes of Rule 120-2-8-.12, in the case of any individual newly eligible for Medicare on or after January 1, 2020, any reference to a Medicare supplement policy C or F (including F With High Deductible) shall be deemed to be a reference to Medicare supplement policy D or G (including G With High Deductible), respectively, that meet the requirements of Rule 120-2-8-.09(l)(A).

4. Applicability to Waivered States. In the case of a State described in Section 1882(p)(6) of the Social Security Act ("waivered" alternative simplification states) MACRA prohibits the coverage of the Medicare Part B deductible for any Medicare supplement policy sold or issued to an individual that is newly eligible for Medicare on or after January 1, 2020.

5. Offer of Redesignated Plans to Individuals Other Than Newly Eligible. On or after January 1, 2020, the standardized benefit plans described in Rule 120-2-8-.09.1(l)(d) above may be offered to any individual who was eligible for Medicare prior to January 1, 2020, in addition to the standardized plans described in Rule 120-2-8-.09(5).

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.09.1
Authority: O.C.G.A. §§ 33-2-9, 33-43-3 through 33-43-6.

History. Original Rule entitled "Standard Medicare Supplement Benefit Plans for 2020 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery to Individuals Newly Eligible for Medicare on or After January 1, 2020" adopted. F. Mar. 20, 2020; eff. Apr. 13, 2020, as specified by the Agency.

Rule 120-2-8-.10. Medicare Select Policies and Certificates.

(1)

(a) This section shall apply to Medicare Select policies and certificates as defined in this section.

(b) No policy or certificate may be advertised as a Medicare Select policy or certificate unless it meets the requirements of this section.

(2) For the purposes of this section:

(a) "Complaint" means any dissatisfaction expressed by an individual concerning a Medicare Select issuer or its network providers.

(b) "Grievance" means dissatisfaction expressed in writing by an individual insured under a Medicare Select policy or certificate with the administration, claims practices, or provision of services concerning a Medicare Select issuer or its network providers.

(c) "Medicare Select Issuer" means an issuer offering, or seeking to offer, a Medicare Select policy or certificate.

(d) "Medicare Select Policy" or" Medicare Select Certificate" mean respectively a Medicare supplement policy or certificate that contains restricted network provisions.

(e) "Network Provider" means a provider of health care, or a group of providers of health care, which has entered into a written agreement with the issuer to provide benefits insured under a Medicare Select policy.

(f) "Restricted Network Provision" means any provision which conditions the payment of benefits, in whole or in part, on the use of network providers.

(g) "Service Area" means the geographic area approved by the commissioner within which an issuer is authorized to offer a Medicare Select policy.

(3) The Commissioner may authorize an issuer to offer a Medicare Select policy or certificate, pursuant to this section and Section 4358 of the Omnibus Budget Reconciliation Act (OBRA) of 1990 if the Commissioner finds that the issuer has satisfied all of the requirements of this regulation.

(4) A Medicare Select issuer shall not issue a Medicare Select policy or certificate in this state until its plan of operation has been approved by the Commissioner.

(5) A Medicare Select issuer shall file a proposed plan of operation with the Commissioner in a format prescribed by the Commissioner. The plan of operation shall contain at least the following information:

(a) Evidence that all covered services that are subject to restricted network provisions are available and accessible through network providers, including a demonstration that:

1. Services can be provided by network providers with reasonable promptness with respect to geographic location, hours of operation and after-hour care. The hours of operation and availability of after-hour care shall reflect usual practice in the local area. Geographic availability shall reflect the usual travel times within the community.

2. The number of network providers in the service area is sufficient, with respect to current and expected policyholders, either:

(i) To deliver adequately all services that are subject to a restricted network provision; or

(ii) To make appropriate referrals.

3. There are written agreements with network providers describing specific responsibilities.

4. Emergency care is available twenty-four (24) hours per day and seven (7) days per week.

5. In the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, there are written agreements with network providers prohibiting the providers from billing or otherwise seeking reimbursement from or recourse against any individual insured under a Medicare Select policy or certificate. This paragraph shall not apply to supplemental charges or coinsurance amounts as stated in the Medicare Select policy or certificate.

(b) A statement or map providing a clear description of the service area.

(c) A description of the grievance procedure to be utilized.

(d) A description of the quality assurance program, including:

1. The formal organizational structure;

2. The written criteria for selection, retention and removal of network providers; and

3. The procedures for evaluating quality of care provided by network providers, and the process to initiate corrective action when warranted.

(e) A list and description, by specialty, of the network providers.

(f) Copies of the written information proposed to be used by the issuer to comply with Subsection (9).

(g) Any other information requested by the Commissioner.

(6)

(a) A Medicare Select issuer shall file any proposed changes to the plan of operation, except for changes to the list of network providers, with the Commissioner prior to implementing the changes. Changes shall be considered approved by the Commissioner after thirty (30) days unless specifically disapproved.

(b) An updated list of network providers shall be filed with the Commissioner at least quarterly.

(7) A Medicare Select policy or certificate shall not restrict payment for covered services provided by non-network providers if:

(a) The services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury or a condition; and

(b) It is not reasonable to obtain services through a network provider.

(8) A Medicare Select policy or certificate shall provide payment for full coverage under the policy for covered services that are not available through network providers.

(9) A Medicare Select issuer shall make full and fair disclosure in writing of the provisions, restrictions, and limitations of the Medicare Select policy or certificate to each applicant. This disclosure shall include at least the following:

(a) An outline of coverage sufficient to permit the applicant to compare the coverage and premiums of the Medicare Select policy or certificate with:

1. Other Medicare supplement policies or certificates offered by the issuer; and

2. Other Medicare Select policies or certificates.

(b) A description (including address, phone number and hours of operation) of the network providers, including primary care physicians, specialty physicians, hospitals and other providers.

(c) A description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are utilized. Except to the extent specified in the policy or certificate, expenses incurred when using out-of-network providers do not count toward the out-of-pocket annual limit contained in plans K and L.

(d) A description of coverage for emergency and urgently needed care and other out-of-service area coverage.

(e) A description of limitations on referrals to restricted network providers and to other providers.

(f) A description of the policyholder's rights to purchase any other Medicare supplement policy or certificate otherwise offered by the issuer.

(g) A description of the Medicare Select issuer's quality assurance program and grievance procedure.

(10) Prior to the sale of a Medicare Select policy or certificate, a Medicare Select issuer shall obtain from the applicant a signed and dated form stating that the applicant has received the information provided pursuant to Subsection (9) of this section and that the applicant understands the restrictions of the Medicare Select policy or certificate.

(11) A Medicare Select issuer shall have and use procedures for hearing complaints and resolving written grievances from the subscribers. The procedures shall be aimed at mutual agreement for settlement and may include arbitration procedures.

(a) The grievance procedure shall be described in the policy and certificates and in the outline of coverage.

(b) At the time the policy or certificate is issued, the issuer shall provide detailed information to the policyholder describing how a grievance may be registered with the issuer.

(c) Grievances shall be considered in a timely manner and shall be transmitted to appropriate decision-makers who have authority to fully investigate the issue and take corrective action.

(d) If a grievance is found to be valid, corrective action shall be taken promptly.

(e) All concerned parties shall be notified about the results of a grievance.

(f) The issuer shall report no later than each March 31st to the Commissioner regarding its grievance procedure. The report shall be in a format prescribed by the Commissioner and shall contain the number of grievances filed in the past year and a summary of the subject, nature and resolution of such grievances.

(12) At the time of initial purchase, a Medicare Select issuer shall make available to each applicant for a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate otherwise offered by the issuer.

(13)

(a) At the request of an individual insured under a Medicare Select policy or certificate, a Medicare Select issuer shall make available to the individual insured the opportunity to purchase a Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make the policies or certificates available without requiring evidence of insurability after the Medicare Select policy or certificate has been in force for six (6) months.

(b) For the purposes of this subsection, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for at-home recovery services or coverage for Part B excess charges.

(14) Medicare Select policies and certificates shall provide for continuation of coverage in the event the Secretary of Health and Human Services determines that Medicare Select policies and certificates issued pursuant to this section should be discontinued due to either the failure of the Medicare Select Program to be reauthorized under law or its substantial amendment.

(a) Each Medicare Select issuer shall make available to each individual insured under a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate offered by the issuer that has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make the policies and certificates available without requiring evidence of insurability.

(b) For the purposes of this subsection, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for at-home recovery services or coverage for Part B excess charges.

(15) A Medicare Select issuer shall comply with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare Select Program.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3 to 33-43-6.
History. Original Rule entitled "Severability Provision" adopted. F. Oct. 28, 1980; eff. Nov. 17, 1980.
Repealed: New Rule entitled "Filing Requirements for Out-of-State Group Policies" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989.
Repealed: New Rule entitled "Loss Ratio Standards" adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Medicare Select Policies and Certificates" adopted. F. July 9, 1992; eff. July 29, 1992.
Amended: F. Jan. 8, 1993; eff. Jan. 28, 1993.
Amended: ER. 120-2-8-0.4-.10 adopted. F. Apr. 30, 1996; eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule of same title adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.10 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.11. Open Enrollment.

(1) An issuer shall not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in this state, nor discriminate in the pricing of a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the six (6) month period beginning with the first day of the first month in which an individual is both 65 years of age or older and is enrolled for benefits under Medicare Part B. Each Medicare supplement policy and certificate currently available from an insurer shall be made available to all applicants who qualify under this subsection.

(2)

(a) If an applicant qualifies under Subsection (1) and submits an application during the time period referenced in Subsection (1) and, as of the date of application, has had a continuous period of creditable coverage of at least six (6) months, the issuer shall not exclude benefits based on a preexisting condition.

(b) If the applicant qualifies under Subsection (1) and submits an application during the time period referenced in Subsection (1) and, as of the date of application, has had a continuous period of creditable coverage that is less than six (6) months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The Secretary shall specify the manner of the reduction under this subsection.

(3) Except as provided in Subsection (2) and Sections 120-2-8-.12 and 120-2-8-.23, Subsection (1) shall not be construed as preventing the exclusion of benefits under a policy, during the first six (6) months, based on a preexisting condition for which the policyholder or certificateholder received treatment or was otherwise diagnosed during the six (6) months before the coverage became effective.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.11
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3 to 33-43-6.
History. Original Rule entitled "Failure to Comply; Penalties" adopted. F. Oct. 28, 1980; eff. Nov. 17, 1980.
Repealed: New Rule entitled "Prohibited Compensation for Replacement with the Same Company" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989.
Repealed: New Rule entitled "Filing Requirements for Out-of-State Group Policies" adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Open Enrollment" adopted. F. July 9, 1992; eff. July 29, 1992.
Amended: ER. 120-2-8-0.4-.11 adopted. F. Apr. 30, 1996; eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule of same title adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.11 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.12. Guaranteed Issue for Eligible Persons.

(1) Guaranteed Issue

(a) Eligible persons are those individuals described in Subsection (2) who seek to enroll under the policy during the period specified in Subsection (3), and who submit evidence of the date of termination, disenrollment, or Medicare Part D enrollment with the application for a Medicare supplement policy.

(b) With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement policy described in Subsection (5) that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy.

(2) Eligible Persons. An eligible person is an individual described in any of the following paragraphs:

(a) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare; and the plan terminates, or the plan ceases to provide all such supplemental health benefits to the individual;

(b) The individual is enrolled with a Medicare Advantage organization under a Medicare Advantage plan under part C of Medicare, and any of the following circumstances apply, or the individual is 65 years of age or older and is enrolled with a Program of All-Inclusive Care for the Elderly (PACE) provider under Section 1894 of the Social Security Act, and there are circumstances similar to those described below that would permit discontinuance of the individual's enrollment with such provider if such individual were enrolled in a Medicare Advantage plan:

1. The certification of the organization or plan has been terminated;

2. The organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;

3. The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the Secretary, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856), or the plan is terminated for all individuals within a residence area;

4. The individual demonstrates, in accordance with guidelines established by the Secretary, that:

   (i) The organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or

   (ii) The organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or

5. The individual meets such other exceptional conditions as the Secretary may provide.

(c)

1. The individual is enrolled with:

   (i) An eligible organization under a contract under Section 1876 of the Social Security Act (Medicare cost);

(ii) A similar organization operating under demonstration project authority, effective for periods before April 1, 1999;

(iii) An organization under an agreement under Section 1833(a)(1)(A) of the Social Security Act (health care prepayment plan); or

(iv) An organization under a Medicare Select policy; and

2. The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under Section 120-2-8-.12(2)(b).

(d) The individual is enrolled under a Medicare supplement policy and the enrollment ceases because:

1. (i) Of the insolvency of the issuer or bankruptcy of the nonissuer organization; or

(ii) Of other involuntary termination of coverage or enrollment under the policy;

2. The issuer of the policy substantially violated a material provision of the policy; or

3. The issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual;

(e) 1. The individual was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any Medicare Advantage organization under a Medicare Advantage plan under part C of Medicare, any eligible organization under a contract under Section 1876 of the Social Security Act (Medicare cost), any similar organization operating under demonstration project authority, any PACE provider under Section 1894 of the Social Security Act or a Medicare Select policy; and

2. The subsequent enrollment under subparagraph 1. is terminated by the enrollee during any period within the first twelve (12) months of such subsequent enrollment (during which the enrollee is permitted to terminate such subsequent enrollment under Section 1851(e) of the federal Social Security Act); or

(f) The individual, upon first becoming eligible for benefits under part A of Medicare at age 65, enrolls in a Medicare Advantage plan under part C of Medicare, or with a PACE provider under Section 1894 of the Social Security Act, and disenrolls from the plan or program by not later than twelve (12) months after the effective date of enrollment.

(g) The individual enrolls in a Medicare Part D plan during the initial enrollment period and, at the time of enrollment in Part D, was enrolled under a Medicare supplement policy that covers outpatient prescription drugs and the individual terminates enrollment in the Medicare supplement policy and submits evidence of enrollment in Medicare Part D along with the application for a policy described in Subsection (5)(d).

(3) Guaranteed Issue Time Periods.

(a) In the case of an individual described in Subsection (2)(a), the guaranteed issue period begins on the later of:

(i) the date the individual receives a notice of termination or cessation of all supplemental health benefits (or, if a notice is not received, notice that a claim has been denied because of termination or cessation); or

(ii) the date that the applicable coverage terminates or ceases; and ends sixty-three (63) days thereafter;

(b) In the case of an individual described in Subsection (2)(b), (2)(c), (2)(e) or (2)(f) whose enrollment is terminated involuntarily, the guaranteed issue period begins on the date that the individual receives a notice of termination and ends sixty-three (63) days after the date the applicable coverage is terminated;

(c) In the case of an individual described in Subsection (2)(d)1., the guaranteed issue period begins on the earlier of:

(i) the date that the individual receives a notice of termination, a notice of the issuer's bankruptcy or insolvency, or other such similar notice if any, and

(ii) the date that the applicable coverage is terminated, and ends on the date that is sixty-three (63) days after the date the coverage is terminated;

(d) In the case of an individual described in Subsection (2)(b), (2)(d)2., (2)(d)3., (2)(e) or (2)(f) who disenrolls voluntarily, the guaranteed issue period begins on the date that is sixty (60) days before the effective date of the disenrollment and ends on the date that is sixty-three (63) days after the effective date; and

(e) In the case of an individual described in Subsection (2)(g), the guaranteed issue period begins on the date the individual receives notice pursuant to Section

1882(v)(2)(B) of the Social Security Act from the Medicare supplement issuer during the sixty-day period immediately preceding the initial Part D enrollment period and ends on the date that is sixty-three (63) days after the effective date of the individual's coverage under Medicare part D; and

(f) In the case of an individual described in Subsection (2) but not described in the preceding provisions of this Subsection, the guaranteed issue period begins on the effective date of disenrollment and ends on the date that is sixty-three (63) days after the effective date.

(4) Extended Medigap Access for Interrupted Trial Periods.

(a) In the case of an individual described in Subsection (2)(e) (or deemed to be so described, pursuant to this paragraph) whose enrollment with an organization or provider described in Subsection (2)(e)1. is involuntarily terminated within the first twelve (12) months of enrollment, and who, without an intervening enrollment, enrolls with another such organization or provider, the subsequent enrollment shall be deemed to be an initial enrollment described in Section 120-2-8-.12(2)(e);

(b) In the case of an individual described in Subsection 2(e) (or deemed to be so described, pursuant to this paragraph) whose enrollment with a plan or in a program described in Subsection (2)(f) is involuntarily terminated within the first twelve (12) months of enrollment, and who, without an intervening enrollment, enrolls in another such plan or program, the subsequent enrollment shall be deemed to be an initial enrollment described in Section 120-2-8-.12(2)(f); and

(c) For purposes of Subsections (2)(e) and (2)(f), no enrollment of an individual with an organization or provider described in Subsection (2)(e)1., or with a plan or in a program described in Subsection (2)(f), may be deemed to be an initial enrollment under this paragraph after the two-year period beginning on the date on which the individual first enrolled with such an organization, provider, plan or program.

(5) Products to Which Eligible Person are Entitled. The Medicare supplement policy to which eligible persons are entitled under:

(a) Section 120-2-8-.12(2)(a), (b), (c) and (d) is a Medicare supplement policy that has a benefit package classified as Plan A, B, C, F (including F with an high deductible), K or L offered by any issuer.

(b)

1. Subject to Subparagraph 2., Section 120-2-8-.12(2)(e) is the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in Paragraph (a);

2. After December 31, 2005, if the individual was most recently enrolled in a Medicare supplement policy with an outpatient prescription drug benefit, a Medicare supplement policy described in this subparagraph is:

   (i) The policy available from the same issuer but modified to remove outpatient prescription drug coverage; or

   (ii) At the election of the policyholder, an A, B, C, F (including F with a high deductible), K or L policy that is offered by any issuer;

(c) Section 120-2-8-.12(2)(f) shall include any Medicare supplement policy offered by any issuer.

(d) Section 120-2-8-.12(2)(g) is a Medicare supplement policy that has a benefit package classified as Plan A, B, C, F (including F with a high deductible), K or L, and that is offered and is available for issuance to new enrollees by the same issuer that issued the individual's Medicare supplement policy with outpatient prescription drug coverage.

(6) Notification provisions.

(a) At the time of an event described in Subsection (2) of this section because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement policies under Subsection (1). Such notice shall be communicated contemporaneously with the notification of termination.

(b) At the time of an event described in Subsection (2) of this section because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement policies under Section 120-2-8-.12(1). Such notice shall be communicated within ten working days of the issuer receiving notification of disenrollment.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.12
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3, 33-43-4, 33-43-5, 33-43-6.
History. Original Rule entitled "Required Disclosure Provisions" F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule entitled "Permitted Compensation Arrangements" adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Standards for Claims Payment" adopted. F. Jul. 9, 1992; eff. Jul. 29, 1992.

Amended: ER. 120-2-8-0.4-.12 adopted. F. Apr. 30, 1996, eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule entitled "Guaranteed Issue for Eligible Persons" adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.12 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.13. Standards for Claims Payment.

(1) An issuer shall comply with Section 1882(c)(3) of the Social Security Act (as enacted by Section 4081(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1987 (OBRA) 1987, Pub. L. No. 100-203) by:

(a) Accepting a notice from a Medicare carrier on dually assigned claims submitted by participating physicians and suppliers as a claim for benefits in place of any other claim form otherwise required and making a payment determination on the basis of the information contained in that notice;

(b) Notifying the participating physician or supplier and the beneficiary of the payment determination;

(c) Paying the participating physician or supplier directly;

(d) Furnishing, at the time of enrollment, each enrollee with a card listing the policy name, number and a central mailing address to which notices from a Medicare carrier may be sent;

(e) Paying user fees for claim notices that are transmitted electronically or otherwise; and

(f) Providing to the Secretary of Health and Human Services, at least annually, a central mailing address to which all claims may be sent by Medicare carriers.

(2) Compliance with the requirements set forth in Subsection (1) above shall be certified on the Medicare supplement insurance experience reporting form.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.13
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3, 33-43-4, 33-43-5, 33-43-6.
History. Original Rule entitled "Requirements for Replacement" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule entitled "Required Disclosure Provisions" adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Standards for Claims Payment" adopted. F. Jul. 9, 1992; eff. Jul. 29, 1992.
Amended: ER. 120-2-8-0.4-.13 adopted. F. Apr. 30, 1996, eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule entitled "Loss Ratio Standards and Refund or Credit of Premium" adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule entitled "Standards for Claims Payment" adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.

Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.13 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.14. Loss Ratio Standards and Refund or Credit of Premium.

(1) Loss Ratio Standards

(a)

1. A Medicare Supplement policy form or certificate form shall not be delivered or issued for delivery unless the policy form or certificate form can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to policyholders and certificate holders in the form of aggregate benefits (not including anticipated refunds or credits) provided under the policy form or certificate form:

   (i) At least seventy-five percent (75%) of the aggregate amount of premiums earned in the case of group policies; or

   (ii) At least sixty-five percent (65%) of the aggregate amount of premiums earned in the case of individual policies;

2. Calculated on the basis of incurred claims experience, or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis, and earned premiums for the period and in accordance with accepted actuarial principles and practices. Incurred health care expenses where coverage is provided by a health maintenance organization shall not include:

   (i) Home office and overhead costs;

   (ii) Advertising costs;

   (iii) Commissions and other acquisition costs;

   (iv) Taxes;

   (v) Capital costs;

   (vi) Administrative costs; and

   (vii) Claims processing costs.

(b) All filings of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that

the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

(c) For purposes of applying Subsection (1)(a) of this section and Subsection (3)(c) of Section 120-2-8-.15 only, policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies.

(d) For policies issued prior to July 29, 1992, expected claims in relation to premiums shall meet:

1. The originally filed anticipated loss ratio when combined with the actual experience since inception;

2. The appropriate loss ratio requirement from Subsection (1)(a)1.(i) and (ii) when combined with actual experience beginning with the effective date to date; and

3. The appropriate loss ratio requirement from Subsection (1)(a)1.(i) and (ii) over the entire future period for which the rates are computed to provide coverage.

(2) Refund or Credit Calculation.

(a) An issuer shall collect and file with the Commissioner by May 31 of each year the data contained in the applicable reporting form contained in Appendix A for each type in a standard Medicare supplement benefit plan.

(b) If on the basis of the experience as reported the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since inception (ratio 3), then a refund or credit calculation is required. The refund calculation shall be done on a statewide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded.

(c) For the purposes of this section, policies or certificates issued prior to July 29, 1992, the issuer shall make the refund or credit calculation separately for all individual policies (including all group policies subject to an individual loss ratio standard when issued) combined and all other group policies combined for experience after the effective date of this regulation. The first report shall be due by May 31, 2007 of this amendment.

(d) A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credited exceeds a de minimis level. The refund shall include interest from the end of the calendar

year to the date of the refund or credit at a rate specified by the Secretary of Health and Human Services, but in no event shall it be less than the average rate of interest for thirteen-week Treasury notes. A refund or credit against premiums due shall be made by September 30 following the experience year upon which the refund or credit is based.

(3) Annual filing of Premium Rates. An issuer of Medicare supplement policies and certificates issued before or after the effective date of this regulation in this state shall file annually its rates, rating schedule and supporting documentation including ratios of incurred losses to earned premiums by policy duration for approval by the Commissioner in accordance with the filing requirements and procedures prescribed by the Commissioner. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves. An expected third-year loss ratio that is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three (3) years. As soon as practicable, but prior to the effective date of enhancements in Medicare benefits, every issuer of Medicare supplement policies or certificates in this state shall file with the Commissioner, in accordance with the applicable filing procedures of this state:

(a)

1. Appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable policies or certificates. The supporting documents necessary to justify the adjustment shall accompany the filing.

2. An issuer shall make premium adjustments necessary to produce an expected loss ratio under the policy or certificate to conform to minimum loss ratio standards for Medicare supplement policies and that are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the issuer for the Medicare supplement policies or certificates. No premium adjustment that would modify the loss ratio experience under the policy other than the adjustments described herein shall be made with respect to a policy at any time other than upon its renewal date or anniversary date.

3. If an issuer fails to make premium adjustments acceptable to the Commissioner, the Commissioner may order premium adjustments, refunds or premium credits deemed necessary to achieve the loss ratio required by this section.

(b) Any appropriate riders, endorsements or policy forms needed to accomplish the Medicare supplement policy or certificate modifications necessary to eliminate benefit duplications with Medicare. The riders, endorsements or policy forms shall

provide a clear description of the Medicare supplement benefits provided by the policy or certificate.

(4) Public Hearings. The Commissioner may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for a policy form or certificate form issued before or after the effective date if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance is made without consideration of any refund or credit for the reporting period. Public notice of the hearing shall be furnished in a manner deemed appropriate by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.14
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3, 33-43-4, 33-43-5, 33-43-6.
History. Original Rule entitled "Filing Requirements for Advertising" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule entitled "Requirements for Application Forms and Replacement Coverage" adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Filing and Approval of Policies and Certificates and Premium Rates" adopted. F. Jul. 9, 1992; eff. Jul. 29, 1992.
Amended: F. Jan. 8, 1993; eff. Jan. 28, 1993.
Amended: ER. 120-2-8-0.4-.14 adopted. F. Apr. 30, 1996, eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule entitled "Loss Ratio Standards and Refund or Credit of Premium" adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.14 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.15. Filing and Approval of Policies and Certificates and Premium Rates.

(1) An issuer shall not deliver or issue for delivery a policy or certificate to a resident of this state unless the policy form or certificate form has been filed with and approved by the Commissioner in accordance with filing requirements and procedures prescribed by the Commissioner.

(2) An issuer shall file any riders or amendments to policy or certificate forms to delete outpatient prescription drug benefits as required by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 only with the Commissioner in the state in which the policy or certificate was issued.

(3) An issuer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule and supporting documentation have been filed with and approved by the Commissioner in accordance with the filing requirements and procedures prescribed by the Commissioner.

(4) (a) Except as provided in Paragraph (b) of this subsection, an issuer shall not file for approval more than one form of a policy or certificate of each type for each standard Medicare supplement benefit plan.

(b) An issuer may offer, with the approval of the Commissioner, up to four (4) additional policy forms or certificate forms of the same type for the same standard Medicare supplement benefit plan, one for each of the following cases:

1. The inclusion of new or innovative benefits;

2. The addition of either direct response or agent marketing methods;

3. The addition of either guaranteed issue or underwritten coverage;

4. The offering of coverage to individuals eligible for Medicare by reason of disability.

(c) For the purposes of this section, a" type" means an individual policy, a group policy, an individual Medicare Select policy, or a group Medicare Select policy.

(5) (a) Except as provided in Paragraph (a)(1), an issuer shall continue to make available for purchase any policy form or certificate form issued after the effective date of this regulation that has been approved by the Commissioner. A policy form or certificate form shall not be considered to be available for purchase unless the issuer has actively offered it for sale in the previous twelve (12) months.

1. An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the Commissioner in writing its decision at least thirty (30) days prior to discontinuing the availability of the form of the policy or certificate. After receipt of the notice by the Commissioner, the issuer shall no longer offer for sale the policy form or certificate form in this state.

2. An issuer that discontinues the availability of a policy form or certificate form pursuant to Subparagraph 1. shall not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for a period of five (5) years after the issuer provides notice to the Commissioner of the discontinuance. The period of discontinuance may be reduced if the Commissioner determines that a shorter period is appropriate.

(b) The sale or other transfer of Medicare supplement business to another issuer shall be considered a discontinuance for the purposes of this subsection.

(c) A change in the rating structure or methodology shall be considered a discontinuance under Paragraph (a) unless the issuer complies with the following requirements:

1. The issuer provides an actuarial memorandum, in a form and manner prescribed by the Commissioner, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and existing rates.

2. The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The Commissioner may approve a change to the differential that is in the public interest.

(6)

(a) Except as provided in Paragraph (b), the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in Section 120-2-8-.14.

(b) Forms assumed under an assumption reinsurance agreement shall not be combined with the experience of other forms for purposes of the refund or credit calculation.

(7) An issuer shall not present for filing or approval a rate structure for its Medicare supplement policies or certificates issued after the effective date of the amendment of this regulation based upon attained age rating as a structure or methodology.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.15
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3, 33-43-4, 33-43-5, 33-43-6.
History. Original Rule entitled "Separability" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule entitled "Filing Requirements for Advertising" adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule, entitled "Permitted Compensation Arrangements" adopted. F. Jul. 9, 1992; eff. Jul. 29, 1992.
Amended: ER. 120-2-8-0.4-.15 adopted. F. Apr. 30, 1996, eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule entitled "Filing and Approval of Policies and Certificates and Premium Rates" adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.15 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.16. Permitted Compensation Arrangements.

(1) An issuer or other entity may provide commission or other compensation to an agent or other representative for the sale of a Medicare supplement policy or certificate only if the first year commission or other first year compensation is no more than 200 percent of the commission or other compensation paid for selling or servicing the policy or certificate in the second year or period.

(2) The commission or other compensation provided in subsequent (renewal) years must be the same as that provided in the second year or period and must be provided for no fewer than five (5) renewal years.

(3) No issuer or other entity shall provide compensation to its agents or other producers and no agent or producer shall receive compensation greater than the renewal compensation payable by the replacing issuer on renewal policies or certificates if an existing policy or certificate is replaced.

(4) For purposes of this section," compensation" includes pecuniary or non-pecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate including but not limited to bonuses, gifts, prizes, awards, and finders fees.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.16
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3, 33-43-4, 33-43-5, 33-43-6.
History. Original Rule entitled "Standards for Marketing" adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Required Disclosure Provisions" adopted. F. Jul. 9, 1992; eff. Jul. 29, 1992.
Amended: F. Jan. 8, 1993; eff. Jan. 28, 1993.
Amended: ER. 120-2-8-0.4-.16 adopted. F. Apr. 30, 1996; eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule entitled "Permitted Compensation Arrangements" adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.16 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.17. Required Disclosure Provisions.

(1) General Rules.

(a) Medicare supplement policies and certificates shall include a renewal or continuation provision. The language or specifications of the provision shall be consistent with the type of contract issued. Such provision shall be appropriately captioned and shall appear on the first page of the policy, and shall include any reservation by the issuer of the right to change premiums.

(b) Except for riders or endorsements by which the issuer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy, or is required to reduce or eliminate benefits to avoid

duplication of Medicare benefits, all riders or endorsements added to a Medicare supplement policy after date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of policy or certificate issue, any rider or endorsement that increases benefits or coverage with a concomitant increase in premium during the policy term shall be agreed to in writing signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement policies, or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy.

(c) Medicare supplement policies or certificates shall not provide for the payment of benefits based on standards described as "usual and customary," "reasonable and customary" or words of similar import.

(d) If a Medicare supplement policy or certificate contains any limitations with respect to preexisting conditions, such limitations shall appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations."

(e) Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the policyholder or certificateholder shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the insured person is not satisfied for any reason.

(f)

1. Issuers of accident and sickness policies or certificates which provide hospital or medical expense coverage on an expense incurred or indemnity basis to persons eligible for Medicare shall provide to those applicants a Guide to Health Insurance for People with Medicare in the form developed jointly by the National Association of Insurance Commissioners and CMS and in a type size no smaller than 12 point type. Delivery of the Guide shall be made whether or not the policies or certificates are advertised, solicited or issued as Medicare supplement policies or certificates as defined in this regulation. Except in the case of direct response issuers, delivery of the Guide shall be made to the applicant at the time of application and acknowledgment of receipt of the Guide shall be obtained by the issuer. Direct response issuers shall deliver the Guide to the applicant upon request but not later than at the time the policy is delivered.

2. For the purposes of this section," form" means the language, format, type size, type proportional spacing, bold character, and line spacing.

(2) Notice Requirements.

(a) As soon as practicable, but no later than thirty (30) days prior to the annual effective date of any Medicare benefit changes, an issuer shall notify its policyholders and certificateholders of modifications it has made to Medicare supplement insurance policies or certificates in a format acceptable to the Commissioner. The notice shall:

1. Include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement policy or certificate, and

2. Inform each policyholder or certificateholder as to when any premium adjustment is to be made due to changes in Medicare.

(b) The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

(c) The notices shall not contain or be accompanied by any solicitation.

(3) MMA Notice Requirements. Issuers shall comply with any notice requirements of the Medicare Prescription Drug, Improvement and Modernization Act of 2003.

(4) Outline of Coverage Requirements for Medicare Supplement Policies.

(a) Issuers shall provide an outline of coverage to all applicants at the time application is presented to the prospective applicant and, except for direct response policies, shall obtain an acknowledgement of receipt of the outline from the applicant; and

(b) If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany such policy or certificate when it is delivered and contain the following statement, in no less than twelve (12) point type, immediately above the company name:

"Notice: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."

(c) The outline of coverage provided to applicants pursuant to this section consists of four parts: a cover page, premium information, disclosure pages, and charts displaying the features of each benefit plan offered by the issuer. The outline of coverage shall be in the language and format prescribed below in no less than twelve (12) point type. All plans shall be shown on the cover page, and the plans that are offered by the issuer shall be prominently identified. Premium information for plans that are offered shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and

mode shall be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated.

(d) The following items shall be included in the outline of coverage in the order prescribed below:

Benefit Chart of Medicare Supplement Plans Sold With Effective Dates for Coverage on or After June 1, 2010

This chart shows the benefits included in each of the standard Medicare supplement plans. Every company must make Plan "A" available. Some plans may not be available in your state.

Plans E, H, I, and J are no longer available for sale. [This sentence shall not appear after June 1, 2011.]

Basic Benefits:

Hospitalization -Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.

Medical Expenses -Part B coinsurance (generally 20% of Medicare-approved expenses) or co-payments for hospital outpatient services. Plans K, L and N require insureds to pay a portion of Part B coinsurance or co-payments.

Blood -First three pints of blood each year.

Hospice- Part A coinsurance

A	B	C	D	F	F*	G	K	L
Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance*		Basic, including 100% Part B coinsurance	Hospitalization and preventive care paid at 100%; other basic benefits paid at 50%	Hospitalizatio and preventiv care paid at 100%; other basic benefits paid at 75%

		Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance	50% Skilled Nursing Facility Coinsurance	75% Skilled Nursing Facility Coinsurance
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	50% Part A Deductible	75% Part A Deductible
		Part B Deductible		Part B Deductible			
				Part B Excess (100%)	Part B Excess (100%)		
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency		
*Plan F also has an option called a high deductible plan F. This high deductible plan pays the same benefits as Plan F after one has paid a calendar year [$2000] deductible. Benefits from high deductible plan F will not begin until out-of-pocket expenses exceed [$2000]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but do not include the plan's separate foreign travel emergency deductible.						Out-of-pocket limit $[4620]; paid at 100% after limit reached	Out-of-pocket limit $[2310]; paid at 100% after limit reached

PREMIUM INFORMATION **[Boldface Type]**

We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this State. [If the premium is based on the increasing age of the insured, include information specifying when premiums will change.]

DISCLOSURES [Boldface Type]

Use this outline to compare benefits and premiums among policies.

This outline shows benefits and premiums of policies sold for effective dates on or after June 1, 2010. Policies sold for effective dates prior to June 1, 2010 have different benefits and premiums. Plans E, H, I, and J are no longer available for sale. [This paragraph shall not appear after June 1, 2011.]

READ YOUR POLICY VERY CAREFULLY [Boldface Type]

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

RIGHT TO RETURN POLICY [Boldface Type]

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

POLICY REPLACEMENT [Boldface Type]

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

NOTICE [Boldface Type]

This policy may not fully cover all of your medical costs.

[for agents:]

Neither [insert company's name] nor its agents are connected with Medicare.

[for direct response:]

[insert company's name] is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security Office or consult *Medicare and You* for more details.

COMPLETE ANSWERS ARE VERY IMPORTANT [Boldface Type]

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. No more than four plans may be shown on one chart. For purposes of illustration, charts for each

plan are included in this regulation. An issuer may use additional benefit plan designations on these charts pursuant to Section 9.1D of this regulation.]

[Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the commissioner.]

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PLAN A

MEDICARE (PART A)-HOSPITAL SERVICES-PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies	All but $[1068]	$0	$[1068](Part A deductible)
First 60 days	All but $[267] a day	$[267] a day	$0
61st thru 90th day	All but $[534] a day	$[534] a day	$0
91st day and after:	$0	100% of Medicare eligible expenses	$0**
-While using 60 lifetime reserve days	$0		All costs
-Once lifetime reserve days are used:		$0	
-Additional 365 days			
-Beyond the additional 365 days			
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility	All approved amounts	$0	$0
	All but $[133.50] a day	$0	Up to $[133.50] a day
	$0	$0	All costs

Within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after			
BLOOD First 3 pints Additional amounts	$0 100%	3 pints $0	$0 $0
HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/ coinsurance for out-patient drugs and inpatient respite care	Medicare co-payment/ coinsurance	$0

**** NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN A

MEDICARE (PART B)-MEDICAL SERVICES-PER CALENDAR YEAR

* Once you have been billed $[135] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,	$0 Generally 80%	$0 Generally 20%	$[135] (Part B deductible) $0

First $[135] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts			
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All costs
BLOOD First 3 pints Next $[135] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	$0 $0 80%	All costs $0 20%	$0 $[135] (Part B deductible) $0
CLINICAL LABORATORYSERVICES-TESTS FOR DIAGNOSTIC SERVICES	100%	$0	$0

PARTS A & B

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
HOME HEALTH CARE MEDICARE APPROVED SERVICES Medically necessary skilled care services and medical supplies -Durable medical equipment First $[135] of Medicare	100% $0 80%	$0 $0 20%	$0 $[135] (Part B deductible) $0

Approved Amounts* Remainder of Medicare Approved Amounts			

PLAN B

MEDICARE (PART A)-HOSPITAL SERVICES-PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies	All but $[1068]	$[1068](Part A deductible)	$0
First 60 days	All but $[267] a day	$[267] a day	$0
61st thru 90th day	All but $[534] a day	$[534] a day	$0
91st day and after:	$0	100% of Medicare eligible expenses	$0**
-While using 60 lifetime reserve days	$0	$0	All costs
-Once lifetime reserve days are used:			
-Additional 365 days			
-Beyond the additional 365 days			
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital	All approved amounts	$0	$0
First 20 days	All but $[133.50] a day	$0	Up to $[133.50] a day
	$0	$0	All costs

21st thru 100th day 101st day and after			
BLOOD First 3 pints Additional amounts	$0 100%	3 pints $0	$0 $0
HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness	All but very limited co-payment/ coinsurance for out-patient drugs and inpatient respite care	Medicare co-payment/ coinsurance	$0

**** NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN B

MEDICARE (PART B)-MEDICAL SERVICES-PER CALENDAR YEAR

* Once you have been billed $[135] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, F First $[135] of Medicare Approved Amounts*	$0 Generally 80%	$0 Generally 20%	$[135] (Part B deductible) $0

Remainder of Medicare Approved Amounts			
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All costs
BLOOD First 3 pints Next $[135] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	$0 $0 80%	All costs $0 20%	$0 $[135] (Part B deductible) $0
CLINICAL LABORATORY **SERVICES-**TESTS FOR DIAGNOSTIC SERVICES	100%	$0	$0

PARTS A & B

SERVICES	**MEDICARE PAYS**	**PLANPAYS**	**YOU PAY**
HOME HEALTH CARE MEDICARE APPROVED SERVICES Medically necessary skilled care services and medical supplies -Durable medical equipment First $[135] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	100% $0 80%	$0 $0 20%	$0 $[135] (Part B deductible) $0

PLAN C

MEDICARE (PART A)-HOSPITAL SERVICES-PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: -While using 60 lifetime reserve days -Once lifetime reserve days are used: Additional 365 days -Beyond the additional 365 days	All but $[1068] All but $[267] a day All but $[534] a day $0 $0	$[1068](Part A deductible) $[267] a day $[534] a day 100% of Medicare eligible expenses $0	$0 $0 $0 $0** All costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but $[133.50] a day $0	$0 Up to $[133.50] a day $0	$0 $0 All costs
BLOOD First 3 pints Additional amounts	$0 100%	3 pints $0	$0 $0

HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/ coinsurance for out-patient drugs and inpatient respite care	Medicare co-payment/ coinsurance	$0

**** NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN C

MEDICARE (PART B)-MEDICAL SERVICES-PER CALENDAR YEAR

* Once you have been billed $[135] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First $[135] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	$0 Generally 80%	$[135] (Part B deductible) Generally 20%	$0 $0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All costs
BLOOD First 3 pints	$0 $0	All costs	$0 $0

Next $[135] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	80%	$[135] (Part B deductible) 20%	$0
CLINICAL LABORATORY **SERVICES-**TESTS FOR DIAGNOSTIC SERVICES	100%	$0	$0

PARTS A & B

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
HOME HEALTH CARE MEDICARE APPROVED SERVICES Medically necessary skilled care services and medical supplies -Durable medical equipment First $[135] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	100% $0 80%	$0 $[135](PartB deductible) 20%	$0 $0 $0

OTHER BENEFITS-NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
FOREIGN TRAVEL- NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the	$0 $0	$0 80% to a lifetime maximum benefit of $50,000	$250 20% and amounts over the $50,000 lifetime maximum

first 60 days of each trip outside the USA First $250 each calendar year Remainder of Charges			

PLAN D

MEDICARE (PART A)-HOSPITAL SERVICES-PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies		$[1068] (Part A deductible)	$0
First 60 days	All but $[1068]	$[267] a day	$0
61st thru 90th day	All but $[267] a day	$[534] a day $0	$0
91st day and after:	All but $[534] a day	100% of Medicare eligible expenses	$0**
-While using 60 lifetime reserve days	$0	$0	All costs
-Once lifetime reserve days are used:	$0		
Additional 365 days			
-Beyond the additional 365 days			
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital	All approved amounts	$0	$0
	All but $[133.50] a day	Up to $[133.50] a day	$0
First 20 days	$0	$0	All costs

21st thru 100th day 101st day and after			
BLOOD First 3 pints Additional amounts	$0 100%	3 pints $0	$0 $0
HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness	All but very limited co-payment/ coinsurance for out-patient drugs and inpatient respite care	Medicare co-payment/ coinsurance	$0

**** NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN D

MEDICARE (PART B)-MEDICAL SERVICES-PER CALENDAR YEAR

* Once you have been billed $[135] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First $[135] of Medicare Approved Amounts*	$0 Generally 80%	$0 Generally 20%	$[135] (Part B deductible) $0

Remainder of Medicare Approved Amounts			
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All costs
BLOOD First 3 pints Next $[135] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	$0 $0 80%	All costs $0 20%	$0 $[135] (Part B deductible) $0
CLINICAL LABORATORY **SERVICES-**TESTS FOR DIAGNOSTIC SERVICES	100%	$0	$0
HOME HEALTH CARE MEDICARE APPROVED SERVICES Medically necessary skilled care services and medical supplies -Durable medical equipment First $[135] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	100% $0 80%	$0 $0 20%	$0 $[135] (Part B deductible) $0

OTHER BENEFITS-NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY

FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA	$0	$0	$250
First $250 each calendar year	$0	80% to a lifetime maxi-mum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum
Remainder of charges			

PLAN F or HIGH DEDUCTIBLE PLAN F

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

[**This high deductible plan pays the same benefits as Plan F after one has paid a calendar year [$2000] deductible. Benefits from the high deductible plan F will not begin until out-of-pocket expenses are [$2000]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.]

SERVICES	**MEDICARE PAYS**	[AFTER YOU PAY **$[2000] DEDUCTIBLE,**]** **PLANPAYS**	**[IN ADDITION TO $[2000] DEDUCTIBLE,**]** **YOU PAY**
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies	All but $[1068]	$[1068] (Part A deductible)	$0
First 60 days	All but $[267] a day	$[267] a day	$0
61st thru 90th day	All but $[534] a day	$[534] a day	$0
91st day and after:	$0	100% of Medicare eligible expenses	$0***
	$0	$0	All costs

-While using 60 Lifetime reserve days Once lifetime reserve days are used: -Additional 365 days Beyond the additional 365 days			
SKILLED NURSING **FACILITY CARE*** You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but $[133.50] a day $0	$0 Up to $[133.50] a day $0	$0 $0 All costs
BLOOD First 3 pints Additional amounts	$0 100%	3 pints $0	$0 $0
HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/ coinsurance for out-patient drugs and inpatient respite care	Medicare co-payment/coinsurance	$0

***** NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is

prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN F or HIGH DEDUCTIBLE PLAN F

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed $[135] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

[**This high deductible plan pays the same benefits as Plan F after one has paid a calendar year [$2000] deductible. Benefits from the high deductible plan F will not begin until out-of-pocket expenses are [$2000]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.]

SERVICES	**MEDICARE PAYS**	**[AFTER YOU PAY $[2000] DEDUCTIBLE,**] PLANPAYS**	**[IN ADDITION TO $[2000] DEDUCTIBLE,**] YOU PAY**
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, Such as physician's Services, inpatient and Outpatient medical and Surgical services and Supplies, physical and Speech therapy,	$0 Generally 80%	$[135] (Part B deductible) Generally 20%	$0 $0

Diagnostic tests, Durable medical Equipment, First $[135] of Medicare Approved amounts* Remainder of Medicare Approved amounts			
Part B excess charges (Above Medicare Approved Amounts)	$0	100%	$0
BLOOD First 3 pints Next $[135] of Medicare Approved amounts* Remainder of Medicare Approved amounts	$0 $0 80%	All costs $[135] (Part B deductible) 20%	$0 $0 $0
CLINICAL LABORATORY **SERVICES**--TESTS FOR DIAGNOSTIC SERVICES	100%	$0	$0

PLANF or HIGH DEDUCTIBLE PLAN F

PARTS A & B

SERVICES	MEDICARE PAYS	AFTER YOU PAY $[2000] DEDUCTIBLE,** PLANPAYS	IN ADDITION TO $[2000] DEDUCTIBLE,** YOU PAY
HOME HEALTH CARE			
MEDICARE APPROVED SERVICES			
Medically necessary skilled care services and medical supplies	100%	$0	$0
-Durable medical equipment	$0	$[135] (Part B deductible)	$0
First $[135] of Medicare Approved Amounts*	80%	20%	$0
Remainder of Medicare - Approved Amounts			

OTHER BENEFITS - NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	AFTER YOU PAY $[2000] DEDUCTIBLE,** PLANPAYS	IN ADDITION TO $[2000] DEDUCTIBLE,** YOU PAY
FOREIGN TRAVEL - NOT COVERED BY MEDICARE			
Medically necessary	$0	$0	$250
Emergency care services	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

Beginning during the first 60 days of each trip outside the USA First $250 each calendar year Remainder of charges			

PLAN G

MEDICARE (PART A)-HOSPITAL SERVICES-PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies		$[1068] (Part A deductible)	$0
First 60 days	All but $[1068]	$[267] a day	$0
61st thru 90th day	All but $[267] a day	$[534] a day	$0
91st day and after:	All but $[534] a day	100% of Medicare eligible expenses	$0**
-While using 60 lifetime reserve days	$0		All costs
-Once lifetime reserve days are used:	$0	$0	
-Additional 365 days			
-Beyond the additional 365 days			
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital	All approved amounts	$0	$0
	All but $[133.50] a day	Up to $[133.50] a day	$0
	$0	$0	All costs

First 20 days 21st thru 100th day 101st day and after			
BLOOD First 3 pints Additional amounts	$0 100%	3 pints $0	$0 $0
SERVICES	**MEDICARE PAYS**	**PLANPAYS**	**YOU PAY**
HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness	All but very limited co-payment/ coinsurance for out-patient drugs and inpatient respite care	Medicare co-payment/ coinsurance	$0

**** NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN G

MEDICARE (PART B)-MEDICAL SERVICES-PER CALENDAR YEAR

* Once you have been billed $[133.50] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
MEDICAL EXPENSES-IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First $[135] of Medicare	$0 Generally 80%	$0 Generally 20%	$[135] (Part B deductible) $0

Approved Amounts* Remainder of Medicare Approved Amounts			
Part B Excess Charges (Above Medicare Approved Amounts)	$0	100%	$0
BLOOD First 3 pints Next $[135] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	$0 $0 80%	All costs $0 20%	$0 $[135] (Part B deductible) $0
CLINICAL LABORATORY **SERVICES-**TESTS FOR DIAGNOSTIC SERVICES	100%	$0	$0
HOME HEALTH CARE MEDICARE APPROVED SERVICES Medically necessary skilled care services and medical supplies -Durable medical equipment First $[135] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	100% $0 80%	$0 $0 20%	$0 $[135] (Part B deductible) $0

OTHER BENEFITS-NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
FOREIGN TRAVEL- NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First $250 each calendar year Remainder of Charges	$0 $0	$0 80% to a lifetime maximum benefit of $50,000	$250 20% and amounts over the $50,000 lifetime maximum

PLAN K

* You will pay half the cost-sharing of some covered services until you reach the annual out-of-pocket limit of $[4620] each calendar year. The amounts that count toward your annual limit are noted with diamonds (*) in the chart below. Once you reach the annual limit, the plan pays 100% of your Medicare co-payment and coinsurance for the rest of the calendar year. **However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.**

MEDICARE (PART A)-HOSPITAL SERVICES-PER BENEFIT PERIOD

** A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY*
HOSPITALIZATION** Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day	All but $[1068] All but $[267] a day All but $[534] a day $0 $0	$[534](50% of Part A deductible) $[267] a day $[534] a day 100% of Medicare	$[534](50% of Part A deductible)* $0 $0 $0*** All costs

91st day and after: -While using 60 lifetime reserve days -Once lifetime reserve days are used: -Additional 365 days -Beyond the additional 365 days		eligible expenses $0	
SKILLED NURSING FACILITY CARE** You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility Within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts. All but $[133.50] a day $0	$0 Up to $[66.75] a day $0	$0 Up to $[66.75] a day * All costs
BLOOD First 3 pints Additional amounts	$0 100%	50% $0	50%* $0
HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/ coinsurance for outpatient drugs and inpatient respite care	50% of co-payment/ coinsurance	50% of Medicare co-payment/coinsurance*

***** NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an

additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN K

MEDICARE (PART B)-MEDICAL SERVICES-PER CALENDAR YEAR

**** Once you have been billed $[135] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY*
MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First $[135] of Medicare Approved Amounts**** Preventive Benefits for Medicare covered services Remainder of Medicare Approved Amounts	$0 Generally 75% or more of Medicare approved amounts Generally 80%	$0 Remainder of Medicare approved amounts Generally 10%	$[135] (Part B deductible)**** * All costs above Medicare approved amounts Generally 10% *
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All costs (and they do not count toward annual out-of-pocket limit of [$4620])*
BLOOD First 3 pints	$0 $0 Generally 80%	50% $0 Generally 10%	50%* $[135] (Part B deductible)**** *

Next $[135] of Medicare Approved Amounts**** Remainder of Medicare Approved Amounts			Generally 10% *
CLINICAL LABORATORY **SERVICES-**TESTS FOR DIAGNOSTIC SERVICES	100%	$0	$0

*** This plan limits your annual out-of-pocket payments for Medicare-approved amounts to $[4620] per year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.**

PLAN K

PARTS A & B

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY*
HOME HEALTH CARE			
MEDICARE APPROVED SERVICES			
Medically necessary skilled care services and medical supplies	100%	$0	$0
-Durable medical equipment	$0	$0	$[135] (Part B deductible) *
First $[135] of Medicare Approved Amounts*****	80%	10%	10%*
Remainder of Medicare Approved Amounts			

*****Medicare benefits are subject to change. Please consult the latest *Guide to Health Insurance for People with Medicare*.

PLAN L

* You will pay one-fourth of the cost-sharing of some covered services until you reach the annual out-of-pocket limit of $[2310] each calendar year. The amounts that count toward your annual limit are noted with diamonds (*) in the chart below. Once you reach the annual limit, the plan pays 100% of your Medicare copayment and coinsurance for the rest of the calendar year. **However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.**

MEDICARE (PART A)-HOSPITAL SERVICES-PER BENEFIT PERIOD

** A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY*
HOSPITALIZATION**			
Semiprivate room and board, general nursing and miscellaneous services and supplies	All but $[1068]	$[808.50] (75% of Part A deductible)	$[267] (25% of Part A deductible)*
First 60 days	All but $[267] a day	$[267] a day	$0
61st thru 90th day	All but $[534] a day	$[534] a day	$0
91st day and after:		100% of Medicare eligible expenses	
-While using 60 lifetime reserve days	$0		$0***
-Once lifetime reserve days are used:	$0		All costs
-Additional 365 days		$0	
-Beyond the additional 365 Days			
SKILLED NURSING FACILITY CARE**	All approved amounts	$0	$0
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility	All but $[133.50] a day	Up to $[100.13] a day	Up to $[33.38] a day*
	$0	$0	All costs

Within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after			
SERVICES	**MEDICARE PAYS**	**PLANPAYS**	**YOU PAY***
BLOOD First 3 pints Additional amounts	$0 100%	75% $0	25%* $0
HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/ coinsurance for outpatient drugs and inpatient respite care	75% of co-payment/ coinsurance	25% of co-payment/ coinsurance *

***** NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN L

MEDICARE (PART B)-MEDICAL SERVICES-PER CALENDAR YEAR

**** Once you have been billed $[135] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY*
MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient	$0 Generally 75% or more of Medicare	$0 Remainder of Medicare	$[135] (Part B deductible)**** *

medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First $[135] of Medicare Approved Amounts**** Preventive Benefits for Medicare covered services Remainder of Medicare Approved Amounts	approved amounts Generally 80%	approved amounts Generally 15%	All costs above Medicare approved amounts Generally 5% *
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All costs (and they do not count toward annual out-of-pocket limit of [$2310])*
BLOOD First 3 pints Next $[135] of Medicare Approved Amounts**** Remainder of Medicare Approved Amounts	$0 $0 Generally 80%	75% $0 Generally 15%	25%* $[135] (Part B deductible) * Generally 5%*
CLINICAL LABORATORY **SERVICES-**TESTS FOR DIAGNOSTIC SERVICES	100%	$0	$0

* This plan limits your annual out-of-pocket payments for Medicare-approved amounts to $[2310] per year. **However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.**

PLAN L

PARTS A & B

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY*

HOME HEALTH CARE MEDICARE APPROVED SERVICES Medically necessary skilled care services and medical supplies -Durable medical equipment First $[135] of Medicare Approved Amounts***** Remainder of Medicare Approved Amounts	100% $0 80%	$0 $0 15%	$0 $[135] (Part B deductible) * 5% *

*****Medicare benefits are subject to change. Please consult the latest *Guide to Health Insurance for People with Medicare*.

PLAN M

MEDICARE (PART A)-HOSPITAL SERVICES-PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: -While using 60 lifetime reserve days -Once lifetime reserve days are used:	All but $[1068] All but $[267] a day All but $[534] a day $0 $0	$[534](50% of Part A deductible) $[267] a day $[534] a day 100% of Medicare eligible expenses $0	$[534](50% of Part A deductible) $0 $0 $0** All costs

-Additional 365 days -Beyond the additional 365 days			
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but $[133.50] a day $0	$0 Up to $[133.50] a day $0	$0 $0 All costs
BLOOD First 3 pints Additional amounts	$0 100%	3 pints $0	$0 $0
HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness	All but very limited co-payment/ coinsurance for outpatient drugs and inpatient respite care	Medicare co-payment/ coinsurance	$0

**** NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN M

MEDICARE (PART B)-MEDICAL SERVICES-PER CALENDAR YEAR

* Once you have been billed $[135] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment -First $[135] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	$0 Generally 80%	$0 Generally 20%	$[135] (Part B deductible) $0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All costs
BLOOD First 3 pints Next $[135] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	$0 $0 80%	All costs $0 20%	$0 $[135] (Part B deductible) $0
CLINICAL LABORATORY **SERVICES-**TESTS FOR DIAGNOSTIC SERVICES	100%	$0	$0

PARTS A & B

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
HOME HEALTH CARE MEDICARE APPROVED SERVICES Medically necessary skilled care services and medical supplies	100% $0 80%	$0 $0 20%	$0 $[135](PartB deductible) $0

-Durable medical equipment First $[135] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts			

OTHER BENEFITS-NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
FOREIGN TRAVEL- NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First $250 each calendar year Remainder of Charges	$0 $0	$0 80% to a lifetime maxi-mum benefit of $50,000	$250 20% and amounts over the $50,000 lifetime maximum

PLAN N

MEDICARE (PART A)-HOSPITAL SERVICES-PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days	All but $[1068] All but $[267] a day All but $[534] a day	$[1068](Part A deductible) $[267] a day $[534] a day	$0 $0 $0

61st thru 90th day 91st day and after: -While using 60 lifetime reserve days -Once lifetime reserve days are used: -Additional 365 days -Beyond the additional 365 days	$0 $0	100% of Medicare eligible expenses $0	$0** All costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but $[133.50] a day $0	$0 Up to $[133.50] a day $0	$0 $0 All costs
BLOOD First 3 pints Additional amounts	$0 100%	3 pints $0	$0 $0
HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness	All but very limited co-payment/ coinsurance for outpatient drugs and inpatient respite care	Medicare co-payment/ coinsurance	$0

**** NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN N

MEDICARE (PART B)-MEDICAL SERVICES-PER CALENDAR YEAR

* Once you have been billed $[135] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment First $[135] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	$0 Generally 80%	$0 Balance, other than up to [$20] per office visit and up to [$50] per emergency room visit. The co-payment of up to [$50] is waived if the insured is admitted to any hospital and the emergency visit is covered as a Medicare Part A expense.	$[135] (Part B deductible) up to [$20] per office visit and up to [$50] per emergency room visit. The co-payment of up to [$50] is waived if the insured is admitted to any hospital and the emergency visit is covered as a Medicare Part A expense.
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All costs
BLOOD First 3 pints Next $[135] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	$0 $0 80%	All costs $0 20%	$0 $[135] (Part B deductible) $0
CLINICAL LABORATORY **SERVICES-**TESTS FOR DIAGNOSTIC SERVICES	100%	$0	$0

PARTS A & B

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
HOME HEALTH CARE MEDICARE APPROVED SERVICES Medically necessary skilled care services and medical supplies -Durable medical equipment First $[135] of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	100% $0 80%	$0 $0 20%	$0 $[135] (Part B deductible) $0

OTHER BENEFITS-NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLANPAYS	YOU PAY
FOREIGN TRAVEL- NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First $250 each calendar year Remainder of Charges	$0 $0	$0 80% to a lifetime maximum benefit of $50,000	$250 20% and amounts over the $50,000 lifetime maximum

(5) Notice Regarding Policies or Certificates Which Are Not Medicare Supplement Policies.

(a) Any accident and sickness insurance policy or certificate, other than a Medicare supplement policy, a policy issued pursuant to a contract under Section 1876 of the Federal Social Security Act (42 U.S.C. Section 1395*et seq.*), disability income

policy; or other policy identified in Section 120-2-8-.03(2) of this regulation, issued for delivery in this State to persons eligible for Medicare shall notify insureds under the policy that the policy is not a Medicare supplement policy or certificate. The notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, to the first page of the policy, or certificate delivered to insureds. The notice shall be in no less than twelve (12) point type and shall contain the following language:

"THIS [POLICY OR CERTIFICATE] IS NOT A MEDICARE SUPPLEMENT [POLICY OR CONTRACT]. If you are eligible for Medicare, review the Guide to Health Insurance for People with Medicare available from the company."

(b) Applications provided to persons eligible for Medicare for the health insurance policies or certificates described in Subsection (4)(a) shall disclose, using the applicable statement in Appendix C, the extent to which the policy duplicates Medicare. The disclosure statement shall be provided as a part of, or together with, the application for the policy or certificate.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.17
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3, 33-43-4, 33-43-5, 33-43-6.
History. Original Rule entitled "Appropriateness of Recommended Purchase and Excessive Insurance" adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Requirements for Application Forms and Replacement Coverage" adopted. F. Jul. 9, 1992; eff. Jul. 29, 1992.
Amended: ER. 120-2-8-0.4-.17 adopted. F. Apr. 30, 1996; eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule entitled "Required Disclosure Provision" adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.17 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.18. Requirements for Application Forms and Replacement Coverage.

(1) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant currently has Medicare supplement, Medicare Advantage, Medicaid coverage or another health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing such questions and statements may be used.

[Statements]

(a) You do not need more than one Medicare supplement policy.

(b) If you purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

(c) You may be eligible for benefits under Medicaid and may not need a Medicare supplement policy.

(d) If, after purchasing this policy, you become eligible for Medicaid, the benefits and premiums under your Medicare supplement policy can be suspended, if requested, during your entitlement to benefits under Medicaid for 24 months. You must request this suspension within 90 days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your suspended Medicare supplement policy (or, if that is no longer available, a substantially equivalent policy) will be reinstituted if requested within 90 days of losing Medicaid eligibility. If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstituted policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension.

(e) If you are eligible for, and have enrolled in a Medicare supplement policy by reason of disability and you later become covered by an employer or union-based group health plan, the benefits and premiums under your Medicare supplement policy can be suspended, if requested, while you are covered under the employer or union-based group health plan. If you suspend your Medicare supplement policy under these circumstances, and later lose your employer or union-based group health plan, your suspended Medicare supplement policy (or, if that is no longer available, a substantially equivalent policy) will be reinstituted if requested within 90 days of losing your employer or union-based group health plan. If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstituted policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension.

(f) Counseling services may be available in your state to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the state Medicaid program, including benefits as a Qualified Medicare Beneficiary (QMB) and a Specified Low-Income Medicare Beneficiary(SLMB).

[Questions]

If you lost or are losing other health insurance coverage and received a notice from your prior insurer saying you were eligible for guaranteed issue of a Medicare supplement insurance policy, or that you had certain rights to buy such a policy, you may be guaranteed acceptance in one or more of our Medicare supplement plans. Please include a copy of the notice from your prior insurer with your application. PLEASE ANSWER ALL QUESTIONS.

[Please mark Yes or No below with an "X"]

To the best of your knowledge,

(a)

1. Did you turn age 65 in the last 6 months?

   Yes____ No____

2. Did you enroll in Medicare Part B in the last 6 months?

   Yes____ No____

3. If yes, what is the effective date? _____

(b) Are you covered for medical assistance through the state Medicaid program?

[NOTE TO APPLICANT: If you are participating in a "Spend-Down Program" and have not met your "Share of Cost," please answer NO to this question.]

Yes____ No____

If yes,

1. Will Medicaid pay your premiums for this Medicare supplement policy?

   Yes____ No____

2. Do you receive any benefits from Medicaid OTHER THAN payments toward your Medicare Part B premium?

Yes____ No____

(c)

1. If you had coverage from any Medicare plan other than original Medicare within the past 63 days (for example, a Medicare Advantage plan, or a Medicare HMO or PPO), fill in your start and end dates below. If you are still covered under this plan, leave "END" blank.

   START __/__/__ END __/__/__

2. If you are still covered under the Medicare plan, do you intend to replace your current coverage with this new Medicare supplement policy?

   Yes____ No____

3. Was this your first time in this type of Medicare plan?

   Yes____ No____

4. Did you drop a Medicare supplement policy to enroll in the Medicare plan?

   Yes____ No____

(d)

1. Do you have another Medicare supplement policy in force?

   Yes____ No____

2. If so, with what company, and what plan do you have [optional for Direct Mailers]?

   _____

3. If so, do you intend to replace your current Medicare supplement policy with this policy?

   Yes____ No____

(e) Have you had coverage under any other health insurance within the past 63 days? (For example, an employer, union, or individual plan)

Yes____ No____

1. If so, with what company and what kind of policy?

   _____

   _____

   _____

   _____

2. What are your dates of coverage under the other policy?

   START __/__/__ END __/__/__

   (If you are still covered under the other policy, leave "END" blank.)

(2) Agents shall list any other health insurance policies they have sold to the applicant.

   (a) List policies sold which are still in force.

   (b) List policies sold in the past five (5) years that are no longer in force.

(3) In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, shall be returned to the applicant by the insurer upon delivery of the policy.

(4) Upon determining that a sale will involve replacement of Medicare supplement coverage, any issuer, other than a direct response issuer, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One copy of the notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement coverage.

(5) The notice required by Subsection D above for an issuer shall be provided in substantially the following form in no less than twelve (12) point type:

NOTICE TO APPLICANT REGARDING REPLACMENT

OF MEDICARE SUPPLEMENT INSURANCE

OR MEDICARE ADVANTAGE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to terminate existing Medicare supplement or Medicare Advantage insurance and replace it with a policy to be issued by [Company Name] Insurance Company. Your new policy will provide thirty (30) days within which you may decide without cost whether you desire to keep the policy.

You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. If, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision, you should terminate your present Medicare supplement or Medicare Advantage coverage. You should evaluate the need for other accident and sickness coverage you have that may duplicate this policy.

STATEMENT TO APPLICANT BY ISSUER, AGENT [BROKER OR OTHER REPRESENTATIVE]:

I have reviewed your current medical or health insurance coverage. To the best of my knowledge, this Medicare supplement policy will not duplicate your existing Medicare supplement or, if applicable, Medicare Advantage coverage because you intend to terminate your existing Medicare supplement coverage or leave your Medicare Advantage plan. The replacement policy is being purchased for the following reason (check one):

____ Additional benefits.

____ No change in benefits, but lower premiums.

____ Fewer benefits and lower premiums.

____ My plan has outpatient prescription drug coverage and I am enrolling in Part D.

____ Disenrollment from a Medicare Advantage plan. Please explain reason for disenrollment. [optional only for Direct Mailers.]

____ Other. (please specify) _____

1. **Note:** If the issuer of the Medicare supplement policy being applied for does not, or is otherwise prohibited from imposing pre-existing condition limitations, please

skip to statement 2 below. Health conditions that you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

3. If, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

   Do not cancel your present policy until you have received your new policy and are sure that you want to keep it.

   _____

   (Signature of Agent, Broker or Other Representative)*

   [Typed Name and Address of Issuer, Agent or Broker]

   _____

   (Applicant's Signature

   _____

   (Date)

   *Signature not required for direct response sales.

(6) Paragraphs 1. and 2. of the replacement notice (applicable to preexisting conditions) may be deleted by an issuer if the replacement does not involve application of a new preexisting condition limitation.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.18
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3, 33-43-4, 33-43-5, 33-43-6.
History. Original Rule entitled "Reporting of Multiple Policies" adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Filing Requirements for Advertising" adopted. F. Jul. 9, 1992; eff. Jul. 29, 1992.
Amended: ER. 120 -2-8-4-.18 0. adopted. F. Apr. 30, 1996; eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule entitled "Requirements for Application Forms and Replacement Coverage" adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.18 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.19. Filing Requirements for Advertising.

An issuer shall provide a copy of any Medicare supplement advertisement intended for use in this state whether through written, radio or television medium to the Commissioner of Insurance of this state for review or approval by the Commissioner as provided in O.C.G.A. Section 33-43-7.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.19
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3, 33-43-4, 33-43-5, 33-43-6.
History. Original Rule entitled "Prohibition Against Preexisting Conditions, Waiting Periods, Elimination Periods and Probationary Periods in Replacement Policies or Certificates" adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Standards for Marketing" adopted. F. Jul. 9, 1992; eff. Jul. 29, 1992.
Amended: ER. 120-2-8-0.4-.19 adopted. F. Apr. 30, 1996; eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule entitled "Filing Requirements for Advertising" adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.19 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.20. Standards for Marketing.

(1) An issuer, directly or through its producers, shall:

(a) Establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate.

(b) Establish marketing procedures to assure excessive insurance is not sold or issued.

(c) Display prominently by type, stamp or other appropriate means, on the first page of the policy the following:

"Notice to buyer: This policy may not cover all of your medical expenses."

(d) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has accident and sickness insurance and the types and amounts of any such insurance.

(e) Establish auditable procedures for verifying compliance with this Subsection (1).

(2) In addition to the practices prohibited in O.C.G.A. Sections 33-6-4 and 33-6-5, the following acts and practices are prohibited:

(a) Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert an insurance policy or to take out a policy of insurance with another insurer.

(b) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(c) Cold lead advertising. Making use directly or indirectly of any method of marketing that fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

(3) The terms "Medicare Supplement," "Medigap," "Medicare Wrap-Around" and words of similar import shall not be used unless the policy is issued in compliance with this regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.20
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3, 33-43-4, 33-43-5, 33-43-6.
History. Original Rule entitled "Separability" adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Appropriateness of Recommended Purchase and Excessive Insurance" adopted. F. Jul. 9, 1992; eff. Jul. 29, 1992.
Amended: ER. 120-2-8-0.4-.20 adopted. F. Apr. 30, 1996; eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule entitled "Standards for Marketing" adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.20 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.21. Appropriateness of Recommended Purchase and Excessive Insurance.

(1) In recommending the purchase or replacement of any Medicare supplement policy or certificate an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

(2) Any sale of a Medicare supplement policy or certificate that will provide an individual more than one Medicare supplement policy or certificate is prohibited.

(3) An issuer shall not issue a Medicare supplement policy or certificate to an individual enrolled in Medicare Part C unless the effective date of the coverage is after the termination date of the individual's Part C coverage.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.21
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3, 33-43-4, 33-43-5, 33-43-6.
History. Original Rule entitled "Effective Date" adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Reporting of Multiple Policies" adopted. F. Jul. 9, 1992; eff. Jul. 29, 1992.
Amended: ER. 120-2-8-0.4-.21 adopted. F. Apr. 30, 1996; eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule entitled "Appropriateness of Recommended Purchase and Excessive Insurance" adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.21 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.22. Reporting of Multiple Policies.

(1) On or before March 1 of each year, an issuer shall report the following information for every individual resident of this State for which the issuer has in force more than one Medicare supplement policy or certificate:

   (a) Policy and certificate number, and

   (b) Date of issuance.

(2) The items set forth above must be grouped by individual policyholder.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.22
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3, 33-43-4, 33-43-5, 33-43-6.
History. Original Rule entitled "Prohibition Against Preexisting Conditions, Waiting Periods, Elimination Periods and Probationary Periods in Replacement Policies or Certificates" adopted. F. Sept. 18, 1990; eff. Dec. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Filing Requirements for Advertising" adopted. F. Jul. 9, 1992; eff. Jul. 29, 1992.
Amended: ER. 120-2-8-0.4-.21 adopted. F. Apr. 30, 1996; eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule entitled "Reporting of Multiple Policies" adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.22 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the

Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.23. Prohibition Against Preexisting Conditions, Waiting Periods, Elimination Periods and Probationary Periods in Replacement Policies or Certificates.

(1) If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing issuer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods and probationary periods in the new Medicare supplement policy or certificate to the extent such time was spent under the original policy.

(2) If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate that has been in effect for at least six (6) months, the replacing policy shall not provide any time period applicable to preexisting conditions, waiting periods, elimination periods and probationary periods.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.23
Authority: O.C.G.A. Secs. 33-2-9, 33-43-10.
History. Original Rule entitled "Separability" adopted. F. Jul. 9, 1992; eff. Jul. 29, 1992.
Amended: ER. 120-2-8-0.4-.23 entitled "Severability" adopted F. Apr. 30, 1996; eff. Apr. 28, 1996, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 6, 1996; eff. Sept. 26, 1996.
Repealed: New Rule entitled "Prohibition Against Preexisting Conditions, Waiting Periods, Elimination Periods and Probationary Periods in Replacement Policies or Certificates" adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.23 of same title adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.24. Prohibition Against Use of Genetic Information and Requests for Genetic Testing.

This Section applies to all policies with policy years beginning on or after this Regulation becomes effective.

(1) An issuer of a Medicare supplement policy or certificate;

(a) shall not deny or condition the issuance or effectiveness of the policy or certificate (including the imposition of any exclusion of benefits under the policy based on a pre-existing condition) on the basis of the genetic information with respect to such individual; and

(b) shall not discriminate in the pricing of the policy or certificate (including the adjustment of premium rates) of an individual on the basis of the genetic information with respect to such individual.

(2) Nothing in Subsection (1) shall be construed to limit the ability of an issuer, to the extent otherwise permitted by law, from

(a) Denying or conditioning the issuance or effectiveness of the policy or certificate or increasing the premium for a group based on the manifestation of a disease or disorder of an insured or applicant; or

(b) Increasing the premium for any policy issued to an individual based on the manifestation of a disease or disorder of an individual who is covered under the policy (in such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the group).

(3) An issuer of a Medicare supplement policy or certificate shall not request or require an individual or a family member of such individual to undergo a genetic test.

(4) Subsection C shall not be construed to preclude an issuer of a Medicare supplement policy or certificate from obtaining and using the results of a genetic test in making a determination regarding payment (as defined for the purposes of applying the regulations promulgated under part C of title XI and section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) and consistent with Subsection A.

(5) For purposes of carrying out Subsection D, an issuer of a Medicare supplement policy or certificate may request only the minimum amount of information necessary to accomplish the intended purpose.

(6) Notwithstanding Subsection C, an issuer of a Medicare supplement policy may request, but not require, that an individual or a family member of such individual undergo a genetic test if each of the following conditions is met:

(a) The request is made pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or regulations for the protection of human subjects in research.

(b) The issuer clearly indicates to each individual, or in the case of a minor child, to the legal guardian of such child, to whom the request is made that -

1. compliance with the request is voluntary; and

2. non-compliance will have no effect on enrollment status or premium or contribution amounts.

(c) No genetic information collected or acquired under this Subsection shall be used for underwriting, determination of eligibility to enroll or maintain enrollment status, premium rates, or the issuance, renewal, or replacement of a policy or certificate.

(d) The issuer notifies the Secretary in writing that the issuer is conducting activities pursuant to the exception provided for under this Subsection, including a description of the activities conducted.

(e) The issuer complies with such other conditions as the Secretary may by regulation require for activities conducted under this Subsection.

(7) An issuer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information for underwriting purposes.

(8) An issuer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the policy in connection with such enrollment.

(9) If an issuer of a Medicare supplement policy or certificate obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of Subsection H if such request, requirement, or purchase is not in violation of Subsection G.

(10) For the purposes of this Section only:

(a) "Issuer of a Medicare supplement policy or certificate" includes third-party administrator, or other person acting for or on behalf of such issuer.

(b) "Family member" means, with respect to an individual, any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual.

(c) "Genetic information" means, with respect to any individual, information about such individual's genetic tests, the genetic tests of family members of such individual, and the manifestation of a disease or disorder in family members of such individual. Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual. Any reference to genetic information concerning an individual or family member of an individual who is a pregnant woman, includes genetic information of any fetus carried by such pregnant woman, or with respect to an individual or family member utilizing reproductive technology, includes genetic information of any embryo legally held by an individual or family member. The

term "genetic information" does not include information about the sex or age of any individual.

(d) "Genetic services" means a genetic test, genetic counseling (including obtaining, interpreting, or assessing genetic information), or genetic education.

(e) "Genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detect genotypes, mutations, or chromosomal changes. The term "genetic test" does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

(f) "Underwriting purposes" means,

1. rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the policy;

2. the computation of premium or contribution amounts under the policy;

3. the application of any pre-existing condition exclusion under the policy; and

4. other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.24
Authority: O.C.G.A. Secs. 33-2-9, 33-43-10.
History. Original Rule entitled "Severability" adopted. F. Apr. 7, 1999; eff. Apr. 27, 1999.
Repealed: New Rule of same title adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.24 entitled "Prohibition Against Use of Genetic Information and Requests for Genetic Testing" adopted. F. May 29, 2009; eff. June 1, 2009, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Rule 120-2-8-.25. Severability.

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-2-8-.25
Authority: O.C.G.A. Secs. 33-2-9, 33-43-3 to 33-43-6.
History. Original Rule entitled "Effective Date" adopted. F. Aug. 19, 2005; eff. Sept. 8, 2005.
Amended: ER. 120-2-8-0.22-.25 entitled "Severability" adopted. F. May 29, 2009; eff. June 1, 2009, as specified by

the Agency.
Amended: Permanent Rule of same title adopted. F. Sept. 3, 2009; eff. Sept. 23, 2009.

Appendix (120-2-8) A. MEDICARE SUPPLEMENT REFUND CALCULATION FORM.

FOR CALENDAR YEAR_____

For the State of Company Name

NAIC Group Code NAIC Company Code

Address Person Completing Exhibit

Title Telephone Number

Line		(a) Earned Premium3	(b) Incurred Claims4
1.	Current Year's Experience		
	a. Total (all policy years)		
	b. Current year's issues5		
	c. Net (for reporting purposes = 1a-1b		
2.	Past Years' Experience (all policy years)		
3.	Total Experience (Net Current Year + Past Year)		
4.	Refunds Last Year (Excluding Interest)		
5.	Previous Since Inception (Excluding Interest)		
6.	Refunds Since Inception (Excluding Interest)		
7.	Benchmark Ratio Since Inception (see worksheet for Ratio 1)		
8.	Experienced Ratio Since Inception (Ratio 2) Total Actual Incurred Claims (line 3, col. b) Total Earned Prem. (line 3, col. a)-Refunds Since Inception (line 6)		
9.	Life Years Exposed Since Inception If the Experienced Ratio is less than the Benchmark Ratio, and there are more than 500 life years exposure, then proceed to calculation of refund.		

10.	Tolerance Permitted (obtained from credibility table)		

Medicare Supplement Credibility Table

Life Years Exposed	
Since Inception	Tolerance
10,000 +	0.0%
5,000 -9,999	5.0%
2,500 -4,999	7.5%
1,000 -2,499	10.0%
500 - 999	15.0%
If less than 500, no credibility.	

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1 Individual, Group, Individual Medicare Select, or Group Medicare Select Only.

2 "SMSBP" = Standardized Medicare Supplement Benefit Plan - Use "P" for pre-standardized plans.

3 Includes Modal Loadings and Fees Charged

4 Excludes Active Life Reserves

5 This is to be used as "Issue Year Earned Premium" for Year 1 of next year's "Worksheet for Calculation of Benchmark Ratios"

MEDICARE SUPPLEMENT REFUND CALCULATION FORM

FOR CALENDAR YEAR_____

For the State of Company Name

NAIC Group Code NAIC Company Code

Address Person Completing Exhibit

Title Telephone Number

11.	Adjustment to Incurred Claims for Credibility	
	Ratio 3 = Ratio 2 + Tolerance	

If Ratio 3 is more than Benchmark Ratio (Ratio 1), a refund or credit to premium is not required.

If Ratio 3 is less than the Benchmark Ratio, then proceed.

12.	Adjusted Incurred Claims	
	[Total Earned Premiums (line 3, col. a)-Refunds Since Inception (line 6)] x Ratio 3 (line 11)	
13.	Refund =	
	Total Earned Premiums (line 3, col. a)-Refunds Since Inception (line 6) -[Adjusted Incurred Claims (line 12)/Benchmark Ratio (Ratio 1)]	

If the amount on line 13 is less than .005 times the annualized premium in force as of December 31 of the reporting year, then no refund is made. Otherwise, the amount on line 13 is to be refunded or credited, and a description of the refund or credit against premiums to be used must be attached to this form.

I certify that the above information and calculations are true and accurate to the best of my knowledge and belief.

_____

Signature

_____

Name - Please Type

_____

Title - Please Type

_____

Date

REPORTING FORM FOR THE CALCULATION OF BENCHMARK

RATIO SINCE INCEPTION FOR GROUP POLICIES

FOR CALENDAR YEAR_____

For the State of Company Name

NAIC Group Code NAIC Company Code

Address Person Completing Exhibit

Title Telephone Number

(a)[3]	(b)4	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(o)5
	Earned			Cumulative				Cumulative		Policy Year
Year	Premium	Factor	(b)x(c)	Loss Ratio	(d)x(e)	Factor	(b)x(g)	Loss Ratio	(h)x(i)	Loss Ratio
1		2.770		0.507		0.000		0.000		0.46
2		4.175		0.567		0.000		0.000		0.63
3		4.175		0.567		1.194		0.759		0.75
4		4.175		0.567		2.245		0.771		0.77
5		4.175		0.567		3.170		0.782		0.80
6		4.175		0.567		3.998		0.792		0.82
7		4.175		0.567		4.754		0.802		0.84
8		4.175		0.567		5.445		0.811		0.87
9		4.175		0.567		6.075		0.818		0.88
10		4.175		0.567		6.650		0.824		0.88
11		4.175		0.567		7.176		0.828		0.88
12		4.175		0.567		7.655		0.831		0.88
13		4.175		0.567		8.093		0.834		0.89
14		4.175		0.567		8.493		0.837		0.89
15+6		4.175		0.567		8.684		0.838		0.89
Total:			(k):		(l):		(m):		(n):	

Benchmark Ratio Since Inception: (l + n)/(k + m): _____

1 Individual, Group, Individual Medicare Select, or Group Medicare Select Only.

2 "SMSBP" = Standardized Medicare Supplement Benefit Plan - Use "P" for pre-standardized plans

3 Year 1 is the current calendar year - 1. Year 2 is the current calendar year - 2 (etc.) (Example: If the current year is 1991, then: Year 1 is 1990; Year 2 is 1989, etc.)

4 For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.

5 These loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

6 To include the earned premium for all years prior to as well as the 15th year prior to the current year.

REPORTING FORM FOR THE CALCULATION OF BENCHMARK

RATIO SINCE INCEPTION FOR INDIVIDUAL POLICIES

FOR CALENDAR YEAR_____

For the State of Company Name

NAIC Group Code NAIC Company Code

Address Person Completing Exhibit

Title Telephone Number

(a)[3]	(b)4	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(o)5
	Earned			Cumulative				Cumulative		Policy Year
Year	Premium	Factor	(b)x(c)	Loss Ratio	(d)x(e)	Factor	(b)x(g)	Loss Ratio	(h)x(i)	Loss Ratio
1		2.770		0.442		0.000		0.000		0.40
2		4.175		0.493		0.000		0.000		0.55
3		4.175		0.493		1.194		0.659		0.65
4		4.175		0.493		2.245		0.669		0.67
5		4.175		0.493		3.170		0.678		0.69
6		4.175		0.493		3.998		0.686		0.71
7		4.175		0.493		4.754		0.695		0.73
8		4.175		0.493		5.445		0.702		0.75
9		4.175		0.493		6.075		0.708		0.76
10		4.175		0.493		6.650		0.713		0.76
11		4.175		0.493		7.176		0.717		0.76
12		4.175		0.493		7.655		0.720		0.77
13		4.175		0.493		8.093		0.723		0.77
14		4.175		0.493		8.493		0.725		0.77

15+6		4.175		0.493		8.684		0.725		0.77
Total:			(k):		(l):		(m):		(n):	

Benchmark Ratio Since Inception: (l + n)/(k + m): _____

1 Individual, Group, Individual Medicare Select, or Group Medicare Select Only.

2 "SMSBP" = Standardized Medicare Supplement Benefit Plan - Use "P" for pre-standardized plans

3 Year 1 is the current calendar year - 1. Year 2 is the current calendar year - 2 (etc.) (Example: If the current year is 1991, then: Year 1 is 1990; Year 2 is 1989, etc.)

4 For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.

5 These loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

6 To include the earned premium for all years prior to as well as the 15th year prior to the current year.

Cite as Ga. Comp. R. & Regs. R. 120-2-8 app (120-2-8) A

Appendix (120-2-8) B. FORM FOR REPORTING MEDICARE SUPPLEMENT POLICIES.

Company Name: _____

Address: _____

_____

Phone Number: _____

Due March 1, annually

The purpose of this form is to report the following information on each resident of this state who has in force more than one Medicare supplement policy or certificate. The information is to be grouped by individual policyholder.

Policy and Certificate	Date of # Issuance

_____

Signature

_____

Name and Title (please type)

_____

Date

Cite as Ga. Comp. R. & Regs. R. 120-2-8 app (120-2-8) B

Appendix (120-2-8) C. DISCLOSURE STATEMENTS.

Instructions for Use of the Disclosure Statements for Health Insurance Policies Sold to Medicare Beneficiaries that Duplicate Medicare

1. Section 1882(d) of the federal Social Security Act [42 U.S.C. 1395 ss] prohibits the sale of a health insurance policy (the term policy includes certificate) to Medicare beneficiaries that duplicates Medicare benefits unless it will pay benefits without regard to a beneficiary's other health coverage and it includes the prescribed disclosure statement on or together with the application for the policy.

2. All types of health insurance policies that duplicate Medicare shall include one of the attached disclosure statements, according to the particular policy type involved, on the application or together with the application. The disclosure statement may not vary from the attached statements in terms of language or format (type size, type proportional spacing, bold character, line spacing, and usage of boxes around text).

3. State and federal law prohibits insurers from selling a Medicare supplement policy to a person that already has a Medicare supplement policy except as a replacement policy.

4. Property/casualty and life insurance policies are not considered health insurance.

Disability income policies are not considered to provide benefits that duplicate Medicare.

Long-term care insurance policies that coordinate with Medicare and other health insurance are not considered to provide benefits that duplicate Medicare.

7. The federal law does not preempt state laws that are more stringent than the federal requirements.

8. The federal law does not preempt existing state form filing requirements.

9. Section 1882 of the federal Social Security Act was amended in Subsection (d)(3)(A) to allow for alternative disclosure statements. The disclosure statements already in Appendix C remain. Carriers may use either disclosure statement with the requisite insurance product. However, carriers should use either the original disclosure statements or the alternative disclosure statements and not use both simultaneously.

[Original disclosure statement for policies that provide benefits for expenses incurred for an accidental injury only.]

Important Notice to Persons on Medicare

This Insurance Duplicates Some Medicare Benefits

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

* hospital or medical expenses up to the maximum stated in the policy

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

* hospitalization

* physician services

[outpatient prescription drugs if you are enrolled in Medicare Part D]

* other approved items and services

Before You Buy This Insurance

[TICK] Check the coverage in **all** health insurance policies you already have.

[TICK] For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

[TICK] For help in understanding your health insurance, contact your state insurance department or state [health] insurance [assistance] program [SHIP].

[Original disclosure statement for policies that provide benefits for specified limited services.]

Important Notice to Persons on Medicare

This Insurance Duplicates Some Medicare Benefits

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

* any of the services covered by the policy are also covered by Medicare

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

* hospitalization

* physician services

[outpatient prescription drugs if you are enrolled in Medicare Part D]

* other approved items and services

Before You Buy This Insurance

[TICK] Check the coverage in **all** health insurance policies you already have.

[TICK] For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

[TICK] For help in understanding your health insurance, contact your state insurance department or state [health] insurance [assistance] program [SHIP].

[Original disclosure statement for policies that reimburse expenses incurred for specified diseases or other specified impairments. This includes expense-incurred cancer, specified disease

and other types of health insurance policies that limit reimbursement to named medical conditions.]

Important Notice to Persons on Medicare

This Insurance Duplicates Some Medicare Benefits

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

* hospital or medical expenses up to the maximum stated in the policy

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

* hospitalization

* physician services

* hospice

[outpatient prescription drugs if you are enrolled in Medicare Part D]

* other approved items and services

Before You Buy This Insurance

[TICK] Check the coverage in **all** health insurance policies you already have.

[TICK] For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

[TICK] For help in understanding your health insurance, contact your state insurance department or state [health] insurance [assistance] program [SHIP].

[Original disclosure statement for policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance

policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.]

Important Notice to Persons on Medicare

THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits because Medicare generally pays for most of the expenses for the diagnosis and treatment of the specific conditions or diagnoses named in the policy.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

* hospitalization

* physician services

* hospice

[outpatient prescription drugs if you are enrolled in Medicare Part D]

* other approved items and services

Before You Buy This Insurance

[TICK] Check the coverage in **all** health insurance policies you already have.

[TICK] For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

[TICK] For help in understanding your health insurance, contact your state insurance department or state [health] insurance [assistance] program [SHIP].

[Original disclosure statement for indemnity policies and other policies that pay a fixed dollar amount per day, excluding long-term care policies.]

Important Notice to Persons on Medicare

THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

* any expenses or services covered by the policy are also covered by Medicare

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

* hospitalization

* physician services

[outpatient prescription drugs if you are enrolled in Medicare Part D]

* hospice

* other approved items and services

Before You Buy This Insurance

[TICK] Check the coverage in **all** health insurance policies you already have.

[TICK] For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

[TICK] For help in understanding your health insurance, contact your state insurance department or state [health] insurance [assistance] program [SHIP].

[Original disclosure statement for policies that provide benefits upon both an expense-incurred and fixed indemnity basis.]

Important Notice to Persons on Medicare

THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

* any expenses or services covered by the policy are also covered by Medicare; or

* it pays the fixed dollar amount stated in the policy and Medicare covers the same event

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

* hospitalization

* physician services

* hospice care

[outpatient prescription drugs if you are enrolled in Medicare Part D]

* other approved items & services

Before You Buy This Insurance

[TICK] Check the coverage in **all** health insurance policies you already have.

[TICK] For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

[TICK] For help in understanding your health insurance, contact your state insurance department or state [health] insurance [assistance] program [SHIP].

[Original disclosure statement for other health insurance policies not specifically identified in the preceding statements.]

Important Notice to Persons on Medicare

THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

* the benefits stated in the policy and coverage for the same event is provided by Medicare

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

* hospitalization

* physician services

* hospice

[outpatient prescription drugs if you are enrolled in Medicare Part D]

* other approved items and services

Before You Buy This Insurance

[TICK] Check the coverage in **all** health insurance policies you already have.

[TICK] For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

[TICK] For help in understanding your health insurance, contact your state insurance department or state [health] insurance [assistance] program [SHIP].

[Alternative disclosure statement for policies that provide benefits for expenses incurred for an accidental injury only.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE

THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

* hospitalization

* physician services

[outpatient prescription drugs if you are enrolled in Medicare Part D]

* other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

[TICK] Check the coverage in **all** health insurance policies you already have.

[TICK] For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

[TICK] For help in understanding your health insurance, contact your state insurance department or state [health] insurance [assistance] program [SHIP].

[Alternative disclosure statement for policies that provide benefits for specified limited services.]

Important Notice to Persons on Medicare

THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits under this policy.

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

* hospitalization

* physician services

[outpatient prescription drugs if you are enrolled in Medicare Part D]

* other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

[TICK] Check the coverage in **all** health insurance policies you already have.

[TICK] For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

[TICK] For help in understanding your health insurance, contact your state insurance department or state [health] insurance [assistance] program [SHIP].

[Alternative disclosure statement for policies that reimburse expenses incurred for specified diseases or other specified impairments. This includes expense-incurred cancer, specified disease and other types of health insurance policies that limit reimbursement to named medical conditions.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE

THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy. Medicare generally pays for most or all of these expenses.

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

* hospitalization

* physician services

* hospice

[outpatient prescription drugs if you are enrolled in Medicare Part D]

* other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

[TICK] Check the coverage in **all** health insurance policies you already have.

[TICK] For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

[TICK] For help in understanding your health insurance, contact your state insurance department or state [health] insurance [assistance] program [SHIP].

[Alternative disclosure statement for policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.]

Important Notice to Persons on Medicare

THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

* hospitalization

* physician services

* hospice

[outpatient prescription drugs if you are enrolled in Medicare Part D]

* other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

[TICK] Check the coverage in **all** health insurance policies you already have.

[TICK] For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

[TICK] For help in understanding your health insurance, contact your state insurance department or state [health] insurance [assistance] program [SHIP].

[Alternative disclosure statement for indemnity policies and other policies that pay a fixed dollar amount per day, excluding long-term care policies.]

Important Notice to Persons on Medicare

THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

* hospitalization

* physician services

* hospice

[outpatient prescription drugs if you are enrolled in Medicare Part D]

* other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

[TICK] Check the coverage in **all** health insurance policies you already have.

[TICK] For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

[TICK] For help in understanding your health insurance, contact your state insurance department or state [health] insurance [assistance] program [SHIP].

[Alternative disclosure statement for policies that provide benefits upon both an expense-incurred and fixed indemnity basis.]

Important Notice to Persons on Medicare

THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

* hospitalization

* physician services

* hospice care

[outpatient prescription drugs if you are enrolled in Medicare Part D]

other approved items & services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

[TICK] Check the coverage in **all** health insurance policies you already have.

[TICK] For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

[TICK] For help in understanding your health insurance, contact your state insurance department or state [health] insurance [assistance] program [SHIP].

[Alternative disclosure statement for other health insurance policies not specifically identified in the preceding statements.]

Important Notice to Persons on Medicare

THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance provides limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

* hospitalization

* physician services

* hospice

[outpatient prescription drugs if you are enrolled in Medicare Part D]

* other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

[TICK] Check the coverage in **all** health insurance policies you already have.

[TICK] For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

[TICK] For help in understanding your health insurance, contact your state insurance department or your state [health] insurance [assistance] program [SHIP].

Cite as Ga. Comp. R. & Regs. R. 120-2-8 app (120-2-8) C

Subject 120-2-9. INSIDER TRADING OF DOMESTIC STOCK INSURER EQUITY SECURITIES.

Rule 120-2-9-.01. Forms for Reporting Ownership of Domestic Stock Insurers Equity Securities; Penalty.

(1) Initial Filing. Every person who is directly or indirectly the beneficial owner of more than ten percent of any class of any equity security of a domestic stock insurer, or who is a director or an officer of such insurer, shall file in the office of the Commissioner within 30 days of the effective date of Chapter 56-16 a statement on form GID-18. Such form GID-18 shall require the disclosure of the name of the company in which equity securities are held; name of person whose ownership is reported; business address of such person; relationship of such person to the company in which equity securities are held; date of the event which requires the filing of the statement, and the title of security, nature of ownership, and amount owned as to all equity securities of such company. The person filing such form GID-18 shall subscribe to an oath as to the truthfulness of such statement to the best of his knowledge and belief and shall have his subscription to such oath witnessed by anyone authorized by law to administer oaths.

(2) Regular Filing. Every person, required under 120-2-9-.01(1) hereof to file a statement with the Commissioner, shall file a monthly statement on form GID-19, within ten days after the close of each calendar month if there has been a change in such person's ownership during such month. Such statement shall indicate the ownership at the close of the calendar month and such changes in ownership as have occurred during such calendar month; the name of the company in which equity securities are held; name of person whose ownership is reported, business address of such person; relationship of such person to the company; the month and year for which the statement is submitted, title of security; date of transaction; amount bought or otherwise acquired; amount sold or otherwise disposed of; nature of ownership; and amount owned beneficially at the end of the month. The person filing such form GID-19 shall subscribe to an oath as to the truthfulness of such statement to the best of his knowledge and belief and shall have his subscription to such oath witnessed by anyone authorized by law to administer oaths.

(3) The failure to file, by persons required under the provisions of Section 56-1601 of the Code of Georgia to file a statement, shall be adequate grounds for the denial of a company's application for renewal of its Certificate Authority under authority of Section 56-319 of the Code of Georgia.

(Forms GID-18 and GID-19 are attached hereto as "Exhibit A" and "Exhibit B" respectively, and incorporated herein.)

"Exhibit A" INITIAL STATEMENT OF BENEFICIAL OWNERSHIP OF EQUITY SECURITIES

JAMES L. BENTLEY
Insurance Commissioner

GEORGIA INSURANCE DEPARTMENT
State Capitol
Atlanta, Georgia

Form GID-18

INITIAL STATEMENT OF BENEFICIAL OWNERSHIP OF EQUITY SECURITIES
Filed pursuant to Section 56-1601 of the Code of Georgia Annotated
(See Instructions on Reverse Side)

_____
(Name of company in which Equity Securities are held)

_____
(Name of person whose ownership is reported)

_____
(Business address of such person; street, city, zone, state)

Relationship of such person to company named above. (See instruction 5)_____

_____

Date of event which requires the filing of this statement (See instruction 6)_____

SECURITIES BENEFICIALLY OWNED (See instruction 7)

TITLE OF SECURITY (See instruction 8)	NATURE OF OWNERSHIP (See instruction 9)	AMOUNT OWNED beneficially (See instruction 10)

REMARKS (See instruction 11)

I, the undersigned, do solemnly swear that the within and foregoing information is true and correct to the best of my knowledge and belief.

Subscribed and sworn to before me

this_____day of_____19_____

_____
(Signature of affiant)

_____
(Notary Public)

INSTRUCTIONS

1. PERSONS REQUIRED TO FILE STATEMENTS.

A statement on this form is required to be filed by every person who, at the effective date of Chapter 56-16 of the Code of Georgia Annotated, (i) is directly or indirectly the beneficial owner of more than 10 per cent of any class of any equity security of a domestic stock insurer, or (ii) is a director or officer of such insurer, and every person who thereafter becomes such a beneficial owner, director or officer.

2. WHEN STATEMENTS ARE TO BE FILED.

(a) Persons who hold any of the relationships specified in Instruction 1 are required to file a statement within 30 days after the effective date of Chapter 56-16 of the Code of Georgia Annotated. Persons who subsequently assume any of the specified relationships are required to file a statement within 10 days after assuming such relationship.

(b) Statements are not deemed to have been filed with the Commissioner until they have actually been received by the Commissioner.

3. WHERE STATEMENTS ARE TO BE FILED.

One signed copy of each statement shall be filed with the Insurance Commissioner, Georgia Insurance Department, State Capitol, Atlanta, Georgia.

4. SEPARATE STATEMENT FOR EACH COMPANY.

A separate statement shall be filed with respect to the securities of each company.

5. RELATIONSHIP OF REPORTING PERSON TO COMPANY.

Indicate clearly the relationship of the reporting person to the company; for example, "Director", "Director and Vice President", "Beneficial Owner of more than 10 per cent of the Company's common stock", etc.

6. DATE AS OF WHICH BENEFICIAL OWNERSHIP IS TO BE GIVEN.

The information as to beneficial ownership of securities shall be given as of the date on which the event occurred which requires the filing of a statement on this form, for example, the effective date of Chapter 56-16 of the Code of Georgia Annotated, or when the person whose ownership is reported became a director or officer of the company.

7. CLASSES OF SECURITIES TO BE REPORTED.

Persons specified in Instruction 1 above shall include information as to their beneficial ownership of all classes of equity securities of the company.

8. TITLE OF SECURITY.

The statement of the title of a security shall be such as clearly to identify the security even though there may be only one class; for example, "Class A Common Stock", "$6 Convertible Preferred Stock", "5% Debentures Due 1965", etc.

9. NATURE OF OWNERSHIP.

Under "Nature of ownership", state whether ownership of the securities is "direct" or "Indirect". If the ownership is indirect, i. e., through a partnership, corporation, trust or other entity, indicate in a footnote or other appropriate manner, the name or identity of the medium through which the securities are indirectly owned. The fact that securities are held in the name of a broker or other nominee does not, of itself, constitute indirect ownership. Securities owned indirectly shall be reported on separate lines from those owned directly and also from those owned through a different type of indirect ownership.

10. STATEMENT OF AMOUNT OWNED.

In stating the amount of securities beneficially owned, give the face amount of debt securities or the number of shares or other units of other securities. In the case of securities owned indirectly, the entire amount of securities owned by the partnership, corporation, trust or other entity, shall be stated. The person whose ownership is reported may, if he so desires, also indicate in a footnote or other appropriate manner, the extent of his interest in the partnership, corporation, trust of other entity.

11. INCLUSION OF ADDITIONAL INFORMATION.

A statement may include any additional information or explanation deemed relevant by the person filing the statement.

12. SIGNATURE.

If the statement is filed for a corporation, partnership, trust, etc., the name of the organization shall appear over the signature of the officer or other person authorized to sign the statement. If the statement is filed for an individual, it shall be signed by him or specifically on his behalf by a person authorized to sign for him.

"Exhibit B" STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF EQUITY SECURITIES

JAMES L. BENTLEY
Insurance Commissioner

GEORGIA INSURANCE DEPARTMENT
State Capitol
Atlanta, Georgia

Form GID-19

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF EQUITY SECURITIES

Filed pursuant to Section 56-1601 of the Code of Georgia Annotated

(See Instructions on Reverse Side)

_____
(Name of company in which Equity Securities are held)

_____
(Name of person whose ownership is reported)

_____
(Business address of such person; street, city, zone, state)

Relationship of such person to company named above. (See instruction 5) _____

_____

Statement for Calendar Month of _____, 19____

CHANGES DURING MONTH AND MONTH-END OWNERSHIP (See Instruction 8)

Title of Security (See Instruction 7)	Date of Transaction (See Instruction 8)	Amount Bought or otherwise acquired (See Instruction 9)	Amount Sold or otherwise disposed of (See Instruction 9)	Nature of Ownership (See Instruction 10)	Amount Owned beneficially at end of month (See Instruction 9)

REMARKS (See Instruction 11)

I, the undersigned, do solemnly swear that the within and foregoing information is true and correct to the best of my knowledge and belief.

Subscribed and sworn to before me

this _____ day of _____ 19____

_____
(Signature of affiant)

_____
(Notary Public)

INSTRUCTIONS

1. PERSONS REQUIRED TO FILE STATEMENTS.

Statements on this form are required to be filed by each of the following persons: Every person who at any time during any calendar month was (i) directly or indirectly the beneficial owner of more than 10 per cent of any class of equity securities of a domestic stock insurer, or (ii) a director or officer of such insurer which is the issuer of such securities, and who during such month had any change in his beneficial ownership of any class of equity securities of such insurer.

2. WHEN STATEMENTS ARE TO BE FILED.

Statements are required to be filed on or before the 10th day after the end of each month in which any change in beneficial ownership has occurred. Statements are not deemed to have been filed with the Commissioner until they have actually been received by the Commissioner.

3. WHERE STATEMENTS ARE TO BE FILED.

One signed copy of each statement shall be filed with the Insurance Commissioner, Georgia Insurance Department, State Capitol, Atlanta, Georgia.

4. SEPARATE STATEMENT FOR EACH COMPANY.

A separate statement shall be filed with respect to the securities of each company.

5. RELATIONSHIP OF REPORTING PERSON TO COMPANY.

Indicate clearly the relationship of the reporting person to the company; for example, "Director", "Director and Vice President", "Beneficial Owner of more than 10 per cent of the Company's common stock", etc.

6. TRANSACTIONS AND HOLDINGS TO BE REPORTED.

(a) Persons required to file statements on this form shall include in their statements all changes during the month in their beneficial ownership, and their beneficial ownership at the end of the month of, all classes of equity securities of the company.

(b) Every transaction shall be reported even though purchases and sales during the month are equal or the change involves only the nature of ownership; for example, from direct to indirect ownership. Beneficial ownership at the end of the month of all classes of securities required to be reported shall be shown even though there has been no change during the month of the ownership of securities of one or more classes.

7. TITLE OF SECURITY.

The statement of the title of the security shall be such as clearly to identify the security even though there may be only one class; for example, "Class A Common Stock", "$6 Convertible Preferred Stock", "5% Debentures Due 1965", etc.

8. DATE OF TRANSACTION.

The exact date (month, day and year) of each transaction shall be stated opposite the amount involved in the transaction.

9. STATEMENT OF AMOUNTS OF SECURITIES.

In stating the amount of securities acquired, disposed of, or beneficially owned, give the face amount of debt securities or the number of shares or other units of other securities. In the case of securities owned indirectly, i. e. through a partnership corporation, trust or other entity, the entire amount of securities involved in the transaction or owned by the partnership, corporation, trust or other entity shall be stated. The person whose ownership is reported may, if he so desires, also indicate in a footnote or other appropriate manner, the extent of his interest in the transaction or holdings of the partnership, corporation, trust or other entity.

10. NATURE OF OWNERSHIP.

Under "Nature of ownership", state whether ownership of the securities is "direct" or "Indirect". If the ownership is indirect, i. e., through a partnership, corporation, trust or other entity, indicate in a footnote or other appropriate manner, the name or identity of the medium through which the securities are indirectly owned. The fact that the securities are held in the name of a broker or other nominee does not, of itself, constitute indirect ownership. Securities owned indirectly shall be reported on separate lines from those owned directly and from those owned through a different type of indirect ownership.

11. CHARACTER OF TRANSACTION.

If the transaction was with the issuer of the securities, so state. If it involved the purchase of securities through the exercise of options, so state and give the exercise price per share. If any other purchase or sale was effected otherwise than in the open market, that fact shall be indicated. If the transaction was not a purchase or sale, indicate its character; for example, gift, 5% stock dividend, etc., as the case may be. The foregoing information may be appropriately set forth in the table or under "Remarks" at the end of the table.

12. INCLUSION OF ADDITIONAL INFORMATION.

A statement may include any additional information or explanation deemed relevant by the person filing the statement.

13. SIGNATURE.

If the statement is filed for a corporation, partnership, trust, etc., the name of the organization shall appear over the signature of the officer or other person authorized to sign the statement. If the statement is filed for an individual, it shall be signed for him.

Cite as Ga. Comp. R. & Regs. R. 120-2-9-.01
Authority: Ga. Laws, 1960. p. 289 at p. 306; Ga. Laws, 1963. p. 373 at p. 330, as amended.

Subject 120-2-10. REGULATIONS REGARDING INSURANCE CONTRACT.

Rule 120-2-10-.01. Profit-Sharing Policies.

(1) No policy may be sold or approved for sale in Georgia on or after November 1, 1967 which provides that the policyholder will be eligible to participate in any future distribution of general corporate profits, with special advantage not available to person holding other types of policies issued by the company to individuals of the same class and equal expectation of life, nor may any policy be sold or approved for sale which provides that the policy holder will be eligible to participate in any future distribution of profits, savings, or unabsorbed portions of premium unless the requirements set for in Regulation 120-2-10-.08 have been met.

(2) No policy may be sold or approved for sale in Georgia after said date which uses a policy name implying or that may reasonably be construed as implying that only a limited number or a limited class of persons will be eligible to buy such policy, unless such limitation is related to actuarially sound underwriting practices.

(3) This section is not intended to restrict or prohibit the sale in this State of insurance policies or annuities authorized by 33-14-16 and 33-25-6 of the Georgia Insurance Code,

nor is it intended to restrict an insurer from issuing both participating and nonparticipating policies.

Cite as Ga. Comp. R. & Regs. R. 120-2-10-.01
Authority: Ga. L. 1960, pp. 289, 305; O.C.G.A. Sec. 33-2-9.
History. Original Role entitled "Profit-Sharing Policies" was filed and effective July 20, 1965.
Amended: Rule repealed and a new Rule of the same title adopted. Filed November 13, 1967; effective November 1, 1967.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Jun. 1, 1990, as specified by the Agency.

Rule 120-2-10-.02. Coupon Policies or Policies with Annual Pure Endowment Benefits.

(1) No policy containing pure endowment benefits during the premium paying period (whether or not evidenced by coupons, passbooks, or other devices generally identified with savings, banking or investment institutions), shall be sold or approved for sale in Georgia on or after November 1, 1967 unless it meets the following requirements:

(a) Contains, clearly and prominently displayed in the proximity to the language used to set forth the consideration for the policy contract, the following statement or similar wording approved by the Commissioner, "the premium shown includes an additional annual (semi-annual, quarterly, monthly, weekly, etc.) premium of $_____ for coupon (or pure endowment, whichever is applicable) benefits", inserting in the blank space the said additional premium.

(b) Payment of any annual pure endowment benefits shall not be made contingent upon the payment of premiums falling due on or after the time the annual pure endowment benefit has matured.

(c) The amount of each of the pure endowment benefits shall be expressed in dollar amounts and not as a "percentage" of any premium or benefit.

(d) No annual pure endowment shall be described as being a guaranteed dividend, nor as earning on the premium investment.

(e) The language and terminology of a policy which has pure endowment benefits therein shall not purport to represent the pure endowment benefit or benefits to be anything other than guaranteed insurance benefits for which premium is being paid by the policyholder.

(2) This section shall not apply to Educational Endowment-type policies in which the amounts of annual pure endowments, payable during the endowment period, are greater than the annual premiums for the respective years in which such endowments are paid.

Cite as Ga. Comp. R. & Regs. R. 120-2-10-.02
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Coupon Policies" was filed and effective on July 20, 1965.
Amended: Rule repealed and a new Rule entitled "Coupon Policies or Policies with Annual Endowment Benefits" adopted. Filed November 13, 1967; effective November 1, 1967.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Jan. 1, 1990, as specified by the Agency.

Rule 120-2-10-.03. Medical or Surgical Policies-Outpatient Coverage.

(1) In accordance with Section 33-29-6 of the Georgia Insurance Code this rule is applicable to all individual accident and sickness policies that provide coverage for medical or surgical procedures which are required to be performed on an inpatient basis at a licensed hospital. These policies shall contain provisions on their face or by endorsement to reimburse policyholders for any otherwise covered medical or surgical procedures when such procedures are performed on an outpatient basis in a facility described in said policies.

(2) In ordinary circumstances when the general condition of the patient would not be placed in jeopardy, admission to the hospital as a registered bed patient may not be necessary for the sole purpose of performing the procedures described herein.

(3) All personnel and providers of services shall be currently licensed to perform the services they provide, when such services require licensure or registration under applicable State laws.

(4) All facilities and equipment needed and used for and in the delivery of services which are required to be licensed and/or certified by law shall be so licensed and/or certified.

(5) The medical or surgical procedures listed in paragraph (7) below may be performed on an outpatient basis unless the following situations exist which may contraindicate the use of an outpatient setting:

(a) Presence of medical conditions which make prolonged postoperative observation by a nurse or skilled medical personnel a necessity (including but not limited to heart disease and severe diabetes).

(b) An unrelated procedure is being done simultaneously which itself requires surgical hospitalization.

(c) Lack of proper home postoperative care.

(d) Another surgical procedure could follow the initial procedure (including but not limited to a one-stage breast biopsy followed by a mastectomy).

(e) Technical difficulties as documented by admission or operative notes.

(f) A specific State statute or State Agency Rule(s) or Regulation(s) prohibits and/or limits said procedure.

(6) Upon the certification by the Commissioner of Human Resources to the Insurance Commissioner that any procedure listed in paragraph (7) below can no longer be legally and safely performed on an outpatient basis, the Insurance Commissioner shall issue an order suspending the listing of that procedure(s). Such suspension shall remain in effect until such time as the Commissioner of Human Resources certifies to the Insurance Commissioner that the procedure(s) so suspended may again be legally and safely performed on an outpatient basis at which time the Insurance Commissioner shall issue an order reinstating the listing of that procedure(s). A copy of any such suspension and reinstatement orders shall be kept at the offices of the Insurance Commissioner and provided at cost to any person informing the Insurance Commissioner in writing of their desire to receive copies of all such orders. The procedures listed as of the time of their performances shall be reimbursable even if suspended at a subsequent date.

(7) The numbers as set forth below in the following subparagraphs represent the medical and surgical services and procedures as contained in the *Physician's Current Procedural Terminology* (CPT), Fourth Edition, 1977, as published by the American Medical Association, Chicago, Illinois, 60610. Subject to the above listed conditions, these listed procedures may be performed on an outpatient basis.

Cite as Ga. Comp. R. & Regs. R. 120-2-10-.03
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1980, pp. 1251, 1252; O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Medical or surgical Policies-Outpatient Coverage" was filed on August 29, 1980; effective September 18, 1980.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Jan. 1, 1990, as specified by the Agency.

Rule 120-2-10-.04. Misleading Terms Prohibited.

(1) Words such as "Founders Plan", "Charter Policy", "Expansion Plan", or "Profit-Sharing" have a tendency to mislead a purchaser or prospective purchaser of insurance or annuity to believe that he will receive something other than an insurance policy, annuity policy, or some benefit not available to other persons of the same class and expectation of life. Therefore, the use of such words or any other words that imply special privileges or benefits to the owner or insured persons not available to other persons of the same class and expectation of life in any insurance or annuity contract is prohibited.

(2) The use of such words in printed material or oral presentations in a context which will mislead a purchaser or prospective purchaser of insurance or annuity to believe he will receive something other than an insurance policy, annuity policy, or some benefit not available to a person of the same class and expectation of life is prohibited.

(3) Use of the words "investment" or "profit" in a context or under such circumstances or conditions as to have the capacity and tendency to mislead a purchaser or prospective purchaser to believe that he will receive, or that it is a possibility that he will receive, something other than an insurance policy, some benefit not provided in the policy, or some benefit not available to other persons of the same class and equal expectation of life is prohibited.

Cite as Ga. Comp. R. & Regs. R. 120-2-10-.04
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Misleading Terms Prohibited" was filed on November 13, 1967; effective November 1, 1967.

Rule 120-2-10-.05. Describing Premiums as "Deposits", "Savings", or "Investments".

The use of the words "deposit," "savings," or "investments" in any insurance or annuity contract, other printed material, or oral presentation to refer to an amount where, in fact, the amount referred to is a premium as defined in Section 33-24-1 of the Georgia Insurance Code is prohibited unless:

(1) The premium payment establishes a debtor-creditor relationship between the insurance company and the policyholder; or

(2) The terms are used in conjunction with the word "premium" in such a manner as to clearly indicate the true character of the premium payment; or

(3) The terms are used in conjunction with a deposit administration plan.

Cite as Ga. Comp. R. & Regs. R. 120-2-10-.05
Authority: Ga. L. 1960, pp. 289, 305; O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Describing Premium, as "Deposits" was filed on November 13, 1967; effective November 1, 1967.
Amended: Role repealed and a new Rule entitled "Describing Premiums as "Deposits," "Savings," or "Investments"" adopted. Filed April 11, 1980; effective July 1, 1980, as specified by the Agency.

Rule 120-2-10-.06. Filing Requirements-Life and Health Forms.

(1) The submission of any form for approval shall be in compliance with this Rule, Section 33-24-9 of the Georgia Insurance Code and any other applicable sections of the Georgia Insurance Code or the Rules and Regulations of the Georgia Insurance Department.

(2) Forms must be submitted in duplicate. If approval is granted, one copy will be retained by the Insurance Department and the other will be returned to the insurer with an appropriate notation indicating approval.

(3) Each form must be identified by a form number which is unique to that form. This number shall be printed in the lower left-hand corner of the first page, and no other number shall appear in close proximity to the form number. If any loose leaf or alternate pages are submitted, each such page must also be identified by a unique form number.

(4) Submissions must be made by the insurer's Home Office, Regional Home Office, legal counsel or consulting actuary, and not by agents or agencies. Any other arrangements must be requested in writing and agreed to by this Department.

(5) Each submission must be accompanied by a letter listing by number the forms being submitted together with a brief description of each. The letter should also contain or have attached any other information required by these rules.

(6) The insurer must indicate whether or not the form being submitted has been filed with the insurer's domestic state. If it has been so filed, the insurer must indicate whether or not approval has been received from the domestic state. If not so filed, or approved, or being sold in the domestic state, the reason must be stated.

(7) If the submission is new, the insurer should print out the unique features of the form. If the submission is to supersede any approved form or where there has been any prior submission, the insurer should state which form is being replaced and the date when such replaced form was approved or submitted, as the case may be, and should point out the material changes in the superseding form.

(8) Each form must be completed with representative specimen data in "John Doe" fashion.

(9) If submission is made of a complete policy form plus alternate pages, the insurer should clearly indicate what substitutions are being proposed.

(10) If the insurer submits pages providing alternate or optional benefits under policy forms previously approved, reference should be made to the form number and date of approval of the basic policy.

(11) If the insurer submits a page which is to replace a corresponding page in a previously approved policy or policies, reference must be made to the form number and date of approval of the basic policy with which the page is proposed to be used. The new page must be completed with representative data.

(12) Any rider or endorsement form must have affixed the signature of a responsible officer of the insurer as part of such form.

(13) No policy, annuity contract, rider, endorsement or certificate may contain any advertising or underwriting material. It is not the intent of this rule to prohibit the imprinting of registered trade marks of the insurer.

(14) No statement may appear in an application with respect to a proxy through which one or more members of the board of directors is authorized to vote in the election of directors.

(15) The following information is required for all life policy forms except those life forms for which there are minimum values printed in standard actuarial publications.

(a) A detailed development of the actuarial formulas for valuation premiums and reserves; non-forfeiture factors and values; and dividends, if participating.

(b) Sample calculations for reserves and non-forfeiture values for the age illustrated in the John Doe specimen policy.

(c) Certification by a qualified actuary that reserve factors and non-forfeiture values for all ages correctly calculated by the formulas submitted.

Cite as Ga. Comp. R. & Regs. R. 120-2-10-.06
Authority: Ga. L. 1960, pp. 289, 305; O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Misleading Statements, Representations and Illustrations Prohibited" was filed November 13, 1967; effective November 1, 1967.
Amended: Rule repealed and a new Rule entitled "Filing Requirements in Life and Health Forms" adopted. Filed April 11, 1980; effective July 1, 1980, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Jan. 1, 1990, as specified by the Agency.

Rule 120-2-10-.07. Agents, Payments for Furnishing Leads and Reference to Regulations.

No insurer or agent holding a license as a permanent insurance agent or other representative of an insurer shall:

(a) Pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, any commission or other valuable consideration as a result of the sale of a life insurance or annuity policy to any person for furnishing a lead, unless such person is currently licensed in this State to sell life insurance.

(b) Apply for a temporary life insurance license, intending at the time of application not to qualify by written examination as a permanent insurance agent, provided, however, that this shall not prohibit the issuance of temporary licenses to persons entitled thereto as provided in Section 33-23-8(1)(2) of the Georgia Insurance Code.

(c) Sponsor for a life insurance license a person the sponsor could reasonably be expected to know has no intention of qualifying for a license as a permanent insurance agent, or a

person whom the sponsor is not in good faith considering to contract with as a permanent insurance agent.

(d) Make any reference to the regulations of this Chapter in an attempt or effort to induce a policyholder to lapse, cancel or replace any insurance policy currently in force, or make any reference to these regulations in an attempt or effort to sell or induce any person to buy any particular kind or type of insurance policy approved for sale in Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-10-.07
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Agents, Payments for Furnishing Leads, and Reference to Regulations" was filed on November 13, 1967; effective November 1, 1967.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Jan. 1, 1990, as specified by the Agency.

Rule 120-2-10-.08. Participating Policies.

No participating life insurance or annuity policy shall be sold or approved for sale in Georgia on or after January 1, 1968 unless each of the following requirements has been met:

(a) There shall be filed with the Commissioner a participating scale or formula pursuant to which the right to and extent of participation of policyholders of such participating insurance policy shall be determined. Such participating scale or formula shall be reviewed by the Company's actuary not less frequently than each five years and shall then be amended, if necessary, to reflect the Company's current experience. Any change or amendment of such participating scale or formula shall be filed with a statement of the reasons in support of such proposed change or amendment.

(b) There shall be filed with the Commissioner the verified certificate of an actuary attesting that the participating scale or formula required in subsection (a) above was prepared for such policy form or series of policy forms, is actuarially sound and based upon a reasonable classification not unfairly discriminating as between policyholders within such classification.

(c) There shall be filed with the Commissioner a verified certificate of a duly authorized officer of the insurer attesting that the participating scale or formula required by subsection (a) above will be the basis upon which the insurer will annually determine the right to and extent of participation by the policyholders of such policy form or series of policy forms.

(d) Completion of Schedule M, including the footnote requirement, of the Annual Statement required to be filed with the Commissioner and the certification of the actuary, together with that of other executive officers, to the Annual Statement or specifically Schedule M thereof, shall constitute compliance with (a), (b) and (c) above.

Cite as Ga. Comp. R. & Regs. R. 120-2-10-.08
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Participating Policies" was filed on November 13, 1967; effective November 1, 1967.

Rule 120-2-10-.09. Life, Annuities and Accident and Sickness Insurance Policy Language Simplification Standards.

(1) The purpose of this Rule is to establish minimum ease of reading standards, pursuant to O.C.G.A. Sections 33-2-9 and 33-3-25, for language used in policies, contracts, coverage booklets provided by insurers to certificate holders, and certificates of life insurance, accident and sickness insurance, credit life insurance and credit accident and sickness insurance delivered or issued for delivery in this State on and after January 1, 1984. This Rule is not intended to increase the risk assumed by insurance companies or other entitles subject to this Rule or to supersede their obligation to comply with the substance of other insurance legislation applicable to life, annuities, accident and sickness, credit life or credit accident and sickness insurance policies. This Rule is not intended to impede flexibility and innovation in the development of policy forms or content or to lead to the standardization of policy forms or content.

(2) As used in this Rule:

(a) 'Policy' or 'policy form' means any policy contract, plan or agreement of life, annuities or accident and sickness insurance, including credit life and credit accident and sickness insurance, delivered or issued for delivery in this State by any company subject to this Rule; any certificate, contract or policy issued by a fraternal benefit society; any coverage booklet provided by insurers to certificate holders or any certificate issued pursuant to a group insurance policy delivered or issued for delivery in this State.

(b) 'Company' or insurer' means any life or accident and sickness insurance company, fraternal benefit society, nonprofit medical service corporation, nonprofit hospital service corporation, health care plan, dental care plan, vision care plan, pharmaceutical plan, health maintenance organization, and all similar type organizations.

(c) 'Commissioner' means the Insurance Commissioner of this State.

(3) This Rule shall apply to all policies delivered or issued for delivery in this State by any insurer on or after the date such forms must be approved under this Rule, but nothing in this Rule shall apply to:

(a) any policy which is a security subject to federal jurisdiction;

(b) any group policy covering a group of 1,000 or more lives at date of issue, other than a group credit life insurance policy or a group credit accident and sickness

insurance policy; however, this shall not exempt the language contained in any certificate issued pursuant to a group policy delivered or issued for delivery in this State;

(c) any group annuity contract which serves as a funding vehicle for pension, profit sharing, or deferred compensation plans;

(d) any form used in connection with, as a conversion from, as an addition to, or in exchange pursuant to a contractual provision for, a policy delivered or issued for delivery on a form approved or permitted to be issued prior to the dates such forms must be approved under this Rule; or

(e) the renewal of a policy delivered or issued for delivery prior to the dates such forms must be approved under this Rule.

(4) In addition to any other requirements of law, no policy forms, except as stated in paragraph (3) of this Rule, shall be delivered or issued for delivery in this State on or after the dates such forms must be approved under this Rule, unless:

(a) the text achieves a minimum score of forty on the Flesch reading ease test, or an equivalent score on any other comparable test as provided in paragraph (6) of this Rule;

(b) it is printed, except for specification pages, schedules and tables is not less than ten-point type, one-point leaded;

(c) the style, arrangement and overall appearance of the policy give no undue prominence to any portion of the text of the policy or to any endorsements or riders; and

(d) it contains a table of contents or an index of the principal sections of the policy, if the policy has more than 3,000 words printed on three or fewer pages of text, or if the policy has more than three pages regardless of the number of words.

(5) For the purpose of this Section, a Flesch reading ease test score shall be measured by the following method:

(a) For policy forms containing 10,000 words or less of text, the entire form shall be analyzed. For policy forms containing more than 10,000 words, the readability of two, 200 word samples per page may be analyzed instead of the entire form. The samples shall be separated by at least twenty printed lines.

(b) The number of words and sentences in the text shall be counted and the total number of words divided by the total number of sentences. The figure obtained shall be multiplied by a factor of 1.015.

(c) The total number of syllables shall be counted and divided by the total number of words. The figure obtained shall be multiplied by a factor of 84.6.

(d) The sum of the figures computed under subparagraphs (5)(b) and (5)(c) above subtracted from 206.835 equals the Flesch reading ease score for the policy form.

(e) For purposes of subparagraphs (5)(b), (c) and (d) above, the following procedure shall be used:

1. a contraction, hyphenated word, or numbers and letters when separated by spaces, shall be counted as one word;

2. a unit of words ending with a period, semicolon, or colon, but excluding headlines and captions, shall be counted as a sentence; and

3. a syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. Where the dictionary shows two or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.

(f) The term 'text' as used in this Rule shall include all printed matter except the following:

1. the name and address of the insurer; the name, number or title of the policy; the table of contents or index; captions and subcaptions; specification pages, schedules or tables; and

2. any policy language which is drafted to conform to the requirements of any federal law, regulation or agency interpretation; any policy language required by any collectively bargained agreement; and medical terminology; any words which are defined in the policy; and any policy language required by law or regulation; provided, however, the insurer identifies the language or terminology excepted by this subparagraph 2. and certifies, in writing, that the language or terminology is entitled to be excepted by the subparagraph 2.

(6) Any other reading test may be approved by the Commissioner for use as an alternative to the Flesch reading ease test if it is comparable in result(s) to the Flesch reading ease test.

(7) Filings subject to this Rule shall be accompanied by a certificate signed by an officer of the insurer stating that is meets the minimum reading ease score on the test used or stating that the score is lower than the minimum required but should be approved in accordance with paragraph (10) of this Rule. To confirm the accuracy of any certification, the Commissioner may require the submission of further information to verify the certification in question.

(8) At the option of the insurer, riders, endorsements, applications, and any other forms made a part of the policy may be scored as separate forms or as part of the policy with which they may be used.

(9) Nothing in this Rule shall be construed to negate any law of this State permitting the issuance of any policy form after it has been on file for the time period specified.

(10) The Commissioner may authorize a lower score than the Flesch reading ease score required in subparagraph (4) (a) of this Rule whenever, in his sole discretion, he finds that a lower score:

(a) will provide a more accurate reflection of the readability of a policy form;

(b) is warranted by the nature of a particular policy or type or class of policy forms; or

(c) is caused by certain policy language which is drafted to conform to the requirements of any State law, regulation or agency interpretation.

(11) A policy form meeting the requirements of paragraph (4) or this Rule shall be approved notwithstanding the provisions of any other Laws which specify the content of policies, if the policy form provides the policyholders and claimants protection not less favorable than they would be entitled to under such laws.

Cite as Ga. Comp. R. & Regs. R. 120-2-10-.09
Authority: Ga. L. 1960, pp. 289, 305. Georgia Insurance Code Secs. 33-2-9, 33-3-25.
History. Original Rule entitled "Consequences of Violation of Regulations" was filed on November 13, 1967; effective November 1, 1967.
Amended: Rule repealed. Filed April 11, 1990; effective July 1, 1980, as specified by the Agency.
Amended: Rule entitled "Life, Annuities and Accident and Sickness Insurance Policy Language Simplification Standards" adopted. Filed July 1, 1983; effective August 1, 1983, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Jan. 1, 1990, as specified by the Agency.

Rule 120-2-10-.10. Group Coverage Discontinuance and Replacement.

(1) This Rule is applicable to all insurance policies, subscriber contracts, and any other insurance coverage by whatever name called issued in this State or provided through an out-of-state multiple employer trust or arrangement by an insurer on a group or group-type basis covering persons as employees of employers or as members of unions (or associations).

(2) The term "group type basis" means a benefit plan, other than "salary budget" plans utilizing individual insurance policies or subscriber contracts, which meets the following conditions:

(a) Coverage is provided through insurance policies or subscriber contracts to classes of employees or members defined in terms of conditions pertaining to employment or membership.

(b) The coverage is not available to the general public and can be obtained and maintained only because of the covered person's membership in or in connection with the particular organization or group.

(c) There are arrangements for bulk payment of premiums or subscription charges to the insurer or non-profit service corporation.

(d) There is sponsorship of the plan by the employer, union (or association).

(3) The effective date of discontinuance for non-payment of premium or subscription charges:

(a) If a policy or contract subject to these rules and regulations provides for automatic discontinuance of the policy or contract after a premium or subscription charge has remained unpaid through the grace period allowance for such payment, the carrier shall be liable for valid claims for covered losses incurred prior to the end of the grace period.

(b) If the actions of the carrier after the end of the grace period indicate that it considers the policy or contract as continuing in force beyond the end of the grace period (such as, by continuing to recognize claims subsequently incurred), the carrier shall be liable for valid claims for losses beginning prior to the effective date of written notice of discontinuance to the policyholder or other entity responsible for making payments or submitting subscription charges to the carrier. The effective date of discontinuance shall not be prior to midnight at the end of the third scheduled work day after the date upon which the notice is delivered.

(4) Requirements for notice of discontinuance for other than nonpayment of premiums: Any notice of discontinuance by the insurer shall be mailed or delivered not less than sixty (60) days prior to the effective date of cancellation. Such written notice of discontinuance given by the insurer may also advise, in any instance in which the plan involves employee contributions, that if the policyholder or other entity continues to collect contributions for the coverage beyond the date of discontinuance, the policyholder or other entity may be held solely liable for the benefits with respect to which the contributions have been collected. The notice of discontinuance required by this paragraph shall not be required where a policy is cancelled due to nonpayment of premium or subscription charges following the end of any required grace period.

(5) Extension of Benefits.

(a) Every group or other contract subject to these rules and regulations hereafter issued, or under which the level of benefits is hereafter altered, modified, or

amended, must provide a reasonable provision for extension of benefits in the event of total disability at the date of discontinuance of the group policy or contract as required by the following paragraphs of this section.

(b) In the case of a group life plan which contains a disability benefit extension of any type (e.g., premium waiver extension, extended death benefit in the event of total disability, or payment of income for a specified period during total disability) the discontinuance of the group policy shall not operate to terminate such extension.

(c) In the case of a group plan providing benefits for loss of time from work or specific indemnity during hospital confinement, discontinuance of the policy during a disability shall have no effect on benefits payable for the disability or confinement.

(d) In the case of hospital or medical expense coverages, a reasonable extension of benefits or accrued liability provision is required. Such a provision will be considered "reasonable" if it provides an extension of at least twelve months under "major medical" and "comprehensive medical" type coverages, and under other types of hospital or medical expense coverages provides either an extension of at least ninety days or an accrued liability for expenses incurred during a period of disability or during a period of at least ninety days starting with a specific event which occurred while coverage was in force (e.g., an accident).

(e) Any applicable extension of benefits or accrued liability shall be described in any policy or contract involved as well as in group insurance certificates. The benefits payable during any period of extension or accrued liability may be subject to the policy's or contract's regular benefit limits (e.g., benefits ceasing at exhaustion of a benefit period or of maximum benefits).

(6) The continuance of coverage in situations involving replacement of one carrier by another:

(a) This section shall indicate the carrier responsible for liability in those instances in which one carrier's contract replaces a plan of similar benefits of another.

(b) Liability of prior carrier. The prior carrier remains liable only to the extent of its accrued liabilities and extensions of benefits. The position of the prior carrier shall be the same whether the group policyholders or other entity secures replacement coverage from a new carrier, self insures, or foregoes the provision of coverage.

(c) The liability of succeeding carrier:

1. Each person who is eligible for coverage in accordance with the succeeding carrier's plan of benefits (in respect of classes eligible and actively at work and non-confinement rules) shall be covered by that carrier's plan of benefits.

2. Each person not covered under the succeeding carrier's plan of benefits in accordance with paragraph 1. above must nevertheless be covered by the succeeding carrier in accordance with the following rules if such individual was validly covered (including benefit extension) under the prior plan on the date of discontinuance and if such individual is a member of the class or classes of individuals eligible for coverage under the succeeding carrier's plan. Any reference in the following rules to an individual who was or was not totally disabled is a reference to the individual's status immediately prior to the date the succeeding carrier's coverage becomes effective.

   (i) The minimum level of benefits to he provided by a succeeding carrier shall be the applicable level of benefits of the prior carrier's plan reduced by any benefits payable by the prior plan.

   (ii) Coverage must be provided by the succeeding carrier until at least the earliest of the following dates:

      (I) the date the individual becomes eligible under the succeeding carrier's plan as described in paragraph 1. above.

      (II) for each type of coverage, the date the individual's coverage would terminate in accordance with the succeeding carrier's plan provisions applicable to individual termination of coverage (e.g., at termination of employment or ceasing to be an eligible dependent, as the case may be).

      (III) in the case of an individual who was totally disabled, and in the case of a type of coverage for which paragraph 5. of this Rule requires an extension of accrued liability, the end of any period of extension of accrued liability which is required of the prior carrier by paragraph (5) of this Rule or, if the prior carrier's policy or contract is not subject to that paragraph, would have been required of that carrier had its policy or contract been subject to paragraph 5. at the time the prior plan was discontinued and replaced by the succeeding carrier's plan.

3. In the case of a preexisting conditions limitation included in the succeeding carrier's plan, the level of benefits applicable to preexisting conditions or persons becoming covered by the succeeding carrier's plan in accordance with this subparagraph during the period of time this limitation applies under the new plan shall be the lesser of:

   (i) the benefits of the new plan determined without application of the preexisting conditions limitation; and

(ii) the benefits of the prior plan.

4. The succeeding carrier, in applying any deductibles or waiting periods in its plan, shall give credit for the satisfaction or partial satisfaction of the same or similar provisions under a prior plan providing similar benefits. In the case of deductible provisions, the credit shall apply for the same or overlapping benefit periods and shall be given for expenses actually incurred and applied against the deductible provisions of the prior carrier's plan during the ninety (90) days preceding the effective date of the succeeding carrier's plan, but only to the extent these expenses are recognized under the terms of the succeeding carrier's plan and are subject to similar deductible provision.

5. In any situation where a determination of the prior carrier's benefits is required by the succeeding carrier, at the succeeding carrier's request the prior carrier shall furnish a statement of the benefits available or pertinent information, sufficient to permit verification of the benefit determination or the determination itself by the succeeding carrier. For the purpose of this section, benefits of the prior plan will be determined in accordance with all of the definitions, conditions, and covered expense provisions of the prior plan rather than those of the succeeding plan. The benefit determination will be made as if coverage had not been replaced by the succeeding carrier.

(d) Replacement, for the purposes of this Rule for groups or subgroups of fifty-one (51) or more insured employees, members or enrollees (not including dependents), includes, but is not limited to, any group or group-type replacement coverage which becomes effective within ninety (90) days of the date of discontinuance of a group policy or contract or within ninety (90) days of the date of discontinuance of an employer group insured under a group policy or contract covering multiple employer groups. Replacement, for the purposes of this Rule for groups or subgroups of fifty (50) or less insured employees, members or enrollees (not including dependents), shall be defined in Rule 120-2-10-.(1)(k).

1. The succeeding carrier's plan may be effective on the date agreed upon by the policyholder and insurer for the period for which a premium is paid.

2. The succeeding carrier shall not be liable for new conditions arising during the period of no coverage. Such conditions may be subject to the succeeding carrier's preexisting conditions limitation.

Cite as Ga. Comp. R. & Regs. R. 120-2-10-.10
Authority: Ga. L. 1960, pp. 289, 305; O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Effective Dates" was filed on November 13, 1967; effective November 1, 1967.
Amended: Rule repealed and a new Rule entitled "Group Coverage Discontinuance and Replacement adopted.

Filed April 11, 1980; effective July 1, 1980, as specified by the Agency.
Amended: F. Sept. 6, 1990; eff. Oct. 1, 1990, as specified by the Agency.

Rule 120-2-10-.11. Group Health Insurance Conversion Privilege.

(1) A group policy and any other group insurance coverage by whatever name called delivered or issued for delivery in this State or which covers Georgia residents through an out-of-state multiple employer trust or arrangement, by an insurer, nonprofit health care corporation or a Health Maintenance Organization (HMO) which provides hospital, surgical, or major medical coverage, or any combination of these coverages, on an expense incurred or service provided basis, but not a policy which provides benefits for specific diseases or for accidental injuries only shall provide that an insured employee, member, or enrollee whose insurance under the group policy has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy (and under any group policy providing similar benefits which it replaces) for at least six (6) months immediately prior to termination, shall be entitled to have issued by the insurer an individual policy of health insurance (hereafter referred to as the `converted policy'). An employee, member, or enrollee shall not be entitled to have a converted policy issued if termination of the insurance under the group policy occurred because (i) the employee, member, or enrollee failed to pay any required contribution, (ii) any discontinued group coverage was immediately replaced by similar group coverage unless such person was declined coverage under the replacing group coverage, or (iii) an HMO enrollee's coverage was terminated in accordance with Rule 120-2-33-.06 of the Rules and Regulations of the Georgia Insurance Department. Issuance of a converted policy shall be subject to the following conditions:

(a) Time Limit: Evidence of Insurability. Written application for the converted policy shall be made and the first premium paid to the insurer not later than thirty-one (31) days after such termination. The converted policy shall be issued without evidence of insurability.

(b) Effective Date of Coverage: Scope of Coverage. The effective date of the converted policy shall be the day following the termination of insurance under the group policy. The converted policy shall cover the employee, member or enrollee and any dependents who were covered by the group policy on the date of termination of insurance.

(c) Optional Coverage. The insurer shall not be required to issue a converted policy under the plans specified herein to any person if such person is or could be covered by Medicare of the United States Social Security Act as added by the Social Security Amendments of 1965, or as later amended or superseded. Furthermore, except as required under subparagraph (c)3. below, the insurer shall not be required to issue a converted policy covering any person if:

1. such person is covered for similar benefits by an insurer under another hospital, surgical, medical, or major medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program; or such person is eligible for similar benefits (whether or not covered therefore) under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis; or similar benefits are provided for or available to such person, pursuant to or in accordance with the requirements or any state or federal law; or

2. the benefits provided or available under the sources referred to in subparagraph 1. above for such person, together with the benefits provided by the converted policy, would result in overinsurance according to the insurer's standards. The insurer's standards must bear some reasonable relationship to actual health care costs in the area in which the insured lives at the time of conversion and must be filed with the commissioner prior to their use in denying coverage.

3. Notwithstanding subparagraphs 1. and 2. above, overinsurance shall not exist, for the purpose of issuing a conversion policy to any insured person, if no other coverage, including other group insurances on the person, fully covers preexisting conditions. When full coverage for preexisting conditions is provided under other similar coverage, then the insurer may nonrenew the conversion policy or the coverage of any person insured in accordance with subparagraph (14) of this Rule.

(2) Benefits Offered. An insurer shall not be required to issue a converted policy which provides benefits in excess of those provided under the group policy from which conversion is made.

(3) Preexisting Condition Provision.

(a) The converted policy shall not exclude a preexisting condition not excluded by the group policy. The converted policy shall not exclude disease or physical condition of a particular employee, member, or enrollee by name or specific description.

(b) The converted policy may provide that any hospital, surgical or medical benefits payable thereunder may be reduced by the amount of any such benefits payable under the group policy after the termination of the individual's insurance thereunder.

(c) The converted policy during the first policy year, may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy, shall not exceed those that would have been payable had the individual's insurance under the group policy remained in force and effect.

(d) Any period, not to exceed one year, under the converted policy during which preexisting conditions are excluded shall be reduced by the time period the employee, member or enrollee was insured under the group policy from which conversion was made.

(4) Basic Hospitalization or Surgical Expense Coverage. Subject to the provisions and conditions of this Rule, if the group insurance policy from which conversion is made insured the employee, member, or enrollee for only basic hospitalization or surgical expense insurance, the employee, member, or enrollee shall have the option of obtaining a converted policy providing coverage on an expense incurred basis under any one of the plans meeting the following requirements:

(a) Plan A - Semiprivate hospital daily room and board charges for a maximum duration of seventy (70) days; miscellaneous hospital expense benefits of a maximum amount of ten (10) times the semiprivate hospital daily room and board charges; and surgical operation expenses benefits according to a surgical schedule consistent with those customarily offered by the insurer under group or individual health insurance policy and providing a maximum benefit of Eight Hundred Dollars ($800); or

(b) Plan B - seventy-five percent (75%) of the semiprivate hospital daily room and board charges for a maximum duration of seventy (70) days; miscellaneous hospital expense benefits of a maximum amount of ten (10) times the semiprivate hospital daily room and board charges payable; and surgical operation expense benefits according to a surgical schedule consistent with those customarily offered by the insurer under group or individual health insurance policies and providing a maximum benefit of Six Hundred Dollars ($600); or

(c) Plan C - fifty percent (50%) of the semiprivate hospital daily room and board charges for a maximum duration of seventy (70) days; miscellaneous hospital benefits for a maximum amount of ten (10) times the semiprivate hospital daily room and board charges payable; and surgical operation expense benefits according to a surgical schedule consistent with those customarily offered by the insurer under group or individual health insurance policies and providing a maximum benefit of Four Hundred Dollars ($400).

(5) Major Medical Insurance Other Than HMO Contracts. Subject to the provisions and conditions of this Rule, if the group insurance policy from which conversion is made insures the employee, member or enrollee for major medical expense insurance, the employee, member, or enrollee shall be entitled to obtain a converted policy providing catastrophic or major medical coverage under a plan meeting all of the following minimum requirements:

(a) A maximum benefit at least equal to either, at the option of the insurer, the benefits contained in subparagraphs 1. or 2. below:

1. The smaller of the following amounts:

   (i) The maximum benefit provided under the group policy.

   (ii) A maximum payment of Two Hundred Fifty Thousand ($25,000) for each unrelated injury or sickness.

(b) Payment of benefits at the rate of eight percent (80%) of covered medical expenses which are in excess of the deductible. Payment of benefits for outpatient treatment of mental illness, if provided in the converted policy, may be at a lesser rate but not less than fifty percent (50%).

(c) A cash deductible for each benefit period shall be not less than the corresponding deductible in the group policy. If the maximum benefit is determined by subparagraph 2. above, the insurer may require that the deductible be satisfied during a period of not less than three (3) months if the deductible is Two Hundred Dollars ($200) or less, and not less than six (6) months if the deductible exceeds Two Hundred dollars ($200).

(d) The benefit period shall be each calendar year when the maximum benefit is determined by subparagraph (a)1. above or twenty-four (24) months when the maximum benefit is determined by subparagraph (a)2. above.

(e) The term "covered medical expenses," as used above, shall include the semiprivate room and board rate for the hospital in which the individual is confined and twice such amount for charges in an intensive care unit. Any surgical schedule shall be consistent with those customarily offered by the insurer under group or individual major medical health insurance policies.

(6) The conversion privilege required by this Rule shall, if the group insurance policy insures the employee, member or enrollee for basic hospital or surgical expense insurance as well as major medical expense insurance, make available the plans of benefits as set forth in paragraphs (4) and (5) hereof under one policy.

The insurer may also, in addition to plans of benefits set forth in paragraphs (4) and (5) above, offer a policy of Comprehensive Medical Expense Benefits without first dollar coverage. Said policy shall conform to the requirements of paragraph (5) provided, however, that insurer electing to provide such a policy shall offer to all potential policyholders a low deductible option not to exceed One Hundred Dollars ($100), a high deductible option not to exceed Five Thousand Dollars ($5,000), and other deductible options between the high and low deductible options.

(7) HMO contracts. Subject to the provisions and conditions of this rule, a terminated employee who was an enrollee under a group HMO contract shall have the option of obtaining an individual HMO contract with all of the same benefits as were provided in

the group HMO contract or any lower option contract then being issued by the HMO as a conversion contract.

(8) Alternate Plans. The insurer may, at its option, offer alternate plans for group health conversion in addition to those required by this Rule.

(9) Retirement Coverage. In the event coverage would be continued under the group policy on an employee following retirement prior to the time the employee is or could be covered by medicare, the employee may elect, in lieu of such continuation of group insurance, to have the same conversion rights as would apply had the insurance terminated at retirement by reason of termination of employment or membership.

(10) Reduction of Coverage.

(a) Any converted policy may provide for a reduction of coverage on any person upon eligibility for coverage under Medicare of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended or superseded or under any other state or federal law.

(b) No converted policy may provide for a reduction of coverage on any person upon that person's eligibility for coverage under the Medicaid program of the State of Georgia.

(c) the benefits under the conversion policy shall be secondary to any group or blanket accident and sickness contract covering any person insured under the conversion contract.

(11) Conversion Privilege Allowed.

(a) Subject to the conditions set forth above, the conversion privilege shall be exercised at the insured's option at the time coverage terminates or at the end of any required period of continuation of coverage under the group policy and shall be available.

1. to the surviving spouse, if any, of the employee, member, or enrollee with respect to the spouse and such children whose coverage under the group policy terminates by reason of such death otherwise to each surviving child whose coverage under the group policy terminates by reason of such death, or

2. to the spouse of the employee, member, or enrollee upon termination of coverage of the spouse, while the employee, member, or enrollee remains insured under the group policy, by ceasing to be a qualified family member under the group policy, with respect to the spouse and such children whose coverage under the group policy terminates at the same time, or

3. to a child solely upon termination of the coverage by reason of ceasing to be a qualified family member under the group policy, or

4. to the former spouse whose coverage under the group policy terminates by reason of an entry of a valid decree of divorce between the insured and spouse.

(b) If the circumstances as related above in subparagraphs (a)1. or 4. occur, the spouse is entitled to have issued, in addition to the plans specified in this Rule without evidence of insurability, an individual or family policy then being issued by the insurer. Such individual or family policy must provide coverage most nearly similar to the coverage contained in the group policy or any other similar individual or family policy then being issued by the insurer but may contain lesser coverage if selected by the spouse.

(12) Benefit Levels. This rule shall not require that benefits exceed those provided under the converting group plan or group contract.

(13) Conversion Premium.

(a) All premium rates and amended rates must be filed with the Commissioner of Insurance, and must provide for the payment of monthly premiums. Optional modes of premium payment maybe offered to the converting employee, member, or enrollee.

(b) The initial premium for the converted policy for the first twelve (12) months and subsequent renewal premiums shall be determined in accordance with premium rates applicable to individually underwritten standard risks, to the age and class of risk of each person to be covered under the converted policy and to the type and amount of insurance provided. The experience under converted policies shall not be an acceptable basis for establishing rates for converted policies.

(c) If an insurer experiences incurred losses for a period of two (2) years on conversion policies which have been in force for at least one (1) year, which exceed earned premiums by more than twenty percent (20%), the insurer may determine and file with the Commissioner of Insurance amended renewal rates for the subsequent year so that the amended rates shall produce a future projected loss ratio of not less than one hundred twenty percent (120%). This subparagraph shall not affect the initial twelve (12) month premium required under subparagraph (13)(b) above.

(d) Conditions pertaining to health shall not be an acceptable basis for classification for the purposes of this Rule.

(14) Information Requested by Insurer.

(a) A converted policy may include a provision to allow the insurer to request information in advance of any premium due date of such policy of any person covered thereunder as to whether:

1. The insured is covered for similar benefits by another hospital, surgical, medical or major medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program;

2. The insured is covered for similar benefits under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis; or

3. Similar benefits are provided for or available to such person, pursuant to or in accordance with the requirements of any state or federal law.

(b) The converted policy may provide that the insurer can refuse to renew the policy or the coverage of any person insured thereunder for the following reasons only:

1. Either the benefits provided under the sources referred to in subparagraphs (a)1. and 2. above for such person, or benefits provided or available under the sources referred to in subparagraph (a)3. above for such person, together with the benefits provided by the converted policy, would result in overinsurance according to the insurer's standards on file with the Georgia Insurance Department, or the converted policy-holder fails to provide the requested information;

2. Eligibility of the insured person for coverage under Medicare (Title XVIII of the United States Social Security Act as added by the Social Security Amendements of 1965 or as later amended or superseded) or under any other state or federal law providing for benefits similar to those provided by the converted policy except that the conversion policy may not contain any provision purporting to exclude or reduce coverage provided an otherwise insurable person, solely for the reason that the person is eligible for or receiving medical assistance, as defined in the Georgia Medical Assistance Act of 1977.

(c) Any refusal to renew shall be without prejudice to any valid claim commending while the policy is in force.

(15) Individual Conversion Policies. Insurers must provide for the issuance of individual conversion policies. Group conversion policies shall not be issued in lieu of individual conversion policies. The individual conversion policy is not exempt under Chapter 120-2-25 of the Rules and Regulations of the Georgia Insurance Department entitled "Exemption From Filing Certain Life and Health Forms." All individual conversion policies must be filed for approval in accordance with O.C.G.A. Section 33-24-9.

(16) Notification. A notification of the conversion privilege shall be included in each certificate of coverage.

Cite as Ga. Comp. R. & Regs. R. 120-2-10-.11
Authority: O.C.G.A. Secs. 33-2-9, 33-24-21.1 (Ga. L. 1986, p. 688, Act 1455).
History. Original Rule entitled "Severability Provision" was filed on April 11, 1980; effective July 1, 1980, as specified by the Agency.
Amended: This Rule renumbered as 120-2-10-.13 and a new Rule entitled "Group Health Insurance Conversion Privilege" adopted. Filed July 24, 1986; effective September 1, 1986, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Jan. 1, 1990, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Sept. 6, 1990; eff. Oct. 1, 1990, as specified by the Agency.

Rule 120-2-10-.11A. Group Health Insurance Enhanced Conversion Privilege.

(1) Definitions. For the purpose of this Rule, the following definitions shall apply:

(a) "Continuation Coverage" shall mean any coverage under the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) or continuation benefits under O.C.G.A. § 33-24-21.1 or § 33-24-21.2.

(b) "Eligible Dependent" shall mean a dependent of a qualifying eligible individual, including a spouse, covered under the qualifying eligible individual's most recent group health insurance policy or contract, or continuation coverage thereof, who meets the requirements of paragraphs (g) 1. through 5. Eligible dependents shall include any dependents who would otherwise not qualify for coverage because they have less than 18 months previous creditable coverage, provided:

1. They were born, adopted, or placed for adoption during coverage under the most recent group policy or continuation coverage of the qualifying eligible individual: and

2. They were enrolled under such coverage within thirty-one (31) days of birth, adoption, or placement for adoption.

(c) "Group Pool Rate" shall mean the average base rate for employees, members, and enrollees, or dependents of such individuals, for all groups in the insurer's group pool in this state, determined over a period of twelve months and adjusted for benefit design but unadjusted for any demographic and experience factors relating to qualified eligible individuals in the enhanced conversion pool. In determining pool rates, the insurer must take into account all actual and anticipated experience data of the entire group pool itself (excluding the enhanced conversion pool) as well as other experience data of the insurer or data available generally, and must apply recognized actuarial practices as to credibility, trend factors, expense factors, and margins. Insurers shall use pool rates to determine premiums for all qualifying eligible individuals enrolling in enhanced conversion coverage.

(d) "Managed Care Organization" shall mean an insurer which is a health maintenance organization or a provider-sponsored health care corporation.

(e) "Model Low Option" shall mean a minimum benefit option for use by insurers or managed care organizations for the purpose of offering a choice of coverage that is more limited in nature than the model standard option, but which constitutes creditable coverage. The model low option shall be associated with the policy form template prescribed in Form *GHBAS-1* for managed care organizations, Form *GHIAS-2* for coverage under a preferred provider arrangement, or Form *GHIAS-1* for all other types of coverage, and with a schedule of benefits prescribed by Plan C in Form *GHBAS-S* for managed care organizations or by Plan A in Form *GHIAS-S* for all other types of coverage.

(f) "Model Standard Option" shall mean a minimum benefit option for use by insurers or managed care organizations for the purpose of offering comprehensive coverage comparable to a standard option of coverage in the individual health insurance market in this state. The model standard option shall be associated with the policy form template prescribed in Form *GHBAS-1* for managed care organizations, Form *GHIAS-2* for coverage under a preferred provider arrangement, or Form *GHIAS-1* for all other types of coverage, and with a schedule of benefits prescribed by Plan D in Form *GHBAS-S* for managed care organizations or by Plan B in Form *GHIAS-S* for all other types of coverage.

(g) "Qualifying Eligible Individual" shall mean any Georgia domiciliary who meets all of the following:

1. As of the date on which the individual seeks coverage under this section, the aggregate period of previous creditable coverage is 18 months or more;

2. The individual's most recent coverage was under a group plan, or continuation coverage thereof;

3. The individual's insurance under the group plan has been terminated for any reason, including discontinuance of the group plan in its entirety or with respect to an insured class, except for nonpayment of premium contribution pertaining to the qualifying eligible individual;

4. With regard to such an individual's coverage under a group plan or continuation thereof, a qualifying event has occurred on or after October 30, 1997;

5. The individual is not eligible for, nor has declined, any of the following:

   (i) Coverage under a group health insurance policy or contract, or other employer sponsored health benefit arrangement, including

continuation coverage under COBRA or O.C.G.A. §§ 33-24-21.1 or 33-24-21.2;

(ii) Medicare; or

(iii) The state plan under Medicaid or any successor program;

6. The individual is not enrolled in or covered under any other creditable health insurance coverage, including individual health insurance policies or blanket accident and sickness insurance pertaining to student health coverage; and

7. The individual is one of the following:

   (i) A current or former employee, member, or enrollee covered under the group health policy or contract and continuation thereof, if applicable;

   (ii) The surviving spouse, if any, of a deceased covered employee, member, or enrollee, with or without dependents;

   (iii) The spouse, or a former spouse, with or without dependents, of a covered employee, member, or enrollee upon a qualifying event of the spouse while the employee, member, or enrollee remains insured under the group policy or continuation thereof, by ceasing to be a qualified family member under the group policy, such as a result of a valid decree of divorce; or

   (iv) An otherwise eligible dependent upon reaching limiting age or otherwise losing dependent status under the group policy or continuation thereof, or under the enhanced conversion policy of another qualifying eligible individual.

(h) "Qualifying Event" shall mean loss of creditable coverage resulting from either:

(i) Exhaustion of continuation coverage to the maximum extent eligible under federal or state law; or

(ii) Termination of coverage under a group health insurance policy or contract, in the event such a qualifying eligible individual is not eligible for any continuation coverage.

(I) "Schedule of Benefits" shall mean the outline of benefit levels for a policy, including but not limited to the types of benefits covered and associated cost-sharing provisions.

(2) Conversion Privilege. A group policy or any other group insurance coverage by whatever name called, delivered or issued for delivery in this State or which covers Georgia residents through an out-of-state multiple employer trust or arrangement, by an insurer (including a managed care organization) which provides creditable coverage for hospital, surgical or major medical benefits, or any combination of these benefits, on an expense incurred or service provided basis, but not a policy which provides limited benefits as defined in O.C.G.A. § 33-24-21.1(i), shall provide that all qualifying eligible individuals and eligible dependents are entitled to have issued by the insurer a policy of health insurance (hereafter referred to as the "enhanced conversion policy").

(3) Notification and Application.

(a) Time Limit for Exercising Privilege. A substantially completed application for the converted policy shall be filed with, and the first premium paid to, the insurer not later than sixty-three (63) consecutive days after a qualifying event, or the date of notice of rights from the insurer following a qualifying event, whichever is later. An insurer is required to issue, either directly or through an administrator or group policyholder entrusted with the distribution of notices, a notice of conversion privileges under this Rule:

(i) With regard to qualifying eligible individuals or dependents exhausting continuation coverage, as soon as the insurer, administrator, or group policyholder receive payment for the final period of continuation coverage prior to exhaustion, but in no event later than fourteen (14) days after exhaustion of coverage;

(ii) With regard to dependents covered under an enhanced conversion option and reaching limiting age, no later than fourteen (14) days after the last day of the month in which the dependent no longer becomes eligible for dependent coverage;

(iii) With regard to qualifying eligible individuals or dependents not eligible for continuation, no later than fourteen (14) days from the date the insurer, administrator, or group policyholder obtains information as to the termination of coverage under the group policy;

(iv) By first class mail to the last known address of the qualifying eligible individual, available in records held by the insurer, administrator, or group policyholder; and

(v) With an application for coverage, information on the amount of the first premium payment required to effectuate coverage, as well as an explanation of the insured's enhanced conversion privilege.

(b) Notification of Individuals at Same Address. Issuance of notice to the last known address of a qualifying eligible individual shall satisfy the notice requirement for

all qualifying eligible individuals and qualifying dependents last known to have resided at that address.

(c) Responsibility for Notification. In all cases, the insurer is responsible for the timely offer of enhanced conversion policies, and compliance with the notification requirements of this Rule, whether or not there is a written agreement whereby a group policyholder or other administrator or third party assumes such responsibility. Nothing in this paragraph shall prevent an insurer from making a written agreement with a group policyholder or other administrator or third party for the administration or delivery of such notices. For the purposes of eliminating duplication of notices and assuring notification of qualifying eligible individuals, delivery of notice by either the insurer, an administrator, or the group policyholder in accordance with this Rule shall satisfy the requirement of this Rule paragraph.

(d) Model Notice. Insurers may use the following model notice for an explanation of conversion privileges:

OFFICIAL NOTICE OF ENHANCED CONVERSION RIGHTS

"Under Georgia law, you, and any qualifying dependents, are entitled to elect one of at least two benefit options provided by us. Enclosed with this notice you will find information on the benefit options available to you, as well as premium information. Upon exhaustion of continuation coverage (whether through COBRA or other extension of benefits under state law), loss of group coverage if ineligible for continuation, or loss of enhanced conversion policy coverage by reason of losing dependent status, you are eligible for these benefits. However, we must receive a completed application and an initial premium payment no later than sixty-three (63) consecutive days after the date of exhaustion or the date of this notice, whichever is later. You may enroll any dependent who was covered under continuation with you.

If we do not receive a completed application from you within sixtythree (63) days of the date of this notice, or the date you lost coverage, whichever is later, you will have forfeited your privileges to this enhanced conversion product, and subsequently to any portability rights offered by state law.

Upon submission of the completed application with premium payment, your coverage will become effective on the date continuation coverage was exhausted, or, if ineligible for continuation, the date group coverage was terminated.

Your rights to an enhanced conversion policy guarantee you and any qualified dependents you may have comprehensive coverage without any pre-existing condition exclusions. Although you also have the right to seek individual health insurance coverage elsewhere, with this or another insurer, Georgia law does not

guarantee you the same protections offered through this enhanced conversion product."

(e) Exception to Use of Model Notice and Application. An insurer may use a different notice, provided that the document is substantially similar to the model notice and is filed for approval by the Commissioner with the conversion policy form.

(f) Notice After Extention of Continuation. Upon exhaustion of extension, the provisions of this Rule shall apply with regard to timely notice and application.

(4) Extension Coverage in Lieu of Approved Enhanced Conversion Policies.

(a) In General. In the event an insurer has not filed enhanced conversion policy forms for approval as required by this Rule, or has not obtained approval by the Commissioner for such filed policy forms, the insurer must provide all qualifying eligible individuals the opportunity for an extension of group or continuation coverage up until the last day of the month following the date enhanced conversion policies are approved by the Commissioner. All benefit and rating requirements under COBRA or state extension of benefits shall apply to such extension coverage.

(b) Notification. The insurer must provide notice to all qualifying eligible individuals regarding the group plan or continuation extension in accordance with guidelines for notice of conversion privileges of this Rule. However, notice of extension privileges as permitted in this paragraph is not, in any case, required to be issued prior to January 1, 1998. Such notice must include the following information:

1. Eligibility criteria for both extension and enhanced conversion policies;

2. Premium requirements;

3. Assurances that benefits are continued as of January 1, 1998, or on the date of a qualifying event, whichever is later; and

4. Transition procedures between extension and enhanced conversion policies.

(c) Model Notice. Notice must include language that is identical or substantially similar to the disclosure below:

"Georgia law allows you to convert to other health insurance coverage offered by us when you exhaust continuation coverage to the maximum extent, or when you terminate employment and are ineligible for continuation benefits. Due to timing issues associated with recently enacted legislation, as of the date we issue this notice to you our enhanced conversion products are unavailable. However, we are providing you with an automatic extension of your group or continuation benefits, subject to timely payment of premium for upcoming benefit months and any past

periods of coverage. If you should choose to renew your coverage through this extension, your extension will terminate on the last day of the month our enhanced conversion products are available. At that time, you will have the opportunity, within sixty-three (63) days of the notice of termination, to enroll yourself and any eligible dependents in an enhanced conversion product. You must renew coverage for any eligible dependents under this extension of continuation in order for them to be eligible for such enhanced conversion products.

"The enclosed billing reflects extension coverage available to you, if you should choose to elect it. You will forfeit your rights to any extension of coverage described in this notice and any opportunity to purchase enhanced conversion policies later if you fail to elect and pay for this extension of group or continuation benefits within sixty-three (63) days of the date of this notice. If you have additional questions, you may call us at _____ or contact the Office of Commissioner of Insurance, John W. Oxendine, Consumer Services Division, at (404) 656-2070 or 1-800-656-2298."

(d) Alternate Extension Coverage. Nothing in this Rule shall prevent an insurer from offering any less comprehensive group plan, in addition to the group coverage which was terminated or continued, as a low option extension. However, in no case may an insurer refuse to extend a qualifying eligible individual's previous continuation or group coverage until approved enhanced conversion policies become available pursuant to this Rule. Election of low option extension coverage by an individual shall not preclude conversion privileges.

(e) Effective Date of Coverage. Coverage under an extension or continuation of group coverage as required by this paragraph must become effective on the date of a qualifying event. However, insurers are not required to issue coverage under such extension for periods prior to January 1, 1998. Nothing in this paragraph shall prevent an insurer from offering extension coverage for periods prior to January 1, 1998.

(f) Transition into Enhanced Coversion Coverage. Upon termination of extension coverage as permitted in this Rule, the insurer shall provide notice of enhanced conversion privileges to each qualified eligible individual covered under such extension. Such individuals shall have sixty-three (63) consecutive days from the date of such notice, or the date extension coverage is terminated, whichever is later, to elect an enhanced conversion option in accordance with this Rule.

(5) Effective Date of Coverage; Scope of Coverage. Coverage under an enhanced conversion policy upon application and payment of premium must become effective on the date of a qualifying event, or, if applicable, on the date extension coverage is lost due to termination by the insurer. An insurer may require payment for any retroactive periods of coverage in order to effectuate coverage. The converted policy shall cover the employee,

member or enrollee and any dependents who were covered by the group plan or continuation coverage on the date of termination of insurance.

(6) Eligibility for Benefits.

(a) Family Coverage. A qualifying eligible individual or a spouse or former spouse who is an eligible dependent shall have a choice of individual coverage or family coverage to include any or all eligible dependents.

(b) Dependents not Eligible for Coverage. Qualifying eligible individuals may enroll dependents who are not eligible dependents for enhanced conversion options at the discretion of the insurer, or may enroll such dependents for coverage under any other coverage offered by the insurer pursuant to the terms of state law. Insurers must at least offer for such dependent coverage under all basic conversion options if the dependent would otherwise be eligible for such basic conversion options under the terms of state law, but may instead allow such dependents to be enrolled under the qualifying eligible individual's enhanced conversion coverage. Insurers are not required to comply with paragraph (6)(f)1. pertaining to coverage limitations on preexisting conditions with regard to such dependents enrolled in enhanced conversion policies; however, pre-existing condition exclusion limitations applicable to basic conversion coverage shall apply with regard to such dependents. The offer to cover such dependents under enhanced conversion coverage must be made consistently to all qualifying eligible individuals with such dependents.

(c) Election on Behalf of Dependents. An election of conversion coverage by a qualifying eligible individual shall be deemed to be an election on behalf of any eligible dependents covered under the qualifying eligible individual's continuation coverage, unless the application indicates an election of the qualifying eligible individual otherwise, or this Rule provides otherwise. Election shall not be contingent on identical election of any other family member with regard to individual or family coverage.

(d) Eligibility Determinations. An insurer, or an administrator or group policyholder under written agreement with an insurer, is responsible for promptly determining the eligibility of individuals for enhanced conversion policies in accordance with state law and this Rule. The insurer may at any time request additional information from the individual, and must act promptly to make its determination after receipt of the requested information. The qualifying eligible individual must comply with an insurer's request for additional information and verification of eligibility to the fullest extent possible. However, the initial application date shall toll the sixty-three (63) day election period for the qualifying eligible individual and all other eligible individuals or dependents for whom coverage is elected, provided that eligibility is ultimatley confirmed and premium is paid. The insurer is subject to the provisions of the Rules and Regulations of the Office of Commissioner of

Insurance Rule 120-2-67-.12 with regard to accepting attestations and other evidence of coverage if a certification of creditable coverage is not available.

(e) Network Provisions. With regard to coverage under a managed care plan issued by a managed care organization, if a qualifying eligible individual moves out of state prior to electing an enhanced conversion option, and the individual becomes eligible for coverage under another state alternative mechanism or the individual health insurance guaranteed availability provisions of the federal Health Insurance Portability and Accountability Act of 1996 as enforced in another state, the managed care organization may refuse to offer coverage under an enhanced conversion policy. If a qualifying eligible individual moves to a location outside the service area within this state, the managed care organization may require the qualified eligible individual to agree in writing to return to the service area to receive covered benefits as a condition of issuing the enhanced conversion policy.

(f) Preexisting Conditions and Health Status.

1. The converted policy shall not exclude any preexisting condition or maintain any preexisting condition limitation.

2. The converted policy may not take into account health status related factors, claims experience, or evidence of insurability with regard to eligibility for coverage or benefit choices.

(7) Benefit Options.

(a) Standard and Low Options.

1. In General. Subject to the provisions and conditions of this Rule, a qualifying eligible individual and any eligible dependents shall be entitled to obtain an enhanced conversion policy providing health insurance coverage under a plan meeting all of the minimum requirements of the model standard option, or, at the option of the qualifying eligible individual, a less comprehensive plan meeting all of the minimum requirements of the model low option. Both standard and low options shall constitute creditable coverage.

2. Filing Requirements. An insurer using a model standard and low option as enhanced conversion policies may comply with filing requirements by either:

(i) An insurer may file the forms for the model standard and low options using the appropriate policy form template specified in Form *GHBAS-1* and schedule of benefits specified in Form *GHBAS-S* for managed care organizations, or Form *GHIAS-1* and Form *GHIAS-S*, respectively, for all other insurers. Upon an insurer filing such

templates and schedule of benefits with the Commissioner, the policy forms shall be deemed approved as of the date the filing is received provided they conform to the above mentioned form templates.

(ii) An insurer may file a form with contractual language substantially similar to the model policy form templates for approval, and may provide benefits, benefit levels and cost-sharing schedules that are at least as comprehensive as those indicated in the model policy form templates and under Plans C and D in Form *GHBAS-S* for managed care organizations, or under Plans A and B in Form *GHIAS-S* for other insurers. Such filings must include a description which specifically outlines the variances in language between the model policy form template and the submitted form, and must demonstrate to the satisfaction of the Commissioner that the schedule of benefits is at least as comprehensive as that required by the appropriate standardized plan. Nothing in this Rule shall prevent an insurer from offering the same benefits and benefit levels provided by the insurer to groups under one or more group health insurance policies or contracts, provided that such benefit levels meet or exceed the schedule of benefits outlined in Plans A, B, or D, as appropriate.

3. Special Rules for Preferred Provider Arrangements.

(i) An insurer offering a group health insurance plan with a preferred provider arrangement may offer a standard and low option with preferred provider arrangements. The out-of-network benefit levels must be at least as comprehensive as the schedule of benefits prescribed in Form *GHIAS-S*, and the policy form must be substantially similar to Form *GHIAS-2*. Such policies may be filed as prescribed in subparagraph (2)(b) for insurers other than managed care organizations.

(ii) Insurers may offer preferred provider arrangements with gatekeeper provisions only to qualifying eligible individuals who were subject to gatekeeper provisions under the prior group health insurance coverage or continuation thereof.

(iii) Insurers are not required to offer a standard and low option that does not contain preferred provider arrangements to qualifying eligible individuals who were subject to preferred provider arrangements under the prior group health insurance coverage or continuation thereof; however, an insurer may offer such options with preferred provider arrangements in addition to the standard and low options without preferred provider arrangements to individuals who were

not subject to preferred provider arrangements under the prior group health insurance coverage or continuation thereof.

(iv) Special Waiver from Use of Model Standard and Low Options. In the event an insurer's group health insurance policies or contracts, including any and all benefit riders typically offered to groups, contain benefit provisions that are, overall, substantially less comprehensive than the model standard option, the insurer may provide, as a standard option, the same benefits offered under the group health insurance policy or contract or continuation thereof. The insurer may then elect to use a low option with higher cost-sharing provisions than that included in the standard option, but not to exceed the highest cost-sharing provisions made available by the insurer to groups. If no higher cost-sharing provisions or lower benefit levels than what is part of the standard option are available to groups, then the insurer may submit for approval a low option with higher cost-sharing options than the standard option. The insurer must submit the policy forms and schedule of benefits for approval, and must demonstrate, to the satisfaction of the Commissioner, that the group health insurance policy or contract from which qualifying eligible individuals will convert is indeed substantially less comprehensive than the schedule of benefits for the model standard option. Examples include higher deductibles, coinsurance, or copayments, and a schedule of benefits less generous than the schedule included as part of the model standard option. An insurer obtaining such a waiver may offer standard and low options which are identical except for cost-sharing provisions.

(b) Additional Options. Nothing in this Rule shall prohibit an insurer from offering additional options based on either group policies or contracts currently being issued or made available to groups, policies based on the model policy forms with different cost-sharing requirements or benefit levels, or individual policies or contracts actively marketed and issued by an insurer, provided that such additional options:

1. Are offered consistently to all qualified eligible individuals without regard to any health status related factor;

2. Are filed for approval; and

3. Are otherwise subject to all the requirements of this Rule, including rating, eligibility, notice, and prohibitions on preexisting condition limitations.

(c) Special Rule for Managed Care Organizations and Preferred Provider Arrangements. A managed care organization or insurer with a preferred provider arrangement must use the same network of providers for the conversion policies that it uses for group policies issued in Georgia. If such insurer offers different provider networks for different group policyholders, the conversion policies issued must include the specific network to which the qualified eligible individual had access under group or continuation coverage, or a choice of networks including the one to which the qualified eligible individual previously had access.

(d) Choice After Election of Conversion Privilege. Any qualifying eligible individual covered under a converted policy shall have the option of switching from a standard option to a low option policy or any other additional option offered by the insurer under paragraph (7)(b) of this Rule after exercising the conversion privilege. The insurer shall also permit the privilege to switch from a low option policy to any other additional option offered by the insurer under paragraph (7)(b) of this Rule after an individual exercises the conversion privilege. The insurer may limit such choice to the following events:

1. Once a year within 31 days of the policy anniversary date, with coverage becoming effective on the policy anniversary date;

2. Upon notification of premium increase, with coverage becoming effective on the effective date of the premium increase; and

3. Within 31 days of divorce or marriage, with coverage becoming effective on the first day of the following calendar month.

(8) Reduction of Coverage.

(a) Any converted policy may provide for a reduction or coordination of coverage on any person upon eligibility for coverage under Medicare.

(b) No converted policy may provide for a reduction or coordination of coverage based upon a person's eligibility for coverage under the Medicaid program of the State of Georgia.

(c) The benefits under the conversion policy shall be secondary to any group or blanket accident and sickness contract that constitutes creditable coverage and covers any person insured under the conversion contract. The converted policy shall not provide benefits in excess of the maximum benefit levels specified therein, when combined with any benefits payable or rendered through any such creditable coverage.

(d) The converted policy may provide that any hospital, surgical or medical benefits payable thereunder may be reduced by the amount of any such benefits payable

under continuation coverage after the termination of the individual's insurance thereunder.

(e) An insurer may request information in advance of any premium due date of the converted policy of any person covered thereunder only as to whether:

1. The insured is covered for similar benefits under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis; or

2. Similar benefits are provided for or available to such person, pursuant to or in accordance with the requirements of Medicare.

(9) Conversion Premium.

(a) Rate Guarantee and Modes. All premium rates must provide for the payment of monthly premiums. Optional modes of premium payment may be offered to the converting employee, member, or enrollee. In any case, rates shall be developed for a one-year guaranteed rate for all enhanced conversion policy issues and renewals.

(b) Prohibition. The enhanced conversion pool shall include the claims experience produced by all individuals insured by enhanced conversion policies. Experience in the enhanced conversion pool, whether actual or anticipated or both, shall be separate from the insurer's group pool and shall not be considered in the group pool rate or in the development of the base rate for enhanced conversion options.

(c) Rate Development. Insurers shall develop a base rate for the enhanced conversion policies based on the cost of providing such policies to a group comprised of standard risks in the insurer's group pool. Such rate may be derived by adjusting the group pool rate in accordance with the following steps to determine a base rate for the product:

1. An age and sex distribution factor which represents the demographic mix of the group pool and accounts for variances in cost because of such distribution;

2. A benefit adjustment factor, determined by developing a composite benefit factor for each group health insurance benefit option or all group health insurance benefits offered by the insurer in this state to compare the benefit values of the enhanced conversion policies to the average type of coverage issued by the insurer in the group market;

3. A trend adjustment which reflects the anticipated cost of each option without taking into consideration the health status of individuals in the enhanced conversion pool; and

4. Determination of a lowest possible base rate normalized in accordance with the age and sex factors provided in Form CONV-1.

(d) Experience and Demographic Factors. The base rate may be further adjusted by:

1. An experience adjustment factor determined for the enhanced conversion pool, not to exceed 150 percent of the group pool rate, and applied uniformly, consistently, and equitably to all enhanced conversion policies issued, and

2. Demographic factors for particular individuals or families based on age, sex, and family tiers provided in Form CONV-1 or as permitted in paragraph (9)(e), and area factors typically used by the insurer for group health insurance policies or contracts and disclosed to the Commissioner for approval.

(e) Exception from Use of Standardized Factors. Only an insurer electing a special waiver as permitted in subparagraph (7)(a) 4. of this Rule may use the set of age and sex factors applied to all groups covered by the insurer for use with the approved converted policies. Such an insurer must use the base rate of the product as it is marketed and issued in the group market, and disclose such rate. If an insurer is using a model policy form or a derivative of one, it must use the factors specified in Form CONV-1.

(f) Disclosure.

1. Insurers must file premium rates and modes to be used for all enhanced conversion policies with the Commissioner for approval prior to use. Rating documentation must demonstrate the development of the group pool rate and each of the factors and adjustments in a step-by-step approach. Insurers must also submit a rate filing for approval by the Commissioner prior to any renewal rate change, change in methodology, or change in factor schedule.

2. The insurer must disclose area factors, or all demographic factors if excepted under paragraph (9)(e), as part of its rate filing for approval and in every subsequent rate filing.

3. An insurer must include in each rate filing an actuarial certification completed by a qualified actuary, attesting to the fact that:

   (i) The rates are developed using reasonable assumptions and in accordance with generally accepted actuarial principles and are not excessive nor unfair; and

   (ii) The filing is in compliance with state law and Regulations.

(10) Renewability.

(a) In General. The converted policy may provide that the insurer may refuse to renew the policy or the coverage of any person insured thereunder only as permitted in the Rules and Regulations of the Office of Commissioner of Insurance Rule 120-2-67-.10(b)(1),(2),(3), and (5), with regard to renewability of individual health insurance policies or contracts.

(b) Continuation of Benefits. Any refusal to renew shall be without prejudice to any valid claim commencing while the policy is in force.

(11) Notification in Group Certificate of Coverage. A notification of the enhanced conversion privilege for qualifying eligible individuals, including all eligibility and application requirements, shall be included in each certificate of coverage under any group health insurance policy or contract.

(12) Substitution for Basic Conversion Option. An insurer may substitute coverage under this Rule for coverage under a basic conversion option as required by O.C.G.A. § 33-24-21.1 and Rule 120-2-10-.11 for group members who terminate group coverage but are not qualifying eligible individuals.

Cite as Ga. Comp. R. & Regs. R. 120-2-10-.11A
Authority: O.C.G.A. Secs. 33-2-9, 33-24-21.1.
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Rule 120-2-10-.12. Small Group Health Insurance Access and Pooling.

(1) Definitions. The terms used in this Rule are defined as follows:

(a) "Anticipated Group Premium" shall mean the premium expected to be generated on each new and existing group over a period of the next twelve (12) months including only deviations permitted pursuant to subparagraphs (b), (d), (e) and (f) of paragraph (5) of this Rule.

(b) "Anticipated Pool Premium" shall mean the total amount of premium expected to be generated on all new or existing groups over a period of the next twelve (12) months. The anticipated pool premium shall equal the sum of all anticipated group premiums for all small groups in an insurer's pool.

(c) "Dependent" shall mean any dependent of an employee, member, or enrollee, including children, adopted children, and non-custodial children, as permitted in O.C.G.A. §§ 33-24-28(b) and 33-30-4(3) and (4), or a spouse, or other family member eligible for coverage under the terms of the group health insurance policy

or contract because of that person's dependency on the employee, member, or enrollee.

(d) "Eligible employees, members or enrollees" shall mean persons who are actively employed with a small group and are eligible for coverage under the employment rules of the small group or who are otherwise, except for dependents, eligible for coverage under a group health insurance policy, without regard to claims experience or any health status related factor.

(e) "Existing Group" shall mean a small group that is insured by an insurer and part of that insurer's small group pool.

(f) "Group Health Insurance" shall mean any major medical insurance, medical expense coverage, hospital expense coverage, comprehensive health benefit plan, or managed health care plan issued by an insurer to small groups, other than a blanket accident and sickness policy, a health insurance policy written as part of workers' compensation equivalent coverage or supplemental to a liability policy, a credit insurance policy, or any limited benefit insurance policy as defined in O.C.G.A. § 33-30-12(e)(4). Group health insurance shall include all types of policies, contracts, or certificates, as applicable, or other comparable group-type coverage as specified in Rule 120-2-10-.10(2), actively marketed or issued in this state to small groups, including the following:

1. Group health insurance policies or certificates issued pursuant to group insurance contracts;

2. Group health insurance policies issued or marketed to association groups or trusts, except bona fide associations as defined in O.C.G.A. § 33-30-1(b) and as specified in subparagraph (10) of this Rule;

3. Group health insurance policies issued to multiple employer trusts established in or out of this state; and

4. Except for policies excluded under O.C.G.A. § 33-30-12(e), individual health insurance policies which provide as a minimum primary or basic medical or hospital expense benefits and are spon- sored in any manner by an employer or other group insurance policyholder.

(g) "Insured" shall mean any employee, member, enrollee, or dependent of an employee, member or enrollee insured under group health insurance issued to a small group.

(h) "New Entrant" shall mean an eligible employee, member, enrollee or dependent not previously covered by the existing group insurance contract or policy and who is either a late enrollee or does not have previous creditable coverage as defined by O.C.G.A. § 33-30-15(a)(2).

A New Entrant shall not include the following individuals:

1. a "newly eligible employee" as defined by O.C.G.A. § 33-30-15(a)(4);

2. an insured covered under the group's prior group health insurance contract or policy, provided that such contract or policy constitutes previous creditable coverage; or

3. newborn children or newly adopted children enrolled as permitted in O.C.G.A. § 33-30-15(e) and Rule Chapter 120-2-67.

(i) "New Group" shall mean a small group that is not currently insured by an insurer or any affiliated insurer.

(j) "Policyholder" shall mean, with respect to group health insurance coverage, the small group to which a group health insurance policy or contract is issued in accordance with O.C.G.A. § 33-30-1, including, but not limited to, an employer or employer groups issued certificates of coverage through a multiple employer trust.

(k) "Pool Rate" shall mean the average rate for employees, members, and enrollees, or dependents of such individuals, in all small groups within an insurer's small group health insurance pool, to be determined and used over a period of the next twelve months and adjusted for benefit design but unadjusted for factors specified in paragraph (5). In determining pool rates, the insurer must take into account all actual and anticipated experience data of the entire pool itself as well as other experience data of the insurer or data available generally, and must apply recognized actuarial practices as to credibility, trend factors, expense factors, and margins. Insurers shall use pool rates to determine premiums for new and existing groups.

(l) "Small Employer" shall mean any employer that employed an average of at least two but not more than 50 employees on business days during the preceding calendar year and that employs at least two employees on the first day of the rating period. All employers treated as a single employer under subsection (b), (c), (m), or (o) of Section 414 of the Internal Revenue Code of 1986 shall be treated as one employer. Subsequent to the issuance of a health insurance policy or contract to a small employer and for the purpose of determining continued eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, provisions of this Act that apply to a small employer shall continue to apply at least until the final day of the rating period following the date the small employer no longer meets the requirements of this definition. In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether or not an employer is a small employer shall be based on the average number of employees that it is reasonably expected that the employer

will employ on business days in the current calendar year. Each small employer shall be considered a small group.

(m) "Small Group" shall mean, as defined in O.C.G.A. § 33-30-12(a), a group which is a single employer, including a Small Employer, firm, corporation, partnership, sole proprietor, or other legitimate group as specified in O.C.G.A. § 33-30-1(a)with at least two and no more than fifty (50) total eligible employees, members or enrollees (not including dependents) on the initial application date and on average during the calendar quarter preceding application. In determining the number of eligible employees, members, or enrollees, companies that are affiliated companies, are eligible to file a combined tax return for purposes of taxation by this state, or are subsidiaries of another company and covered under the parent company's group health insurance contract or policy, shall be considered one group. Subsequent to the issuance of a health insurance policy or contract to a small group and for the purpose of determining continued eligibility, the size of a small group shall be determined annually. Except as otherwise specifically provided, provisions of this Rule shall continue to apply at least until the renewal date following the date the small group no longer meets the requirements of this definition. Such small groups include sole proprietors or employer members of a trust or an association which does not meet the definition in O.C.G.A. § 33-30-1(b). For the purposes of applying this Rule, a small group shall be subject to this Rule if:

1. the majority of insured employees, members, or enrollees in the group are employed or reside in this state; or

2. if no state contains a majority of the insured employees, members, or enrollees in a group, the primary business location of the employer is in this state. If an employer which constitutes a small group meets subparagraphs 1. or 2. of this definition, it shall not be considered to be an employer in another state as specified in O.C.G.A. § 33-30-1.1.

(n) "True Association" shall mean an association which meets the requirements of O.C.G.A. § 33-30-1(b) and any applicable Rules and Regulations issued by the Commissioner.

(2) Each insurer shall maintain only one small group health insurance experience pool for all types of group health insurance insuring small groups in Georgia as defined in paragraph (l)(m) and subject to O.C.G.A. § 33-30-12, regardless of where the group health insurance policy or contract is issued. Each insurer's small group health insurance pool shall consist of each insurer's total claims experience produced by all small groups in this state, regardless of the marketing mechanism or distribution system utilized.

(3) Prohibitions. The following practices by an insurer are prohibited with regard to small groups and the small group health insurance pool:

(a) Durational rating which increases premiums for any small group based solely on the length of time the small group has been insured;

(b) Except as permitted under O.C.G.A. § 33-30-12(d) and paragraph (5)(e), tier rating which increases rates directly related to the tier within which any one small group's claims experience falls;

(c) Cancellation or termination of any small group or any insured individual in a small group, provided that insurers may refuse to re- new coverage only for those reasons permitted by the Rules and Regulations of the Office of Commissioner of Insurance Chapter 120-2-67;

(d) Waivers for one or more preexisting conditions, except that insurers may use preexisting condition exclusions pursuant to O.C.G.A. § 33-30-15;

(e) Declination of any small employer for coverage, or refusal to offer to insure, make insurance available or make a quote or offer of coverage to any small employer, or engagement in practices directly or through agents or representatives which prevent, discourage, delay or impede the availability or marketing of group health insurance to any small employer, under all policies or contracts offered or actively made available by an insurer to small employers in the state or service area, except that an insurer may decline a small employer for coverage if any of the following applies:

1. minimum participation or contribution rules are not satisfied by the small employer;

2. with regard to policies offered only through a true association of employers, a small employer is not a member of the association;

3. none of the eligible employees, members, or enrollees live, work, or reside in the service area of the network if the policy or contract is offered by a health maintenance organization or a provider- sponsored health care corporation;

4. a health maintenance organization or provider-sponsored health care corporation has demonstrated, to the satisfaction of the Commissioner, and based on current documentary evidence, that it does not have the service capacity to adequately provide medical services to new small employers through network providers in a particular service area because of its obligations to existing groups in the service area, provided that:

   (i) all declinations apply uniformly to all small employers in the service area without regard to claims experience or any health status- related factors; and

(ii) the health maintenance organization or provider-sponsored health care corporation includes in such filing a certification from the President, Executive Director, or Chief Financial Officer which purports to claim such service capacity limits; and

(iii) the Commissioner has not determined that such a claim is not warranted within 90 days of filing documentary evidence.

5. an insurer has demonstrated, to the satisfaction of the Commissioner, and based on its most recent quarterly financial report, examination, or any other more current documentary evidence, that it does not have sufficient financial capacity to underwrite additional coverage under any and all policy forms available to small employers in the state, provided that:

(i) all declinations apply uniformly to all small employers in the state without regard to claims experience or any health status-related factors; and

(ii) the insurer includes in such filing a certification from the President, Executive Director, or Chief Financial Officer which purports to claim such financial capacity limits; and

(iii) the Commissioner has not determined that such a claim is unwarranted within 90 days of filing documentary evidence.

(f) Issuing coverage under any and all policies or contracts in the small employer market in the state (or a particular service area if applicable) after satisfactorily demonstrating to the Commissioner the conditions described in subparagraphs (e)4. or (e)5., unless at least 180 days have elapsed since the date coverage was declined and the Commissioner has approved such resumption of issue based on documentary evidence that conditions have changed.

(g) Discriminatory rating practices which result in premium rate differentials for an individual employee, member, enrollee, or dependent of such employee, member, or enrollee, within a small group based solely on any health status-related factor or claims experience in relation to that individual in the small group, or premium rate differentials for classes of employees, members, or enrollees within a small group subdivided solely on the basis of any health status-related factor or claims experience. Rate adjustments for demographic underwriting factors, differences in benefit designs or network arrangements, premium differentials based on family or dependent coverage, or other rate differentials permitted by this Rule do not constitute discriminatory rating practices.

(h) Repealed.

(4) Eligibility.

(a) Eligible employees, members, or enrollees in a small group who apply when first eligible for coverage under group health insurance during the most recent continuing period of employment, and dependents of such employees, members, and enrollees who apply when first eligible for coverage, are deemed to be insurable and must be accepted for enrollment. No insurer may subdivide any small group for benefit eligibility under a group insurance policy or contract solely on the basis of any health status-related factor or claims experience.

(b) An insurer may establish, either as a provision applying to all small groups insured by the insurer, or at the option of a particular small group policyholder, terms of coverage which govern acceptance of late enrollees to a small group. Once established, such terms may not be changed within a contract period or the entire effective term of the policy for a small group policy or contract in such a way as to discriminate against late enrollees on the basis of health status. Such terms, and any changes thereto, must be disclosed within each policy and all certificates, and may only be changed either for all small groups insured by the insurer, or at the option of each small group policyholder.

(5) Rating.

(a) Rating Period and Rate Guarantee.

1. The initial or renewal rate for any small group shall be based on the pool rate adjusted for benefit design and the factors permitted by this Rule section. The rating period for any small group shall be not less than twelve (12) months. An insurer may not modify rates during this period except for any benefit alteration elected by a small group during this period or as otherwise permitted by this paragraph. The rates in effect at the beginning of the rating period, or on the effective date of any benefit alteration during such period, shall be used for adjusting small group premiums as a result of new or terminating employees, members, enrollees, or dependents. For small groups not rated on a composite basis, an insurer may further adjust small group rates for a newly eligible employee, New Entrant, or the dependent of either using only demographic underwriting factors as permitted by this Rule.

2. If a New Entrant enters an existing group at any time during the rating period other than on the small group's renewal date, and such a New Entrant elects coverage when first eligible, an insurer may impose a waiting period on such a New Entrant not to extend beyond the next renewal date, with coverage becoming effective for the New Entrant on the effective date of the next rating period. Imposition of such a waiting period must be applied consistently for all New Entrants, without regard to any health status-related

factor, and any preexisting condition exclusion must run concurrently with the waiting period.

3. If an insurer does not elect to choose the New Entrant waiting period, it must enroll a New Entrant under the terms of the group health insurance policy or contract during the rating period without assessing any substandard rating.

4. An insurer electing the New Entrant waiting period must disclose this method within each policy and to all small group policyholders prior to use or issue. An insurer may require such a method for all small groups insured by it, or may elect to use it at the option of the small group policyholder.

(b) Permitted Demographic Underwriting Factors. An insurer may set rates using pool rates adjusted for age, group size (provided that the group size factor may not vary by more than 15% from a base factor of 1.0), family size or composition, sex, area, industry, occupational, and avocational factors (including, but not limited to, tobacco usage). Demographic underwriting factors used by the insurer must be applied consistently with respect to all small groups in the insurer's pool, except that area factors may vary between policies or contracts with different network reimbursement provisions. These demographic underwriting factors may be adjusted:

1. on a composite basis for any small group,

2. on a composite basis for all small groups in an insurer's pool, or

3. on an individual, family, or other tier basis as used by the insurer for all insureds in any small group.

   Methods 1. and 3. of adjusting demographic underwriting factors may both be used in an insurer's small group pool provided that group size is the only determining factor and such methods are applied consistently within the insurer's small group pool. An insurer may use the demographic underwriting factors in renewal rating of such a small group where changes in these underwriting factors have occurred.

(c) Use of Claims Experience under Previous Insurance Coverage Prohibited. Previous claims experience of a new group under any other group health insurance prior to its entry into a pool is deemed not to be credible and such previous claims experience may not be considered in the initial rating of any small group. This paragraph shall not be construed to prevent insurers from using the health status of individuals in the small group for the purposes of substandard rating or determining group experience factors at initial rating as permitted under this Rule.

(d) Rate Changes Based on Trend. The pool rate change for the next twelve months shall be based on the experience trend for the entire pool and shall be applied uniformly to the current pool rate for each small group's upcoming rating period. Trend factors may vary during a small group's rating period or between small groups to account for changes to or differences in benefit design or network requirements only. Trend factors may not be based on the demographic characteristics, experience, or any health status-related factor of a small group or any insureds in a small group. Nothing in this paragraph shall prevent an insurer from applying the annual trend factor on a graduated basis in an equitable, consistent, and uniform manner to small groups according to the month, quarter, or semi-annual period in which a small group was issued its policy or contract.

(e) Group Experience Factor.

1. Except as prohibited in subparagraph (c), the actual claims experience produced by a small group may be used to deviate the premium from the pool rate applicable for that group. The group experience factor must be applied uniformly, consistently, and equitably to the rates charged for all employees, members, enrollees, and dependents in the small group and may not exceed plus or minus twenty-five percent (25%) of the pool rate. The change in premium resulting directly from select or substandard ratings applied to any group following recognized underwriting practices and the provisions of this Rule shall not be considered a deviation from the pool rate only for the purposes of determining the group experience factor. A group experience factor may be adjusted upon renewal.

2. The percent change in the group experience factor at renewal shall not exceed 15% from one rating period to the next.

(f) Select and Substandard Ratings.

1. General Application. Select and substandard ratings resulting from the health status of one or more New Entrants must only be applied to an existing group or new group as set forth in O.C.G.A. § 33-30-12(d) and this Rule.

2. Applicability of Substandard Ratings.

(i) An insurer may not, with regard to a new group or existing group, use substandard rating for, nor adjust any individual or group premium by way of a substandard rating as a result of the health status of anyone who is not a New Entrant as defined in this Rule. An insurer may not assess a substandard rate on any small group or small group member because of the health status of dependents with previous creditable coverage who enroll when first eligible or during special enrollment in accordance with O.C.G.A. § 33-30-15(a)(4)(A) and (e).

(ii) Substandard rating may only be determined and assessed as a result of the health status of New Entrants to an existing group or New Entrants in a new group, relative to what may be considered a standard health risk by the insurer using recognized underwriting practices. Substandard ratings assessed as the result of New Entrants to an existing group may be imposed only at the beginning of the first rating period after the New Entrant waiting period permitted in subparagraph (b)2.

3. Compliant Methods of Applying Select and Substandard Rating. No insurer may bill or charge select or substandard rating adjustments allowed in this subparagraph to individual employees, members, enrollees, or dependents because of health status-related factors for which the adjustments are applied. Select or substandard rating assessed as a result of the health status of a New Entrant must be applied uniformly, consistently, and equitably to the rates charged for all employees, members, enrollees, and dependents in the small group. For example, select or substandard ratings may be assessed to all insureds in a small group on a composite basis as a uniform factor derived from the total select or substandard rating for all New Entrants insured through the small group; or, select or substandard ratings may be assessed as a lump-sum quantity divided equally among all insured employees, members, or enrollees.

4. Rating Parameters. Effective for all rating periods commencing on or after May 1st, 1998, and all subsequent rating periods, the differential resulting from applying select or substandard ratings as permitted in this subparagraph onto group premiums may not be greater than plus or minus twenty percent of the total premium for a small group determined using pool rates as adjusted for permitted demographic underwriting factors, group experience factors, and rate changes based on trend. The Commissioner may adjust these permitted select and substandard rating parameters at any time in the interest of ensuring affordable coverage and access in the small group health insurance market after such due notice and hearing as may be required by law. The effective date of any such adjustments shall be a reasonable period of time as determined by the Commissioner not to exceed one year after the date such adjustments have been promulgated by the Commissioner.

5. Other Prohibitions on Assessing Substandard Ratings:

   (i) Insurers may not add, assess, use, or continue to use substandard ratings for an insured in replacing group health insurance where the replacing insurer is affiliated with the prior insurer, nor may an insurer add, assess, use, or continue to use substandard ratings when

discontinuing a policy form and offering coverage under another policy form; and

(ii) Insurers may not add, assess, or increase a substandard rating at any time other than during initial underwriting of a New Entrant to a new or existing group as permitted by this Rule.

6. Removal. Insurers may remove substandard ratings at any time with a corresponding reduction in the group's premium. When an insured with a substandard rating leaves a small group, the insurer must remove the substandard rating from the small group premium within thirty (30) days of the date on which the insured is no longer eligible for coverage or continuation of coverage under the group.

(g) Deviations Resulting From Rating Factors. In setting premiums to be charged each small group, insurers must determine upward and downward premium deviations from the pool rate resulting from application of each small group's demographic underwriting factors as specified in subparagraph (b), the group experience factor as specified in subparagraph (e), rate changes based on trend as specified in subparagraph (d), and select or substandard ratings permitted in subparagraph (f), in such a manner that the anticipated total of the upward deviations for all small groups in an insurer's pool is offset by the anticipated total of downward deviations. The total of all anticipated group premiums, which include all deviations resulting from factor adjustments described in this subparagraph (g), must equal the total anticipated pool premium.

(h) Other Permissible Methodologies. Insurers may use a rating methodology which establishes a lowest possible base rate charged by an insurer for all small groups in lieu of a pool rate, and adjusts the rate upward for all factors permitted in this Rule, provided that:

(i) the group experience factor applied to the lowest possible base rate is no greater than 1.67;

(ii) the select and substandard rating is applied as permitted in subparagraph (f)4. and is limited to a factor no greater than 1.20 as applied to the small group's total premium based on the lowest possible base rate adjusted for demographic underwriting factors, group experience factors, and rate changes based on trend as permitted in this Rule;

(iii) the midpoint of all rates for all small groups in an insurer's pool is equivalent to the pool rate which would be determined in accordance with this Rule, such that all anticipated rate deviations below the midpoint are offset by all anticipated rate deviations above the midpoint; and

(iv) the methodology otherwise complies with all the requirements of this Rule.

(i) The rating provisions of this Rule section shall apply to all rating periods commencing on or after November 1, 2002.

(6) Documentation.

(a) All insurers must determine pool rates annually or more frequently and document their rate and deviation determinations.

(b) All insurers must disclose at the initial sale of a small group case the degree to which rates may vary within allowable +/-25% range around the pool rate.

(c) All insurers must provide to each small group upon request at each rating period, the pool rate compared to the proposed rate for the small group to demonstrate where the rate for the small group lies in comparison to the pool rate, and shall be required to document to each small group the benefit design, demographic factors, group experience factor, select or substandard or other permitted adjustments from the pool rate and percentage change in the base pool rate, demographic and group experience factors since the pool rate utilized in the small group's previous rating period. In addition, reference must be made to legal and regulatory citations that relate to changes in rating factors. Each small group policy must contain a notice to the insured that this information is available upon request. If such information is requested, the insurer must respond to such request within ten (10) business days of the request for information.

(d) Rating documentation shall be maintained at the insurer's home or principal office for a period of five years and insurers shall furnish this information to the Commissioner of Insurance or insurance department examiners upon request.

(7) On or before March 1 each year, an insurer writing small group health insurance in this State shall provide for the preceding calendar year a certification by a responsible officer of the insurer as follows:

"I (name of officer), hereby certify that the rates charged small groups in the State of Georgia by the (name of insurer) are in compliance with all the requirements of §120-2-10-.12 of the Rules and Regulations of the Georgia Insurance Department.

I further certify and affirm that my company will provide prior, written notice to the Commissioner and to each small group in my company's small group health insurance pool within the State of Georgia at least 180 days before my company withdraws from the small group health insurance market in Georgia. Such written notice to the Commissioner will include a report or other substantial documentation of the extent of coverage, including identification of policy forms, certificates, and the number of insureds covered

at the time of any notice of proposed withdrawal from this small group market in Georgia. I understand and agree to submit such other documentation as the Commissioner may reasonably require at that time. Additionally, I further certify and affirm that my company will comply with all other provisions in the Official Code of Georgia, Annotated, or in the Rules and Regulations of the Georgia Insurance Department, pertaining to withdrawal or discontinuation of coverage in the small group market.

(Date) _____

(Signature of Officer)" _____

(8) One-life Groups.

(a) Insurers may issue small group health insurance policies or contracts actively marketed to small groups, or certificates from such policies or contracts, to sole proprietors or other employers with only one employee, member, or enrollee (not counting dependents). In order for such coverage to qualify as group coverage, it must meet all rating and eligibility requirements of this Rule except those applicable only to small employers. At such time as the one life group acquires one or more additional employees, members, or enrollees, the exceptions shall not apply. Such one-life groups shall include sole proprietors offered coverage under a group health insurance policy or contract issued through a trust or association which does not meet the definition of O.C.G.A. § 33-30-1(b), provided that such group health insurance policy or contract covers other small groups as defined by this Rule. One-life groups may also include other such arrangements as provided for in the Rules and Regulations of the Office of Commissioner of Insurance or at the discretion of the Commissioner.

(b) All policies or certificates issued to one-life groups as permitted by this Rule shall comply with the requirements of O.C.G.A. Title 33, including Chapter 30.

(c) All policies or certificates issued to one-life groups in this state on or before June 30, 1997, shall be deemed one-life groups and shall be subject to the provisions of this Rule, as well as all the requirements of O.C.G.A. Title 33, including Chapter 30.

(d) Insurers may not issue multiple one-life group policies or certificates to a single employer with more than one employee.

(9) Minimum participation rules for small groups.

(a) Minimum participation rules for a particular group health insurance policy shall apply uniformly and consistently to all small groups.

(b) An insurer shall not require a minimum participation level for small groups greater than:

1. One hundred percent (100%) of eligible employees, members, or enrollees with three (3) or less employees; and

2. Seventy-five percent (75%) of eligible employees, members, or enrollees with more than three (3) employees but not more than fifty (50) employees.

(c) An insurer shall not modify such minimum participation rules applicable to a small group at any time after the small group has obtained coverage, except that an insurer may relax such rules prospectively upon notification to all existing groups, and must apply such relaxed rules to all new groups. Relaxation of such rules means that such rules are made more favorable to the insured than what is required in subparagraph (b).

(d) In applying minimum participation rules with respect to a small group as permitted in (b), an insurer may not count eligible employees, members, or enrollees who have other group health insurance coverage from an unaffiliated insurer as a spouse or dependent in determining whether the applicable minimum participation level is met.

(10) Associations. Only the provisions of paragraph (3) shall apply to true associations.

Cite as Ga. Comp. R. & Regs. R. 120-2-10-.12
Authority: O.C.G.A. Secs. 33-2-9, 33-24-21.1, 33-27-8, 33-27-9, 33-30-1, 33-30-1.1, 33-30-12, 33-30-15.
History. Original Rule entitled "Penalties" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
Repealed: Rule reserved. F. July 24, 1986; eff. Sept. 1, 1986, as specified by the Agency.
Amended: New Rule entitled "Group Premium Rate Increase Notice and Experience Rating for Mulitple Employer Trusts or Arrangements" adopted. F. Aug. 24, 1989; eff. Jan. 1, 1990, as specified by the Agency.
Repealed: F. May 9, 1990; eff. June 15, 1990, as specified by the Agency.
Amended: New Rule entitled "Small Group Pooling" adopted. F. Sept. 6, 1990; eff. Oct. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Small Group Health Insurance Access and Pooling" adopted. F. Mar. 25, 1998; eff. Apr. 14, 1998.
Repealed: New Rule of same title adopted. F. May 23, 2002; eff. Nov. 1, 2002, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 15, 2002; eff. Nov. 1, 2002. as specified by the Agency.
Amended: F. Oct. 20, 2009; eff. Nov. 9, 2009.

Rule 120-2-10-.13. Severability Provision.

If any section or portion of a section of this Regulation or the applicability thereof to any insurer, agent, counselor, broker, solicitor, or circumstances is held invalid by a court of competent jurisdiction, the remainder of the rules or the applicability of such provisions to other insurers, agents, counselors, brokers, solicitors or circumstances, shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-2-10-.13
Authority: Ga. L. 1960, pp. 289, 305.
History. Original Rule entitled "Severability Provision" was filed on April 11, 1980; effective July 1, 1980, as Rule

120-2-10-.11 and renumbered as Rule 120-2-10-.13 in filing of July 24, 1986; effective September 1, 1986, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Jan. 1, 1990, as specified by the Agency.

Rule 120-2-10-.14. Penalties.

(1) Violation of these regulations by an insurer or by an officer of an insurer shall be deemed grounds for revocation of the insurer's certificate of authority as provided in Section 33-3-17(2) of the Georgia Insurance Code, which shall be in addition to any other penalty provided by statute.

(2) Violation of these regulations by an agent, counselor, broker, solicitor or other representative of an insurer shall be deemed to be a fraudulent and dishonest practice, a material misrepresentation, an unfair method of competition and unfair and deceptive acts and practices in the business of insurance furnishing grounds for the revocation of his license.

Cite as Ga. Comp. R. & Regs. R. 120-2-10-.14
Authority: Ga. L. 1960, pp. 289, 305. Ga. L. 1986, p. 688.
History. Original Rule entitled "Penalties" was filed on April 11, 1980; effective July 1, 1980, as Rule 120-2-10-.12 and renumbered as Rule 120-2-10-.14 in filing of July 24, 1986; effective September 1, 1986, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Jan. 1, 1990, as specified by the Agency.

Subject 120-2-11. ADVERTISING OF LIFE INSURANCE AND ANNUITY CONTRACTS.

Rule 120-2-11-.01. Statutory Authority.

This Regulation is made and promulgated by the Insurance Commissioner pursuant to the authority set forth in Section 33-2-9 and Chapter 33-6 of the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-11-.01
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Age of Insured, Examination by Physician" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Statutory Authority" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-11-.02. Purpose.

(1) To implement the Insurance Laws of the State of Georgia with respect to advertising in the solicitation, replacement, advisement and sale of life insurance and annuity contracts

and to protect the interests of the public so that they will be able to more adequately make insurance purchasing decisions in their own best interest,

(2) To establish minimum standards of conduct and guidelines requiring truthful, complete, clear and accurate disclosure of all material and relevant information used or intended for use with respect to advertising in the solicitation, replacement, advisement or sale of life insurance or annuity contracts in this State, and

(3) To prevent the use of unfair methods of competition and unfair practices among insurers, agents and counselors with regard to advertising in the solicitation, replacement, advisement and sale of life insurance and annuity contracts in this State.

(4) The provisions of this regulation are not intended to discourage competition or comparison of life insurance and annuity contracts, but to provide for correct and truthful information and comparison in connection therewith.

Cite as Ga. Comp. R. & Regs. R. 120-2-11-.02
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Proof of Death, What Constitutes" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Purpose" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-11-.03. Definitions.

For the purpose of these Regulations:

(1) "Commissioner" shall mean the Insurance Commissioner of the State of Georgia.

(2) "Policy" shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider or endorsement which provides for life insurance or annuity benefits.

(3) "Insurer" shall include any individual, corporation, association, partnership, or any other legal entity which is defined as an "insurer" in the Georgia Insurance Code or issues life insurance or annuity contracts for delivery in this State.

(4) "Advertisement" shall be verbal, printed, written or other material or communication of any type from any source which is designed to create or has the effect of creating public interest in life insurance, annuities or in an insurer, agent or counselor, or induces or tends to induce the public to purchase, increase, modify, reinstate, surrender or retain a policy including, but not limited to:

(a) printed and/or published material, audiovisual material, mailing envelopes, descriptive literature used by an insurer in direct mail, newspapers, magazines, radio and television scripts, billboards or similar displays;

(b) descriptive literature and sales aids of all kinds issued, distributed or used by an insurer, agent or counselor, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters, including the use of pamphlets, brochures, books or portions thereof, authored by third parties;

(c) materials, statements or communications of any type used for the recruitment, training, and education of an insurer's sales personnel and agents which are designed to be used or are used to induce the public to purchase, increase, modify, reinstate, surrender or retain a policy; and

(d) prepared or extemporaneous sales talks, presentations, and material for use or used by sales personnel, agents or counselors.

(5) "Advertisement" for the purpose of these rules shall not include:

(a) communications or materials used within an insurer's own organization and not disseminated to the public.

(b) communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate, surrender or retain a policy.

(c) a general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged; provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage.

Cite as Ga. Comp. R. & Regs. R. 120-2-11-.03
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Application of Regulations" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Definitions" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-11-.04. Applicability.

(1) This Regulation shall apply to any life insurance policy or annuity contract or service or advice related thereto, wherein an "advertisement," as that term is hereinbefore defined, is used or is intended for presentation, distribution or dissemination in this State when such use, presentation, distribution or dissemination is made either directly or indirectly by or on behalf of an insurer, agent, or counselor as those terms are defined in the Georgia Insurance Code and this Regulation.

(2) Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. All such

advertisements, regardless of by whom written, created, designed, or presented, shall be the responsibility of the insurer.

Cite as Ga. Comp. R. & Regs. R. 120-2-11-.04
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Dissemination" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Applicability" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-11-.05. Form and Content of Advertisements.

(1) Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a policy shall be sufficiently accurate, complete and clear so as to avoid deception or the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the Commissioner from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

(2) No advertisement shall use the terms "investment," "investment plan," "founder's plan," "charter plan," "expansion plan," "profit," "profits," "profit sharing," "deposit," "interest plan," "savings," "savings plan," or other similar terms in connection with a policy in a context or under such circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of such policy or a policyholder to believe that he will receive, or that it is possible that he will receive, something other than a policy or some benefit not available to other persons of the same class and equal expectation of life, when such is not the fact.

Cite as Ga. Comp. R. & Regs. R. 120-2-11-.05
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Form and Content of Advertisements" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-11-.06. Disclosure Requirements.

(1) The information required to be disclosed by this Regulation shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to confuse or mislead.

(2) No advertisement shall omit material information or use words, phrases, statements, references, or illustrations if such omission or such use has the capacity, tendency, or

effect of misleading or deceiving purchasers or prospective purchasers as to the nature of their relationship with the insurer or as to the nature or extent of any policy benefit, loss covered, premiums payable at specified ages over the life of the contract unless premiums remain level, or state or federal tax consequences. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale, or an offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements.

(3) In the event an advertisement uses the terms "Non-Medical," "No Medical Examination Required," or similar terms where issuance of a policy is not guaranteed, such terms shall be accompanied by a further disclosure of equal prominence and in juxtaposition thereto to the effect that issuance of the policy may depend upon the answers to the health questions contained in the application.

(4) An advertisement shall not use as the name or title of a policy any phrase which does not include the words "life insurance" or "annuity" unless accompanied by other language clearly indicating it is life insurance or an annuity.

(5) An advertisement shall clearly and prominently describe the type of policy discussed or advertised. The name or title of the policy, or description thereof, shall not be such as to deceive or mislead a person as to the true nature of the policy or as to the benefits provided thereunder.

(6) An advertisement of a policy marketed by direct response techniques shall not state or imply that because there is no agent or commission involved there will be a cost saving to prospective purchasers unless such is the fact. No such cost savings may be stated or implied in any advertisement without justification found to be satisfactory to the Commissioner prior to its use unless such is a provable fact.

(7) An advertisement for a policy containing graded or modified benefits shall prominently display any limitation of benefits. If the premium is level and coverage decreases or increases with age or duration, such fact shall be clearly and prominently disclosed.

(8) An advertisement for a policy with non-level premiums shall clearly and prominently describe the premium changes.

(9) The following requirements shall apply to advertisements which make reference to dividends:

(a) An advertisement shall not utilize or describe dividends in a manner which is misleading or has the capacity or tendency to mislead. In this connection, analogies and comparisons between dividends payable on shares of stock and dividends payable under a policy are prohibited unless the advertisement fully, clearly, and accurately describes the differences.

(b) An advertisement shall not state or imply that the payment of any amount of dividends is guaranteed. If dividends are illustrated, they must be based on the

insurer's current dividend scale and the illustration must contain a prominent statement to the effect that such dividends are not to be construed as guarantees of dividends to be paid in the future.

(c) An advertisement shall not state nor imply that illustrated dividends under any participating policy and/or pure endowments will be or can be sufficient at any future time to assure, without the further payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains what benefits or coverage would be provided at such time and under what conditions this would occur.

(d) Advertisements shall not state nor imply that dividends are other than a refund or return of part of the premium paid which is not guaranteed and which is dependent on the investment earnings, mortality experience and expense experience of the company.

(e) Any comparison between participating and non-participating policies or contracts must be true and accurate.

(10) An advertisement shall not state or imply that a purchaser of a policy will share in or receive a stated percentage or portion of the earnings on the general account assets of the insurer.

(11) The following requirements shall apply to testimonials or endorsements:

(a) Testimonials used in advertisements must be genuine; represent the current opinion of the author; be applicable to the policy advertised, if any; and be accurately reproduced. In using a testimonial the insurer, agent or counselor makes as its own all of the statements contained therein, and such statements are subject to all the provisions of this Regulation.

(b) If the individual making a testimonial or an endorsement has a financial interest, directly or indirectly, in the insurer or a related entity as a stockholder, director, officer, employee, or otherwise, such fact shall be clearly and prominently disclosed in the advertisement. If a person receives any benefit directly or indirectly other than required union scale wages, such fact shall be clearly and prominently disclosed in the advertisement by language identical to, or substantially similar to, the following: "THIS IS A PAID ENDORSEMENT."

(c) An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by a group of individuals, society, association, or other organization unless such is the fact and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial is owned, controlled, or managed by the insurer, or receives any payment or other consideration from the insurer for making such

endorsement or testimonial, such fact shall be clearly and prominently disclosed in the advertisement.

(d) No testimonial or endorsement shall be made in any form which constitutes a solicitation for the purchase of life insurance and annuities in this State, unless such endorser is currently licensed in Georgia as an agent to solicit insurance.

(12) No advertisement shall contain statistical information relating to any insurer or any policy unless it accurately reflects recent and relevant facts. The source of any such statistics used in any advertisement shall be identified therein.

(13) The following requirements shall apply to introductory, initial or special offer policies and to policies with enrollment periods:

(a) An advertisement of an individual policy or combination of such policies shall not state or imply that such policy or combination of such policies is an introductory, initial, or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless such is the fact. An advertisement shall not describe an enrollment period as "special" or "limited" or use similar words or phrases in describing it when the insurer uses successive enrollment periods as its usual method of marketing its policies.

(b) An advertisement shall not state or imply that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy.

(c) An advertisement shall not offer a policy which utilizes a reduced initial premium rate in a manner which overemphasizes the availability and the amount of the reduced initial premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, all references to the reduced initial premium shall be followed by an asterisk or other appropriate symbol which refers the reader to that specific portion of the advertisement which contains the full rate schedule for the policy being advertised.

(d) An enrollment period during which a particular insurance policy may be purchased on an individual basis shall not be offered within this State unless there has been a lapse of not less than six (6) months between the close of the immediately preceding enrollment period for the same or similar policy and the opening of a new enrollment period. The advertisement shall specify the date by which the applicant must mail the application, which shall be not less than ten (10) days and not more than forty (40) days from the date on which such enrollment period is advertised for its first time. This rule applies to all advertising media - i.e. mail, newspapers, radio, television, magazines, and periodicals - by any one insurer. The phrase "any one insurer" includes all the

affiliated companies of a group of insurance companies under common management or control. This rule does not apply to the use of a termination or cutoff date beyond which an individual application for a guaranteed issue policy will not be accepted by an insurer in those instances where the application has been sent to the applicant in response to his request. It is also inapplicable to solicitations of employees or members of a particular group or association which otherwise would be eligible under specific provisions of the Georgia Insurance Code for group, blanket, or franchise insurance. In cases where an insurance product is marketed on a direct mail basis to prospective insureds by reason of some common relationship with a sponsoring organization, this rule shall be applied separately to each sponsoring organization.

(14) An advertisement of a particular policy shall not state nor imply that prospective insureds shall be or become members of a special class, group, or quasi-group and as such enjoy special rates, dividends, or underwriting privileges, unless such is the fact.

(15) An advertisement shall not make unfair, inaccurate nor incomplete comparisons of policies, benefits, dividends, or rates of other insurers. An advertisement shall not falsely nor unfairly describe other insurers, their policies, services, or methods of marketing.

(16) For individual deferred annuity products or deposit funds which are paid to an insurer and which are ancillary to the basic individual policy benefits and are established for the payment of future premiums or for the purchase of annuity benefits at a future date, the following requirements shall apply:

(a) Any illustrations or statements containing or based upon interest rates higher than the guaranteed accumulation interest rates shall likewise set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed accumulation interest rates. Such higher interest rates shall not be greater than those currently being credited by the company unless such higher rates have been publicly declared by the company with an effective date for new issues not more than three (3) months subsequent to the date of declaration. Non-guaranteed interest rates must be clearly and prominently labeled as such.

(b) If an advertisement states the net premium accumulation interest rate, whether guaranteed or not, it shall also disclose in close proximity thereto and with equal prominence, the actual relationship between the gross and net premiums.

(c) If any contract does not provide a cash surrender benefit prior to commencement of payment of any annuity benefits, any illustrations or statements concerning such contract shall prominently state that cash surrender benefits are not provided.

(d) An advertisement shall not state or imply that individual annuity policies or deposit funds are accorded preferential tax treatment unless the advertisement

fully, clearly and accurately describes the tax deferred nature of the contract, including the tax consequences on surrender.

(17) The following additional disclosure requirements shall apply to the advertising and sale of life insurance to students:

(a) The envelope in which insurance solicitation material is contained may be addressed to parents, i.e. "To The Parents of Joan Smith," or "Mr. and Mrs. Smith." The address may not include any combination of words which indicate that the correspondence is coming from the school itself rather than the insurer, agent or counselor, nor may it imply that the school has endorsed the material and supplied the insurer with information about the student unless such is a correct and truthful statement.

(b) The return address on the envelope may not in any way imply that the soliciting insurer, agent or counselor is affiliated with a university, college or school.

(c) If the term "student insurance forms enclosed" is used on the envelope it must appear in one continuous line. For example, it is not permissible to divide the wording so that "student insurance" appears on one line and "forms enclosed" on another.

(d) If the name of the agent, counselor or company official appears on the envelope, it is to be identified as such, with a complete mailing address following the listing of the name.

(e) Any slogan affixed by an insurer, agent or counselor which appears on an envelope to the left of the postal meter stamp may not focus on education. Neutral slogans, such as "Buy Government Bonds" or "Support Your Local United Fund," are acceptable.

(f) No insurance solicitation materials may contain any of the statements or implications described and prohibited from appearing on the envelope. All letters, circulars and informational flyers used in the solicitation of insurance must be clearly identified as coming from an agent, counselor or insurer, if such is the case, and these entities must be clearly identified as such.

(g) No advertisement may state or imply that because such insurance is offered to a selective group that there will be cost savings to prospective purchasers unless such is the fact. No such cost savings may be stated or implied in any advertisement without justification found to be satisfactory to the Commissioner prior to its use.

Cite as Ga. Comp. R. & Regs. R. 120-2-11-.06
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Disclosure Requirements" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified

by the Agency.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-11-.07. Identity of Insurer.

(1) The name of the insurer shall be clearly identified and prominently displayed, and if any specific individual policy is advertised it shall be identified either by form number or other appropriate description. An advertisement shall not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol, or other device or reference without disclosing the name of the insurer, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the insurer, or create the impression that a company other than the insurer would have any responsibility for the financial obligation under a policy.

(2) No advertisement shall use any combination of words, symbols, or physical materials which by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols, or physical materials used by a governmental program or agency or otherwise appear to be of such a nature that they tend to mislead prospective insureds into believing that the solicitation is in some manner connected with such governmental program or agency.

(3) No advertisement shall use any combination of words, symbols, or physical materials which by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols, or physical materials used by a non-insurance company with which the individual has a financial relationship or otherwise appear to be of such a nature that it tends to mislead or deceive prospective insureds into believing that the purchase of insurance is required by such company.

(4) An advertisement for any specific policy shall clearly inform the prospective purchaser of the full name of the insurance company which will issue the policy. An advertisement for the sale of life insurance by any agent shall clearly inform the prospective purchaser of the full name of all insurance companies which said agent is authorized to represent.

Cite as Ga. Comp. R. & Regs. R. 120-2-11-.07
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Identity of Insurer" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-11-.08. Jurisdictional Licensing and Status of Insurer.

(1) An advertisement which is intended or not intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond such limits.

(2) An advertisement may state that an insurer is licensed in the state which the advertisement appears, provided it does not exaggerate such fact or suggest or imply that competing insurers may not be so licensed.

(3) An advertisement shall not create the impression that the insurer, its financial condition or status, the payment of its claims, or the merits, desirability, or advisability of its policy forms or kinds of plans of insurance are recommended or endorsed by any governmental entity. However, where a governmental entity has recommended or endorsed a policy form or plan, such fact may be stated if the entity authorizes its recommendation or endorsement to be used in such an advertisement.

Cite as Ga. Comp. R. & Regs. R. 120-2-11-.08
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Jurisdictional Licensing and Status of Insurer" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-11-.09. Statements About the Insurer.

An advertisement shall not contain statements, pictures, comparative financial ratios, or illustrations which are false or misleading, in fact or by implication, with respect to the assets, liabilities, insurance in force, corporate structure, financial condition, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly defines the scope and extent of such recommendation.

Cite as Ga. Comp. R. & Regs. R. 120-2-11-.09
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Statements About the Insurer" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-11-.10. Misleading Statements, Representations and Illustrations Prohibited.

(1) No insurer, agent or counselor shall in connection with the consultation, service or advertisement of a policy:

   (a) State, represent or imply that a prospective policyholder or certificateholder will receive the right to benefits which are not a part of the policy itself, or made an

effective part of the policy by rider or other instrument approved by and on file with the Georgia Insurance Department;

(b) Represent or imply that any financial ratio, illustrative material or advertisement, including pictures, diagrams, charts, projections, or other material, has been approved or sanctioned by the Georgia Insurance Department;

(c) Make or issue any statement or representation that premiums paid are ever withdrawable without reference to the cash surrender value or loan provisions of the policy, or in any manner other than that expressly contained in the policy form, except that premiums paid in advance of the current due date may be withdrawn under the conditions of the prepayment agreement;

(d) State, represent or imply that profits are derived from lapses and surrenders;

(e) Represent that the mere size of a life insurance company or its total insurance in force necessarily affects either the solvency or the reliability of life insurance or annuity policies issued by such insurer;

(f) Make or issue any statement which would lead a prospective buyer or policyholder of life insurance or annuity to believe that he is purchasing stock in an insurance company by acquiring such life insurance or annuity;

(g) Make or issue any statement which will tend to lead a prospective buyer or policyholder to believe that, by purchasing a policy, he will acquire a position similar to that of a stockholder of the company, or make or issue any statement which permits the inference that policyholders are entitled to benefits or profits on the same basis as stockholders;

(h) State or represent that a prospective policyholder will receive dividends, or special or favored treatment in the allowance or payment of dividends, or other monetary benefits not expressly provided in the policy;

(i) Make or issue statements or illustrations of projected future dividends unless the dividend formula or dividend scale upon which such statements or illustrations were made complies with the applicable provisions of the Georgia Insurance Code and the Rules and Regulations of the Georgia Insurance Department;

(j) Make or issue statements indicating that because a prospect has agreed to furnish leads, he is entitled to any specific benefits not available to all policyholders generally;

(k) Represent as a return of premium or as a return of cash surrender value an increasing term insurance provision in any insurance policy, such as an amount of insurance equal to the sum of premiums paid to a certain date, or as an amount of

insurance equal to the cash surrender value, as anything other than a guaranteed insurance benefit, a charge for which is included in the premium;

(l) Use a dollar amount or any other figure in printed material to be shown to prospective policyholders unless accompanied by language in such material indicating the nature and source of the figure;

(m) State or imply that a policy contains features or benefits which are not found in other life insurance policies, unless that be true;

(n) Make any reference or statement implying that a policy is sold or issued or is serviced by the investment department of an insurer; and

(o) Use terms such as financial planner, investment advisor, financial consultant, or financial counseling in such a way as to imply that the person who is engaged in the business of insurance is generally engaged in an advisory business in which compensation is unrelated to sales unless such is actually the case. During the solicitation of, negotiation for, or procurement or making of a contract of life insurance or annuity contract, no person may engage, advertise, or render opinions as to the benefits promised under any contract of insurance or offered by any insurer, or as to the terms, value, effect, advantages or disadvantages thereof unless such person is properly licensed in accordance with Chapters 33-23-1 to 33-23-22 of the Georgia Insurance Code. Further, no person engaged in the business of insurance may hold himself out, directly or indirectly, to the public as a financial planner, investment advisor, financial consultant, or financial counselor or as any other specialist engaged in the business of giving complete financial planning advice relating to investments, insurance, real estate, tax matters and trust and estate matters unless such person in fact is generally engaged in such business and does, in fact, render such services. Not included in "such services" is the presentations of computer printouts that fall into the category of advanced programming for the purpose of selling a policy and are routinely provided by insurers or other organizations. Terms such as financial planner, investment advisor, financial consultant, or financial counselor may not be used by a person engaged in the business of insurance where such person provides advice relating to investments, real estate, tax matters and trust and estate matters, which is merely incidental to the conduct of his insurance business.

(2) The following are applicable to the advertising of all policies:

(a) The basic life policy death benefit must be shown as a single amount, not arbitrarily or deceptively split into two or more parts, implying that there is a relationship between some part of a premium and some part of the death benefit, unless such is the fact and provided the relationship is not for the purpose of nor may likely have the effect of misleading or deceiving an individual.

(b) If nonforfeiture values are shown, they must be shown either for the entire amount of the basic life policy death benefit or for each $1,000 of initial death benefit.

(c) No statement or representation may imply the existence of an actuarial relationship between a specific premium, or portion thereof, and a specific benefit, or portion thereof, provided under a policy where, in fact, none exists. No premiums, or a portion of a premium, may be presented as an "additional," "separate," or "special" premium unless there is an actuarial relationship between such premium, or portion thereof, and some specifically identifiable benefit or portion thereof.

(d) No artificial relationships among interest rates, premiums and benefits or portions thereof, may be implied or created.

(e) No person or advertisement shall state or imply that on the death of the insured, the beneficiary will receive, or should have received, the cash value of a policy in addition to the face amount. This rule is not intended to prohibit the advertising of an increasing term benefit equal to the cash value and for which a premium has been paid.

(f) No person or advertisement shall state or imply in any way that interest charged on a policy loan or the reduction of death benefits by the amount of outstanding policy loans is unfair, inequitable, or in any manner an incorrect or improper practice.

(g) No person or advertisement shall state or imply in a misleading manner that the policy cash value is the policyowner's "savings" or that the policyowner owns the cash value. The use of savings "passbooks" and such similar misleading techniques is prohibited.

(h) Analogies between cash value and savings accounts and between premium payments and contributions to savings accounts are prohibited unless such analogy completely and clearly explains both the similarities and the difference between the items so compared and further, unless it is made clear that such representation is an analogy only and that, in fact, cash values and premium payments are not the same as a savings account and contributions thereto.

(i) No advertising material or oral presentation may make incorrect, misleading or unfair statements about other life insurance products, agents, and insurers.

(j) No advertising shall state or imply that a policy being offered for sale is pure term insurance unless the policy is in fact pure term insurance.

(k) Life insurance policies shall not be compared to savings accounts, stocks, bonds, or any other financial instrument or investment in such a way as to mislead a

person as to the true nature of life insurance or life insurance surrender values or other policy benefits.

(l) Advertisements may not imply or state that all older policies are more costly than newer policies or that all newer policies are more costly than older policies unless such is a provable fact.

(m) No advertisement shall imply or state that if a life insurance company becomes insolvent, other companies will always take over the liabilities of the insolvent company.

(n) The use of words such as "deposit," "deposit premium," "investment," or other such misleading or confusing terminology to refer to an amount which is a premium as defined in Section 33-24-1 of the Georgia Insurance Code is prohibited.

(o) A system or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of two or more life insurance policies. Such a system may be used for the purpose of demonstrating the cash-flow pattern of a policy if such presentation is accompanied by a statement disclosing that the presentation does not recognize that, because of interest, a dollar in the future has less value than a dollar today.

(3) The use of materials, statements or communications of any kind, which when used alone is not misleading, but becomes deceptive or misleading when combined, is prohibited.

Cite as Ga. Comp. R. & Regs. R. 120-2-11-.10
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Misleading Statements, Representations and Illustrations Prohibited" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
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Rule 120-2-11-.11. Enforcement Procedures.

(1) Each insurer shall maintain at its home or principal office a complete file containing a specimen copy of every printed, published, or prepared advertisement of its individual policies and specimen copies of typical printed, published, or prepared advertisements of its blanket, franchise, and group policies, hereafter disseminated in this State, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to inspection by the Georgia Insurance Department. All such advertisements shall be maintained in said file for a period of either four years or until the filing of the next regular report on the examination of the insurer, whichever is the longer period of time.

(2) Each insurer subject to the provisions of these rules shall file with this Department with its Annual Statement a certificate of compliance executed by an authorized officer of the insurer wherein it is stated that to the best of his knowledge, information, and belief the advertisements which were disseminated by or on behalf of the insurer in this State during the preceding statement year, or during the portion of such year when these rules were in effect, complied or were made to comply in all respects with the provisions of these rules and the insurance laws of Georgia as implemented and interpreted by these rules.

Cite as Ga. Comp. R. & Regs. R. 120-2-11-.11
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Enforcement Procedures" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
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Rule 120-2-11-.12. Conflict with Other Rules.

It is not intended that these rules conflict with or supersede any rules currently in force or subsequently adopted in this State governing specific aspects of the sale or replacement of life insurance including, but not limited to, rules dealing with life insurance cost comparison indices, deceptive practices in the sale of life insurance, and replacement of life insurance policies. Consequently, no disclosure required under any such rules shall be deemed to be an advertisement within the meaning of these rules.

Cite as Ga. Comp. R. & Regs. R. 120-2-11-.12
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Conflict With Other Rules" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-11-.13. Severability Provision.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-11-.13
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Severability Provision" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-11-.14. Penalties.

Any insurer, or agent, counselor, representative, officer or employee of such insurer, failing to comply with the requirements of this Regulation shall be subject to such penalties as may be appropriate under the Insurance Laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-11-.14
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Penalties" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
Submitted for Publishing: Mar. 7, 2007.

Subject 120-2-12. ADVERTISING ACCIDENT AND SICKNESS INSURANCE.

Rule 120-2-12-.01. Statutory Authority.

This Regulation is made and promulgated by the undersigned Insurance Commissioner pursuant to the authority set forth in Section 33-2-9 of the Insurance Laws of this State, and especially Chapter 33-6 of the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.01
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Filing of Advertising" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Statutory Authority" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.02. Purpose.

The purpose of this Regulation is:

1. To implement the Insurance Laws of the State of Georgia with respect to advertising and sale of Accident and Sickness Insurance in this State, as defined in Section 33-7-2 of the Georgia Insurance Laws, and included in Section 33-7-3.

2. To protect the interests of the Accident and Sickness Insurance Public of this State by:

   (a) The establishment of minimum standards of conduct to be observed by advertisers and sellers of Accident and Sickness Insurance;

   (b) Requiring truthful, complete, clear and accurate disclosure of all material and relevant information in the advertising and sale of accident and sickness insurance so that members of the insurance public can adequately make a decision in their own best interest.

3. To prevent the use of unfair methods of competition and unfair practices among insurers with regard to the advertising, promotion and sale of accident and sickness insurance in this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.02
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Accuracy of Advertising" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Purpose" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.03. Applicability.

These Rules shall apply to any accident and sickness insurance "advertisement" as that term is hereinafter defined, intended for presentation, distribution or dissemination in this State when such presentation, distribution or dissemination is made either directly or indirectly by or on behalf of an insurer, agent, broker, or solicitor as those terms are defined in the Insurance Code of this State and these Rules.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.03
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Advertising Defined" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Applicability" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.04. Definitions.

1. *Advertisement*, for the purpose of these Rules, shall include:

   (a) Printed and published material, audio visual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, TV scripts, billboards and similar displays; and

   (b) descriptive literature and sales aids of all kinds issued by an insurer, agent, solicitor or broker for presentation to members of the insurance buying public, including but not limited to, circulars, leaflets, booklets, depictions, illustrations, and form letters; and

   (c) prepared sales talks, presentations, and material for use by insurers, agents, brokers and solicitors.

   Advertisements of insurers for the sole purpose of obtaining employees, agents, agencies or brokers are among those not to be considered within the definition of an advertisement.

2. *Policy*, for the purpose of these Rules, shall include any Policy, Plan, Certificate, Contract, Agreement, Outline of Coverage, Rider, or Endorsement which provides accident or sickness benefits, or medical, surgical or hospital expense benefits; whether on an indemnity, reimbursement, service, or prepaid basis, except when issued in connection

with another kind of insurance other than life, and except disability, waiver of premium, and double indemnity benefits included in life insurance and annuity contracts.

3. *Insurer,* for the purpose of these Rules, shall include any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds, fraternal benefit society, and any other legal entity defined as an "insurer" in the Insurance Code of this State, which is engaged in, or responsible for, the advertisement of a policy as herein defined.

4. *Exception,* for the purpose of these Rules, shall mean any provision in a policy whereby coverage for a specified hazard is entirely eliminated; it is a statement of a risk not assumed under the policy.

5. *Exclusion,* for the purpose of these Rules, shall be construed to mean the same as "Exception," as defined herein in Rule 120-2-12-.04(4).

6. *Reduction,* for the purpose of these Rules, shall mean any provision which reduces the amount of the benefit to be received, or the period of time in which such benefits would be payable.

7. *Limitation,* for the purpose of these Rules, shall mean any provision which restricts coverage under the policy, other than an "Exception" or a "Reduction" as defined herein.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.04
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Advertising Must Not Be Misleading" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Definitions" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.05. Form and Content of Advertisements.

1. The format and content of an advertisement of an accident or sickness insurance policy shall be accurate and shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. Whether an advertisement has a capacity or tendency to mislead or deceive shall be determined by the Insurance Commissioner from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence, within the segment of the public to which it is directed, or within a segment of the public to which such advertisement may be reasonably calculated to reach.

2. Advertisement shall be truthful and not misleading in fact or in implication. Words or phrases, the meaning of which is clear only by implication or by familiarity with insurance terminology, shall not be used.

3. The advertising of hospital or medical policies or plans shall clearly and accurately state the dollar limits of benefits where applicable, and time limits of benefits where applicable, in lieu of, or in conjunction with descriptive words which might imply "full coverage" for all expenses normally related to hospitalization or medical care.

4. An advertisement for a policy providing benefits for specified illnesses only, such as cancer, or for specified accidents only, such as automobile accidents, shall clearly and conspicuously in prominent type state the limited nature of the policy. The statement shall be worded in language identical to, or substantially similar to the following: "THIS IS A LIMITED POLICY;" "THIS IS A CANCER ONLY POLICY;" "THIS IS AN AUTOMOBILE ACCIDENT ONLY POLICY."

5. If a policy provides different benefits as to amount or time for the same loss occurring under different circumstances or from different causes, the smaller benefits payable shall be given the same prominence as the larger benefits.

6. All policies advertised shall be correctly identified by names reasonably calculated to describe their contents, FOR EXAMPLE: Hospital and Surgical Expense Policy; Hospital Income Policy; Hospital Confinement Policy; Disability Income Policy; Senior Citizen Hospital Expense Policy; Medical Care Accident and Health Policy; . . . etc.

   The use of such terms as "Pay Check Plan;" "Hospital Dollars;" "Extra-income Plan;" "Extra Cash Plan;" "Extra Pay Plan;" "Hard Cash Plan;" "White Cross Plan;" "Doctors' Plan;" or similar words or phrases which do not correctly identify the policy, shall be prohibited.

   In addition, all advertised policies must be identified by Form Number.

7. Any Optional Benefit advertised shall be captioned as "Optional Benefits" and shall be prominently and conspicuously displayed in immediate conjunction with the conditions to qualify for such Optional Benefits. An advertisement must contain a statement that in order to obtain such optional benefits there will be an additional premium charged for each optional benefit desired. A statement must also be included in the advertisement as to what conditions, if any, must be met to qualify for such benefits.

8. All advertisements of accident and sickness insurance in this State shall include the name, address and phone number of the Home or Principal Office and/or of the nearest representative or representatives of the insurer authorized to handle claims and to provide service and information to applicants and/or insureds.

9. Any advertisement making reference to "Medicare Supplement Insurance" or to coverage designed to supplement "Medicare," shall contain a clear, prominent and conspicuous statement in language identical to or substantially the same as the following: "THIS IS A LIMITED POLICY DESIGNED TO COVER ONLY THOSE EXPENSES WHICH MEDICARE DOES NOT COVER." Furthermore, such advertisements must clearly,

prominently and conspicuously disclose the exact benefits payable under such advertised policy.

If such advertised Medicare Supplement Policy supplements only Medicare Part A (or hospital benefits only), this shall be clearly, prominently and conspicuously displayed in the advertisement; nor shall such advertisements use the maximum amount payable without giving an exact example of the conditions which must be met in order for a policyholder to collect the maximum amount.

10. Any advertisement which refers to maximum dollar amount of benefits which can be paid for any period greater than one day shall disclose at the same time, in an equally prominent, frequent, and conspicuous manner, and in immediate conjunction therewith, the daily rate of benefits, and when applicable, the fact that said benefits are payable only for the actual number of days of hospital confinement and, when applicable, the limit on the number of days for which coverage is provided.

11. Words and phrases used in an advertisement to describe policy limitations, exceptions, and reductions shall fairly, accurately, and clearly describe in understandable terms the negative features of such limitations, exceptions and reductions of the policy.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.05
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Representations of Fact" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Form and Content of Advertisements" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.06. Deceptive Words, Phrases or Illustrations Prohibited.

1. No advertisement shall omit information or use words, phrases, statements, references or illustrations if the omission of such information or use of such words, phrases, statements, references or illustrations has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered or premium payable. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale, and/or offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements.

2. No advertisement shall state or imply that all costs of hospitalization or medical expense will be paid, or that all income will be replaced by benefits, unless the policy is without limitation or restriction in any form. No advertisement shall contain or use words or phrases such as: "all;" "full;" "complete;" "comprehensive;" "liberal;" "unlimited;" "as high as;" "fills all gaps;" "full coverage;" "complete protection;" "all coverage;" "deductibles covered;" "this policy will help pay your hospital and surgical bill;" "this policy will help fill some of the gaps that Medicare and your present insurance leave out;" "this policy will help to replace your income" (when used to express loss of time benefits);

"salary replacement;" "wage continuation;" or similar words and phrases, to imply generosity or liberality or in a manner which exaggerates any benefits beyond the terms of the policy.

3. No advertisement shall contain descriptions of a policy limitation, exception, or reduction worded in a positive manner to imply that it is a benefit, such as: describing a waiting period as a "benefit builder," or stating "even pre-existing conditions are covered after two years."

4. No advertisement shall contain or use identifying terms, words, or phrases which do not correctly identify the policy. (See Rule 120-2-12-.05(6).)

5. No advertisement of a benefit for which payment is conditional upon the incurrence of any medical expenses shall use words or phrases such as "tax free;" "extra cash;" "extra income;" "extra pay;" or substantially similar words or phrases that might have the capacity, tendency or effect of misleading the public into believing that the policy advertised will, in some way, enable them to make a profit from any illness, injury, condition, or confinement in a hospital or similar facility.

6. No advertisement of a hospital or other similar facility confinement benefit shall advertise that the amount of benefit is payable on a monthly or weekly basis when, in fact, the amount of the benefit payable is based upon a daily pro rata basis relating to the number of days of actual confinement.

7. No advertisement of a policy covering only one disease or list of specified diseases shall imply coverage beyond the terms of the policy. Synonymous terms shall not be used to refer to any disease so as to imply broader coverage than is the fact.

8. An advertisement or a direct response insurance product shall not state or imply that because "no insurance agent will call and no commissions will be paid to agents," that it is a "low cost plan," or use other similar words or phrases.

9. No advertisement shall contain or use any statement relating to time within which claims are paid (within 24 to 48 hours, etc.), unless the policy being advertised actually requires and guarantees payment within such designated period.

10. No advertisement shall imply that a company frequently and routinely pays specified sums for any type of accident or sickness when, in fact, only certain specified accidents or illnesses are covered.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.06
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Inspection of Policy as No Cure for Misleading Statements" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Deceptive Words, Phrases or Illustrations Prohibited" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.07. Exceptions, Reductions and Limitations.

1. Exceptions, reductions and limitations shall be prominently and conspicuously displayed in the same style type and in a type size equal to, or larger than, that used to describe the benefits. Furthermore, a multi-color scheme shall not be used in such a manner as to render such terms obscure.

2. Any advertisement which refers to either a dollar amount, or a period of time for which any benefit is payable, or the cost of the policy, or specific policy benefit, or the loss for which such benefit is payable, shall also disclose those exceptions, reductions and limitations affecting the basic provisions of the policy without which the advertisement would have the capacity or tendency to mislead or deceive.

3. When a policy contains a waiting, elimination, probationary or similar time period between the effective date of the policy and the effective date of coverage under the policy or a time period between the date a loss occurs and the date benefits begin to accrue for such loss, an advertisement which is subject to the requirements of the preceding paragraph shall clearly, prominently and conspicuously disclose the existence of such periods.

4. An advertisement shall not use the words "only;" "just;" "merely;" "minimum;" or similar words or phrases to describe the applicability of any exceptions and reductions, such as: "This policy is subject to the following minimum exceptions and reductions."

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.07
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Fair Competition" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Exceptions, Reductions and Limitations" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.08. Pre-existing Conditions.

1. An advertisement which is subject to the requirements of these Rules shall, in negative terms, clearly, prominently and conspicuously disclose the extent to which any loss is not covered if the cause of such loss is traceable to a physical condition, injury or disease existing before issuance of the policy. If the term "pre-existing condition," or similar words or phrases are used in an advertisement, they must be accompanied by an appropriate definition or description which states exactly what conditions are included as "pre-existing conditions" for the purposes of the policy.

2. When a policy does not cover losses resulting from preexisting conditions, no advertisement of the policy shall state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim thereunder.

This rule prohibits the use of the phrase "no medical examination required," and phrases of similar import, but does not prohibit explaining "automatic issue."

3. If an insurer requires a medical examination for a specified policy, the advertisement shall prominently disclose that a medical examination is required.

4. In the event any advertisement contains an application form to be completed by the applicant and returned by mail for a direct response insurance product, such application form shall contain a question which reflects the pre-existing condition provisions of the policy, immediately preceding the blank space for the applicant's signature. For example, such an application form must contain a question identical to or substantially similar to the following: "Do you understand that this policy will not pay benefits during the first _____ year(s) after the issue date for a disease or physical condition which you now have, or have had in the past?

   [] I do understand [] I do not understand."

   No policy shall be issued unless the question is answered affirmatively.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.08
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Identity of Insurer" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Pre-Existing Conditions" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.09. Necessity for Disclosure of Policy Provisions Relating to Renewability, Cancellability and Termination.

1. Any advertisement of a policy or plan of benefits contained therein must not imply that the policy or plan is guaranteed renewable at the discretion of the insured unless the renewability of such policy or plan of benefits is, in fact, guaranteed.

2. Any advertisement which refers to:

   (a) dollar amounts,

   (b) periods of time for which any benefit is payable,

   (c) costs of the policy,

   (d) specific policy benefits,

   (e) loss or losses for which benefits are payable,

   (f) time or age limitations,

(g) or any other limiting or qualifying conditions in connection with eligibility of applicants or continuation of the policy, renewability, cancellability or termination, shall clearly, prominently and conspicuously disclose said provisions and any modification, cancellation or termination of benefits, of losses covered, or of premiums, which may occur (because of age or for other reasons), in a manner which shall not minimize or render obscure the qualifying conditions.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.09
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Certification That Advertising Material Meets Requirements" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Necessity for Disclosure of Policy Provisions Relating to Renewability, Cancellability and Termination" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.10. Testimonials or Endorsements by Third Parties.

1. Testimonials used in advertisements must be genuine, represent the current opinion of the author, be applicable to the policy advertised, and be accurately reproduced. The insurer, in using a testimonial, makes as its own all of the statements contained therein, and the advertisement, including such statement, is subject to all the provisions of these Rules.

2. If the person making a testimonial, an endorsement, or an appraisal has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee, or otherwise, such fact shall be prominently disclosed in the advertisement.

3. If a person is compensated for making a testimonial, endorsement or appraisal, such fact shall be prominently disclosed in the advertisement by language identical to, or substantially similar to the following: "THIS IS A PAID ENDORSEMENT." (This Rule does not require disclosure of union scale wages required by union rules if the payment is actually for such scale wages for TV or radio performances). For the purposes of these Rules, the payment of substantial amounts, directly or indirectly, to an endorser for "travel and entertainment" in connection with the filming or recording of TV or radio advertisements constitutes compensation, and disclosure of such compensation is required.

4. An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by any individual, group of individuals, society, association or other organization, unless such is the fact; and unless any proprietary relationship between an organization and the insurer is clearly, prominently and conspicuously disclosed. If the entity making the endorsement or testimonial has been formed by the insurer, or is owned or controlled by the insurer, or the person or persons who own or control the insurer, such fact shall be disclosed in the advertisement.

5. When a testimonial refers to benefits received under a policy, the specific claim data, including claim number, date of loss, and other pertinent information shall be retained by the insurer for inspection for a period of four years, or until the filing of the next regular report of examination of the insurer, whichever is the longer period of time.

6. For the purposes of these Rules, with regard to testimonials and endorsements by third parties, "Endorser" shall mean any individual, group of individuals, society, association or organization that endorses, approves or recommends an insurer, a policy, or plan of benefits.

7. No such testimonial, endorsement or appraisal shall be made in any form which constitutes a solicitation of insurance in this State, unless such endorser is currently licensed in Georgia to solicit insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.10
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Information to Be Furnished With Advertising Material" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Testimonials or Endorsements by Third Parties" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.11. Use of Statistics.

1. Any advertisement relating to the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy, must not contain irrelevant facts and must not be used unless it accurately reflects all of the relevant facts. Furthermore, such advertisements must not contain irrelevant facts; nor shall it imply that statistics used therein are derived from the policy advertised unless such is the fact. When statistics used in an advertisement are applicable to other policies or plans, it shall specifically be so stated.

2. An advertisement shall not represent or imply that claim settlements by the insurer are "liberal" or "generous," or use words of similar import; or that claim settlements are or will be beyond the actual terms of the contract.

3. An unusual amount paid for a unique claim for the policy advertised is misleading and shall not be used.

4. The source of any statistics used in an advertisement must be clearly, prominently and conspicuously identified in the advertisement.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.11
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Large and Small Benefits to Be Given Equal Prominence" adopted. F. and eff. July 20, 1965.

Repealed: New Rule entitled "Use of Statistics" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.12. Identification of Plan or Number of Policies.

1. When a choice of the amount of benefits is referred to, an advertisement shall disclose that the amount of benefits provided depends upon the plan selected and that the premium will vary with the amount of the benefits selected.

2. An advertisement listing the benefits of two or more policies different in their content should identify each policy with the benefits which it offers. Group Master Policies are not included for the purposes of this Rule. In such cases, the advertisement shall disclose that these benefits are provided only through a combination of policies.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.12
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Reduced Benefits Based on Age" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Identification of Plan or Number of Policies" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.13. Disparaging Comparisons and Statements.

An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits, or comparisons of non-comparable policies of other insurers, and shall not disparage competitors, their policies, services, or business methods, and shall not disparage or unfairly criticize competing methods of marketing insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.13
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Statements Implying Generosity or Liberality" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Disparaging Comparisons and Statements" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.14. Jurisdictional Licensing and Status of Insurer.

1. An advertisement which is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those limits.

2. An advertisement shall not create the impression directly or indirectly that the insurer, its financial condition or status, or the payment of its claims, or the merits, desirability, or advisability of its policy forms or kinds or plans of insurance are approved, endorsed, or accredited by any division or agency of this State or the United States Government.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.14
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Disclosure of Limitations, Restrictions and Exclusions" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Jurisdictional Licensing and Status of Insurer" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.15. Identity of Insurer.

1. The name of the actual insurer advertised shall be properly identified and prominently, clearly and conspicuously displayed in all of its advertisements. An advertisement shall not refer to the parent company of the insurer without clearly disclosing that it is a separate legal entity and not responsible for the insurer's financial condition or contractual obligations.

2. An advertisement shall not include a trade name, an insurance group designation, or the name of any division, affiliate or subsidiary of the insurer, or any service mark, trade mark, slogan, symbol, or other device which has the capacity or tendency to deceive an individual as to the true identity of the insurer or the policy being advertised.

3. No advertisement shall use any combination of words, symbols, or physical materials which by their content, phraseology, shape, color, or other characteristics are so similar to combination of words, symbols, or physical materials used by agencies of the Federal Government, or of this State, or otherwise appear to be of such a nature that it tends to confuse or mislead prospective insureds into believing that the solicitation is in some manner connected with an agency of the municipal, State or Federal Government.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.15
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Dollar and Time Limits of Benefits to Be Stated" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Identity of Insurer" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.16. Group or Quasi-Group Implications.

An advertisement of a particular plan or policy of insurance shall not state or imply that prospective insureds become "group" or "quasi-group" members covered under a group policy, and as such enjoy special rates or underwriting privileges, unless such is the fact.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.16
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Previous Payments Referred to in Advertising to Be Typical Rather Than Unusual" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Group or Quasi-Group Implications" adopted. F. May 29, 1973; eff. June 18, 1973.

Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.17. Introductory, Initial or Special Offers.

1. (a) An advertisement of an individual policy shall not directly or by implication represent that a contract or combination of contracts is an introductory, initial, or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless such is the fact.

   (b) An advertisement shall not contain phrases describing an enrollment period as "special," "limited," or use in similar words or phrases when the insurer uses such enrollment periods as the usual method of advertising accident and sickness insurance.

   (c) An enrollment period during which a particular insurance product may be purchased on an individual basis shall not be offered within this State unless there has been a lapse of not less than six (6) months between the close of the immediately preceding enrollment period for the same product and the opening of the new enrollment period.

   (d) The advertisement shall indicate the date by which the applicant must mail the application, which shall not be less than ten (10) days and not more than forty (40) days from the date that such enrollment period is advertised for the first time. This Rule applies to all advertising media; including, but not limited to: mail, newspapers, radio, television, magazines, periodicals, personal solicitations, and telephone solicitations.

   (e) This Rule prohibits any statement or implication to the effect that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy, unless such is the fact.

   (f) This Rule prohibits the use of minor variations in the form or contents of a plan or policy in order to avoid or circumvent the provisions of paragraph (c) of this Rule. Mere variations of the terms of renewability, increases or decreases in the dollar amounts of benefits, or increases or decreases in any elimination or waiting period from those available during an enrollment period for another policy, shall not be sufficient to establish it as a new or different "particular insurance product" not subject to the provisions of paragraph (c).

2. An advertisement shall not offer a policy which utilizes a reduced initial premium rate in a manner which over-emphasizes the availability and the amount of the initial reduced premium. When an insurer charges an initial premium that differs in amount from the

amount of the renewal premium payable on the same mode, the advertisement shall not display the amount of the reduced initial premium either more frequently or more prominently than the renewal premium, and both the initial reduced premium and the renewal premium must be stated in juxtaposition in each portion of the advertisement where the initial reduced premium appears.

3. Special awards, such as a "safe drivers' award," or special classes such as "non-drinkers" or "non-smokers" shall not be used in connection with advertisements of accident or accident and sickness insurance, unless premiums are, in fact, reduced on the basis of statistical information showing reduced risk based on membership in such class. Such statistics shall be on file in the Home or Principal Office of the insurer.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.17
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Limited Benefits and Policies Not to Be Advertised as Comprehensive" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Introductory, Initial or Special Offers" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.18. Statements about an Insurer.

An advertisement shall not contain statements which are untrue in fact, or by implication misleading, with respect to the assets, corporate structure, financial standing, age, or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly indicates the purpose of the recommendation and the limitations of the scope and extent of the recommendation.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.18
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Statements Relative to Hospital Room and Board and Surgical Benefits" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Statements About an Insurer" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.19. Insurers' Responsibility and Control; Advertising File; Certificate of Compliance.

1. All advertisements, regardless of by whom written, created or designed, shall be the responsibility of the insurer sponsoring the same. Every insurer shall at all times maintain complete control over the content, form and method of dissemination of all advertisements of its contracts.

2. Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of individual policies and typical printed,

published or prepared advertisements of blanket, franchise and group policies hereafter disseminated in this State, with a notation attached to each such advertisement which shall indicate the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to regular and periodic inspection at the discretion of this Department. All such advertisements shall be maintained in said file for a period of not less than five (5) years.

3. Each insurer required to file an Annual Statement with this Department must file, together with its Annual Statement, a Certificate executed by an authorized officer of the insurer wherein it is stated that to the best of his knowledge, information and belief, the advertisements disseminated by the insurer during the preceding calendar year complied, or were made to comply in all respects, with the provisions of the Insurance Laws of this State as implemented and interpreted by this Regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.19
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Implication That Benefits of Two or More Policies Are Offered and Only One Policy Prohibited" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Insurers' Responsibility and Control; Advertising File; Certificate of Compliance" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.20. Severability Provision.

If any Section or portion of a Section of this Regulation, or the applicability thereof to any person or circumstance is held invalid by a Court, the remainder of the Rules, or the applicability of such provision to other persons or circumstances, shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.20
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Statements Relative to Physical Examinations" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Severability Provision" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.21. Penalties.

Any insurer, agent, representative, officer, or employee of such insurer failing to comply with the requirements of this Regulation shall be subject to such penalties as may be appropriate under the Insurance Laws of the State of Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.21
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Statements Relative to Diseases" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Penalties" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.22. Effective Date.

This Regulation shall become effective July 1, 1973.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.22
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Statements Relative to Pre-Existing Disease" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Effective Date" adopted. F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.23. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.23
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Limitation Upon Statements of Total Cost of Hospitalization or Full Replacement of Income" adopted. F. and eff. July 20, 1965.
Repealed: F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.24. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.24
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Statements Relative to Coverage" adopted. F. and eff. July 20, 1965.
Repealed: F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.25. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.25
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Statements Relative to National Statistics" adopted. F. and eff. July 20, 1965.
Repealed: F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.26. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.26
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Statements Relative to Time of Payment of Claims" adopted. F. and eff. July 20, 1965.
Repealed: F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.27. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.27
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Statements Relative to Limitations on Numbers of Policies Sold or Time Limit Upon Offer" adopted. F. and eff. July 20, 1965.
Repealed: F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.28. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.28
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Implications of 'Group' or 'Quasi-Group' Membership" adopted. F. and eff. July 20, 1965.
Repealed: F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.29. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.29
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Implications of Continuity or Non-Cancellability" adopted. F. and eff. July 20, 1965.
Repealed: F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.30. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.30
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Implications of Guaranteed Renewability" adopted. F. and eff. July 20, 1965.
Repealed: F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.31. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.31
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Truth and Accuracy of Testimonials and Statistics" adopted. F. and eff. July 20, 1965.
Repealed: F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.32. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.32
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Exemptions as to Filing Where Proposals Made to Employer" adopted. F. and eff. July 20, 1965.
Repealed: F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.33. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.33
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Procedure in Case of Violations of Above Rules" adopted. F. and eff. July 20, 1965.
Repealed: F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-12-.34. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-12-.34
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Purpose of Regulations" adopted. F. and eff. July 20, 1965.
Repealed: F. May 29, 1973; eff. June 18, 1973.
Submitted for Publishing: Mar. 7, 2007.

Subject 120-2-13. CREDIT LIFE, ACCIDENT AND SICKNESS INSURANCE.

Rule 120-2-13-.01. Establishing Claims Account.

It is hereby ordered that on and after July 1, 1955 any and all insurance companies writing Life and/or Health and Accident or Hospitalization Insurance in connection with loans made under the Georgia Industrial Loan Act shall place in a reserve account created and carried on the books of the company as "claims account," an amount not less than 20% of each premium dollar received on such insurance written in connection with said loans.

Cite as Ga. Comp. R. & Regs. R. 120-2-13-.01
Authority: Ga. Laws 1960, p. 289, pp. 305 and 750, as amended.

Rule 120-2-13-.02. Purpose of Claims Account.

It is further ordered that such funds as placed in said "claims account" shall be used for no other purpose other than the payment of benefits accruing under such policy or policies as issued in connection with loans made under the Georgia Industrial Loan Act.

Cite as Ga. Comp. R. & Regs. R. 120-2-13-.02
Authority: Ga. Laws 1960, p. 289, pp. 305 and 750, as amended.

Rule 120-2-13-.03. Reinsuring Liability for Credit Life, Accident and Sickness Insurance.

In the event any insurance company writing Life and/or Health and Accident or Hospitalization Insurance in connection with loans made under the Georgia Industrial Loan Act shall reinsure its liability under such policies, such direct writing company shall, notwithstanding such reinsurance, maintain the reserve required by this regulation, as if such reinsurance contract had not been entered upon and shall, notwithstanding such reinsurance contract or treaty, continue primarily responsible on all life and/or Health and Accident or Hospitalization Insurance issued in connection with such loans.

Cite as Ga. Comp. R. & Regs. R. 120-2-13-.03
Authority: Ga. Laws 1960, p. 289, pp. 305 and 750, as amended.

Subject 120-2-14. GEORGIA AUTOMOBILE INSURANCE PLAN.

Rule 120-2-14-.01. Authority.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.01
Authority: O.C.G.A. Secs. 33-2-9, 40-9-100.
History. Original Rule entitled "Purposes of Plan" adopted. F. and eff. July 20, 1965.
Repealed: New Rule of same title adopted. F. Apr. 30, 1975; eff. May 20, 1975.
Amended: F. Sept. 2, 1981; eff. Sept. 22, 1981.
Repealed: New Rule entitled "Authority" adopted. F. Oct. 5, 1984; eff. Nov. 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-14-.02. Purpose.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.02
Authority: O.C.G.A. Secs. 33-2-9, 40-9-100.
History. Original Rule entitled "Administration" adopted. F. and eff. July 20, 1965.
Amended: F. Feb. 24, 1975, eff. Mar. 16, 1975.
Repealed: New Rule of same title adopted. F. Apr. 30, 1975; eff. May 20, 1975.
Repealed: New Rule of same title adopted. F. Dec. 21, 1976; eff. Jan. 10, 1977.
Repealed: New Rule entitled "Effective Date" adopted. F. Sept. 2, 1981; eff. Sept. 22, 1981.
Repealed: New Rule entitled "Purpose" adopted. F. Oct. 5, 1984; eff. Nov. 1, 1984, as specified by the Agency.

Rule 120-2-14-.03. Definitions.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.03
Authority: O.C.G.A. Secs. 33-2-9, 40-9-100.
History. Original Rule entitled "Cost of Administration" adopted. F. and eff. July 20, 1965.
Amended: F. Jan. 13, 1971; eff. Feb. 2, 1971.

Repealed: F. Apr. 30, 1975; eff. May 20, 1975.
Amended: New Rule entitled "Non-Residents" adopted. F. Sept. 2, 1981; eff. Sept. 22, 1981.
Repealed: New Rule entitled "Definitions" adopted. F. Oct. 5, 1984; eff. Nov. 1, 1984, as specified by the Agency.
Amended: F. Sept. 5, 1997; eff. Sept. 25, 1997.

Rule 120-2-14-.04. Administration of the Plan.

(1) The Plan shall be administered by a Governing Committee and Manager. The Committee may consist of twelve (12) representatives. Eight (8) representatives will be elected from among Plan subscriber companies, two (2) from each of the following classes of companies: American Insurance Association, Georgia Association of Property and Casualty Insurance Companies, Property Casualty Insurers Association of America, and Non-Affiliated Insurance Companies. Each of the eight (8) shall be submitted to the Commissioner for approval prior to election.

Two (2) representatives will be appointed by the Committee from the users of the Plan for a two (2) year term. These two (2) nominees selected by the Committee shall be approved by the Commissioner prior to being appointed. These two representatives will not have the right to vote in matters pertaining to the determination and fulfillment of quotas, Commercial Automobile Insurance Procedure participation, nor the cost to administer the Plan.

Two (2) representatives may be appointed at the discretion of the Commissioner from subscribers, users of the Plan, or the public. The users of the Plan and public representatives will not have the right to vote in matters pertaining to the determination and fulfillment of quotas, Commercial Automobile Insurance Procedure participation, nor the cost to administer the Plan.

(2) For voting purposes, a quorum shall consist of a majority of the members currently serving on the Committee. If the Committee consists of an even number of members, however, a majority shall constitute one-half of those members but shall not be less than five members.

(3) Each subscriber company serving on the Committee shall designate a representative to act on its behalf. This representative shall be either (1) a salaried employee or officer of the named subscriber company or (2) a salaried employee or officer of another subscriber company from a group of companies under the same management as the named subscriber company. A salaried employee or officer of the holding company of the named subscriber company may also be designated as the representative. No more than one (1) company in a group under the same management shall serve on the Committee at the same time. A company leaving its class of companies shall resign its seat at the next meeting of the Committee.

(4) Biennially, on a date fixed by the Committee, such respective class of companies heretofore described shall elect its representatives to the Committee to serve for a period

of two (2) years or until a successor is elected. Similarly, those elected representatives shall biennially, on a date fixed by the Committee, appoint the two representatives from among the users of the Plan.

(5) A majority of such subscriber companies shall constitute a quorum and voting by proxy shall be permitted. A company may not appoint more than one (1) company in its class of companies to exercise its proxy.

(6) The notice of each biennial meeting shall be accompanied by an agenda for such meeting. At the biennial meeting, a company may cast one (1) vote for each vacant seat on the Committee for its class of companies and it may not cast two (2) votes for one seat. Forty-five (45) days notice of the biennial meeting shall be given in writing to all companies which are subscribers to the Plan.

(7) A vacancy on the Committee shall be filled by the respective organization (American Insurance Association, Georgia Association of Property and Casualty Insurance Companies or Property Casualty Insurers Association of America) who shall appoint a successor to serve until the next biennial meeting. If a non-affiliated company vacancy occurs, a successor to serve until the next biennial meeting shall be elected by the non-affiliated companies. If a user of the Plan representative vacancy occurs, a successor to serve until the next biennial meeting shall be appointed by the committee.

(8) A subscriber company seat not appointed by the American Insurance Association, Georgia Association of Property and Casualty Insurance Companies, Non-Affiliated Insurance Companies, or Property Casualty Insurers of America by the appointment deadline shall be filled as determined by the Committee.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.04
Authority: O.C.G.A. §§ 33-2-9 and 40-9-100.
History. Original Rule entitled "Convictions" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Cost of Administration" adopted. F. Apr. 30, 1975; eff. May 20, 1975.
Repealed: New Rule entitled "Administration" adopted. F. Sept. 2, 1981; eff. Sept. 22, 1981.
Repealed: New Rule entitled "Administration of the Plan" adopted. F. Oct. 5, 1984; eff. Nov. 1, 1984, as specified by the Agency.
Amended: F. Sept. 5, 1997; eff. Sept. 25, 1997.
Repealed: New Rule of same title adopted. F. Jan. 28, 2005; eff. Feb. 17, 2005.
Amended: F. Oct. 1, 2015; eff. Oct. 21, 2015.

Rule 120-2-14-.05. Duties of Governing Committee.

(1) The Committee shall meet at least twice per year and as often as may be required to perform the duties of administration of the Plan. The Committee will be empowered and shall appoint a manager, budget expenses, levy assessments, disburse funds and perform all duties essential to the proper administration of the Plan.

(2) Annually, the Manager shall prepare an operating budget in the prescribed manner for submission to the Committee. Such budget shall be approved by the Committee and furnished to the subscribers on request. Any expenditure in excess of or not included in the annual budget shall be approved by the Committee.

(3) Upon request, the Committee will furnish to any subscriber a written annual report of operations of the Plan in such form and detail as the Committee may determine.

(4) The Committee shall file with the Commissioner a manual including rates and manual rules in such detail as may be necessary for distribution and processing of automobile insurance applications received from applicants, the contents of such manual being known as the Plan.

(5) The Committee shall file necessary and suitable amendments to the Plan as required for the continued effective operation of the Plan.

(6) The Commissioner shall, within thirty (30) days of receipt of a filing as required in paragraphs (4) or (5) above, approved or disapproved such filing, provided, however, the Commissioner may extend by not more than thirty (30) days the period within which he may approve or disapprove the filing by giving written notice to the Committee of the extension before the expiration of the initial thirty-day period.

(7) If the Committee fails to submit an acceptable Plan within thirty (30) days of the effective date of this Regulation, or if at any time fails to submit necessary or suitable amendments thereto, the Commissioner shall, after consultation with insurance companies authorized to issue automobile policies in this State and after notice and hearing, adopt and promulgate such reasonable Plan as is necessary or advisable to effectuate the provision of this Regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.05
Authority: O.C.G.A. §§ 33-2-9 and 40-9-100.
History. Original Rule entitled "Effective Date" adopted. F. and eff. July 20, 1965.
Repealed: New Rule of same title adopted. F. Apr. 30, 1975; eff. May 20, 1975.
Repealed: New Rule entitled "Duties of Governing Committee" adopted. F. Sept. 2, 1981; eff. Sept. 22, 1981.
Repealed: New Rule of same title adopted. F. Oct. 5, 1984; eff. Nov. 1, 1984, as specified by the Agency.
Amended: F. Sept. 5, 1997; eff. Sept. 25, 1997.
Amended: F. Oct. 1, 2015; eff. Oct. 21, 2015.

Rule 120-2-14-.06. Plan Composition.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.06
Authority: O.C.G.A. Secs. 33-2-9, 40-9-100.
History. Original Rule entitled "Non-Residents" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Distribution and Assignment of Applicants" adopted. F. Sept. 2, 1981; eff. Sept. 22, 1981.
Repealed: New Rule entitled "Plan Composition" adopted. F. Oct. 5, 1984; eff. Nov. 1, 1984, as specified by the

Agency.

Rule 120-2-14-.07. Participation in the Plan.

(1) Each subscriber shall pay a minimum annual fee of $25.00 and a Plan Fee of $25 and the basis used for distribution of risks under Distribution and Assignments of Applicants section of the approved Plan shall be used as the basis of apportionment of all expenses incurred in excess of the minimum fee except that credits allowed to reduce assignments shall not be considered in the apportionment of expenses.

(2) The Committee may abate or defer in whole or in part the assignment of risks to a subscriber for good cause. When such action is contemplated, the Commissioner shall be promptly notified prior to the intended action being effective.

(3) Each subscriber shall fully participate in the Plan, comply with paragraphs (1) and (2) above and comply with all rules and procedures of the Plan and guidelines of the Committee, as a condition of their authority to transact or continue to transact insurance in Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.07
Authority: O.C.G.A. §§ 33-2-9, 40-9-100.
History. Original Rule entitled "Duties of Governing Committee" adopted. F. and eff. July 20, 1965.
Amended: F. Apr. 30, 1975; eff. May 20, 1975.
Repealed: F. Sept. 2, 1981; eff. Sept. 22, 1981.
Amended: New Rule entitled "Participation in the Plan" adopted. F. Oct. 5, 1984; eff. Nov. 1, 1984, as specified by the Agency.
Amended: F. Oct. 1, 2015; eff. Oct. 21, 2015.

Rule 120-2-14-.08. Right to Appeal.

(1) The Committee may hear any appeal from an applicant, insured, producer or company on a matter pertaining to the proper administration of the Plan. Each notice of cancellation or denial of insurance under the provisions of the Plan shall contain or be accompanied by a statement that the insured or applicant has a right of appeal to the Committee. The action of the Committee may be appealed to the Commissioner, in accordance with O.C.G.A. Section 33-2-17.

(2) The Plan shall promptly notify the company, the insured, or applicant, and the producer of record of the disposition of the appeal, which notification in the case of refusal to sustain a cancellation shall include notice that upon payment of the deposit premium to the company, a policy or binder will be issued.

(3) An appeal shall not operate as a stay of cancellation. Provided, however, that if either the Committee or the Commissioner refuse to sustain the cancellation, the insurer which

issued the policy or binder shall, within two (2) working days after receipt of the deposit premium, which must be received within thirty (30) days after determination of the appeal, issue a new policy or binder. Such policy shall be issued for a period of one (1) year from the date of issuance. The balance of the premium shall be payable as provided in the Plan rules.

(4) The Commissioner shall be the final authority in all matters relating to the interpretation and enforcement of this Chapter, except insofar as his orders may be reversed or modified by the courts.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.08
Authority: O.C.G.A. §§ 33-2-9, 40-9-100.
History. Original Rule entitled "Distribution and Assignment of Risks" adopted. F. and eff. July 20, 1965.
Amended: F. Apr. 22, 1966; eff. May 12, 1966.
Amended: F. Jan. 13, 1971; eff. Feb. 2, 1971.
Amended: F. Dec. 17, 1974; eff. Jan. 6, 1975.
Repealed: New Rule of same title adopted. F. Apr. 30, 1975; eff. May 20, 1975.
Amended: F. Aug. 1, 1975; eff. Aug. 21, 1975.
Amended: F. Dec. 21, 1976; eff. Jan. 10, 1977.
Amended: F. Dec. 1, 1977; eff. Dec. 21, 1977.
Amended: F. Apr. 28, 1978; eff. May 18, 1978.
Amended: F. Nov. 22, 1978; eff. Dec. 12, 1978.
Repealed: New Rule entitled "Cost of Administration" adopted. F. Sept. 2, 1981; eff. Sept. 22, 1981.
Repealed: New Rule entitled "Right of Appeal" adopted. F. Oct. 5, 1984; eff. Nov. 1, 1984, as specified by the Agency.
Amended: F. Oct. 1, 2015; eff. Oct. 21, 2015.

Rule 120-2-14-.09. Filing of Rates, Rating Systems, Rating Plans, Underwriting Rules and Policy Forms.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.09
Authority: O.C.G.A. Secs. 33-2-9, 40-9-100.
History. Original Rule entitled "Eligibility" adopted. F. and eff. July 20, 1965.
Repealed: New Rule of same title adopted. F. Mar. 4, 1968; eff. Mar. 24, 1968.
Amended: F. Jan. 13, 1971; eff. Feb. 2, 1971.
Amended: F. Feb. 24, 1975; eff. Mar. 16, 1975.
Repealed: New Rule entitled "Filing of Rates, Rating Systems, Rating Plans, Underwriting Rules and Policy Forms" adopted. F. Oct. 5, 1984; eff. Nov. 1, 1984, as specified by the Agency.

Rule 120-2-14-.10. Statistical Agent.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.10
Authority: O.C.G.A. Secs. 33-2-9, 40-9-100.
History. Original Rule entitled "Extent of Coverage" adopted. F. and eff. July 20, 1965.
Repealed: New Rule of same title adopted. F. Mar. 4, 1968; eff. Mar. 24, 1968.
Amended: F. Jan. 13, 1971; eff. Feb. 2, 1971.
Repealed: New Rule of same title adopted. F. Apr. 30, 1975; eff. May 20, 1975.
Amended: F. Dec. 1, 1977; eff. Dec. 21, 1977.

Amended: F. Sept. 2, 1981; eff. Sept. 22, 1981.
Repealed: New Rule entitled "Statistical Agent" adopted. F. Oct. 5, 1984; eff. Nov. 1, 1984, as specified by the Agency.

Rule 120-2-14-.11. Insurers Required to Provide Statistics, Data and Information to Statistical Agent.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.11
Authority: O.C.G.A. Secs. 33-2-9, 40-9-100.
History. Original Rule entitled "Application for Assignment" adopted. F. and eff. July 20, 1965.
Amended: F. Jan. 13, 1971; eff. Feb. 2, 1971.
Repealed: New Rule of same title adopted. F. Apr. 30, 1975; eff. May 20, 1975.
Amended: F. Nov. 22, 1978; eff. Dec. 12, 1978.
Amended: F. Sept. 2, 1981; eff. Sept. 22, 1981.
Repealed: New Rule entitled "Insurers Required to Provide Statistics, Data and Information to Statistical Agent" adopted. F. Oct. 5, 1984; eff. Nov. 1, 1984, as specified by the Agency.

Rule 120-2-14-.12. Hearing.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.12
Authority: O.C.G.A. Secs. 33-2-9, 40-9-100.
History. Original Rule entitled "Three Year Assignment Period" was filed and effective on July 20, 1965.
Amended: Filed January 13, 1971; effective February 2, 1971.
Amended: Rule repealed and a new Rule entitled "Designation of Company" adopted. Filed September 2, 1981; effective September 22, 1981.
Amended: Rule repealed and a new Rule entitled "Hearing" adopted. Filed October 5, 1984; effective November 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-14-.13. Commissions.

(1) Unless other arrangements have been made with the Commissioner, the commission under the Plan shall be as follows in paragraphs (2) through (5).

(2) For long haul trucking risks and public passenger carrying vehicles other than church and school buses, five (5%) percent of the policy premium for commission to a licensed producer designated by the insured.

(3) For other risks, ten (10%) percent of the policy premium for commission to a licensed producer designated by the insured.

(4) On any risk rated and domiciled outside of this State, the licensed producer may be paid only that portion of the producer's commission specified above which is permissible under the laws of the state in which the risk is rated and domiciled.

(5) There is to be no service charge to an applicant charged by the Producer of Record for the completing of an application for insurance under the Plan except the commissions referred to in paragraph (2), (3) and (4) above.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.13
Authority: O.C.G.A. §§ 33-2-9, 40-9-100.
History. Note: "Editor's Note" rescinded. Eff. Oct. 21, 2015.
Original Rule entitled "Designation of Carrier" was filed and effective on July 20, 1965.
Amended: Rule repealed and a new Rule of the same title adopted. Filed August 15, 1967; effective September 4, 1967.
Amended: Rule amended and title changed to "Designation of Company". Filed January 13, 1971; effective February 2, 1971.
Amended: Rule repealed and a new Rule of the same title adopted. Filed April 30, 1975; effective May 20, 1975.
Amended: Rule repealed and a new Rule of the same title adopted. Filed November 22, 1978; effective December 12, 1978.
Amended: Rule repealed and a new Rule entitled "Three Year Assignment Period" adopted. Filed September 2, 1981; effective September 22, 1981.
Amended: Rule repealed and a new Rule entitled "Commissions" adopted. Filed October 5, 1984; effective November 1, 1984, as specified by the Agency.
Editor's Note: In accordance with Ga. Laws 1967, p. 618 (Ga. Code Ann., Section 3A-124), the content of this Rule is not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. This Regulation is on file in the office of the Comptroller General and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Note: "Editor's Note" rescinded. Eff. Oct. 21, 2015.
Amended: F. Oct. 1, 2015; eff. Oct. 21, 2015.

Rule 120-2-14-.14. Claims against Plan; Members and Staff.

(1) The Plan shall pay on behalf of any individual or subscriber all sums which the individual or subscriber shall become legally obligated to pay as a result of or in connection with the performance of official duties as an officer, employee or representative on any committee of the Plan.

(2) The Plan shall have the right and duty to defend any suit or claim against such individual or subscriber seeking damages as a result of or in connection with the performance of official duties as an officer, employee or representative on any committee of the Plan.

(3) The Plan shall be obligated under paragraphs (1) and (2) above regardless of when claim or suit is made, as long as the incident giving rise to the obligation occurred during the period of time that individual or subscriber served as an officer, employee or representative on any committee of the Plan, and was acting in such official capacity.

(4) The Plan may make such investigations and settlements of any claims or suits as it deems expedient.

(5) The cost of fulfilling the obligations of the Plan as described in this Rule shall be an expense incurred pursuant to Rule 120-2-14-.07.

(6) The obligations of the Plan as described in this Chapter do not arise:

(a) If the individual or subscriber fails to report the claim or suit to the manager of the Plan within ten (10) days of actual notice of such claim or suit; or

(b) If, after the defense of a claim or suit arising pursuant to this section it is adjudged that the officer, employee or representative acted in bad faith, then the Plan shall be reimbursed by such officer, employee or representative for expenses incurred in such defense.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.14
Authority: O.C.G.A. §§ 33-2-9, 40-9-100.
History. Original Rule entitled "Carrier's Notice to Applicant" was filed on July 20, 1965.
Amended: Rule repealed and a new Rule of the same title adopted. Filed August 15, 1967; effective September 4, 1967.
Amended: Rule repealed and a new Rule entitled "Company's Notice to Applicant" adopted. Filed January 13, 1971; effective February 2, 1971.
Amended: Filed September 2, 1981; effective September 22, 1981.
Amended: Rule repealed and a new Rule entitled "Claims Against Plan; Members and Staff" adopted. Filed October 5, 1984; effective November 1, 1984, as specified by the Agency.
Editor's Note: In accordance with Ga. Laws 1967, p. 618; (Ga. Code Ann., Section 3A-124), the content of this Rule is not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. This Regulation is on file in the office of the Comptroller General and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Note: "Editor's Note" rescinded. Eff. Oct. 21, 2015.
Amended: F. Oct. 1, 2015; eff. Oct. 21, 2015.

Rule 120-2-14-.15. Penalties.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.15
Authority: O.C.G.A. Secs. 33-2-9, 40-9-100.
History. Original Rule entitled "Carrier's Notice to Plan" was filed and effective on July 20, 1965.
Amended: Rule repealed and a new Rule entitled "Company's Notice to Plan" adopted. Filed January 13, 1971; effective February 2, 1971.
Amended: Rule repealed. Filed September 2, 1981; effective September 22, 1981.
Amended: Rule entitled "Penalties" adopted. Filed October 5, 1984; effective November 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-14-.16. Severability.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.16
Authority: O.C.G.A. Secs. 33-2-9, 40-9-100.
History. Original Rule entitled "Rates" was filed and effective on July 20, 1965.
Amended: Filed April 22, 1966; effective May 12, 1966.
Amended: Filed January 13, 1971; effective February 2, 1971.
Amended: Filed December 17, 1974; effective January 6, 1974.
Amended: Rule repealed and a new Rule of the same title adopted. Filed April 30, 1975; effective May 20,1975.
Amended: Filed September 2, 1981; effective September 22, 1981.
Amended: Rule repealed and a new Rule entitled "Severability" adopted. Filed October 5, 1984; effective November 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-14-.17. Effective Date.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.17
Authority: O.C.G.A. 33-2-9, 40-9-100.
History. Original Rule entitled "Surcharge" was filed and effective on July 20, 1965.
Amended: Rule repealed and a new Rule entitled "Effective Date" adopted. Filed October 5, 1984; effective November 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-14-.18. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.18
Authority: Ga. L. 1951, pp. 565, 576; Ga. L. 1960, pp. 289, 305; Ga. L. 1974, pp. 113, 123.
History. Original Rule entitled "Cancellations" was filed and effective on July 20, 1981.
Amended: Filed April 30, 1975; effective May 20, 1975.
Amended: Rule repealed and a new Rule of the same title adopted. Filed November 22, 1978; effective December 12, 1978.
Amended: Filed September 2, 1981; effective September 22, 1981.
Amended: Rule repealed. Filed October 5, 1984; effective November 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-14-.19. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.19
Authority: Ga. L. 1951, pp. 565, 576, as amended; Ga. L. 1960, pp. 289, 305; Ga. L. 1974, pp. 113, 123.
History. Original Rule entitled "Right of Appeal" was filed and effective on July 20, 1965.
Amended: Filed September 2, 1981; effective September 22, 1981.
Amended: Rule repealed. Filed October 5, 1984; effective November 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-14-.20. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.20
Authority: Ga. L. 1951, pp. 565, 576, as amended; Ga. L. 1960, pp. 289, 305; Ga. L. 1974, pp. 113, 123.
History. Original Rule entitled "Re-eligibility" was filed and effective on July 20, 1981.
Amended: Filed September 2, 1981; effective September 22, 1981.
Amended: Rule repealed. Filed October 5, 1984; effective November 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-14-.21. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.21
Authority: Ga. L. 1951, pp. 565, 576, as amended; Ga. L. 1960, pp. 289, 305; Ga. L. 1974, pp. 113, 123.
History. Original Rule entitled "Commission" was filed and effective on July 20, 1965.
Amended: Filed September 2, 1981; effective September 22, 1981.
Amended: Rule repealed. Filed October 5, 1984; effective November 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-14-.22. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.22
Authority: Ga. L. 1951, pp. 565, 576, as amended.
History. Original Rule entitled "Re-Certification of Operator's License of Applicant or Principal Operator of the Motor Vehicle" was filed and effective on July 20, 1981.
Amended: Rule repealed. Filed October 5, 1984; effective November 1, 1984; as specified by the Agency.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public

examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-14-.23. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.23
Authority: Ga. L. 1951, pp. 565, 576; Ga. L. 1960, pp. 289, 305; Ga. L. 1974, pp. 113, 123.
History. Original Rule entitled "Amendments to Plan" was filed and effective on July 20, 1965.
Amended: Rule repealed and a new Rule of the same title adopted. Filed April 30, 1975; effective May 20, 1975.
Amended: Rule repealed. Filed October 5, 1984; effective November 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-14-.24. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-14-.24
Authority: Ga. L. 1951, pp. 565, 576; Ga. L. 1960, pp. 289, 305; Ga. L. 1974, pp. 113, 123.
History. Original Rule entitled "Indemnification" was filed and effective April 30, 1975; effective May 20, 1975.
Amended: Rule repealed. Filed October 5, 1984; effective November 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Subject 120-2-15. REPORTING OF POLICY CANCELLATIONS AND NONRENEWALS.

Rule 120-2-15-.01. Definitions.

For the purpose of this Regulation Chapter, the following definitions shall apply:

(a) For the purposes of this Regulation Chapter and for the purpose of implementing and interpreting O.C.G.A. § 33-24-46, the term "residential real property" shall mean any property on which the policy is issued to a natural person or persons insuring a specifically described owner occupied one (1) or two (2) family dwelling, including condominium, manufactured housing, standard fire, homeowners, farmowners, and contents policies.

(b) For purposes of this Regulation Chapter, the terms "cancellation" and "nonrenewal" shall be defined as in O.C.G.A. §§ 33-24-44 and 33-24-46.

Cite as Ga. Comp. R. & Regs. R. 120-2-15-.01
Authority: O.C.G.A. Sec. 33-2-9, 33-24-44, 33-24-45, 33-24-46, 33-39-1, 33-39-15.
History. Original Rule entitled "Definitions" was filed on November 13, 1967; effective September 28, 1967.
Amended: Filed October 23, 1979; effective November 12, 1979.
Repealed: New Rule, same title adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Amended: F. Aug. 8, 1996; eff. Aug. 28, 1996.

Rule 120-2-15-.02. Quarterly Reporting.

On or before the first day of February, May, August and November, unless notified by the Commissioner of Insurance to cease prior thereto, and continuing until notified by the Commissioner to cease, all insurance companies doing business in the State of Georgia and issuing policies of property and/or casualty insurance shall file with the Office of Commissioner of Insurance the following information:

(a) The total number of residential property policies cancelled or nonrenewed by the insurer during the preceding quarter together with the reasons for such cancellations and nonrenewals. Provided however, this Regulation Chapter shall not apply to any policy which has been cancelled or nonrenewed due to a failure of the named insured to discharge when due any of his or her obligations in connection with the payment of premium for a policy or any installment thereof.

(b) The information required in subsection (a) shall be submitted in such form as will show the total number of cancellations and nonrenewals together with the reasons for such cancellations and nonrenewals for each type of policy issued. The reasons for cancellations and nonrenewals shall be shown as follows:

Residential Property

(i) Undesirable Insured
(ii) Undesirable Property
(iii) Credit Report
(iv) Other (specify)
(v) Misrepresentation

Cite as Ga. Comp. R. & Regs. R. 120-2-15-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-24-44, 33-24-45, 33-24-46, 33-39-1, 33-39-15.
History. Original Rule entitled "Quarterly Reporting" was filed on November 13, 1967; effective September 28, 1967.
Repealed: New Rule, same title adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Amended: F. Aug. 8, 1996; eff. Aug. 28, 1996.

Rule 120-2-15-.03. Other Reporting Upon Written Notice.

Any insurer doing business in the State of Georgia and issuing policies of property and/or casualty insurance shall file with the Office of Commissioner of Insurance the information

required in § 120-2-15-.02 and such other specifically related information for such periods of time as the Commissioner may require from time to time by written notice to any such insurer. The information shall be submitted within ten (10) days from receipt of notice unless, upon showing of good cause, an extension of time is granted by the Commissioner. This regulation is not intended to limit or diminish any other reporting or notice requirements found elsewhere in the Georgia Insurance Code or the Rules and Regulations of the Georgia Insurance Department.

Cite as Ga. Comp. R. & Regs. R. 120-2-15-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-24-44, 33-24-45, 33-24-46, 33-39-1, 33-39-15.
History. Original Rule entitled "Other Reporting Upon Written Notice" was filed on November 13, 1967; effective September 28, 1967.
Repealed: New Rule, same title adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Amended: F. Aug. 8, 1996; eff. Aug. 28, 1996.

Rule 120-2-15-.04. Quarterly Reporting of Residential Property. Cancellations and Nonrenewals.

On or before the first day of February, May, August, and November, unless notified by the Commissioner to cease prior thereto, and continuing until notified by the Commissioner to cease, all insurance companies transacting business in the State of Georgia and issuing policies of insurance on residential property shall file with the Office of Commissioner of Insurance, Property and Casualty Division, the following information, as a minimum, on Form GID-RP-1:

(a) The total number of residential real property insurance policies which have been cancelled or nonrenewed by the insurer during the preceding calendar quarter.

(b) The information required in subsection (a) shall be submitted by completing Form GID-RP-1 attached hereto and incorporated as a part of this Rule. In addition, the Commissioner or his or her designee may require that the same information be submitted on IBM-formatted diskette, Double Density (DD) or High Density (HD) capacity. Every policy which has been cancelled or nonrenewed shall be listed indicating the city street address, ZIP code, county, and the policy number. In addition, the submission should indicate the reasons for the cancellation or nonrenewal. This Rule does not apply to those policies cancelled or nonrenewed by the insurer for nonpayment of premium or to those policies cancelled and reissued by the same insurer when there is no gap in insurance coverage on the property which is insured.

(c) The insurer shall provide notice to the insured of cancellation or nonrenewal of policies of insurance against direct loss to residential real property and the contents thereof, as required by O.C.G.A. §§ 33-24-44 and 33-24-46. Such notice of cancellation or nonrenewal from the insurer shall be accompanied by the specific reason or reasons for such cancellation or nonrenewal, which reason or reasons shall be in language sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without further inquiry. Such notice must be accompanied by a tender of any unearned premium paid by the insured calculated on a pro rata basis, but if not

accompanied by such notice, such tender shall be made on or before the cancellation date or no later than thirty (30) days after such notice is delivered in person or mailed, whichever is later, unless an audit or rate investigation is required, in which case such tender shall be made as soon as practicable.

(d) The notice required under subsection (c) above shall be delivered in person or by depositing such notice in the United States mail to be dispatched by at least first class mail to the last address of record of the insured and receiving therefore the receipt provided by the United States Postal Service or such other evidence of mailing as prescribed or accepted by the United States Postal Service.

(e) When a policy is cancelled, other than for nonpayment of premium, or in the event of a failure to renew or continue a policy, the insurer shall notify the named insured of his or her possible eligibility for insurance through the Georgia Fair Access to Insurance Requirements Plan. Such notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew, or not to continue the policy, and is given pursuant to this section. Included in such notice shall be the address by which the Georgia Fair Access to Insurance Requirements Plan might be contacted in order to determine eligibility.

Form GID-RP-1

REPORT OF RESIDENTIAL PROPERTY
CANCELLATIONS, NON-RENEWALS AND DECLINATIONS

FOR QUARTER ENDING _____ 19 ___

NAIC CODE _____
COMPANY NAME _____
_____

Address of Office Completing Report _____
_____
Name of Individual Making Report _____
Phone Number _____
Extension _____

NUMBER OF POLICIES ON THIS REPORT

	Manufactured Housing	Std. Fire	Homeowner	Farmowner	Contents	Total	Total This Calendar Year
Cancellations							
Non-Renewals							
Declinations							

(a) Cancelled/ Nonrenewed/ Declined	City	Street Address	ZIP + 4	County	(b) Inside/Outside City	Policy Number	Policyholder	(c) Reason Code	(d) Reason

(a) enter C, N or D
(b) enter I or O

(c) enter one of the following numerical reason codes
1. Undesirable Insured
2. Undesirable Property
3. Credit Report
4. Other (specify)
5. Misrepresentation

(d) If reason code is (3), enter specific reason here.

Form GID-PPA-1

REPORT OF PRIVATE PASSENGER AUTOMOBILE
CANCELLATIONS, NON-RENEWALS AND DECLINATIONS

FOR QUARTER ENDING _____ 19 __

NAIC CODE _____
COMPANY NAME _____

Address of Office Completing Report _____

Name of Individual Making Report _____
Phone Number _____
Extension _____

NUMBER OF POLICIES ON THIS REPORT

	Total	Total This Calendar Year
Cancellations		
Non-Renewals		
Declinations		

(a) Cancelled/ Nonrenewed/ Declined	City	Street Address	ZIP + 4	County	(b) Inside/Outside City	Policy Number	Policyholder	(c) Reason Code	(d) Reason

(a) enter C, N or D
(b) enter I or O

(c) enter one of the following numerical reason codes
1. Undesirable Insured
2. Undesirable Operator
3. Undesirable Vehicle
4. Other (specify)
5. Misrepresentation
6. Credit Report

(d) If reason code is (4), enter specific reason here.

Quarterly Reporting Instructions PPA-1 and RP-1

Media must be IBM formatted 3.5 inch diskette, Double Density (DD) or High Density (HD) capacity. Files must be ASCII text, fixed field length and positional as indicated below.

One or two diskettes may be submitted depending upon file size and disk capacity. The File name format will be two or three letters to identify the report.

PPA = Personal Property Auto
RP = Residential Property

Two digits to indicate the Year of the report and two digits to identify the Quarter reported. Examples:

PPA9402 indicates Personal Property Auto, 1994, 2nd Quarter.

RP9402 indicates Residential Property, 1994, 2nd Quarter.

Diskette label(s) will indicate which file(s) are contained on the disk.

HEADER RECORD - First Record in each File must be a Header Record. One Header Record per file is permitted. Fields 1 through 7 are common between Files.

DATA RECORD - The Data Records for each file will match for fields 1 through 10, with a minor difference in field 9 values.

PPA-1 - Total number of Data Records will equal the sum of Fields 8, 10 and 12 of the Header Record.

RP-1 - Total number of Data Records will equal the sum of Fields 13, 20 and 27 of the Header Record. Field 13 will equal the sum of Fields 8, 9, 10, 11 and 12. Field 20 will equal the sum of Fields 15, 16, 17, 18 and 19. Field 27 will equal the sum of Fields 22, 23, 24, 25 and 26.

HEADER RECORD - PPA-1 AND RP-1

FIELD	POSITIONS	LENGTH	CONTENTS OF FIELD
1	1-5	5	NAIC Code
2	6-40	35	Company Name
3	41-75	35	Contact Person
4	76-110	35	Contact Address Line 1
5	111-145	35	Contact Address Line 2
6	146-155	10	Phone Number of Contact Person
7	156-159	4	Extension of Contact Person

HEADER RECORD - PPA-1

8	160-165	6	Numeric Total of Cancellations for Qtr. Format = 999999
9	166-172	7	Numeric Total of Cancellations for Cal. Yr. Format = 9999999
10	173-178	6	Numeric Total of Non-Renewals for Qtr. Format = 999999
11	179-185	7	Numeric Total of Non-Renewals for Cal. Yr. Format = 9999999
12	186-191	6	Numeric Total of Declinations for Qtr. Format = 999999
13	192-200	7	Numeric Total of Declinations for Cal. Yr. Format = 9999999

FIELD	POSITIONS	LENGTH	CONTENTS OF FIELD
HEADER RECORD - RP-1 CANCELLATIONS - Format = 999999			
8	160-165	6	Manufactured Housing - Qtr.
9	166-171	6	Standard Fire - Qtr.
10	172-177	6	Homeowner - Qtr.
11	178-183	6	Farmowner - Qtr.
12	184-189	6	Contents - Qtr.
13	190-195	6	Total Cancellations for Qtr.
14	196-202	7	Cancellations for Calendar Year. Format = 9999999
HEADER RECORD - RP-1 (Continued) NON-RENEWALS - Format = 999999			
15	203-208	6	Manufactured Housing - Qtr.
16	209-214	6	Standard Fire - Qtr.
17	215-220	6	Homeowner - Qtr.
18	221-226	6	Farmowner - Qtr.
19	227-232	6	Contents - Qtr.
20	233-238	6	Total Non-Renewals for Qtr.
21	239-245	7	Non-Renewals for Calendar Year. Format = 9999999
DECLINATIONS - Format = 999999			
22	246-251	6	Manufactured Housing - Qtr.
23	252-257	6	Standard Fire - Qtr.
24	258-263	6	Homeowner - Qtr.
25	264-269	6	Farmowner - Qtr.
26	270-275	6	Contents - Qtr.
27	276-281	6	Total Non-Renewals for Qtr.
28	282-288	7	Non-Renewals for Calendar Year. Format = 9999999

DATA RECORDS for PPA-1 and RP-1

FIELD	POSITIONS	LENGTH	CONTENTS OF FIELD
1	1-1	1	C = Cancellation N = Non-Renewal D = Declination
2	2-26	25	City
3	27-61	35	Street Address
4	62-70	9	Zip + 4 Code, no hyphen
5	71-90	20	County
6	91-91	1	I = Inside City O = Outside City
7	92-111	20	Policy Number
8	112-146	35	Policy Holder
9	147-147	1	Valid Reason Codes: PPA-1 1 = Undesirable Insured 2 = Undesirable Operator 3 = Undesirable Vehicle 4 = Other (Specify) 5 = Misrepresentation 6 = Credit Report RP-1 1 = Undesirable Insured 2 = Undesirable Property 3 = Credit Report 4 = Other (Specify) 5 = Misrepresentation
10	148-182	35	If Valid Reason Code equals 4 then other reason must be specified.
PPA-1 11	183-200	18	Filler - No entry required.
RP-1 11	183-288	106	Filler - No entry required.

Cite as Ga. Comp. R. & Regs. R. 120-2-15-.04
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1975, p. 22, O.C.G.A. Secs. 33-2-9, 33-6-6, 33-24-44, 33-24-46, 33-39-1, 33-39-15.
History. Original Rule entitled "Quarterly Reporting of Residential Property Cancellations and Nonrenewals" was filed on October 23, 1979; effective November 12, 1979.
Repealed: New Rule entitled "Quarterly Reporting of Residential Property Cancellations, Nonrenewals and Declinations" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Amended: Rule retitled "Quarterly Reporting of Residential Property Cancellations and Nonrenewals". F. Aug. 8, 1996; eff. Aug. 28, 1996.

Rule 120-2-15-.05. Penalties.

Any insurer, representative, officer, or employee or such insurer, failing to comply with the requirements of this Regulation Chapter shall be subject to such penalties and other enforcement action as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-15-.05
Authority: O.C.G.A. secs. 33-2-9, 33-6-6, 33-24-44, 33-24-45, 33-24-46, 33-39-1, 33-39-15.
History. Original Rule entitled "Quarterly Reporting of Private Passenger Automobile Cancellations, Nonrenewals and Declinations" adopted. F. Oct. 7, 1994; eff. Oct 27, 1994.
Amended: Rule retitled "Penalties". F. Aug. 8, 1996; eff. Aug. 28, 1996.

Rule 120-2-15-.06. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-15-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-24-44, 33-24-45, 33-24-46, 33-39-1, 33-39-15.
History. Original Rule entitled "Penalties" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Amended: Rule retitled "Severability". F. Aug. 8, 1996; eff. Aug. 28, 1996.

Rule 120-2-15-.07. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-15-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-24-44, 33-24-45, 33-24-46, 33-39-1, 33-39-15.
History. Original Rule entitled "Severability" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: F. Aug. 8, 1996; eff. Aug. 28, 1996.

Subject 120-2-16. LONG TERM CARE INSURANCE.

Rule 120-2-16-.01. Purpose.

The purpose of this regulation is to implement O.C.G.A. Chapter 33-42, to promote the public interest, to promote the availability of long-term care insurance coverage, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to facilitate public understanding and comparison of long-term care insurance coverages, and to facilitate flexibility and innovation in the development of long-term care insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Purpose" adopted. F. Jan. 17, 1989; eff. Feb. 15, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.02. Authority.

This regulation is issued pursuant to the authority vested in the Commissioner under O.C.G.A. Sections 33-2-9 and 33-42-7.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Authority" adopted. F. Jan. 17, 1989; eff. Feb. 15, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.03. Applicability and Scope.

Except as otherwise specifically provided, this Regulation applies to all long-term care insurance policies, including qualified long-term care contracts and life insurance policies that accelerate benefits for long-term care delivered or issued for delivery in this state on or after the effective date by insurers; fraternal benefit societies; nonprofit health, nonprofit hospital and medical service corporations; healthcare plans; health maintenance organizations and all similar organizations. Certain provisions of this Regulation apply only to qualified long-term care insurance contracts as noted.

Additionally, this Regulation is intended to apply to policies having indemnity benefits that are triggered by activities of daily living and sold as disability income insurance, if:

(1) The benefits of the disability income policy are dependent upon or vary in amount based on the receipt of long-term care services;

(2) The disability income policy is advertised, marketed or offered as insurance for long-term care services; or

(3) Benefits under the policy may commence after the policyholder has reached Social Security's normal retirement age unless benefits are designed to replace lost income or pay for specific expenses other than long-term care services.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Applicability and Scope" adopted. F. Jan. 17, 1989; eff. Feb. 15, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.04. Definitions.

For the purpose of this Regulation, the terms "long-term care insurance," "qualified long-term care insurance," "group long-term care insurance," "Commissioner," "applicant," "policy" and "certificate" shall have the meanings set forth in O.C.G.A. Section 33-42-4. In addition, the following definitions apply:

(1) (a) "Exceptional increase" means only those increases filed by an insurer as exceptional for which the Commissioner determines the need for the premium rate increase is justified:

(i) Due to changes in laws or regulations applicable to long-term care coverage in this state; or

(ii) Due to increased and unexpected utilization that affects the majority of insurers of similar products.

(b) Except as provided in Section 120-2-16-.20, exceptional increases are subject to the same requirements as other premium rate schedule increases.

(c) The Commissioner may request a review by an independent actuary or a professional actuarial body of the basis for a request that an increase be considered an exceptional increase.

(d) The Commissioner, in determining that the necessary basis for an exceptional increase exists, shall also determine any potential offsets to higher claims costs.

(2) "Incidental," as used in subsection (10) of Section 120-2-16-.20, means that the value of the long-term care benefits provided is less than ten percent (10%) of the total value of the benefits provided over the life of the policy. These values shall be measured as of the date of issue.

(3) "Qualified actuary" means a member in good standing of the American Academy of Actuaries.

(4) "Similar policy forms" means all of the long-term care insurance policies and certificates issued by an insurer in the same long-term care benefit classification as the policy form being considered. Certificates of groups that meet the definition in paragraph (4) of O.C.G.A. Section 33-42-4 are not considered similar to certificates or policies otherwise issued as long-term care insurance, but are similar to other comparable certificates with the same long-term care benefit classifications. For purposes of determining similar policy forms, long-term care benefit classifications are defined as follows: institutional long-term care benefits only, non-institutional long-term care benefits only, or comprehensive long-term care benefits.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Definitions" adopted. F. Jan. 17, 1989; eff. Feb. 15, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.05. Policy Definitions.

No long-term care insurance policy delivered or issued for delivery in this state shall use the terms set forth below, unless the terms are defined in the policy and the definitions satisfy the following requirements:

(1) "Activities of daily living" means at least bathing, continence, dressing, eating, toileting and transferring.

(2) "Acute condition" means that the individual is medically unstable. Such an individual requires frequent monitoring by medical professionals, such as physicians and registered nurses, in order to maintain his or her health status.

(3) "Adult day care" means a program for six or more individuals, of social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or other disabled adults who can benefit from care in a group setting outside the home.

(4) "Bathing" means washing oneself by sponge bath; or in either a tub or shower, including the task of getting into or out of the tub or shower.

(5) "Cognitive impairment" means a deficiency in a person's short or long-term memory, orientation as to person, place and time, deductive or abstract reasoning, or judgment as it relates to safety awareness.

(6) "Continence" means the ability to maintain control of bowel and bladder function; or, when unable to maintain control of bowel or bladder function, the ability to perform associated personal hygiene (including caring for catheter or colostomy bag).

(7) "Dressing" means putting on and taking off all items of clothing and any necessary braces, fasteners or artificial limbs.

(8) "Eating" means feeding oneself by getting food into the body from a receptacle (such as a plate, cup or table) or by a feeding tube or intravenously.

(9) "Hands-on assistance" means physical assistance (minimal, moderate or maximal) without which the individual would not be able to perform the activity of daily living.

(10) "Home health care services" means medical and nonmedical services, provided to ill, disabled or infirm persons in their residences. Such services may include homemaker services, assistance with activities of daily living and respite care services.

(11) "Medicare" means "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.

(12) "Mental or nervous disorder" shall not be defined to include more than neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder.

(13) "Personal care" means the provision of hands-on services to assist an individual with activities of daily living.

(14) "Skilled nursing care," "personal care," "home care," "specialized care," "assisted living care" and other services shall be defined in relation to the level of skill required, the nature of the care and the setting in which care must be delivered.

(15) "Toileting" means getting to and from the toilet, getting on and off the toilet, and performing associated personal hygiene.

(16) "Transferring" means moving into or out of a bed, chair or wheelchair.

(17) All providers of services, including but not limited to "skilled nursing facility," "extended care facility," "convalescent nursing home," "personal care facility," "specialized care providers," "assisted living facility," and "home care agency" shall be defined in relation to the services and facilities required to be available and the licensure, certification, registration or degree status of those providing or supervising the services. When the definition requires that the provider be appropriately licensed, certified or registered, it shall also state what requirements a provider must meet in lieu of licensure, certification or registration when the state in which the service is to be furnished does not require a provider of these services to be licensed, certified or registered, or when the state licenses, certifies or registers the provider of services under another name.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Policy Definitions" adopted. F. Jan. 17, 1989; eff. Feb. 15, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.06. Policy Practices and Provisions.

(1) Renewability. The terms "guaranteed renewable" and "noncancellable" shall not be used in any individual long-term care insurance policy without further explanatory language in accordance with the disclosure requirements of Section 120-2-16-.09 of this Regulation:

(a) A policy issued to an individual shall not contain renewal provisions other than "guaranteed renewable" or "noncancellable."

(b) The term "guaranteed renewable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums and when the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis.

(c) The term "noncancellable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums

during which period the insurer has no right to unilaterally make any change in any provision of the insurance or in the premium rate.

(d) The term "level premium" may only be used when the insurer does not have the right to change the premium.

(e) In addition to the other requirements of this subsection, a qualified long-term care insurance contract shall be guaranteed renewable, within the meaning of Section 7702B(b)(1)(C) of the Internal Revenue Code of 1986, as amended.

(2) Limitations and Exclusions. A policy may not be delivered or issued for delivery in this state as long-term care insurance if the policy limits or excludes coverage by type of illness, treatment, medical condition or accident, except as follows:

(a) Preexisting conditions or diseases;

(b) Mental or nervous disorders; however, this shall not permit exclusion or limitation of benefits on the basis of Alzheimer's Disease;

(c) Alcoholism and drug addiction;

(d) Illness, treatment or medical condition arising out of:

(i) War or act of war (whether declared or undeclared);

(ii) Participation in a felony, riot or insurrection;

(iii) Service in the armed forces or units auxiliary thereto;

(iv) Suicide (sane or insane), attempted suicide or intentionally self-inflicted injury; or

(v) Aviation (this exclusion applies only to non-fare-paying passengers).

(e) Treatment provided in a government facility (unless otherwise required by law), services for which benefits are available under Medicare or other governmental program (except Medicaid), any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law, services provided by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance;

(f) Expenses for services or items available or paid under another long-term care insurance or health insurance policy;

(g) In the case of a qualified long-term care insurance contract, expenses for services or items to the extent that the expenses are reimbursable under Title XVIII of the

Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount.

(h) (i) This subparagraph is not intended to prohibit exclusions and limitations by type of provider. However, no long-term care issuer may deny a claim because services are provided in a state other than the state of policy issued under the following conditions:

(A) When the state other than the state of policy issue does not have the provider licensing, certification or registration required in the policy, but where the provider satisfies the policy requirements outlined for providers in lieu of licensure, certification or registration; or

(B) When the state other than the state of policy issue licenses, certifies or registers the provider under another name.

(ii) For purposes of this subparagraph, "state of policy issue" means the state in which the individual policy or certificate was originally issued.

(i) This subsection is not intended to prohibit territorial limitations.

(3) Extension of Benefits. Termination of long-term care insurance shall be without prejudice to any benefits payable for institutionalization if the institutionalization began while the long-term care insurance was in force and continues without interruption after termination. The extension of benefits beyond the period the long-term care insurance was in force may be limited to the duration of the benefit period, if any, or to payment of the maximum benefits and may be subject to any policy waiting period, and all other applicable provisions of the policy.

(4) Continuation or Conversion.

(a) Group long-term care insurance issued in this state on or after the effective date of this section shall provide covered individuals with a basis for continuation or conversion of coverage.

(b) For the purposes of this subsection, "a basis for continuation of coverage" means a policy provision that maintains coverage under the existing group policy when the coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due. Group policies that restrict provision of benefits and services to, or contain incentives to use certain providers or facilities may provide continuation benefits that are substantially equivalent to the benefits of the existing group policy. The Commissioner shall make a determination as to the substantial equivalency of benefits, and in doing so, shall take into consideration the differences between managed care and non-managed care plans,

including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity.

(c) For the purposes of this subsection, "a basis for conversion of coverage" means a policy provision that an individual whose coverage under the group policy would otherwise terminate or has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy (and any group policy which it replaced), for at least six months immediately prior to termination, shall be entitled to the issuance of a converted policy by the insurer under whose group policy he or she is covered, without evidence of insurability.

(d) For the purposes of this subsection, "converted policy" means an individual policy of long-term care insurance providing benefits identical to or benefits determined by the Commissioner to be substantially equivalent to or in excess of those provided under the group policy from which conversion is made. Where the group policy from which conversion is made restricts provision of benefits and services to, or contains incentives to use certain providers or facilities, the Commissioner, in making a determination as to the substantial equivalency of benefits, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity.

(e) Written application for the converted policy shall be made and the first premium due, if any, shall be paid as directed by the insurer not later than 31 days after termination of coverage under the group policy. The converted policy shall be issued effective on the day following the termination of coverage under the group policy, and shall be renewable annually.

(f) Unless the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy from which conversion is made. Where the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy replaced.

(g) Continuation of coverage or issuance of a converted policy shall be mandatory, except where:

(i) Termination of group coverage resulted from an individual's failure to make any required payment of premium or contribution when due; or

(ii) The terminating coverage is replaced not later than thirty-one (31) days after termination, by group coverage effective on the day following the termination of coverage:

(A) Providing benefits identical to or benefits determined by the Commissioner to be substantially equivalent to or in excess of those provided by the terminating coverage; and

(B) The premium for which is calculated in a manner consistent with the requirements of subparagraph (f) of this paragraph.

(h) Notwithstanding any other provision of this Section, a converted policy issued to an individual who at the time of conversion is covered by another long-term care insurance policy that provides benefits on the basis of incurred expenses, may contain a provision that results in a reduction of benefits payable if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than 100 percent of incurred expenses. The provision shall only be included in the converted policy if the converted policy also provides for a premium decrease or refund which reflects the reduction in benefits payable.

(i) The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is made, shall not exceed those that would have been payable had the individual's coverage under the group policy remained in force and effect.

(j) Notwithstanding any other provision of this Section, an insured individual whose eligibility for group long-term care coverage is based upon his or her relationship to another person shall be entitled to continuation of coverage under the group policy upon termination of the qualifying relationship by death or dissolution of marriage.

(k) For the purposes of this Section a "managed-care plan" is a health care or assisted living arrangement designed to coordinate patient care or control costs through utilization review, case management or use of specific provider networks.

(5) Discontinuance and Replacement.

If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the previous group policy on its date of termination. Coverage provided or offered to individuals by the insurer and premiums charged to persons under the new group policy:

(a) Shall not result in an exclusion for preexisting conditions that would have been covered under the group policy being replaced; and

(b) Shall not vary or otherwise depend on the individual's health or disability status, claim experience or use of long-term care services.

(6) (a) The premium charged to an insured shall not increase due to either:

(i) The increasing age of the insured at ages beyond 65; or

(ii) The duration the insured has been covered under the policy.

(b) The purchase of additional coverage shall not be considered a premium rate increase, but for purposes of the calculation required under Section 120-2-16-.26, the portion of the premium attributable to the additional coverage shall be added to and considered part of the initial annual premium.

(c) A reduction in benefits shall not be considered a premium change, but for purpose of the calculation required under Section 120-2-16-26, the initial annual premium shall be based on the reduced benefits.

(7) Electronic Enrollment for Group Policies.

(a) In the case of a group defined in O.C.G.A. Section 33-42-4, any requirement that a signature of an insured be obtained by an agent or insurer shall be deemed satisfied if:

(i) The consent is obtained by telephonic or electronic enrollment by the group policyholder or insurer. A verification of enrollment information shall be provided to the enrollee;

(ii) The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure the accuracy, retention and prompt retrieval of records; and

(iii) The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure that the confidentiality of individually identifiable information and "privileged information" as defined by O.C.G.A. Chapter 33-39, is maintained.

(b) The insurer shall make available, upon request of the Commissioner, records that will demonstrate the insurer's ability to confirm enrollment and coverage amounts.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Policy Practices and Provisions" adopted. F. Jan. 17, 1989; eff. Feb. 15, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.

Repealed: New Rule of same title adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.07. Unintentional Lapse.

Each insurer offering long-term care insurance shall, as a protection against unintentional lapse, comply with the following:

(1)

(a) Notice before lapse or termination. No individual long-term care policy or certificate shall be issued until the insurer has received from the applicant either a written designation of at least one person, in addition to the applicant, who is to receive notice of lapse or termination of the policy or certificate for nonpayment of premium, or a written waiver dated and signed by the applicant electing not to designate additional persons to receive notice. The applicant has the right to designate at least one person who is to receive the notice of termination, in addition to the insured. Designation shall not constitute acceptance of any liability on the third party for services provided to the insured. The form used for the written designation must provide space clearly designated for listing at least one person. The designation shall include each person's *full name* and *home address*. In the case of an applicant who elects not to designate an additional person, the waiver shall state: "Protection against unintended lapse. I understand that I have the right to designate at least one person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that notice will not be given until 30 days after a premium is due and unpaid. I elect NOT to designate a person to receive this notice." The insurer shall notify the insured of the right to change this written designation, no less often than once every 2 years.

(b) When the policyholder or certificateholder pays premium for a long-term care insurance policy or certificate through a payroll or pension deduction plan, the requirements contained in paragraph (1)(a) need not be met until 60 days after the policyholder or certificateholder is no longer on such a payment plan. The application or enrollment form for such policies or certificates shall clearly indicate the payment plan selected by the applicant.

(c) Lapse or termination for nonpayment of premium. No individual long-term care policy or certificate shall lapse or be terminated for nonpayment of premium unless the insurer, at least 30 days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated pursuant to paragraph (1)(a), at the address provided by the insured for purposes of receiving notice of lapse or termination. Notice shall be given by first class United States mail, postage prepaid; and notice may not be given until 30 days after a premium is due and unpaid. Notice shall be deemed to have been given as of 5 days after the date of mailing.

(2) Reinstatement. In addition to the requirement in subsection (1), a long-term care insurance policy or certificate shall include a provision that provides for reinstatement of coverage, in the event of lapse if the insurer is provided proof that the policyholder or certificateholder was cognitively impaired or had a loss of functional capacity before the grace period contained in the policy expired. This option shall be available to the insured if requested within 5 months after termination and shall allow for the collection of past due premium, where appropriate. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity contained in the policy and certificate.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Required Disclosure Provisions" adopted. F. Jan. 17, 1989; eff. Feb. 15, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule entitled "Unintentional Lapse" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.08. Required Disclosure Provisions.

(1) Renewability. Individual long-term care insurance policies shall contain a renewability provision.

(a) The provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state that the coverage is guaranteed renewable or noncancellable. This provision shall not apply to policies that do not contain a renewability provision, and under which the right to nonrenew is reserved solely to the policyholder.

(b) A long-term care insurance policy or certificate, other than one where the insurer does not have the right to change the premium, shall include a statement that premium rates may change.

(2) Riders and Endorsements. Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, all riders or endorsements added to an individual long-term care insurance policy after date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, except if the increased benefits or coverage are required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy, rider or endorsement.

(3) Payment of Benefits. A long-term care insurance policy that provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary" or words of similar import shall include a definition of these terms and an explanation of the terms in its accompanying outline of coverage.

(4) Limitations. If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, the limitations shall appear as a separate paragraph of the policy or certificate and shall be labeled as "Preexisting Condition Limitations."

(5) Other Limitations or Conditions on Eligibility for Benefits. A long-term care insurance policy or certificate containing any limitations or conditions for eligibility other than those prohibited in O.C.G.A. Section 33-42-6 shall set forth a description of the limitations or conditions, including any required number of days of confinement, in a separate paragraph of the policy or certificate and shall label such paragraph "Limitations or Conditions on Eligibility for Benefits."

(6) Disclosure of Tax Consequences. With regard to life insurance policies that provide an accelerated benefit for long-term care, a disclosure statement is required at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted that receipt of these accelerated benefits may be taxable, and that assistance should be sought from a personal tax advisor. The disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents. This subsection shall not apply to qualified long-term care insurance contracts.

(7) Benefit Triggers. Activities of daily living and cognitive impairment shall be used to measure an insured's need for long term care and shall be described in the policy or certificate in a separate paragraph and shall be labeled "Eligibility for the Payment of Benefits." Any additional benefit triggers shall also be explained in this section. If these triggers differ for different benefits, explanation of the trigger shall accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too shall be specified.

(8) A qualified long-term care insurance contract shall include a disclosure statement in the policy and in the outline of coverage as contained in Section 120-2-16-.31(5) that the policy is intended to be a qualified long-term care insurance contract under Section 7702B(b) of the Internal Revenue Code of 1986, as amended.

(9) A nonqualified long-term care insurance contract shall include a disclosure statement in the policy and in the outline of coverage as contained in Section 120-2-16-.31(5) that the policy is not intended to be a qualified long-term care insurance contract.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Requirements for Replacement" adopted. F. Jan. 17, 1989; eff. Feb. 15, 1989, as specified by the Agency.

Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule entitled "Required Disclosure Provisions" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.09. Required Disclosure of Rating Practices to Consumers.

(1) This section shall apply as follows:

(a) Except as provided in paragraph (b), this section applies to any long-term care policy or certificate issued in this state on or after April 1, 2008.

(b) For certificates issued on or after the effective date of this amended regulation under a group long-term care insurance policy as defined in O.C.G.A. Section 33-42-4, which policy was in force at the time this amended regulation became effective, the provisions of this section shall apply on the policy anniversary following April 1, 2009.

(2) Other than policies for which no applicable premium rate or rate schedule increases can be made, insurers shall provide all of the information listed in this subsection to the applicant at the time of application or enrollment, unless the method of application does not allow for delivery at that time. In such a case, an insurer shall provide all of the information listed in this section to the applicant no later than at the time of delivery of the policy or certificate:

(a) A statement that the policy may be subject to rate increases in the future;

(b) An explanation of potential future premium rate revisions, and the policyholder's or certificateholder's option in the event of a premium rate revision;

(c) The premium rate or rate schedules applicable to the applicant that will be in effect until a request is made for an increase;

(d) A general explanation for applying premium rate or rate schedule adjustments that shall include:

(i) A description of when premium rate or rate schedule adjustments will be effective (e.g., next anniversary date, next billing date, etc.); and

(ii) The right to a revised premium rate or rate schedule as provided in paragraph (c) if the premium rate or rate schedule is changed;

(e)

(i) Information regarding each premium rate increase on this policy form or similar policy forms over the past 10 years for this state or any other state that, at a minimum, identifies:

(A) The policy forms for which premium rates have been increased;

(B) The calendar years when the form was available for purchase; and

(C) The amount or percent of each increase. The percentage may be expressed as a percentage of the premium rate prior to the increase, and may also be expressed as minimum and maximum percentages if the rate increase is variable by rating characteristics.

(ii) The insurer may, in a fair manner, provide additional explanatory information related to the rate increases.

(iii) An insurer shall have the right to exclude from the disclosure premium rate increases that only apply to blocks of business acquired from other nonaffiliated insurers or the long-term care policies acquired from other nonaffiliated insurers when those increases occurred prior to the acquisition.

(iv) If an acquiring insurer files for a rate increase on a long-term care policy form acquired from nonaffiliated insurers or a block of policy forms acquired from nonaffiliated insurers on or before the later of the effective date of this section or the end of a twenty-four-month period following the acquisition of the block or policies, the acquiring insurer may exclude that rate increase from the disclosure. However, the nonaffiliated selling company shall include the disclosure of that rate increase in accordance with subparagraph (i) of this paragraph.

(v) If the acquiring insurer in subparagraph (iv) above files for a subsequent rate increase, even within the twenty-four-month period, on the same policy form acquired from nonaffiliated insurers or block of policy forms acquired from nonaffiliated insurers referenced in subparagraph (iv), the acquiring insurer shall make all disclosures required by paragraph (e), including disclosure of the earlier rate increase referenced in subparagraph (iv).

(3) An applicant shall sign an acknowledgement at the time of application, unless the method of application does not allow for signature at that time, that the insurer made the disclosure required under paragraphs (2)(a) and (2)(e). If due to the method of application the applicant cannot sign an acknowledgement at the time of application, the applicant shall signno later than at the time of delivery of the policy or certificate.

(4) An insurer shall use the forms in Appendices B and F to comply with the requirements of subsections (2) and (3) of this section.

(5) An insurer shall provide notice of an upcoming premium rate schedule increase to all policyholders or certificateholders, if applicable, at least 45 days prior to the

implementation of the premium rate schedule increase by the insurer. The notice shall include the information required by subsection (2) when the rate increase is implemented.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Loss Ratio" adopted. F. Jan. 17, 1989; eff. Feb. 15, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule entitled "Required Disclosure of Rating Practices to Consumers" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.10. Intial Filing Requirements.

(1) This section applies to any long-term care policy issued in this state on or after April 1, 2008.

(2) An insurer shall provide the information listed in this subsection to the Commissioner 30 days prior to making a long-term care insurance form available for sale.

(a) A copy of the disclosure documents required in Section 120-2-16-.09; and

(b) An actuarial certification consisting of at least the following:

(i) A statement that the initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated;

(ii) A statement that the policy design and coverage provided have been reviewed and taken into consideration;

(iii) A statement that the underwriting and claims adjudication processes have been reviewed and taken into consideration;

(iv) A complete description of the basis for contract reserves that are anticipated to be held under the form, to include:

(A) Sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held;

(B) A statement that the assumptions used for reserves contain reasonable margins for adverse experience;

(C) A statement that the net valuation premium for renewal years does not increase (except for attained-age rating where permitted); and

(D) A statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; or if such a statement cannot be made, a complete description of the situations where this does not occur;

(I) An aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship;

(II) If the gross premiums for certain age groups appear to be inconsistent with this requirement, the Commissioner may request a demonstration under subsection (3) based on a standard age distribution; and

(v)

(A) A statement that the premium rate schedule is not less than the premium rate schedule for existing similar policy forms also available from the insurer except for reasonable differences attributable to benefits; or

(B) A comparison of the premium schedules for similar policy forms that are currently available from the insurer with an explanation of the differences.

(3)

(a) The Commissioner may request an actuarial demonstration that benefits are reasonable in relation to premiums. The actuarial demonstration shall include either premium and claim experience on similar policy forms, adjusted for any premium or benefit differences, relevant and credible data from other studies, or both.

(b) In the event the Commissioner asks for additional information under this provision, the period in subsection (2) does not include the period during which the insurer is preparing the requested information.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Filing Requirements" adopted. F. Jan. 17, 1989; eff. Feb. 15, 1989, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule entitled "Initial Filing Requirements" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.11. Prohibition Against Post - Claims Underwriting.

(1) All applications for long-term care insurance policies or certificates except those that are guaranteed issue shall contain clear and unambiguous questions designed to ascertain the health condition of the applicant.

(2)

(a) If an application for long-term care insurance contains a question that asks whether the applicant has had medication prescribed by a physician, it must also ask the applicant to list the medication that has been prescribed.

(b) If the medications listed in the application were known by the insurer, or should have been known at the time of application, to be directly related to a medical condition for which coverage would otherwise be denied, then the policy or certificate shall not be rescinded for that condition.

(3) Except for policies or certificates which are guaranteed issue:

(a) The following language shall be set out conspicuously and in close conjunction with the applicant's signature block on an application for a long-term care insurance policy or certificate:

Caution: If your answers on this application are incorrect or untrue, [company] has the right to deny benefits or rescind your policy.

(b) The following language, or language substantially similar to the following, shall be set out conspicuously on the long-term care insurance policy or certificate at the time of delivery:

Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]

(c) Prior to issuance of a long-term care policy or certificate to an applicant age 80 or older, the insurer shall obtain one of the following:

(i) A report of a physical examination;

(ii) An assessment of functional capacity;

(iii) An attending physician's statement; or

(iv) Copies of medical records.

(4) A copy of the completed application or enrollment form (whichever is applicable) shall be delivered to the insured no later than at the time of delivery of the policy or certificate unless it was retained by the applicant at the time of application.

(5) Every insurer or other entity selling or issuing long-term care insurance benefits shall maintain a record of all policy or certificate rescissions, both state and countrywide, except those that the insured voluntarily effectuated and shall annually furnish this information to the Commissioner in the format prescribed by the National Association of Insurance Commissioners in Appendix A.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.11
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Prohibitions Against Post-Claims Underwriting" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.12. Minimum Standards for Home Health and Community Care Benefits in Long - Term Care Insurance Policies.

(1) A long-term care insurance policy or certificate shall not, if it provides benefits for home health care or community care services limit or exclude benefits:

(a) By requiring that the insured or claimant would need care in a skilled nursing facility if home health care services were not provided;

(b) By requiring that the insured or claimant first or simultaneously receive nursing or therapeutic services, or both, in a home, community or institutional setting before home health care services are covered;

(c) By limiting eligible services to services provided by registered nurses or licensed practical nurses;

(d) By requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide, or other licensed or certified home care worker acting within the scope of his or her licensure or certification;

(e) By excluding coverage for personal care services provided by a home health aide;

(f) By requiring that the provision of home health care services be at a level of certification or licensure greater than that required by the eligible service;

(g) By requiring that the insured or claimant have an acute condition before home health care services are covered;

(h) By limiting benefits to services provided by Medicare-certified agencies or providers; or

(i) By excluding coverage for adult day care services.

(2) A long-term care insurance policy or certificate, if it provides for home health or community care services, shall provide total home health or community care coverage that is a dollar amount equivalent to at least one-half of one year's coverage available for nursing home benefits under the policy or certificate, at the time covered home health or community care services are being received. This requirement shall not apply to policies or certificates issued to residents of continuing care retirement communities.

(3) Home health care coverage may be applied to the nonhome health care benefits provided in the policy or certificate when determining maximum coverage under the terms of the policy or certificate.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.12
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Minimum Standards for Home Health and Community Care Benefits in Long-Term Care Insurance Policies" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.13. Requirement to Offer Inflation Protection.

(1) No insurer may offer a long-term care insurance policy unless the insurer also offers to the policyholder in addition to any other inflation protection the option to purchase a policy that provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. Insurers must offer to each policyholder, at the time of purchase, the option to purchase a policy with an inflation protection feature no less favorable than one of the following:

(a) Increases benefit levels annually in a manner so that the increases are compounded annually at a rate not less than five percent (5%);

(b) Guarantees the insured individual the right to periodically increase benefit levels without providing evidence of insurability or health status so long as the option for the previous period has not been declined. The amount of the additional benefit shall be no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least five percent (5%) for the period beginning with the purchase of the existing benefit and extending until the year in which the offer is made; or

(c) Covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit.

(2) Where the policy is issued to a group, the required offer in subsection (1) above shall be made to the group policyholder; except, if the policy is issued to a group defined in

O.C.G.A. Section 33-42-4 other than to a continuing care retirement community, the offering shall be made to each proposed certificateholder.

(3) The offer in subsection (1) above shall not be required of life insurance policies or riders containing accelerated long-term care benefits.

(4)

(a) Insurers shall include the following information in or with the outline of coverage:

(i) A graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. The graphic comparison shall show benefit levels over at least a 20 year period.

(ii) Any expected premium increases or additional premiums to pay for automatic or optional benefit increases.

(b) An insurer may use a reasonable hypothetical, or a graphic demonstration, for the purposes of this disclosure.

(5) Inflation protection benefit increases under a policy which contains these benefits shall continue without regard to an insured's age, claim status or claim history, or the length of time the person has been insured under the policy.

(6) An offer of inflation protection that provides for automatic benefit increases shall include an offer of a premium which the insurer expects to remain constant. The offer shall disclose in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant.

(7)

(a) Inflation protection as provided in paragraph (1)(a) of this section shall be included in a long-term care insurance policy unless an insurer obtains a rejection of inflation protection signed by the policyholder as required in this subsection. The rejection may be either in the application or on a separate form.

(b) The rejection shall be considered a part of the application and shall state:

I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this policy with and without inflation protection. Specifically, I have reviewed Plans _____, and I reject inflation protection.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.13
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Requirement to Offer Inflation Protection" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.14. Requirements for Application Forms and Replacement Coverage.

(1) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent, except where the coverage is sold without an agent, containing the questions may be used. With regard to a replacement policy issued to a group defined by O.C.G.A. Section 33-42-4, the following questions may be modified only to the extent necessary to elicit information about health or long-term care insurance policies other than the group policy being replaced, provided that the certificateholder has been notified of the replacement.

(a) Do you have another long-term care insurance policy or certificate in force (including health care service contract, health maintenance organization contract)?

(b) Did you have another long-term care insurance policy or certificate in force during the last 12 months?

(i) If so, with which company?

(ii) If that policy lapsed, when did it lapse?

(c) Are you covered by Medicaid?

(d) Do you intend to replace any of your medical or health insurance coverage with this policy [certificate]?

(2) Agents shall list any other health insurance policies they have sold to the applicant.

(a) List policies sold that are still in force.

(b) List policies sold in the past 5 years that are no longer in force.

(3) Solicitations Other than Direct Response. Upon determining that a sale will involve replacement, an insurer; other than an insurer using direct response solicitation methods, or its agent; shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One copy of the notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. The required notice shall be provided in the following manner:

(4) Direct Response Solicitations. Insurers using direct response solicitation methods shall deliver a notice regarding replacement of accident and sickness or long-term care

coverage to the applicant upon issuance of the policy. The required notice shall be provided in the following manner:

(5) Where replacement is intended, the replacing insurer shall notify, in writing, the existing insurer of the proposed replacement. The existing policy shall be identified by the insurer, name of the insured and policy number or address including zip code. Notice shall be made within 5 working days from the date the application is received by the insurer or the date the policy is issued, whichever is sooner.

(6) Life insurance policies that accelerate benefits for long-term care shall comply with this section if the policy being replaced is a long-term care insurance policy. If the policy being replaced is a life insurance policy, the insurer shall comply with the replacement requirements of Chapter 120-2-24. If a life insurance policy that accelerates benefits for long-term care is replaced by another such policy, the replacing insurer shall comply with both the long-term care and the life insurance replacement requirements.

NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with an individual long-term care insurance policy to be issued by [company name] Insurance Company. Your new policy provides thirty (30) days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

STATEMENT TO APPLICANT BY AGENT [BROKER OR OTHER REPRESENTATIVE]:

(Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

1. Health conditions that you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

4. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before your sign it, reread it carefully to be certain that all information has been properly recorded.

   (Signature of Agent, Broker or Other Representative)

   [Typed Name and Address of Agent or Broker]

   The above "Notice to Applicant" was delivered to me on:

   _____ _____

   (Applicant's Signature) (Date)

NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and

replace it with the long-term care insurance policy delivered herewith issued by [company name] Insurance Company. Your new policy provides thirty (30) days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

1. Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. Your insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

4. [To be included only if the application is attached to the policy.] If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to [company name and address] within thirty (30) days if any information is not correct and complete, or if any past medical history has been left out of the application.

   [Company Name]

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.14
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Requirements for Application Forms and Replacement Coverage" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.15. Reporting Requirements.

(1) Every insurer shall maintain records for each agent of that agent's amount of replacement sales as a percent of the agent's total annual sales and the amount of lapses of long-term care insurance policies sold by the agent as a percent of the agent's total annual sales.

(2) Every insurer shall report annually by June 30 the 10 percent of its agents with the greatest percentages of lapses and replacements as measured by subsection (1) above. (Appendix G)

(3) Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely agent activities regarding the sale of long-term care insurance.

(4) Every insurer shall report annually by June 30 the number of lapsed policies as a percent of its total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year. (Appendix G)

(5) Every insurer shall report annually by June 30 the number of replacement policies sold as a percent of its total annual sales and as a percent of its total number of policies in force as of the preceding calendar year. (Appendix G)

(6) Every insurer shall report annually by June 30, for qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of claims denied. (Appendix E)

(7) For purposes of this section:

(a) "Policy" means only long-term care insurance;

(b) Subject to paragraph (c), "claim" means a request for payment of benefits under an in force policy regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met;

(c) "Denied" means the insurer refuses to pay a claim for any reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition; and

(d) "Report" means on a statewide basis.

(8) Reports required under this section shall be filed with the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.15
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Reporting Requirements" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.16. Licensing.

A producer is not authorized to sell, solicit or negotiate with respect to long-term care insurance except as authorized by O.C.G.A. Chapter 33-23.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.16
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Licensing" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.17. Discretionary Powers of Commissioner.

The Commissioner may upon written request and after an administrative hearing, issue an order to modify or suspend a specific provision or provisions of this Regulation with respect to a specific long-term care insurance policy or certificate upon a written finding that:

(1) The modification or suspension would be in the best interest of the insureds;

(2) The purposes to be achieved could not be effectively or efficiently achieved without the modification or suspension; and

(3)
  (a) The modification or suspension is necessary to the development of an innovative and reasonable approach for insuring long-term care; or

  (b) The policy or certificate is to be issued to residents of a life care or continuing care retirement community or some other residential community for the elderly and the modification or suspension is reasonably related to the special needs or nature of such a community; or

  (c) The modification or suspension is necessary to permit long-term care insurance to be sold as part of, or in conjunction with, another insurance product.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.17
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Discretionary Powers of Commissioner" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.18. Reserve Standards.

(1) When long-term care benefits are provided through the acceleration of benefits under group or individual life policies or riders to such policies, policy reserves for the benefits shall be determined in accordance with O.C.G.A. Section 33-10-13. Claim reserves shall also be established in the case when the policy or rider is in claim status.

Reserves for policies and riders subject to this subsection should be based on the multiple decrement model utilizing all relevant decrements except for voluntary termination rates. Single decrement approximations are acceptable if the calculation produces essentially similar reserves, if the reserve is clearly more conservative, or if the reserve is immaterial. The calculations may take into account the reduction in life insurance benefits due to the payment of long-term care benefits. However, in no event shall the reserves for the long-term care benefit and the life insurance benefit be less than the reserves for the life insurance benefit assuming no long-term care benefit.

In the development and calculation of reserves for policies and riders subject to this subsection, due regard shall be given to the applicable policy provisions, marketing methods, administrative procedures and all other considerations which have an impact on projected claim costs, including, but not limited to, the following:

(a) Definition of insured events;

(b) Covered long-term care facilities;

(c) Existence of home convalescence care coverage;

(d) Definition of facilities;

(e) Existence or absence of barriers to eligibility;

(f) Premium waiver provision;

(g) Renewability;

(h) Ability to raise premiums;

(i) Marketing method;

(j) Underwriting procedures;

(k) Claims adjustment procedures;

(l) Waiting period;

(m) Maximum benefit;

(n) Availability of eligible facilities;

(o) Margins in claim costs;

(p) Optional nature of benefit;

(q) Delay in eligibility for benefit;

(r) Inflation protection provisions; and

(s) Guaranteed insurability option.

Any applicable valuation morbidity table shall be certified as appropriate as a statutory valuation table by a member of the American Academy of Actuaries.

(2) When long-term care benefits are provided other than as in subsection (1) above, reserves shall be determined in accordance with O.C.G.A. Section 33-10-8.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.18
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Reserve Standards" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.19. Loss Ratio.

(1) This section shall apply to all long-term care insurance policies or certificates except those covered under Sections 120-2-16-.10 and 120-2-16-.20.

(2) Benefits under long-term care insurance policies shall be deemed reasonable in relation to premiums provided the expected loss ratio is at least 60 percent, calculated in a manner which provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio, due consideration shall be given to all relevant factors, including:

(a) Statistical credibility of incurred claims experience and earned premiums;

(b) The period for which rates are computed to provide coverage;

(c) Experienced and projected trends;

(d) Concentration of experience within early policy duration;

(e) Expected claim fluctuation;

(f) Experience refunds, adjustments or dividends;

(g) Renewability features;

(h) All appropriate expense factors;

(i) Interest;

(j) Experimental nature of the coverage;

(k) Policy reserves;

(l) Mix of business by risk classification; and

(m) Product features such as long elimination periods, high deductibles and high maximum limits.

(3) Subsection (2) shall not apply to life insurance policies that accelerate benefits for long-term care. A life insurance policy that funds long-term care benefits entirely by accelerating the death benefit is considered to provide reasonable benefits in relation to premiums paid, if the policy complies with all of the following provisions:

(a) The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;

(b) The portion of the policy that provides life insurance benefits meets the nonforfeiture requirements of O.C.G.A. Section 33-25-4;

(c) The policy meets the disclosure requirements of O.C.G.A. Section 33-42-6;

(d) Any policy illustration that meets the applicable requirements of the NAIC Life Insurance Illustrations Model Regulation; and

(e) An actuarial memorandum is filed with the insurance department that includes:

(i) A description of the basis on which the long-term care rates were determined;

(ii) A description of the basis for the reserves;

(iii) A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;

(iv) A description and a table of each actuarial assumption used. For expenses, an insurer must include percent of premium dollars per policy and dollars per unit of benefits, if any;

(v) A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;

(vi) The estimated average annual premium per policy and the average issue age;

(vii) A statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used

and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and

(viii) A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values and reserves on the underlying life insurance policy, both for active lives and those in long-term care claim status.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.19
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Loss Ratio" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.20. Premium Rate Schedule Increases.

(1) This section shall apply as follows:

(a) Except as provided in paragraph (2), this section applies to any long-term care policy or certificate issued in this state on or after October 1, 2008.

(b) For certificates issued on or after the effective date of this amended regulation under a group long-term care insurance policy as defined in O.C.G.A. Section 33-42-4, which policy was in force at the time this amended regulation became effective, the provisions of this section shall apply on the policy anniversary following April 1, 2009.

(2) An insurer shall provide notice of a pending premium rate schedule increase, including an exceptional increase, to the Commissionerat least 90 days prior to the notice to the policyholders and shall include:

(a) Information required by Section 120-2-16-.09;

(b) Certification by a qualified actuary that:

(i) If the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated;

(ii) The premium rate filing is in compliance with the provisions of this section;

(c) An actuarial memorandum justifying the rate schedule change request that includes:

(i) Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase; and the method and assumptions used in determining the projected values, including reflection of any assumptions that deviate from those used for pricing other forms currently available for sale;

(A) Annual values for the five years preceding and the three years following the valuation date shall be provided separately;

(B) The projections shall include the development of the lifetime loss ratio, unless the rate increase is an exceptional increase;

(C) The projections shall demonstrate compliance with subsection (3); and

(D) For exceptional increases,

(I) The projected experience should be limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase; and

(II) In the event the Commissioner determines as provided in Section 120-2-16-.04(1)(d) that offsets may exist, the insurer shall use appropriate net projected experience;

(ii) Disclosure of how reserves have been incorporated in this rate increase whenever the rate increase will trigger contingent benefit upon lapse;

(iii) Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied on by the actuary;

(iv) A statement that policy design, underwriting and claims adjudication practices have been taken into consideration; and

(v) In the event that it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase, the insurer will need to file composite rates reflecting projections of new certificates;

(d) A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless sufficient justification is provided to the Commissioner; and

(e) Sufficient information for review and approval of the premium rate schedule increase by the Commissioner.

(3) All premium rate schedule increases shall be determined in accordance with the following requirements:

(a) Exceptional increases shall provide that 70 percent of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits;

(b) Premium rate schedule increases shall be calculated such that the sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, will not be less than the sum of the following:

(i) The accumulated value of the initial earned premium times 58 percent;

(ii) 85 percent of the accumulated value of prior premium rate schedule increases on an earned basis;

(iii) The present value of future projected initial earned premiums times 58 percent; and

(iv) 85 percent of the present value of future projected premiums not in subparagraph (iii) on an earned basis;

(c) In the event that a policy form has both exceptional and other increases, the values in subparagraphs (b)(ii) and (iv) will also include 70 percent for exceptional rate increase amounts; and

(d) All present and accumulated values used to determine rate increases shall use the maximum valuation interest rate for contract reserves. The actuary shall disclose as part of the actuarial memorandum the use of any appropriate averages.

(4) For each rate increase that is implemented, the insurer shall file for approval by the Commissioner updated projections, as defined in subsection (2)(c)(i), annually for the next three years and include a comparison of actual results to projected values. The Commissioner may extend the period to greater than three years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions in subsection (11), the projections required by this subsection shall be provided to the policyholder in lieu of filing with the Commissioner.

(5) If any premium rate in the revised premium rate schedule is greater than 200 percent of the comparable rate in the initial premium schedule, lifetime projections, as defined in subsection (2)(c)(i), shall be filed for approval by the Commissioner every five years following the end of the required period in subsection (4). For group insurance policies

that meet the conditions in subsection (11), the projections required by this subsection shall be provided to the policyholder in lieu of filing with the Commissioner.

(6)

(a) If the Commissioner has determined that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of premiums specified in subsection (3), the Commissioner may require the insurer to implement any of the following:

(i) Premium rate schedule adjustments; or

(ii) Other measures to reduce the difference between the projected and actual experience.

(b) In determining whether the actual experience adequately matches the projected experience, consideration should be given to Subsection (2)(c)(v) if applicable.

(7) If the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the insurer shall file:

(a) A plan, subject to Commissioner approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect; otherwise the Commissioner may impose the condition in subsection (8) of this section; and

(b) The original anticipated lifetime loss ratio, and the premium rate schedule increase that would have been calculated according to subsection (3) had the greater of the original anticipated lifetime loss ratio or 58 percent been used in the calculations described in subsection (3)(b)(i) and (iii).

(8)

(a) For a rate increase filing that meets the following criteria, the Commissioner shall review, for all policies included in the filing, the projected lapse rates and past lapse rates during the 12 months following each increase to determine if significant adverse lapsation has occurred or is anticipated:

(i) The rate increase is not the first rate increase requested for the specific policy form or forms;

(ii) The rate increase is not an exceptional increase; and

(iii) The majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse.

(b) In the event significant adverse lapsation has occurred, is anticipated in the filing or is evidenced in the actual results as presented in the updated projections provided by the insurer following the requested rate increase, the Commissioner may determine that a rate spiral exists. Following the determination that a rate spiral exists, the Commissioner may require the insurer to offer, without underwriting, to all in force insureds subject to the rate increase the option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates.

(i) The offer shall:

(A) Be subject to the approval of the Commissioner;

(B) Be based on actuarially sound principles, but not be based on attained age; and

(C) Provide that maximum benefits under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy.

(ii) The insurer shall maintain the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate increase on the policy form, the rate increase shall be limited to the lesser of:

(A) The maximum rate increase determined based on the combined experience; and

(B) The maximum rate increase determined based only on the experience of the insureds originally issued the form plus 10 percent.

(9) If the Commissioner determines that the insurer has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, the Commissioner may, in addition to the provisions of subsection (8) of this section, prohibit the insurer from either of the following:

(a) Filing and marketing comparable coverage for a period of up to five years; or

(b) Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.

(10) Subsections (1) through (9) shall not apply to policies for which the long-term care benefits provided by the policy are incidental, as defined in Section 120-2-16-.04(2), if the policy complies with all of the following provisions:

(a) The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;

(b) The portion of the policy that provides insurance benefits other than long-term care coverage meets the nonforfeiture requirements as applicable in any of the following:

(i) O.C.G.A. Section 33-10-13 for Life Insurance or Annuities; or

(ii) O.C.G.A. Section 33-11-66(i)for Variable Annuities.

(c) The policy meets the disclosure requirements of O.C.G.A. Section 33-42-6;

(d) An actuarial memorandum is filed with the Georgia Insurance Department that includes:

(i) A description of the basis on which the long-term care rates were determined;

(ii) A description of the basis for the reserves;

(iii) A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;

(iv) A description and a table of each actuarial assumption used. For expenses, an insurer must include percent of premium dollars per policy and dollars per unit of benefits, if any;

(v) A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;

(vi) The estimated average annual premium per policy and the average issue age;

(vii) A statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and

(viii) A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values and reserves on the underlying

insurance policy, both for active lives and those in long-term care claim status.

(11) Subsections (6) and (8) shall not apply to group insurance policies as defined in Section O.C.G.A. Section 33-42-4 where:

(a) The policies insure 250 or more persons and the policyholder has 5,000 or more eligible employees of a single employer; or

(b) The policyholder, and not the certificateholders, pays a material portion of the premium, which shall not be less than twenty percent (20%) of the total premium for the group in the calendar year prior to the year a rate increase is filed.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.20
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Premium Rate Schedule Increases" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.21. Filing Requirement.

Prior to an insurer or similar organization offering group long-term care insurance to a resident of this state pursuant to O.C.G.A. Section 33-42-5, it shall file with the Commissioner evidence that the group policy or certificate thereunder has been approved by a state having statutory or regulatory long-term care insurance requirements substantially similar to those adopted in this state.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.21
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Filing Requirement" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.22. Filing Requirements for Advertising.

(1) Every insurer, health care service plan or other entity providing long-term care insurance or benefits in this state shall provide a copy of any long-term care insurance advertisement intended for use in this state whether through written, radio or television medium to the Commissioner for review or approval by the Commissioner to the extent it may be required under state law. In addition, all advertisements shall be retained by the insurer, health care service plan or other entity for at least three years from the date the advertisement was first used.

(2) The Commissioner may exempt from these requirements any advertising form or material when, in the Commissioner's opinion, this requirement may not be reasonably applied.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.22
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Filing Requirements for Advertising" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.23. Standards for Marketing.

(1) Every insurer, health care service plan or other entity marketing long-term care insurance coverage in this state, directly or through its producers, shall:

(a) Establish marketing procedures and agent training requirements to assure that:

(i) Any marketing activities, including any comparison of policies, by its agents or other producers will be fair and accurate; and

(ii) Excessive insurance is not sold or issued.

(b) Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following:

"Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations."

(c) Provide copies of the disclosure forms required in Section 120-2-16-.09(3) (Appendices B and F) to the applicant.

(d) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of any such insurance, except that in the case of qualified long-term care insurance contracts, an inquiry into whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance is not required.

(e) Every insurer or entity marketing long-term care insurance shall establish auditable procedures for verifying compliance with this subsection (1).

(f) If the state in which the policy or certificate is to be delivered or issued for delivery has a senior insurance counseling program approved by the Commissioner, the insurer shall, at solicitation, provide written notice to the prospective policyholder and certificateholder that the program is available and the name, address and telephone number of the program.

(g) For long-term care health insurance policies and certificates, use the terms "noncancellable" or "level premium" only when the policy or certificate conforms to Section 120-2-16-.06(1)(c) of this Regulation.

(h) Provide an explanation of contingent benefit upon lapse provided for in Section 120-2-16-.28(6)(c) and, if applicable, the additional contingent benefit upon lapse provided to policies with fixed or limited premium paying periods in Section 120-2-16-.28(6)(d).

(2) In addition to the practices prohibited in O.C.G.A. Chapter 33-6, the following acts and practices are prohibited:

(a) Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on or convert any insurance policy or to take out a policy of insurance with another insurer.

(b) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(c) Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

(d) Misrepresentation. Misrepresenting a material fact in selling or offering to sell a long-term care insurance policy.

(3)

(a) With respect to the obligations set forth in this subsection, the primary responsibility of an association, as defined in O.C.G.A. Section 33-42-4 (as a valid group), when endorsing or selling long-term care insurance shall be to educate its members concerning long-term care issues in general so that its members can make informed decisions. Associations shall provide objective information regarding long-term care insurance policies or certificates endorsed or sold by such associations to ensure that members of such associations receive a balanced and complete explanation of the features in the policies or certificates that are being endorsed or sold.

(b) The insurer shall file with the Georgia Insurance Department the following material:

(i) The policy and certificate,

(ii) A corresponding outline of coverage, and

(iii) All advertisements requested by the Georgia Insurance Department.

(c) The association shall disclose in any long-term care insurance solicitation:

(i) The specific nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support) that the association receives from endorsement or sale of the policy or certificate to its members; and

(ii) A brief description of the process under which the policies and the insurer issuing the policies were selected.

(d) If the association and the insurer have interlocking directorates or trustee arrangements, the association shall disclose that fact to its members.

(e) The board of directors of associations selling or endorsing long-term care insurance policies or certificates shall review and approve the insurance policies as well as the compensation arrangements made with the insurer.

(f) The association shall also:

(i) At the time of the association's decision to endorse, engage the services of a person with expertise in long-term care insurance not affiliated with the insurer to conduct an examination of the policies, including its benefits, features, and rates and update the examination thereafter in the event of material change;

(ii) Actively monitor the marketing efforts of the insurer and its agents; and

(iii) Review and approve all marketing materials or other insurance communications used to promote sales or sent to members regarding the policies or certificates.

(iv) Subparagraphs (i) through (iii) shall not apply to qualified long-term care insurance contracts.

(g) No group long-term care insurance policy or certificate may be issued to an association unless the insurer files with the Georgia Insurance Department the information required in this subsection (3).

(h) The insurer shall not issue a long-term care policy or certificate to an association or continue to market such a policy or certificate unless the insurer certifies annually that the association has complied with the requirements set forth in this subsection (3).

(i) Failure to comply with the filing and certification requirements of this section constitutes an unfair trade practice in violation of O.C.G.A. Chapter 33-6.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.23
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Standards for Marketing" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.24. Suitability.

(1) This section shall not apply to life insurance policies that accelerate benefits for long-term care.

(2) Every insurer, health care service plan or other entity marketing long-term care insurance (the "issuer") shall:

(a) Develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant;

(b) Train its agents in the use of its suitability standards; and

(c) Maintain a copy of its suitability standards and make them available for inspection upon request by the Commissioner.

(3)

(a) To determine whether the applicant meets the standards developed by the issuer, the agent and issuer shall develop procedures that take the following into consideration:

(i) The ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage;

(ii) The applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs; and

(iii) The values, benefits and costs of the applicant's existing insurance, if any, when compared to the values, benefits and costs of the recommended purchase or replacement.

(b) The issuer, and where an agent is involved, the agent shall make reasonable efforts to obtain the information set out in paragraph (a) above. The efforts shall include presentation to the applicant, at or prior to application, the "Long-Term Care Insurance Personal Worksheet." The personal worksheet used by the issuer shall contain, at a minimum, the information in the format contained in Appendix B, in not less than 12 point type. The issuer may request the applicant to provide additional information to comply with its suitability standards. A copy of the issuer's personal worksheet shall be filed with the Commissioner.

(c) A completed personal worksheet shall be returned to the issuer prior to the issuer's consideration of the applicant for coverage, except the personal worksheet need not be returned for sales of employer group long-term care insurance to employees and their spouses.

(d) The sale or dissemination outside the company or agency by the issuer or agent of information obtained through the personal worksheet in Appendix B is prohibited.

(4) The issuer shall use the suitability standards it has developed pursuant to this section in determining whether issuing long-term care insurance coverage to an applicant is appropriate.

(5) Agents shall use the suitability standards developed by the issuer in marketing long-term care insurance.

(6) At the same time as the personal worksheet is provided to the applicant, the disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance" shall be provided. The form shall be in the format contained in Appendix C, in not less than 12 point type.

(7) If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. In the alternative, the issuer shall send the applicant a letter similar to Appendix D. However, if the applicant has declined to provide financial information, the issuer may use some other method to verify the applicant's intent. Either the applicant's returned letter or a record of the alternative method of verification shall be made part of the applicant's file.

(8) The issuer shall report annually to the Commissioner the total number of applications received from residents of this state, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards, and the number of those who chose to confirm after receiving a suitability letter.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.24
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Suitability" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.25. Prohibition Against Preexisting Conditions and Probationary Periods in Replacement Policies or Certificates.

If a long-term care insurance policy or certificate replaces another long-term care policy or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions and probationary periods in the new long-term care policy for similar benefits to the extent that similar exclusions have been satisfied under the original policy.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.25
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Prohibition Against Preexisting Conditions and Probationary Periods in Replacement Policies or Certificates" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.26. Availability of New Services or Providers.

(1) An insurer shall notify policyholders of the availability of a new long-term policy series that provides coverage for new long-term care services or providers material in nature and not previously available through the insurer to the general public. The notice shall be provided within 12 months of the date of the new policy series is made available for sale in this state.

(2) Notwithstanding subsection (1) above, notification is not required for any policy issued prior to the effective date of this section or to any policyholder or certificateholder who is currently eligible for benefits, within an elimination period or on a claim, or who previously had been in claim status, or who would not be eligible to apply for coverage due to issue age limitations under the new policy. The insurer may require that policyholders meet all eligibility requirements, including underwriting and payment of the required premium to add such new services or providers.

(3) The insurer shall make the new coverage available in one of the following ways:

(a) By adding a rider to the existing policy and charging a separate premium for the new rider based on the insured's attained age;

(b) By exchanging the existing policy or certificate for one with an issue age based on the present age of the insured and recognizing past insured status by granting premium credits toward the premiums for the new policy or certificate. The premium credits shall be based on premiums paid or reserves held for the prior policy or certificate;

(c) By exchanging the existing policy or certificate for a new policy or certificate in which consideration for past insured status shall be recognized by setting the premium for the new policy or certificate at the issue age of the policy or certificate being exchanged. The cost for the new policy or certificate may recognize the difference in reserves between the new policy or certificate and the original policy or certificate; or

(d) By an alternative program developed by the insurer that meets the intent of this section if the program is filed with and approved by the Commissioner.

(4) An insurer is not required to notify policyholders of a new proprietary policy series created and filed for use in a limited distribution channel. For purposes of this subsection, "limited distribution channel" means through a discrete entity, such as a financial institution or brokerage, for which specialized products are available that are not available

for sale to the general public. Policyholders that purchased such a new proprietary policy shall be notified when a new long-term care policy series that provides coverage for new long-term care services or providers material in nature is made available to that limited distribution channel.

(5) Policies issued pursuant to this section shall be considered exchanges and not replacements. These exchanges shall not be subject to Sections 120-2-16-.14 and 120-2-16-24, and the reporting requirements of Section 120-2-16-.15(1) through (5) of this Regulation.

(6) Where the policy is offered through an employer, labor organization, professional, trade or occupational association, the required notification in subsection (1) above shall be made to the offering entity. However, if the policy is issued to a group defined in O.C.G.A. Section 33-42-4, the notification shall be made to each certificateholder.

(7) Nothing in this section shall prohibit an insurer from offering any policy, rider, certificate or coverage change to any policyholder or certificateholder. However, upon request any policyholder may apply for currently available coverage that includes the new services or providers. The insurer may require that policyholders meet all eligibility requirements, including underwriting and payment of the required premium to add such new services or providers.

(8) This section does not apply to life insurance policies or riders containing accelerated long-term care benefits.

(9) This section shall become effective on or after April 1, 2008.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.26
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Availability of New Services or Providers" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.27. Right to Reduce Coverage and Lower Premiums.

(1)

(a) Every long-term care insurance policy and certificate shall include a provision that allows the policyholder or certificateholder to reduce coverage and lower the policy or certificate premium in at least one of the following ways:

(i) Reducing the maximum benefit; or

(ii) Reducing the daily, weekly or monthly benefit amount.

(b) The insurer may also offer other reduction options that are consistent with the policy or certificate design or the carrier's administrative processes.

(2) The provision shall include a description of the ways in which coverage may be reduced and the process for requesting and implementing a reduction in coverage.

(3) The age to determine the premium for the reduced coverage shall be based on the age used to determine the premiums for the coverage currently in force.

(4) The insurer may limit any reduction in coverage to plans or options available for that policy form and to those for which benefits will be available after consideration of claims paid or payable.

(5) If a policy or certificate is about to lapse, the insurer shall provide a written reminder to the policyholder or certificateholder of his or her right to reduce coverage and premiums in the notice required by Section 120-2-16-.07(1)(c) of this regulation.

(6) This section does not apply to life insurance policies or riders containing accelerated long-term care benefits.

(7) The requirements of this section shall apply to any long-term care policy issued in this state on or after April 1, 2009.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.27
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Right to Reduce Coverage and Lower Premiums" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.28. Nonforfeiture Benefit Requirement.

(1) Except as provided in subsection (2), a long-term care insurance policy may not be delivered or issued for delivery in this state unless the policyholder or certificateholder has been offered the option of purchasing a policy or certificate including a nonforfeiture benefit. The offer of a nonforfeiture benefit may be in the form of a rider that is attached to the policy. In the event the policyholder or certificateholder declines the nonforfeiture benefit, the insurer shall provide a contingent benefit upon lapse that shall be available for a specified period of time following a substantial increase in premium rates.

(2) When a group long term care insurance policy is issued, the offer required in subsection (1) shall be made to the group policyholder. However, if the policy is issued as group long-term care insurance as defined in O.C.G.A. Section 33-42-4, other than to a continuing care retirement community or similar entity, the offering shall be made to each proposed certificateholder.

(3) This section does not apply to life insurance policies or riders containing accelerated long-term care benefits.

(4) To comply with the requirement to offer a nonforfeiture benefit pursuant to the provisions of O.C.G.A. Section 33-42-6 and Rule Section 120-2-16-.28(1):

(a) A policy or certificate offered with nonforfeiture benefits shall have coverage elements, eligibility, benefit triggers and benefit length that are the same as coverage to be issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer shall be the benefit described in subsection (5); and

(b) The offer shall be in writing if the nonforfeiture benefit is not otherwise described in the Outline of Coverage or other materials given to the prospective policyholder.

(5) If the offer required to be made under subsection (1) is rejected, the insurer shall provide the contingent benefit upon lapse described in this Section. Even if this offer is accepted for a policy with a fixed or limited premium paying period, the contingent benefit on lapse in subsection (6)(d) shall still apply.

(6)

(a) After rejection of the offer required under subsection (1), for individual and group policies without nonforfeiture benefits issued after the effective date of this section, the insurer shall provide a contingent benefit upon lapse.

(b) In the event a group policyholder elects to make the nonforfeiture benefit an option to the certificateholder, a certificate shall provide either the nonforfeiture benefit or the contingent benefit upon lapse.

(c) A contingent benefit on lapse shall be triggered every time an insurer increases the premium rates to a level which results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth below based on the insured's issue age, and the policy or certificate lapses within 120 days of the due date of the premium so increased. Unless otherwise required, policyholders shall be notified at least 30 days prior to the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase

Issue Age	Percent Increase Over Initial Premium
29 and under	200%
30-34	190%
35-39	170%
40-44	150%
45-49	130%
50-54	110%
55-59	90%

60	70%
61	66%
62	62%
63	58%
64	54%
65	50%
66	48%
67	46%
68	44%
69	42%
70	40%
71	38%
72	36%
73	34%
74	32%
75	30%
76	28%
77	26%
78	24%
79	22%
80	20%
81	19%
82	18%
83	17%
84	16%
85	15%
86	14%
87	13%
88	12%
89	11%
90 and over	10%

(d) A contingent benefit on lapse shall also be triggered for policies with a fixed or limited premium paying period every time an insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth below based on the insured's issue age, the policy or certificate lapses within 120 days of the due date of the premium so increased, and the ratio in subparagraph (f)(i) is 40

percent or more. Unless otherwise required, policyholders shall be notified at least 30 days prior to the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase

Percent Increase	Over Initial Premium
Issue Age	
Under 65	50%
65-80	30%
Over 80	10%

This provision shall be in addition to the contingent benefit provided by paragraph (c) above and where both are triggered, the benefit provided shall be at the option of the insured.

(e) On or before the effective date of a substantial premium increase as defined in paragraph (c) above, the insurer shall:

(i) Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased;

(ii) Offer to convert the coverage to a paid-up status with a shortened benefit period in accordance with the terms of subsection (5). This option may be elected at any time during the 120-day period referenced in subsection (6)(c); and

(iii) Notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in subsection (6)(c) shall be deemed to be the election of the offer to convert in subparagraph (ii) above unless the automatic option in paragraph (f)(iii) applies.

(f) On or before the effective date of a substantial premium increase as defined in paragraph (6)(c) above, the insurer shall:

(i) Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased;

(ii) Offer to convert the coverage to a paid-up status where the amount payable for each benefit is 90 percent of the amount payable in effect immediately prior to lapse times the ratio of the number of completed months of paid premiums divided by the number of months in the premium paying period. This option may be elected at any time during the 120-day period referenced in subsection (6)(d); and

(iii) Notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in subsection (6)(d) shall be deemed to be the election of the offer to convert in subparagraph (ii) above if the ratio is 40 percent or more.

(7) Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse in accordance with subsection (6)(c) but not subsection (6)(d), are described in this subsection:

(a) For purposes of this subsection, attained age rating is defined as a schedule of premiums starting from the issue date which increases age at least one percent per year prior to age 50, and at least 3 percent per year beyond age 50.

(b) For purposes of this subsection, the nonforfeiture benefit shall be of a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits (amounts and frequency in effect at the time of lapse but not increased thereafter) will be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits shall be determined as specified in paragraph (c).

(c) The standard nonforfeiture credit will be equal to 100 percent of the sum of all premiums paid, including the premiums paid prior to any changes in benefits. The insurer may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. However, the minimum nonforfeiture credit shall not be less than 30 times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of subsection (8).

(d)

(i) The nonforfeiture benefit shall begin not later than the end of the third year following the policy or certificate issue date. The contingent benefit upon lapse shall be effective during the first three years as well as thereafter.

(ii) Notwithstanding subparagraph (i), for a policy or certificate with attained age rating, the nonforfeiture benefit shall begin on the earlier of:

(A) The end of the tenth year following the policy or certificate issue date; or

(B) The end of the second year following the date the policy or certificate is no longer subject to attained age rating.

(e) Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate.

(8) All benefits paid by the insurer while the policy or certificate is in premium paying status and in the paid up status will not exceed the maximum benefits which would be payable if the policy or certificate had remained in premium paying status.

(9) There shall be no difference in the minimum nonforfeiture benefits as required under this section for group and individual policies.

(10) The requirements set forth in this section shall become effective 12 months after adoption of this provision and shall apply as follows:

(a) Except as provided in paragraphs (b) and (c) below, the provisions of this section apply to any long-term care policy issued in this state on or after the effective date of this amended regulation.

(b) For certificates issued on or after the effective date of this section, under a group long-term care insurance policy as defined in O.C.G.A. Section 33-42-4, which policy was in force at the time this amended regulation became effective, the provisions of this section shall not apply.

(c) The last sentence in subsection (5) and subsections (6)(d) and (6)(f) shall apply to any long-term care insurance policy or certificate issued in this state after six months after their adoption, except new certificates on a group policy as defined in O.C.G.A. Section 33-42-4 one year after adoption.

(11) Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse shall be subject to the loss ratio requirements of Section 120-2-16-.19 or Section 120-2-16-.20, whichever is applicable, treating the policy as a whole.

(12) To determine whether contingent nonforfeiture upon lapse provisions are triggered under subsection (6)(c) or (6)(d), a replacing insurer that purchased or otherwise assumed a block or blocks of long-term care insurance policies from another insurer shall calculate the percentage increase based on the initial annual premium paid by the insured when the policy was first purchased from the original insurer.

(13) A nonforfeiture benefit for qualified long-term care insurance contracts that are level premium contracts shall be offered that meets the following requirements:

(a) The nonforfeiture provision shall be appropriately captioned;

(b) The nonforfeiture provision shall provide a benefit available in the event of a default in the payment of any premiums and shall state that the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency and interest as reflected in changes in rates for premium paying contracts approved by the Commissioner for the same contract form; and

(c) The nonforfeiture provision shall provide at least one of the following:

(i) Reduced paid-up insurance;

(ii) Extended term insurance;

(iii) Shortened benefit period; or

(iv) Other similar offerings approved by the Commissioner.

(14) The requirements of this section shall apply to any long-term care policy issued in this state on or after April 1, 2009.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.28
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Nonforfeiture Benefit Requirement" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.29. Standards for Benefit Triggers.

(1) A long-term care insurance policy shall condition the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment. Eligibility for the payment of benefits shall not be more restrictive than requiring either a deficiency in the ability to perform not more than three of the activities of daily living or the presence of cognitive impairment.

(2) (a) Activities of daily living shall include at least the following as defined in Section 120-2-16-.05 and in the policy:

(i) Bathing;

(ii) Continence;

(iii) Dressing;

(iv) Eating;

(v) Toileting; and

(vi) Transferring.

(b) Insurers may use activities of daily living to trigger covered benefits in addition to those contained in paragraph (a) as long as they are defined in the policy.

(3) An insurer may use additional provisions for the determination of when benefits are payable under a policy or certificate; however the provisions shall not restrict, and are not in lieu of, the requirements contained in subsections (1) and (2).

(4) For purposes of this section the determination of a deficiency shall not be more restrictive than:

(a) Requiring the hands-on assistance of another person to perform the prescribed activities of daily living; or

(b) If the deficiency is due to the presence of a cognitive impairment, supervision or verbal cueing by another person is needed in order to protect the insured or others.

(5) Assessments of activities of daily living and cognitive impairment shall be performed by licensed or certified professionals, such as physicians, nurses or social workers.

(6) Long term care insurance policies shall include a clear description of the process for appealing and resolving benefit determinations.

(7) The requirements set forth in this section shall be effective April 1, 2008, and shall apply as follows:

(a) Except as provided in paragraph (b), the provisions of this section apply to a long-term care policy issued in this state on or after the effective date of the amended regulation.

(b) For certificates issued on or after the effective date of this section, under a group long-term care insurance policy as defined in O.C.G.A. Section 33-42-4 that was in force at the time this amended regulation became effective, the provisions of this section shall not apply.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.29
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Standards for Benefit Triggers" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.30. Additional Standards for Benefit Triggers for Qualified Long - Term Care Insurance Contracts.

(1) For purposes of this section, the following definitions apply:

(a) "Qualified long-term care services" means services that meet the requirements of Section 7702(c)(1) of the Internal Revenue Code of 1986, as amended, as follows: necessary diagnostic, preventive, therapeutic, curative, treatment, mitigation and rehabilitative services, and maintenance or personal care services which are

required by a chronically ill individual, and are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

(b) (i) "Chronically ill individual" has the meaning prescribed for this term by section 7702B(c)(2) of the Internal Revenue Code of 1986, as amended. Under this provision, a chronically ill individual means any individual who has been certified by a licensed health care practitioner as:

(A) Being unable to perform (without substantial assistance from another individual) at least two activities of daily living for a period of at least 90 days due to a loss of functional capacity; or

(B) Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

(ii) The term "chronically ill individual" shall not include an individual otherwise meeting these requirements unless within the preceding twelve-month period a licensed health care practitioner has certified that the individual meets these requirements.

(c) "Licensed health care practitioner" means a physician, as defined in Section 1861(r)(1) of the Social Security Act, a registered professional nurse, licensed social worker or other individual who meets requirements prescribed by the Secretary of the Treasury.

(d) "Maintenance or personal care services" means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

(2) A qualified long term care insurance contract shall pay only for qualified long term care services received by a chronically ill individual provided pursuant to a plan of care prescribed by a licensed health care practitioner.

(3) A qualified long-term care insurance contract shall condition the payment of benefits on a determination of the insured's inability to perform activities of daily living for an expected period of at least 90 days due to a loss of functional capacity or to severe cognitive impairment.

(4) Certifications regarding activities of daily living and cognitive impairment required pursuant to subsection (3) shall be performed by the following licensed or certified professionals: physicians, registered professional nurses, licensed social workers, or other individuals who meet requirements prescribed by the Secretary of the Treasury.

(5) Certifications required pursuant to subsection (3) may be performed by a licensed health care professional at the direction of the carrier as is reasonably necessary with respect to a specific claim, except that when a licensed health care practitioner has certified that an insured is unable to perform activities of daily living for an expected period of at least 90 days due to a loss of functional capacity and the insure is in claim status, the certification may not be rescinded and additional certifications may not be performed until after the expiration of the 90-day period.

(6) Qualified long-term care insurance contracts shall include a clear description of the process for appealing and resolving disputes with respect to benefit determinations.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.30
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Additional Standards for Benefit Triggers for Qualified Long-Term Care Insurance Contracts" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.31. Standard Format Outline of Coverage.

This section of the Regulation implements, interprets and makes specific, the provisions of O.C.G.A. Section 33-42-6(g)in prescribing a standard format and the content of an outline of coverage.

(1) The outline of coverage shall be a free-standing document, using no smaller than ten-point type.

(2) The outline of coverage shall contain no material of an advertising nature.

(3) Text that is capitalized or underscored in the standard format outline of coverage may be emphasized by other means that provide prominence equivalent to the capitalization or underscoring.

(4) Use of the text and sequence of text of the standard format outline of coverage is mandatory, unless otherwise specifically indicated.

(5) Format for outline of coverage:

[COMPANY NAME]

[ADDRESS - CITY & STATE]

[TELEPHONE NUMBER]

LONG-TERM CARE INSURANCE

OUTLINE OF COVERAGE

[Policy Number or Group Master Policy and Certificate Number]

[Except for policies or certificates which are guaranteed issue, the following caution statement, or language substantially similar, must appear as follows in the outline of coverage.]

Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]

1. This policy is [an individual policy of insurance]([a group policy] which was issued in the [indicate jurisdiction in which group policy was issued]).

2. PURPOSE OF OUTLINE OF COVERAGE. This outline of coverage provides a very brief description of the important features of the policy. You should compare this outline of coverage to outlines of coverage for other policies available to you. This is not an insurance contract, but only a summary of coverage. Only the individual or group policy contains governing contractual provisions. This means that the policy or group policy sets forth in detail the rights and obligations of both you and the insurance company. Therefore, if you purchase this coverage, or any other coverage, it is important that you READ YOUR POLICY (OR CERTIFICATE) CAREFULLY!

3. FEDERAL TAX CONSEQUENCES.

   This [POLICY] [CERTIFICATE] is intended to be a federally tax-qualified long-term care insurance contract under Section 7702B(b) of the Internal Revenue Code of 1986, as amended.

OR

Federal Tax Implications of this [POLICY] [CERTIFICATE]. This [POLICY] [CERTIFICATE] is not intended to be a federally tax-qualified long-term care insurance contract under Section 7702B(b) of the Internal Revenue Code of 1986 as amended. Benefits received under the [POLICY] [CERTIFICATE] may be taxable as income.

4. Terms Under Which the Policy OR Certificate May Be Continued in Force or Discontinued.

(a) For long-term care health insurance policies or certificates describe one of the following permissible policy renewability provisions:

(1) [Policies and certificates that are guaranteed renewable shall contain the following statement:] RENEWABILITY: THIS POLICY [CERTIFICATE] IS GUARANTEED RENEWABLE. This means you have the right, subject to the terms of your policy, [certificate] to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own, except that, in the future, IT MAY INCREASE THE PREMIUM YOU PAY.

(2) [Policies and certificates that are noncancellable shall contain the following statement:] RENEWABILITY: THIS POLICY [CERTIFICATE] IS NONCANCELLABLE. This means that you have the right, subject to the terms of your policy, to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own and cannot change the premium you currently pay. However, if your policy contains an inflation protection feature where you choose to increase your benefits, [Company Name] may increase your premium at that time for those additional benefits.

(b) [For group coverage, specifically describe continuation/conversion provisions applicable to the certificate and group policy;]

(c) [Describe waiver of premium provisions or state that there are not such provisions.]

5. TERMS UNDER WHICH THE COMPANY MAY CHANGE PREMIUMS.

[In bold type larger than the maximum type required to be used for the other provisions of the outline of coverage, state whether or not the company has a right to change the premium, and if a right exists, describe clearly and concisely each circumstance under which the premium may change.]

6. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE RETURNED AND PREMIUM REFUNDED.

(a) [Provide a brief description of the right to return-"free look" provision of the policy.]

(b) [Include a statement that the policy either does or does not contain provisions providing for a refund or partial refund of premium upon the

death of an insured or surrender of the policy or certificate. If the policy contains such provisions, include a description of them.]

7. THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the insurance company.

   (a) [For agents] Neither [insert company name] nor its agents represent Medicare, the federal government or any state government.

   (b) [For direct response] [insert company name] is not representing Medicare, the federal government or any state government.

8. LONG-TERM CARE COVERAGE. Policies of this category are designed to provide coverage for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital, such as in a nursing home, in the community or in the home.

   This policy provides coverage in the form of a fixed dollar indemnity benefit for covered long-term care expenses, subject to policy [limitations] [waiting periods] and [coinsurance] requirements. [Modify this paragraph if the policy is not an indemnity policy.]

9. BENEFITS PROVIDED BY THIS POLICY.

   (a) [Covered services, related deductibles, waiting periods, elimination periods and benefit maximums.]

   (b) [Institutional benefits, by skill level.]

   (c) [Non-institutional benefits, by skill level.]

   (d) Eligibility for Payment of Benefits

   [Activities of daily living and cognitive impairment shall be used to measure an insured's need for long-term care and must be defined and described as part of the outline of coverage.]

   [Any additional benefit triggers must also be explained. If these triggers differ for different benefits, explanation of the triggers should accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too must be specified.]

10. LIMITATIONS AND EXCLUSIONS.

[Describe:

(a) Preexisting conditions;

(b) Non-eligible facilities and provider;

(c) Non-eligible levels of care (e.g., unlicensed providers, care or treatment provided by a family member, etc.);

(d) Exclusions and exceptions;

(e) Limitations.]

[This section should provide a brief specific description of any policy provisions which limit, exclude, restrict, reduce, delay, or in any other manner operate to qualify payment of the benefits described in Number 6 above.]

THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH YOUR LONG-TERM CARE NEEDS.

11. RELATIONSHIP OF COST OF CARE AND BENEFITS. Because the costs of long-term care services will likely increase over time, you should consider whether and how the benefits of this plan may be adjusted. [As applicable, indicate the following:

(a) That the benefit level will not increase over time;

(b) Any automatic benefit adjustment provisions;

(c) Whether the insured will be guaranteed the option to buy additional benefits and the basis upon which benefits will be increased over time if not by a specified amount or percentage;

(d) If there is such a guarantee, include whether additional underwriting or health screening will be required, the frequency and amounts of the upgrade options, and any significant restrictions or limitations;

(e) And finally, describe whether there will be any additional premium charge imposed, and how that is to be calculated.]

12. ALZHEIMER'S DISEASE AND OTHER ORGANIC BRAIN DISORDERS.

[State that the policy provides coverage for insureds clinically diagnosed as having Alzheimer's disease or related degenerative and dementing illnesses. Specifically describe each benefit screen or other policy provision which provides preconditions to the availability of policy benefits for such an insured.]

13. PREMIUM.

    (a) [State the total annual premium for the policy;

    (b) If the premium varies with an applicant's choice among benefit options, indicate the portion of annual premium which corresponds to each benefit option.]

14. ADDITIONAL FEATURES.

    (a) [Indicate if medical underwriting is used;

    (b) Describe other important features.]

15. CONTACT THE STATE SENIOR HEALTH INSURANCE ASSISTANCE PROGRAM IF YOU HAVE GENERAL QUESTIONS REGARDING LONG-TERM CARE INSURANCE. CONTACT THE INSURANCE COMPANY IF YOU HAVE SPECIFIC QUESTIONS REGARDING YOUR LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.31
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Standard Format Outline of Coverage" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.32. Requirements to Deliver Shopper's Guide.

(1) A long-term care insurance shopper's guide in the format developed by the National Association of Insurance Commissioners, or a guide developed or approved by the Commissioner, shall be provided to all prospective applicants of a long-term care insurance policy or certificate.

    (a) In the case of agent solicitations, an agent must deliver the shopper's guide prior to the presentation of an application or enrollment form.

    (b) In the case of direct response solicitations, the shopper's guide must be presented in conjunction with any application or enrollment form.

(2) Life insurance policies or riders containing accelerated long-term care benefits are not required to furnish the above-referenced guide, but shall furnish the policy summary required under O.C.G.A. Section 33-42-6.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.32
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Requirement to Deliver Shopper's Guide" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.33. Penalties.

In addition to any other penalties provided by the laws of this state any insurer and any agent found to have violated any requirement of this state relating to the regulation of long-term care insurance or the marketing of such insurance shall be subject to such fines and penalties as provided under O.C.G.A. Section 33-2-24.

APPENDIX A

RESCISSION REPORTING FORM FOR

LONG-TERM CARE POLICIES

FOR THE STATE OF _____

FOR THE REPORTING YEAR 20[]

Company Name: _____

Address: _____
_____

Phone Number: _____

Due: March 1 annually

Instructions:

The purpose of this form is to report all rescissions of long-term care insurance policies or certificates. Those rescissions voluntarily effectuated by an insured are not required to be included in this report. Please furnish one form per rescission.

Policy Form #	Policy and Certificate #	Name of Insured	Date of Policy	Date/s Claim/s	Date of Rescission

Issuance Submitted

Detailed reason for rescission:

_____

_____

_____

_____

_____

Signature

_____

Name and Title (please type)

_____

Date

APPENDIX B

Long Term Care Insurance

Personal Worksheet

People buy long-term care insurance for many reasons. Some don't want to use their own assets to pay for long-term care. Some buy insurance to make sure they can choose the type of care they get. Others don't want their family to have to pay for care or don't want to go on Medicaid. But long term care insurance may be expensive, and may not be right for everyone.

By state law, the insurance company must fill out part of the information on this worksheet and **ask** you to fill out the rest to help you and the company decide if you should buy this policy.

Premium Information

Policy Form Numbers_____

The premium for the coverage you are considering will be [$_____ per month, or $_____ per year,] [a one-time single premium of $_____.]

Type of Policy (noncancellable/guaranteed renewable):

_____

The Company's Right to Increase Premiums:

_____

[The company cannot raise your rates on this policy.] [The company has a right to increase premiums on this policy form in the future, provided it raises rates for all policies in the same class in this state.] [Insurers shall use appropriate bracketed statement. Rate guarantees shall not be shown on this form.]

Rate Increase History

The company has sold long-term care insurance since [year] and has sold this policy since [year]. [The company has never raised its rates for any long-term care policy it has sold in this state or any other state.] [The company has not raised its rates for this policy form or similar policy forms in this state or any other state in the last 10 years.] [The company has raised its premium rates on this policy form or similar policy forms in the last 10 years. Following is a summary of the rate increases.]

Questions Related to Your Income

How will you pay each year's premium?

[] From my Income [] From my Savings/Investments [] My Family will Pay

[[] Have you considered whether you could afford to keep this policy if the premiums went up, for example, by 20%?]

What is your annual income? (check one)

[] Under $10,000 [] $[10-20,000] [] $[20-30,000] [] $[30-50,000] [] Over $50,000

How do you expect your income to change over the next 10 years? (check one)

[] No change [] Increase [] Decrease

If you will be paying premiums with money received only from your own income, a rule of thumb is that you may not be able to afford this policy if the premiums will be more than 7% of your income.

Will you buy inflation protection? (check one) [] Yes [] No

If not, have you considered how you will pay for the difference between future costs and your daily benefit amount?

[] From my Income [] From my Savings/Investments [] My Family will Pay

The national average annual cost of care in [insert year] was [insert $ amount], but this figure varies across the country. In ten years the national average annual cost would be about [insert $ amount] if costs increase 5% annually.

What elimination period are you considering? Number of days _____Approximate cost $_____ for that period of care.

How are you planning to pay for your care during the elimination period? (check one)

[] From my Income [] From my Savings/Investments [] My Family will Pay

Questions Related to YourSavings and Investments

Not counting your home, about how much are all of your assets (your savings and investments) worth? (check one)

[] Under $20,000 [] $20,000-$30,000 [] $30,000-$50,000 [] Over $50,000

How do you expect your assets to change over the next ten years? (check one)

[] Stay about the same [] Increase [] Decrease

If you are buying this policy to protect your assets and your assets are less than $30,000, you may wish to consider other options for financing your long-term care.

Disclosure Statement

[] The answers to the questions above describe my financial situation.

Or

[] I choose not to complete this information.

(Check one.)

[] I acknowledge that the carrier and/or its agent (below) has reviewed this form with me including the premium, premium rate increase history and potential for premium increases in the future. [For direct mail situations, use the following: I acknowledge that I have reviewed this form including the premium, premium rate increase history and potential for premium increases in the future.] I understand the above disclosures. **I understand that the rates for this policy may increase in the future.** (This box must be checked).

Signed: _____ _____

(Applicant) (Date)

[[] I explained to the applicant the importance of completing this information.

Signed: _____ _____

(Agent) (Date)

Agent's Printed Name: [_____]

[In order for us to process your application, please return this signed statement to [name of company], along with your application.]

[My agent has advised me that this policy does not seem to be suitable for me. However, I still want the company to consider my application.

Signed: _____ _____]

(Applicant) (Date)

The company may contact you to verify your answers.

APPENDIX C

Things You Should Know Before You Buy

Long-Term Care Insurance

Long-Term Care Insurance	* A long-term care insurance policy may pay most of the costs for your care in a nursing home. Many policies also pay for care at home or other community settings. Since policies can vary in coverage, you should read this policy and make sure you understand what it covers before you buy it.
	* [You should **not** buy this insurance policy unless you can afford to pay the premiums every year.] [Remember that the company can increase premiums in the future.]
	* The personal worksheet includes questions designed to help you and the company determine whether this policy is suitable for your needs.
Medicare	* Medicare does **not** pay for most long-term care.
Medicaid	* Medicaid will generally pay for long-term care if you have very little income and few assets. You probably should **not** buy this policy if you are now eligible for Medicaid.

	* Many people become eligible for Medicaid after they have used up their own financial resources by paying for long-term care services. * When Medicaid pays your spouse's nursing home bills, you are allowed to keep your house and furniture, a living allowance, and some of your joint assets. * Your choice of long-term care services may be limited if you are receiving Medicaid. To learn more about Medicaid, contact your local or state Medicaid agency.
Shopper's Guide	* Make sure the insurance company or agent gives you a copy of a book called the National Association of Insurance Commissioners' "Shopper's Guide to Long-Term Care Insurance." Read it carefully. If you have decided to apply for long-term care insurance, you have the right to return the policy within 30 days and get back any premium you have paid if you are dissatisfied for any reason or choose not to purchase the policy.
Counseling	* Free counseling and additional information about long-term care insurance are available through your state's insurance counseling program. Contact your state insurance department or department on aging for more information about the senior health insurance counseling program in your state.
Facilities	Some long-term care insurance contracts provide for benefit payments in certain facilities only if they are licensed or certified, such as in assisted living centers. However, not all states regulate these facilities in the same way. Also, many people move into a different state from where they purchased their long-term care insurance policy. Read the policy carefully to determine what types of facilities qualify for benefit payments, and to determine that payment for a covered service will be made if you move to a state that has a different licensing scheme for facilities than the one in which you purchased the policy.

APPENDIX D

Long-Term Care Insurance Suitability Letter

Dear [Applicant]:

Your recent application for long-term care insurance included a "personal worksheet," which asked questions about your finances and your reasons for buying long-term care insurance. For your protection, state law requires us to consider this information when we review your application, to avoid selling a policy to those who may not need coverage.

[Your answers indicate that long-term care insurance may not meet your financial needs. We suggest that you review the information provided along with your application, including the booklet "Shopper's Guide to Long-Term Care Insurance" and the page titled "Things You Should Know Before Buying Long-Term Care Insurance." Your state insurance department also has information about long-term care insurance and may be able to refer you to a counselor free of charge who can help you decide whether to buy this policy.]

[You chose not to provide any financial information for us to review.]

Drafting Note: Choose the paragraph that applies.

We have suspended our final review of your application. If, after careful consideration, you still believe this policy is what you want, check the appropriate box below and return this letter to us within the next 60 days. We will then continue reviewing your application and issue a policy if you meet our medical standards.

If we do not hear from you within the next 60 days, we will close your file and not issue you a policy. You should understand that you will not have any coverage until we hear back from you, approve your application and issue you a policy.

Please check one box and return in the enclosed envelope.

[] **Yes**, [although my worksheet indicates that long-term care insurance may not be a suitable purchase,] I wish to purchase this coverage. Please resume review of my application.

Drafting Note: Delete the phrase in brackets if the applicant did not answer the questions about income.

[] **No**. I have decided not to buy a policy at this time.

_____ _____

APPLICANT'S SIGNATURE DATE

Please return to [issuer] at [address] by [date].

APPENDIX E

Claims Denial Reporting Form

Long-Term Care Insurance

For the State of _____

For the Reporting Year of _____

Company Name:_____ Due: June 30 annually

Company Address:_____

_____

Company NAIC Number:_____

Contact Person: _____Phone Number: _____

Line of Business: IndividualGroup

Instructions

The purpose of this form is to report all long-term care claim denials under in force long-term care insurance policies. "Denied" means a claim that is not paid for any reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition.

		State Data	**Nationwide Data**[1]
1	Total Number of Long-Term Care Claims Reported		
2	Total Number of Long-Term Care Claims Denied/Not Paid		
3	Number of Claims Not Paid due to Preexisting Condition Exclusion		
4	Number of Claims Not Paid due to Waiting (Elimination) Period Not Met		
5	Net Number of Long-Term Care Claims Denied for Reporting Purposes (Line 2 Minus Line 3 Minus Line 4)		
6	Percentage of Long-Term Care Claims Denied of Those Reported (Line 5 Divided By Line 1)		
7	Number of Long-Term Care Claim Denied due to:		
8	Long-Term Care Services Not Covered under the Policy[2]		
9	Provider/Facility Not Qualified under the Policy[3]		
10	Benefit Eligibility Criteria Not Met[4]		
11	Other		

1. The nationwide data may be viewed as a more representative and credible indicator where the data for claims reported and denied for your state are small in number.

2. Example-home health care claim filed under a nursing home only policy.

3. Example-a facility that does not meet the minimum level of care requirements or the licensing requirements as outlined in the policy.

4. Examples-a benefit trigger not met, certification by a licensed health care practitioner not provided, no plan of care.

APPENDIX F

Instructions:

This form provides information to the applicant regarding premium rate schedules, rate schedule adjustments, potential rate revisions, and policyholder options in the event of a rate increase.

<u>Insurers shall provide all of the following information to the applicant:</u>

Long Term Care Insurance

Potential Rate Increase Disclosure Form

1. **[Premium Rate] [Premium Rate Schedules]**: [Premium rate] [Premium rate schedules] that [is][are] applicable to you and that will be in effect until a request is made and [filed][approved] for an increase [is][are] [on the application][$_____])

2. **The [premium] [premium rate schedule] for this policy [will be shown on the schedule page of] [will be attached to] your policy.**

3. **Rate Schedule Adjustments**:

The company will provide a description of when premium rate or rate schedule adjustments will be effective (e.g., next anniversary date, next billing date, etc.) (fill in the blank): _____.

4. **Potential Rate Revisions:**

This policy is Guaranteed Renewable. This means that the rates for this product may be increased in the future. Your rates can NOT be increased due to your increasing age or declining health, but your rates may go up based on the experience of all policyholders with a policy similar to yours.

If you receive a premium rate or premium rate schedule increase in the future, you will be notified of the new premium amount and you will be able to exercise at least one of the following options:

* Pay the increased premium and continue your policy in force as is.

* Reduce your policy benefits to a level such that your premiums will not increase. (Subject to state law minimum standards.)

* Exercise your nonforfeiture option if purchased. (This option is available for purchase for an additional premium.)

* Exercise your contingent nonforfeiture rights.* (This option may be available if you do not purchase a separate nonforfeiture option.)

Turn the Page

*** Contingent Nonforfeiture**

If the premium rate for your policy goes up in the future and you didn't buy a nonforfeiture option, you may be eligible for contingent nonforfeiture. Here's how to tell if you are eligible:

You will keep some long-term care insurance coverage, if:

* Your premium after the increase exceeds your original premium by the percentage shown (or more) in the following table; and

* You lapse (not pay more premiums) within 120 days of the increase.

The amount of coverage (i.e., new lifetime maximum benefit amount) you will keep will equal the total amount of premiums you've paid since your policy was first issued. If you have already received benefits under the policy, so that the remaining maximum benefit amount is less than the total amount of premiums you've paid, the amount of coverage will be that remaining amount.

Except for this reduced lifetime maximum benefit amount, all other policy benefits will remain at the levels attained at the time of the lapse and will not increase thereafter.

Should you choose this Contingent Nonforfeiture option, your policy, with this reduced maximum benefit amount, will be considered "paid-up" with no further premiums due.

Example: You bought the policy at age 65 and paid the $1,000 annual premium for 10 years, so you have paid a total of $10,000 in premium. In the eleventh year, you receive a rate increase of 50%, or $500 for a new annual premium of $1,500, and you decide to lapse the policy (not pay any more premiums). Your "paid-up" policy benefits are $10,000 (provided you have a least $10,000 of benefits remaining under your policy.)

Turn the Page

Contingent Nonforfeiture

Cumulative Premium Increase over Initial Premium

That qualifies for Contingent Nonforfeiture

(Percentage increase is cumulative from date of original issue. It does NOT represent a one-time increase.)

Issue Age	Percent Increase Over Initial Premium
29 and under	200%
30-34	190%

35-39	170%
40-44	150%
45-49	130%
50-54	110%
55-59	90%
60	70%
61	66%
62	62%
63	58%
64	54%
65	50%
66	48%
67	46%
68	44%
69	42%
70	40%
71	38%
72	36%
73	34%
74	32%
75	30%
76	28%
77	26%
78	24%
79	22%
80	20%
81	19%
82	18%
83	17%
84	16%
85	15%
86	14%
87	13%
88	12%
89	11%
90 and over	10%

[The following contingent nonforfeiture disclosure need only be included for those limited pay policies to which Sections 28D(4) and 28D(6) of the regulation are applicable].

In addition to the contingent nonforfeiture benefits described above, the following reduced "paid-up" contingent nonforfeiture benefit is an option in all policies that have a fixed or limited premium payment period, even if you selected a nonforfeiture benefit when you bought your policy. If both the reduced "paid-up" benefit AND the contingent benefit described above are triggered by the same rate increase, you can chose either of the two benefits.

You are eligible for the reduced "paid-up" contingent nonforfeiture benefit when all three conditions shown below are met:

1. The premium you are required to pay after the increase exceeds your original premium by the same percentage or more shown in the chart below;

Triggers for a Substantial Premium Increase

Issue Age	Percent Increase Over Initial Premium
Under 65	50%
65-80	30%
Over 80	10%

2. You stop paying your premiums within 120 days of when the premium increase took effect; AND

3. The ratio of the number of months you already paid premiums is 40% or more than the number of months you originally agreed to pay.

If you exercise this option your coverage will be converted to reduced "paid-up" status. That means there will be no additional premiums required. Your benefits will change in the following ways:

a. The total lifetime amount of benefits your reduced paid up policy will provide can be determined by multiplying 90% of the lifetime benefit amount at the time the policy becomes paid up by the ratio of the number of months you already paid premiums to the number of months you agreed to pay them.

b. The daily benefit amounts you purchased will also be adjusted by the same ratio.

If you purchased lifetime benefits, only the daily benefit amounts you purchased will be adjusted by the applicable ratio.

Example:

* You bought the policy at age 65 with an annual premium payable for 10 years.

* In the sixth year, you receive a rate increase of 35% and you decide to stop paying premiums.

* Because you have already paid 50% of your total premium payments and that is more than the 40% ratio, your "paid-up" policy benefits are .45 (.90 times .50) times the total benefit amount that was in effect when you stopped paying your premiums. If you purchased inflation protection, it will not continue to apply to the benefits in the reduced "paid-up" policy.

Appendix G

Long-Term Care Insurance

Replacement and Lapse Reporting Form

For the State of _____

For the Reporting Year of _____

Company Name: _____

Due: June 30 annually

Company Address: _____

Company NAIC Number: _____

Contact Person: _____

Phone Number: (____)_____

Instructions

The purpose of this form is to report on a statewide basis information regarding long-term care insurance policy replacements and lapses. Specifically, every insurer shall maintain records for each agent on that agent's amount of long-term care insurance replacement sales as a percent of the agent's total annual sales and the amount of lapses of long-term care insurance policies sold by the agent as a percent of the agent's total annual sales. The tables below should be used to report the ten percent (10%) of the insurer's agents with the greatest percentages of replacements and lapses.

Listing of the 10% of Agents with the Greatest Percentage of Replacements

Agent's Name	Number of Policies Sold By This Agent	Number of Policies Replaced By This Agent	Number of Replacements As % of Number Sold By This Agent

Listing of the 10% of Agents with the Greatest Percentage of Lapses

Agent's Name	Number of Policies Sold By This Agent	Number of Policies Lapsed By This Agent	Number of Lapses As % of Number Sold By This Agent

Company Totals

Percentage of Replacement Policies Sold to Total Annual Sales ____%

Percentage of Replacement Policies Sold to Policies In Force (as of the end of the preceding calendar year) ____%

Percentage of Lapsed Policies to Total Annual Sales _____%

Percentage of Lapsed Policies to Policies In Force (as of the end of the preceding calendar year) _____%

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.33
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Penalties" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.

Rule 120-2-16-.34. Georgia Long - Term Care Insurance Partnership Program.

(1) In accordance with § 6021 of the Deficit Reduction Act of 2005 (Pub.L. 109-171) and O.C.G.A. Section 49-4-162, in addition to the applicable provisions of this Rule Chapter, the provisions of this section shall apply to any qualified state long-term care insurance partnership policy.

(2) "Qualified state long-term care insurance partnership policy" or "partnership policy" means an insurance policy that meets all the requirements specified in O.C.G.A Sections 33-42-4 and 49-4-162 and meets the following requirements:

(a) The policy covers an insured who was a resident of the State of Georgia (a Partnership State) when coverage first became effective under the policy.

(b) The policy is a qualified long-term care insurance policy as defined in § 7702B(b) of the Internal Revenue Code of 1986 and was issued no earlier than January 1, 2007.

(c) The policy meets all the applicable requirements of this Rule and the requirements of the National Association of Insurance Commissioners long-term care insurance model act and model regulation as those requirements are set forth in § 1917(b)(5)(A) of the Social Security Act *(42 USC § 1396 p(b)(5)(A)*).

(d) The policy provides the following inflation protections:

1. If the policy is sold to an individual who has not attained age 61 as of the date of purchase, the policy shall provide compound annual inflation protection;

2. If the policy is sold to an individual who has attained age 61 but has not attained age 76 as of the date of purchase, the policy shall provide some level of inflation protection;

3. If the policy is sold to an individual who has attained age 76 as of the date of purchase, the policy may provide inflation protection, but is not required.

(e) The Commissioner may also approve new and innovative inflation protection methods so long as such method is submitted to the Commissioner with an explanation and demonstration as to how the alternative method provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. No such method may be used until the Commissioner has approved such method.

(3) (a) An insurer or its agent, soliciting or offering to sell a policy that is intended to qualify as a partnership policy, shall provide to each prospective applicant a Partnership Program Notice (Form LTCP 200-A), outlining the requirements and benefits of a partnership policy. A similar notice may be used for this purpose if filed and approved by the Commissioner. The Partnership Program Notice shall be provided with the required Outline of Coverage.

(b) A partnership policy issued or issued for delivery in the State of Georgia shall be accompanied by a Partnership Disclosure Notice (Form LTCP 200-B) explaining the benefits associated with a partnership policy and indicating that at the time issued, the policy is a qualified state long-term care insurance partnership policy. A similar notice may be used if filed and approved by the Commissioner. The Partnership Disclosure Notice shall also include a statement indicating that by purchasing this partnership policy, the insured does not automatically qualify for Medicaid.

(4) (a) A partnership policy shall not be issued or issued for delivery in this State unless filed with and approved by the Commissioner in accordance with the procedures set forth in O.C.G.A. Section 33-24-9. Any policy submitted for approval as a partnership policy shall be accompanied by a Partnership Certification Form (Form LTCP 200-C), or a similar form filed and approved by the Commissioner.

(b) Insurers requesting to make use of a previously approved policy form as a qualified state long-term care partnership policy shall submit to the Commissioner

a Partnership Certification Form signed by an officer of the company. The Partnership Certification Form shall be accompanied by a copy of the policy or certificate form listed, the approval date, and a bookmark for each of the requirements listed in sections II and III of the form. A Partnership Certification Form shall be required for each policy form submitted for partnership qualification.

(5) Agent training requirements. On and after January 1, 2009 an individual may not sell, solicit or negotiate a partnership policy unless the individual is a licensed and appointed insurance agent in accordance with provisions of O.C.G.A. Chapter 33-23 and has completed an initial training component and ongoing training every 24 months thereafter. The training shall meet the following requirements:

(a) All training shall be approved as continuing education by the Commissioner in accordance with O.C.G.A. Section 33-23-18.

(b) The initial training required by this subsection shall be no less than eight hours, and the on-going training required by this subsection shall be no less than four hours.

(c) The training required under subdivision (b) of this subsection shall consist of topics related to long-term care insurance, long-term care services, and qualified state long-term care insurance partnership programs, including, but not limited to

1. State and federal regulations and requirements and the relationship between qualified state long-term care insurance partnership programs and other public and private coverage of long-term care services, including Medicaid;

2. Available long-term care services and providers;

3. Changes or improvements in long-term care services or providers;

4. Alternatives to the purchase of private long-term care insurance;

5. The effect of inflation on benefits and the importance of inflation protection; and

6. Consumer suitability standards and guidelines.

(6) Insurers offering a partnership policy shall obtain verification that an agent has received the training required by subsection (5) of this section before the agent is permitted to sell, solicit or negotiate the insurer's partnership policy.

(7) Each insurer shall maintain records with respect to the training of its agents qualified to sell, solicit or negotiate partnership policies, to include training received and that the agent has demonstrated an understanding of the partnership policies and their relationship

to public and private coverage of long-term care, including Medicaid, in this State. These records shall be maintained for a period of not less than five years and shall be made available to the Commissioner upon request.

(8) Each insurer issuing a partnership policy shall provide regular reports to the United States Secretary of Health and Human Services in accordance with regulations of the Secretary that include notification of the date benefits were paid, the amount paid, the date the policy terminates, and such other information as the Secretary determines may be appropriate to the administration of partnerships.

Office of Commissioner of Insurance

State of Georgia form LTCP 200-A

Partnership Program Notice

Important Consumer Information regarding the Georgia Long Term Care Insurance Partnership Program

Some long term care insurance policies [certificates] sold in Georgia may qualify for the Georgia Long tern Care Insurance Partnership Program (the Partnership Program). The Partnership Program is a partnership between state government and private insurance companies to assist individuals in planning their long term care needs. Insurance companies voluntarily agree to participate in the Partnership Program by offering long term care insurance coverage that meets certain sate and federal requirements. Long Term care insurance policies [certificates] that qualify as partnership policies [certificates] may protect the policyholder's [certificateholder's] assets through a feature known as "asset disregard" under Georgia's Medicaid Program.

Asset Disregard means that an amount of the policyholder's [certificate holder's] assets equal to the amount of long term care insurance benefits received under a qualified Partnership Policy [Certificate] will be disregarded for the purpose of determining the insured's eligibility for Medicaid. This generally allows a person to keep assets equal to the insurance benefits received under a qualified Partnership Policy [Certificate] without affecting the person's eligibility for Medicaid. All of the Medicaid eligibility criteria will apply and special rules may apply to persons whose home equity exceeds $500,000. Asset Disregard is **not** available under a long term care insurance policy [certificate] that is not a Partnership Policy [Certificate]. Therefore, you should consider if Asset Disregard is important to you, and whether a Partnership Policy meets your needs. **The purchase of a Partnership Policy does not automatically qualify you for Medicaid.**

What are the Requirements for a Partnership Policy [Certificate]? In order for a policy [certificate] to qualify as a Partnership Policy [Certificate], it must, among other requirements:

1. Be issued to an individual after January 1, 2007;

2. Cover an individual who was a State of Georgia resident when coverage first becomes effective under the policy;

3. Be a tax-qualified policy under Section 7702(B)(b) of the Internal Revenue Code of 1986;

4. Meet stringent consumer protection standards; and

5. Meet the following inflation protection requirements:

For ages 60 or younger - provides compound annual inflation protection

For ages 61 to 75 - provides some level of inflation protection

For ages 76 and older - no purchase of inflation protection is required

If you apply and are approved for long term care insurance coverage, [carrier name] will provide you with written documentation as to whether or not your policy [certificate] qualifies as a Partnership Policy [Certificate].

What Could Disqualify a Policy [Certificate] as a Partnership Policy. Certain types of changes to a Partnership Policy [Certificate] could affect whether or not such policy [certificate] continues to be a Partnership Policy [Certificate]. If you purchase a Partnership Policy [Certificate] and later decide to make any changes, you should first consult with [carrier name] to determine the effect of a proposed change. In addition, if you move to a state that does not maintain a Partnership Program or does not recognize your policy [certificate] as a Partnership Policy [Certificate], you would not receive beneficial treatment of your policy [certificate] under the Medicaid program of that state. The information contained in this disclosure is based on current Georgia and Federal law. These laws may be subject to change. Any change in law could reduce or eliminate the beneficial treatment of your policy [certificate] under Georgia's Medicaid Program.

Additional Information. If you have questions regarding long term care insurance policies [certificates] please contact [carrier name]. If you have questions regarding current laws governing Medicaid eligibility, you should contact the Georgia Department of Medical Assistance.

Office of Commissioner of Insurance

State of Georgia form LTCP 200-C

Long Term Care Partnership

Certification Form

Note: This Form must be completed and submitted with each long term care policy or certificate form for which the insurer is seeking Partnership qualification. A separate form must be

completed for each policy form and a specimen copy of the form, including all riders and endorsement, must be attached. A long term care insurance policy or certificate form may not be issued in Georgia as a partnership policy or certificate unless and until this form has been submitted to an approved by the Office of Commissioner of Insurance, State of Georgia.

_____

Under Section 1917(b)(5)(B)(iii) of the Social Security Act (42 U.S.C. 1396 p(b)(5)(B)(iii) and in accordance with O.C.G.A Section 33-42-6 and Rule 120-2-16-.34, the insurer hereby submits information relating to policy or certificate form _____ (form number) to substantiate that the form includes all required consumer protection requirements set forth in Section 1917(b)(5)(A) of the Social Security Act (42 U.S.C. 1396 p(b)(5)(B)(iii) and that it includes certain specified provisions of the Long Term Care Insurance Model Regulation and Long Term Care Insurance Model Act promulgated by the National Association of Insurance Commissioners (adopted as of October, 2000) (referred to herein as the "2000 Model Regulation" and "2000 Model Act," respectively).

Part I:

Name of Insurer _____

Company NAIC# _____

Address _____

_____

_____

Telephone: _____

Company Contact Name_____

Title _____

Telephone _____

E-Mail _____

Part II:

_____

2000 NAIC MODEL REGULATION AND 2000 NAIC MODEL ACT

Note to Insurer: Identify the page and/or provision within the policy or certificate form that addresses each requirement, or, if inapplicable, use the space identified to explain.

Policy/Certificate form _____ meets the following requirements of the 2000 NAIC Model Long Term Care Regulation and/or 2000 NAIC Model Long Term Care Act, as indicated below:

NAIC Model Regulation Requirement	Identify Policy Page # and Provision OR use this space to explain if requirement is inapplicable
Section 6A (relating to guaranteed renewal or noncancellability), other than paragraph (5) thereof, and the requirements of Section 6B of the 2000 Model Act relating to such Section 6A.	
Section 6B (relating to prohibitions on limitations and exclusions) other than paragraph (7) thereof.	
Section 6C (relating to extension of benefits)	
Section 6D (relating to continuation or conversion of coverage)	
Section 6E (relating to discontinuance and replacement of policies)	
Section 7 (relating to unintentional lapse)	
Section 8 (relating to disclosure), other than Sections 8F, 8G, 8H and 8I thereof.	
Section 9 (relating to required disclosure of rating practices to consumer)	
Section 11 (relating to prohibitions against post-claims underwriting)	
Section 12 (relating to minimum standards)	
Section 14 (relating to application forms and replacement coverage)	
Section 15 (relating to reporting requirements)	
Section 22 (relating to filing requirements for marketing)	
Section 23 (relating to standards for marketing), including inaccurate completion of medical histories, other than paragraphs (1), (6), and (9) of Section 23C.	
Section 24 (relating to suitability)	
Section 25 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates)	
Section 26, (relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision	

described in Section 7702B(g)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 7702 B(g)(4).)

Section 29 (relating to standard format outline of coverage)

Section 30 (relating to requirement to deliver shopper's guide)

Section 6C (relating to preexisting conditions)

Section 6D (relating to prior hospitalization)

Section 8 (relating to contingent nonforfeiture benefits)

Section 6F (relating to right to return)

Section 6G (relating to outline of coverage)

Section 6H (relating to requirements for certificates under group plans)

Section 6J (relating to policy summary)

Section 6K (relating to monthly reports on accelerated death benefits)

Section 7 (relating to incontestability period)

Part III. INFLATION PROTECTION

Identify the policy provision or provide form number of endorsement or amendment form (and date of approval) for inflation protection coverage in compliance with Rule 120-2-16-.13(1)(a)(i) through (iii):

_____

_____

_____

Part IV. CERTIFICATION

I hereby certify that the answers, accompanying documents, and other information set forth herein are, to the best of my knowledge and belief, true, correct, complete and the policy [certificate] satisfies the requirements necessary for a qualified state long term care insurance partnership policy in the State of Georgia.

_____ _____

Date Name and Title of Officer of the Insurer

_____

Signature of Officer of the Insurer

Attachment C

GeorgiaDepartmentof Community Health

Division of Medical Assistance

Important Notice Regarding Your Policy's

Long-Term Care Insurance Partnership Status

(Please keep this Notice with Your Policy or Certificate)

The Georgia Long Term Care Partnership.

The Georgia Long-Term Care Partnership is an innovative partnership between Georgia and private insurers of Long-Term Care insurance policies (or certificates). The Georgia Long-Term Care Partnership became effective on January 1, 2007 and is provided in accordance with the Deficit Reduction Act of 2005 (P.L. 109-171).

Partnership Policy [Certificate] Status.

Your long term care insurance policy [certificate] is intended to qualify as a Partnership Policy [Certificate] under the Georgia Long Term Care Partnership Program as of your Policy's [Certificate's] effective date.

Medicaid Asset Protection Provided.

Long-Term care insurance is an important tool that helps individuals prepare for future long-term care needs. Partnership Policies provide an additional level of protection. In particular, such policies permit individuals to protect additional assets from spend-down requirements under the State's Medicaid program if assistance under this program is ever needed and you otherwise qualify for Medicaid.

Specifically, the asset eligibility and recovery provisions of the Medicaid program of Georgia are applied by disregarding an additional amount of assets which is equal to the amount of insurance benefits you have received from your Partnership Policy. For example, if you receive $200,000 of insurance benefits from your Partnership policy, you generally would be able to retain $200,000 of assets above and beyond the amount of assets normally permitted for Medicaid eligibility.

Other Medicaid eligibility requirements apart from permissible assets must be met, including special rules that may apply if the equity in your home exceeds $500,000. In addition, you must meet the Medicaid program's income requirements and may be required to contribute some of your income to the costs of your care once you become eligible for Medicaid. Medicaid eligibility requirements may change over time. The purchase of this Partnership Policy does not automatically qualify you for Medicaid.

Additional Consumer Protections.

In addition to providing Medicaid asset protection, your Partnership Policy has other important features. Under the rules governing Georgia Long-Term Care Partnership, your Partnership Policy must be a qualified long term care insurance contract under Federal tax law, and as such the insurance benefits you receive from the policy generally will be subject to beneficial income tax treatment. (Please note that a policy can be a qualified long-term care insurance contract under Federal tax law, with the same beneficial income tax treatment, even if it is not a Partnership Policy.) In addition, the long term care partnership policy must provide inflation protection as specified, according to the policy holder's age when the policy was issued:

- compound annual inflation protection, if the individual was under 61 years of age when the policy was issued,

- at least some level of inflation protection, if the individual was age 61 to 76 years when the policy was issued.

If the individual was 76 years of age or older when the policy was issued, inflation protection may be offered but is not required.

What Could Disqualify Your Policy as a Partnership Policy?

If you make any changes to your policy or certificate, such changes may affect whether your policy or certificate continues to qualify as a Partnership Policy. Before you make any changes, you should consult with the issuer of your policy (certificate) to determine the effect of a proposed change. In addition, if you move to a State that does not maintain a Qualified Partnership or does not recognize your policy (certificate) as a Partnership Policy, you would not receive Medicaid asset protection in that State. Changes in Federal or State law may affect the Medicaid asset protection available with respect to your Partnership Policy (Certificate).

Additional Information.

If you have questions regarding your insurance policy (certificate), please contact (carrier name). If you would like further information about the Medicaid asset protection provided by your Partnership Policy (Certificate) or the Georgia Long Term-Care Partnership Program, please call 1-800-669-8387 or visit www.dch.georgia.gov.

Cite as Ga. Comp. R. & Regs. R. 120-2-16-.34
Authority: O.C.G.A. Secs. 33-2-9, 33-42-6, 33-42-7, 49-4-164, 49-4-165.
History. Original Rule entitled "Georgia Long-Term Care Insurance Partnership" adopted. F. Mar. 27, 2008; eff. Apr. 16, 2008.
Amended: F. July 16, 2009; eff. Aug. 5, 2009.

Subject 120-2-17. INLAND MARINE INSURANCE BUREAU STATISTICAL PLAN FOR INLAND MARINE INSURANCE.

Subject 120-2-18. BUSINESS REQUIREMENTS.

Rule 120-2-18-.01. Statutory Authority.

This Chapter is promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. Chapter 33-2.

Cite as Ga. Comp. R. & Regs. R. 120-2-18-.01
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Application Form, Initial Certificate of Authority" adopted. F. and eff. July 20, 1965.
Amended: F. Oct. 28, 1983; eff. Dec. 1, 1983, as specified by the Agency.
Repealed: New Rule entitled "Statutory Authority" adopted. F. May 9, 1990; eff. June 15, 1990, as specified by the Agency.
Amended: ER. 120-2-18-0.12-.01 adopted. F. and eff. July 8, 2003, the date of adoption.
Amended: Permanent Rule adopted. F. Nov. 5, 2003; eff. Nov. 25, 2003.

Rule 120-2-18-.02. Purpose.

The purpose of this Chapter is to provide for the reporting of certain data by insurers to the Commissioner of Insurance and to require insurers to provide certain contact information to the Commissioner of Insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-18-.02
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Annual Statement, Application for Renewal of Certificate of Authority" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Annual Statement for Publication, Application for Renewal of Certificate of Authority" adopted. F. Dec. 6, 1965; eff. Dec. 25, 1965.
Repealed: New Rule entitled "Purpose" adopted. F. May 9, 1990; eff. June 15, 1990, as specified by the Agency.
Amended: ER. 120-2-18-0.12-.02 adopted. F. and eff. July 8, 2003, the date of adoption. Amended: Permanent Rule adopted. F. Nov. 5, 2003; eff. Nov. 25, 2003.

Rule 120-2-18-.03. Application Form, Initial Certificate of Authority.

Each applicant for an initial certificate of authority shall make application on the Uniform Certificate of Authority for the state of Georgia. Such form, as amended, may be accessed through www.naic.org/ucaa.

Cite as Ga. Comp. R. & Regs. R. 120-2-18-.03
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Deposit by Foreign and Alien Insurers" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Deposit Requirements" adopted. F. Dec. 6, 1965; eff. Dec. 25, 1965.
Repealed: New Rule entitled "Definitions" adopted. F. May 9, 1990; eff. June 15, 1990, as specified by the Agency.
Amended: ER. 120-2-18-0.12-.03 entitled "Application Form, Initial Certificate of Authority" adopted. F. and eff. July 8, 2003, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Nov. 5, 2003; eff. Nov. 25, 2003.

Rule 120-2-18-.04. Application For Renewal of Certificate of Authority.

Each insurer authorized to transact business in the State of Georgia shall cause its president and secretary to execute an application for the renewal of certificate of authority on such form as prescribed by the Commissioner. Such application shall be submitted to the Office of Commissioner of Insurance on or before March 1 of each year in accordance with instructions provided by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-18-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-3-21.
History. Original Rule entitled "Annual Statements" adopted. F. and eff. July 20, 1965.
Repealed: New Rule entitled "Annual Statements and Supplements Thereto" adopted. F. Dec. 6, 1965; eff. Dec. 25, 1965.
Repealed: New Rule entitled "Insurers Financial Reports; Quarterly or Monthly Financial Reports" adopted. F. Mar. 31, 1983; eff. May 1, 1983, as specified by the Agency.
Amended: F. Jan. 14, 1987; eff. Feb. 15, 1987, as specified by the Agency.
Repealed: New Rule entitled "Application Form, Initial Certificate of Authority" adopted. F. May 9, 1990; eff. June 15, 1990, as specified by the Agency.
Amended: ER. 120-2-18-0.12-.04 entitled "Application for Renewal of Certificate of Authority" adopted. F. and eff. July 8, 2003, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Nov. 5, 2003; eff. Nov. 25, 2003.

Rule 120-2-18-.05. Deposit Requirements.

No deposit required under Code Section 33-3-9 shall exceed $200,000.00.

Cite as Ga. Comp. R. & Regs. R. 120-2-18-.05
Authority: O.C.G.A. §§ 33-2-9, 33-3-21.
History. Original Rule entitled "Insurers Supplemental Report" adopted. F. Mar. 31, 1983; eff. May 1, 1983, as specified by the Agency.
Repealed: New Rule entitled "Annual Statement for Publication, Application for Renewal of Certificate of Authority" adopted. F. May 9, 1990; eff. June 15, 1990, as specified by the Agency.
Amended: ER. 120-2-18-0.12-.05 entitled "Deposit Requirements" adopted. F. and eff. July 8, 2003, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Nov. 5, 2003; eff. Nov. 25, 2003.
Amended: F. Oct. 21, 2016; eff. Nov. 10, 2016.

Rule 120-2-18-.06. Insurers Financial Reports.

(1) Each insurer licensed to transact insurance in this State shall file on or before March 1 of each year a financial report of its business and affairs as of December 31 of the calendar year then next preceding. Such report shall be filed on the appropriate Blanks as follows: Fire and Casualty Blank; Fraternal Orders Blank; Life and Accident and Health Blank; Health Blank; Hospital, Medical and Dental Service or Indemnity Corporations Blank; Title Insurance Blank; Separate Accounts Blank; and Variable Life Separate Accounts Blank. The financial reports required by this Rule shall be prepared in accordance with the National Association of Insurance Commissioners (NAIC) Annual Statement Instructions and the NAIC Accounting Practices and Procedures Manual which are incorporated herein by reference. Additionally, all materials required to be filed with the

Department must also be submitted to the NAIC pursuant to O.C.G.A. § 33-3-21.3 in such format as prescribed by the NAIC. Such insurer shall compile and report all information or data necessary to truthfully and fully complete the appropriate Blank listed above, including all interrogatories, which are applicable to that particular insurer, which best reflect the types or kinds of insurance that insurer transacts unless it is unequivocally clear that such data or information does not apply to such insurer. Additionally, each insurer shall supply, insert or attach to its annual report all data, information and answers required or suggested by any note, footnote or lack of space in the Blank. After supplying all answers, information or data necessary or proper to complete such Blank in every detail, such insurer shall cause its officers specified in such Blank to subscribe to the oath appearing on page one of such Blank.

(2) Each insurer licensed to transact insurance in this State shall file quarterly financial reports on the applicable NAIC Blank. Such reports of its business and affairs shall be as of March 31, June 30 and September 30 and shall be due May 15, August 15 and November 15 respectively.

(3) Privately printed or commercially printed Blanks may be submitted to the Office of Commissioner of Insurance to satisfy the requirements of this Rule as long as the Blank submitted complies in all respects with the appropriate Blank or Blanks that insurer must file.

(4) The Commissioner may by Order obtain monthly financial reports from an insurer. Such financial information shall be truthfully and completely reported in such form as may be requested by the Commissioner for the proper supervision and monitoring of the financial condition of an insurer.

(5) In addition to the reports otherwise required by this Regulation Chapter, each insurer licensed to transact business in this State must electronically file its annual report and such other reports as prescribed by the Commissioner with the NAIC. Such electronic filings must conform to the format and instructions promulgated by the NAIC.

Cite as Ga. Comp. R. & Regs. R. 120-2-18-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-3-21.1.
History. Original Rule entitled "Insurer 384 Liability Report" adopted. F. Jan. 14, 1987; eff. Feb. 15, 1987, as specified by the Agency.
Repealed: New Rule entitled "Deposit Requirements" adopted. F. May 9, 1990; eff. June 15, 1990, as specified by the Agency.
Amended: ER. 120-2-18-0.12-.06 entitled "Insurers Financial Reports" adopted. F. and eff. July 8, 2003, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Nov. 5, 2003; eff. Nov. 25, 2003.

Rule 120-2-18-.07. E-Mail Contact Information.

Each insurer authorized to transact business in the state of Georgia shall provide the Commissioner e-mail contact information (hereinafter "Contact Information") so that the

Commissioner may contact the insurer and send information to the insurer via e-mail. It shall be the insurer's responsibility to maintain correct Contact Information and to respond timely to information from the Commissioner transmitted to such address. Delivery of any such information, including but not limited to Directives, Bulletins and data requests, to said address shall be considered valid so long as transmission and receipt can be confirmed by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-18-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-3-21, 33-3-21.3, 33-8-4 to 33-8-6.
History. Original Rule entitled "Insurers Financial Reports; Quarterly or Monthly Financial Reports" adopted. F. May 9, 1990; eff. June 15, 1990, as specified by the Agency.
Amended: F. Sept. 8, 1993; eff. Sept. 28, 1993.
Amended: F. Nov. 25, 1996; eff. Dec. 15, 1996.
Amended: ER. 120-2-18-0.12-.07 entitled "E-Mail Contact Information" adopted. F. and eff. July 8, 2003, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Nov. 5, 2003; eff. Nov. 25, 2003.

Rule 120-2-18-.08. Other Insurers Information.

In addition to the Contact Information, each insurer authorized to transact business in the state of Georgia shall notify the Commissioner of changes to "Insurer Information." Insurer Information refers to general company information such as mailing address and telephone number. Such information shall be specifically defined by Directive.

Cite as Ga. Comp. R. & Regs. R. 120-2-18-.08
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Insurers Supplemental Report" adopted. F. May 9, 1990; eff. June 15, 1990, as specified by the Agency.
Amended: ER. 120-2-18-0.12-.08 entitled "Other Insurer Information" adopted. F. and eff. July 8, 2003, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Nov. 5, 2003; eff. Nov. 25, 2003.

Rule 120-2-18-.09. Insurer 384 Liability Report.

(1) Each insurer licensed in this State to write property and casualty insurance business within or without this State shall file on or before March 1 of each year a report of its business and affairs as of December 31 of the calendar year then next preceding in accordance with instructions provided by the Commissioner. Such report shall reflect the necessary information about the premiums written on motor vehicle bodily injury liability, including medical pay insurance, product liability premiums, medical malpractice premiums, architects and engineers malpractice premiums, attorneys malpractice premiums, motor vehicle personal injury protection premiums, motor vehicle property liability insurance, underinsured and uninsured motorist premiums and other liability premiums. Such insurer shall supply and insert all information and data necessary to truthfully complete each blank space on such report unless it is unequivocally clear that such space has no application to such insurer. Such insurer shall supply the above-

referenced information on Form GID-42, a copy of which can be obtained from Commissioner. Form GID-42 shall be subscribed to and attested by the respective officers listed on said Form.

(2) In completing Form GID-42, the following definitions shall apply:

(a) "Product liability insurance" means the product liability portion of any policy for which the premiums for product liability are separately stated and indivisible premium policies for which at least one half of the premium is for product liability coverage.

(b) "Medical malpractice insurance" means medical malpractice insurance reported on line 11 of the Annual Statement.

(c) "Other liability" means the commercial portion of the premiums reported on Annual Statement line 17 not included in any other lines of this report.

(3) Investment income shall be allocated by the direct premiums earned for the appropriate line of business divided by the net premiums earned for the appropriate line of business times the net investment gain or loss and other income for appropriate line of business.

Cite as Ga. Comp. R. & Regs. R. 120-2-18-.09
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Insurer 384 Liability Report" adopted. F. May 9, 1990; eff. June 15, 1990, as specified by the Agency.
Amended: ER. 120-2-18-0.12-.09 adopted. F. and eff. July 8, 2003, the date of adoption.
Amended: Permanent Rule adopted. F. Nov. 5, 2003; eff. Nov. 25, 2003.

Rule 120-2-18-.10. Casualty Insurers Report.

(1) Each insurer licensed to write casualty insurance in Georgia shall report on Form GID-44 and Form GID-45 all information requested on such forms in accordance with instructions provided by the Commissioner. Forms GID-44 and GID-45 may be reformatted to meet processing requirements provided that all information is presented in the same order.

(2) Two or more insurers having a common ownership or operating in this State under common management may submit reports as required in paragraph (1) above on a consolidated basis.

(3) Insurers may submit reports required in paragraph (1) above through authorized rating or statistical organizations which may report on a consolidated basis.

(4) Reports required in paragraph (1) above shall be filed with the Commissioner no later than April 30 of each year.

(5) Whenever the Commissioner shall deem necessary, additional reports or additional information may be required, provided that insurers will be given a reasonable time to submit such additional reports or additional information.

Cite as Ga. Comp. R. & Regs. R. 120-2-18-.10
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Casualty Insurers Report" adopted. F. May 9, 1990; eff. June 15, 1990, as specified by the Agency.
Amended: ER. 120-2-18-0.12-.10 adopted. F. and eff. July 8, 2003, the date of adoption.
Amended: Permanent Rule adopted. F. Nov. 5, 2003; eff. Nov. 25, 2003.

Rule 120-2-18-.11. Penalties.

Any insurer, representative, officer, or employee of such insurer failing to comply with the requirements of this Chapter shall be subject to such penalties as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-18-.11
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Penalties" adopted. F. May 9, 1990; eff. June 15, 1990, as specified by the Agency.
Amended: ER. 120-2-18-0.12-.11 adopted. F. and eff. July 8, 2003, the date of adoption.
Amended: Permanent Rule adopted. F. Nov. 5, 2003; eff. Nov. 25, 2003.

Rule 120-2-18-.12. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-18-.12
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Severability" adopted. F. May 9, 1990; eff. June 15, 1990, as specified by the Agency.
Amended: ER. 120-2-18-0.12-.12 adopted. F. and eff. July 8, 2003, the date of adoption.
Amended: Permanent Rule adopted. F. Nov. 5, 2003; eff. Nov. 25, 2003.

Subject 120-2-19. PROPERTY INSURANCE REGULATIONS.

Rule 120-2-19-.01. Standard Fire Policy.

120-2-19-.01 Standard Fire Policy.

The Standard Fire Policy prescribed by the Insurance Commissioner of Georgia pursuant to the mandate of Section 33-32-1 of the Georgia Insurance Code is as follows:

Standard Fire Insurance Policy for Alabama, Georgia, Louisiana and Mississippi

COMPANY NAME WILL APPEAR HERE

Home Office Location, City and State

Policy No. Expires

Basic Amount $

Premium $

Insured's Name and Mailing Address Property

+ +

See inside of policy for

+ + amounts of insurance and perils

insured against. It is important that the written portions of all policies covering the same properties read exactly alike. If they do not, they should be made uniform at once.

Standard Fire Insurance Policy for

Alabama, Georgia, Louisiana and Mississippi

COMPANY NAME WILL APPEAR HERE

(Agent's Sticker)

YEAR MO. DAY

PERIL	WHOLE PREM.	RETURN PREM.	NBFU CODE
Fire			
F. C.			
Total		XXXX	

?Short Rate ?Pro Rata

If Cancelled Pro Rata, Explain Why; Also Give Number of Rewritten Policy, If Any.

1 **Concealment,** This entire policy shall be void if, whether
2 **fraud.** before or after a loss, the insured has wil-
3 fully concealed or misrepresented any ma-
4 terial fact or circumstance concerning this insurance or the
5 subject thereof, or the interest of the insured therein, or in case
6 of any fraud or false swearing by the insured relating thereto.
7 **Uninsurable** This policy shall not cover accounts, bills,
8 **and** currency, deeds, evidences of debt, money or
9 **excepted property.** securities; nor, unless specifically named
10 hereon in writing, bullion or manuscripts.
11 **Perils not** This Company shall not be liable for loss by

Date of Cancellation,					
Date of Cancellation,					
Date of Cancellation,					
Date of Policy, ...					
Date of Cancellation,					

12 **included.** fire or other perils insured against in this
13 policy caused, directly or indirectly, by: (a)
14 enemy attack by armed forces, including action taken by mili-
15 tary, naval or air forces in resisting an actual or an immediately
16 impending enemy attack; (b) invasion; (c) insurrection; (d)
17 rebellion; (e) revolution; (f) civil war; (g) usurped power; (h)
18 order of any civil authority except acts of destruction at the time
19 of and for the purpose of preventing the spread of fire, provided
20 that such fire did not originate from any of the perils excluded
21 by this policy; (i) neglect of the insured to use all reasonable
22 means to save and preserve the property at and after a loss, or
23 when the property is endangered by fire in neighboring prem-
24 ises; (j) nor shall this Company be liable for loss by theft.
25 **Other Insurance.** Other insurance may be prohibited or the
26 amount of insurance may be limited by en-
27 dorsement attached hereto.
28 **Conditions suspending or restricting insurance. Unless other-**
29 **wise provided in writing added hereto this Company shall not**
30 **be liable for loss occurring**
31 (a) while the hazard is increased by any means within the con-
32 trol or knowledge of the insured; or
33 (b) while a described building, whether intended for occupancy
34 by owner or tenant, is vacant or unoccupied beyond a period of
35 sixty consecutive days; or
36 (c) as a result of explosion or riot, unless fire ensue, and in
37 that event for loss by fire only.
38 **Other perils** Any other peril to be insured against or sub-
39 **or subjects.** ject of insurance to be covered in this policy

40 shall be by endorsement in writing hereon or
41 added hereto.
42 **Added provisions.** The extent of the application of insurance
43 under this policy and of the contribution to
44 be made by this Company in case of loss, and any other pro-
45 vision or agreement not inconsistent with the provisions of this
46 policy, may be provided for in writing added hereto, but no pro-
47 vision may be waived except such as by the terms of this policy
48 is subject to change.
49 **Waiver** No permission affecting this insurance shall
50 **provisions.** exist, or waiver of any provision be valid,
51 unless granted herein or expressed in writing
52 added hereto. No provision, stipulation or forfeiture shall be
53 held to be waived by any requirement or proceeding on the part
54 of this Company relating to appraisal or to any examination
55 provided for herein.
56 **Cancellation** This policy shall be cancelled at any time
57 **of policy.** at the request of the insured, in which case
58 this Company shall, upon demand and sur-
59 render of this policy, refund the excess of paid premium above
60 the customary short rates for the expired time. This pol-
61 icy may be cancelled at any time by this Company by giving
62 to the insured a five days' written notice of cancellation with
63 or without tender of the excess of paid premium above the pro
64 rata premium for the expired time, which excess, if not ten-
65 dered, shall be refunded on demand. Notice of cancellation shall
66 state that said excess premium (if not tendered) will be re-
67 funded on demand.

Mortgagee interest and obligations. If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, such interest in this policy may be cancelled by giving to such mortgagee a ten days' written notice of cancellation.

If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within sixty (60) days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If this Company shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be subrogated to all the mortgagee's rights of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may be added hereto by agreement in writing.

Pro rata liability. This Company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved, whether collectible or not.

Requirements in case loss occurs. The insured shall give immediate written notice to this Company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, showing in

96 detail quantities, costs, actual cash value and amount of loss
97 claimed; **and within sixty days after the loss, unless such time**
98 **is extended in writing by this Company, the insured shall render**
99 **to this Company a proof of loss,** signed and sworn to by the
100 insured, stating the knowledge and belief of the insured as to
101 the following: the time and origin of the loss, the interest of the
102 insured and of all others in the property, the actual cash value of
103 each item thereof and the amount of loss thereto, all encum-
104 brances thereof, all other contracts of insurance, whether valid
105 or not, covering any of said property, any changes in the title,
106 use, occupation, location, possession, or exposures of said pro-
107 perty since the issuing of this policy, by whom and for what
108 purpose any building herein described and the several parts
109 thereof were occupied at the time of loss and whether or not it
110 then stood on leased ground, and shall furnish a copy of all the
111 descriptions and schedules in all policies and, if required, verified
112 plans and specifications of any building, fixtures or machinery
113 destroyed or damaged. The insured, as often as may be reason-
114 ably required, shall exhibit to any person designated by this
115 Company all that remains of any property herein described, and
116 submit to examinations under oath by any person named by this
117 Company, and subscribe the same; and, often as may be
118 reasonably required, shall produce for examination all books of
119 accounts, bills, invoices and other vouchers, or certified copies
120 thereof if originals be lost, at such reasonable time and place
121 as may be designated by this Company or its representative, and
122 shall permit extracts and copies thereof to be made.
123 **Appraisal.** In case the insured and this Company shall

124 fail to agree as to the actual value or
125 the amount of loss, then, on the written demand of either, each
126 shall select a competent and disinterested appraiser and notify
127 the other of the appraiser selected within twenty days of such
128 demand. The appraisers shall select a competent and dis-
129 interested umpire; and failing for fifteen days to agree upon
130 such umpire, then, on request of the insured or this Company,
131 such umpire shall be selected by a judge of a court of record in
132 the state in which the property covered is located. The ap-
133 praisers shall then appraise the loss, stating separately actual
134 cash value and loss to each item; and, failing to agree, shall
135 submit their differences, only, to the umpire. An award in writ-
136 ing, so itemized, of any two when filed with this Company shall
137 determine the amount of actual cash value and loss. Each
138 appraiser shall be paid by the party selecting him and the ex-
139 penses of appraisal and umpire shall be paid by the parties
140 equally.
141 **Company's** It shall be optional with this Company to
142 **options.** take all, or any part, of the property at the
143 agreed or appraised value, and also to re-
144 pair, rebuild or replace the property destroyed or damaged with
145 other of like kind and quality within a reasonable time, on giv-
146 ing notice of its intention so to do within thirty days after the
147 receipt of the proof of loss herein required.
148 **Abandonment.** There can be no abandonment to this Com-
149 pany of any property.
150 **When loss** The amount of loss for which this Company
151 **payable.** may be liable shall be payable sixty days

152 after proof of loss, as herein provided, is

153 received by this Company and ascertainment of the loss is made

154 either by agreement between the insured and this Company ex-

155 pressed in writing or by the filing with this Company of an

156 award as herein provided.

157 **Suit.** No suit or action on this policy for the recov-

158 ery of any claim shall be sustainable in any

159 court of law or equity unless all the requirements of this policy

160 shall have been complied with, and unless commenced within

161 two (2) years next after inception of the loss.

162 **Subrogation.** This Company may require from the insured

163 an assignment of all right of recovery against

164 any party for loss to the extent that payment therefor is made

165 by this Company.

IN WITNESS WHEREOF, this Company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized Agent of this Company at the agency hereinbefore mentioned.

INSERT SIGNATURES AND TITLES OF PROPER OFFICERS

Standard Fire Insurance Policy for Alabama, Georgia, Louisiana and Mississippi

No. STOCK COMPANY

_____

Renewal of Number

COMPANY NAME WILL APPEAR HERE

INSURANCE IS PROVIDED AGAINST ONLY THOSE PERILS AND FOR ONLY THOSE COVERAGES INDICATED BELOW BY A PREMIUM CHARGE AND AGAINST OTHER PERILS AND FOR OTHER COVERAGES ONLY WHEN ENDORSED HEREON OR ADDED HERETO.

Peril(s) Insured Against and

Coverage(s) Provided

(Insert Name of Each)

	Amount	Rate	Premium
Fire and Lightning	$	$	$
Extended Coverage		$	$
		$	$
		$	$
		$	$
	Total Premium		$

In Consideration of the Provisions and Stipulations Herein or Added Hereto AND OF the premium above specified _____ this Company, for the term of _____ from _____ (At Noon Standard Time) to _____ (At Noon Standard Time) at location of property involved, to an amount not exceeding the amount(s) above specified, does insure _____ and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all DIRECT LOSS BY FIRE, LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED, to the property described hereinafter while located or contained as described in this policy or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere.

1 2 3 4

Item No.	Amount Fire or Fire and Extended Coverage, or Other Peril	Per Cent of Co-Insurance Applicable	Amount Windstorm and Hail (If Insured)	Per Cent of Co-Insurance Applicable	DESCRIPTION AND LOCATION OF PROPERTY COVERED Show construction, type of roof and occupancy of building(s) covered or containing the property covered. If occupied as a dwelling state No. of families.

Total Insurance -- See form attached -- Item 1, $ __ ; Item 2, $ __

Item 3, $ __ ; Item 4, $ __

Subject to Bureau Form No.(s). ____ herein. The Safe Flue Warranty in form does ____ apply.

Mortgage Clause: Subject to the provisions of the mortgage clause attached hereto, loss, if any, on building items, shall be payable to:

_____

_____

Assignment of this policy shall not be valid except with the written consent of this Company.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such other provisions, stipulations, and agreements as may be added hereto, as provided in this policy.

Countersigned at Date _____ _____ Agent

Cite as Ga. Comp. R. & Regs. R. 120-2-19-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-32-1, 50-13-4, 50-13-21.
History. Original Rule entitled "Standard Fire Policy" adopted. F. Dec. 6, 1965; eff. Dec. 25, 1965.
Amended: ER. 120-2-19-0.18-.01 adopted. F. and eff. Feb. 20, 2006, the date of adoption.
Amended: ER. 120-2-19-0.20-.01 adopted. F. June 13, 2006; eff. June 20, 2006, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 22, 2006; eff. Oct. 12, 2006.

Rule 120-2-19-.02. Property Insurance Regulations.

Cite as Ga. Comp. R. & Regs. R. 120-2-19-.02
Authority: Ga. L. 1960, pp. 299, 305, 741.
History. Original Rule entitled "Property Insurance Regulations" adopted. F. May 5, 1981; eff. June 1, 1981, as specified by the Agency.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-19-.03. Severability.

If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and the applicability of such provisions to other circumstances shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-2-19-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-32-1, 50-13-4, 50-13-21.

History. Original Rule entitled "Severability" adopted as ER. 120-2-19-0.18-.03. F. and eff. Feb. 20, 2006, the date of adoption.
Amended: ER. 120-2-19-0.20-.03 adopted. F. June 13, 2006; eff. June 20, 2006, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 22, 2006; eff. Oct. 12, 2006.

Subject 120-2-20. UNFAIR TRADE AND CLAIMS SETTLEMENT PRACTICES.

Rule 120-2-20-.01. Soliciting in General.

It is hereby determined that the commission of any of the following acts or practices by any insurer, agent, counselor, solicitor or broker transacting property, marine, casualty or surety insurance in Georgia constitutes an unfair method of competition and an unfair and deceptive act or practice prohibited by Article 1 of Chapter 6 of Title 33 of the Official Code of Georgia Annotated and the same are hereby prohibited:

(1) Making, publishing, disseminating, circulating or placing before the public or any group of persons in written, printed, or any other form, including radio or televisions broadcasts, any advertisement, announcement, solicitation, or statement pertaining to any form of property, marine, casualty or surety insurance which appears to emanate from, through or under the auspices of any trade, social, fraternal or professional association or organization, creditor to persons severally indebted, labor union, employee group, or other similar association, organization, or group not authorized to transact the business of such form of insurance in Georgia, where such advertisement, announcement, solicitation or statement expressly or by implication represents, or can be reasonably construed to mislead the recipient into believing, that any insurance premium or policy coverage described therein constitutes a special or preferred advantage to, or is only available to, such group or any of its members, when such representation or implication is false or, if true, would constitute use of a discriminatory rate or an offering to a fictitious group, prohibited by law.

(2) Knowingly allowing any other person to make, publish, disseminate, circulate or place before the public or any group of persons any advertisement, announcement, solicitation or statement prohibited by the preceding paragraph (1) hereof.

(3) The provisions of this Regulation shall not extend to life, accident and sickness insurance, nor shall they apply to any bona fide association group composed of members employed in a common trade, business or profession, and which has had group insurance of the same type continuously in existence for at least since January 1, 1956.

Cite as Ga. Comp. R. & Regs. R. 120-2-20-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-6-12.
History. Original Rule entitled "Soliciting in General" adopted. F. June 5, 1972; eff. June 25, 1972.
Amended: ER. 120-2-20-0.19-.01 adopted. F. and eff. Feb. 20, 2006, the date of adoption.
Amended: ER. 120-2-20-0.21-.01 adopted. F. June 13, 2006; eff. June 20, 2006, as specified by the Agency.

Amended: Permanent Rule adopted. F. Sept. 22, 2006; eff. Oct. 12, 2006.
Note:

It was determined by the Comptroller General's office that Chapter 120-2-20 had never been filed, therefore this note is being made to substantiate the recent filing date.

In accordance with Ga. Laws 1967, p. 618; Ga. Code Ann., Section 3A-124, the contents of this Rule is not filed with or published by the Secretary of State; only names and designations are filed, printed and distributed. (See Editor's Note, p. 88.03.)

Rule 120-2-20-.02. Time Limitation on Filing Suit.

No property, casualty, credit, marine and transportation, or vehicle insurance policy providing first party insurance coverage for loss or damage to any type of real or personal property shall contain a contractual limitation requiring commencement of a suit or action within a specified period of time less favorable to the insured than that specified in the "Standard Fire Policy" promulgated by the Commissioner in Chapter 120-2-19-.01 of these Rules and Regulations. The time limitation on filing suit imposed by this Rule is applicable only to the portion or portions of the policies providing first party property insurance coverage. Liability coverage and workers compensation coverage are specifically exempted from the requirements of this Rule.

Cite as Ga. Comp. R. & Regs. R. 120-2-20-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-6-36, 33-32-1, 33-34-8.
History. Original Rule entitled "Time Limitation on Filing Suit" adopted as ER. 120-2-20-0.19-.02 adopted. F. and eff. Feb. 20, 2006, the date of adoption.
Amended: ER. 120-2-20-0.21-.02 adopted. F. June 13, 2006; eff. June 20, 2006, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 22, 2006; eff. Oct. 12, 2006.

Rule 120-2-20-.03. Unlawful Agreements between Insurers and Providers.

(1) An agreement between an insurer and a provider shall not include a most favored nation clause or an upper limit trigger clause.

(2) Definitions:

(a) "Most favored nation clause" means any clause or combination of clauses in an agreement between an insurer and a provider that:

1. Prohibits, or grants the insurer an option to prohibit, a provider from contracting with another party to provide health care services at a lower rate than the payment or reimbursement rate specified in the contract;

2. Requires, or grants the insurer an option to require, a provider to accept a lower payment or reimbursement rate if the provider agrees to provide

health care services to another party at a lower rate than the payment or reimbursement rate specified in the contract;

3. Requires, or grants a contracting insurer an option to terminate or renegotiate an existing contract in the event the provider agrees to provide health care services to any other party at a lower rate; or

4. Requires a provider to disclose, to the insurer or its designee, the provider's contractual payment or reimbursement rates with other parties.

(b) "Upper limit trigger clause" means any clause or combination of clauses in an agreement between an insurer (the "first insurer") and a provider that requires the provider to cease accepting as patients individuals covered by an agreement with another insurer, or non-covered patients, if the provider elects to limit, or cease, accepting patients covered by the agreement between the first insurer and the provider. As used in this Regulation, the term "upper limit trigger clause" only refers to a clause or combination of clauses contained within an agreement between an insurer and a provider where the provider is a primary care physician and is compensated by the insurer on a capitated basis.

(3) The Commissioner shall follow the procedure set forth in O.C.G.A. § 33-6-13(d)whenever there is a violation of this regulation.

(4) For the purposes of this regulation, "provider" means any physician, hospital, or other person who is licensed or otherwise authorized in this state to furnish health care services.

(5) For the purposes of this regulation, "health care services" means any services included in the furnishing to any individual of medical or dental care or hospitalization or incident to the furnishing of such care or hospitalization, as well as the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing, or healing human illness or injury.

Cite as Ga. Comp. R. & Regs. R. 120-2-20-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-6-13, 33-6-36.
History. Original Rule entitled "Severability" adopted as ER. 120-2-20-0.19-.03 adopted. F. and eff. Feb. 20, 2006, the date of adoption.
Amended: ER. 120-2-20-0.21-.03 adopted. F. June 13, 2006; eff. June 20, 2006, as specified by the Agency.
Amended: Permanent Rule adopted. F. Sept. 22, 2006; eff. Oct. 12, 2006.
Repealed: New Rule entitled "Unlawful Agreements between Insurers and Providers" adopted. F. Feb. 10, 2012; eff. Mar. 1, 2012.
Note: Correction of non-substantive typographical error, "**Amended:** F. Feb. 10, 2012; eff. Mar. 1, 2012." changed to "**Repealed:** New Rule entitled "Unlawful Agreements between Insurers and Providers" adopted. F. Feb. 10, 2012; eff. Mar. 1, 2012." as published in the Official Compilation, Rules and Regulations of the State of Georgia (March 1, 2012 (Rev)). Eff. Oct. 21, 2015.
Amended: F. Oct. 1, 2015; eff. Oct. 21, 2015.

Rule 120-2-20-.04. Severability.

If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and the applicability of such provisions to other circumstances shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-2-20-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-6-36, 33-32-1, 33-34-8, 50-13-3, 50-13-4, 50-13-21.
History. Original Rule entitled "Severability" adopted. F. Feb. 10, 2012; eff. Mar. 1, 2012.

Subject 120-2-21. INSURANCE PREMIUM FINANCE COMPANIES.

Rule 120-2-21-.01. Authority.

This Chapter is promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. §§ 33-2-9 and 33-22-1*et seq.*

Cite as Ga. Comp. R. & Regs. R. 120-2-21-.01
Authority: Ga. L. 1969, p. 561, 566; O.C.G.A. Secs. 33-2-9, 33-22-1, *et seq.*
History. Original Rule entitled "Application for License" adopted. F. Aug. 29, 1969; eff. Jul. 16, 1969.
Amended: F. Mar. 9, 1976; eff. Mar. 29, 1976.
Repealed: New Rule entitled "Authority" adopted. F. Jun. 10, 1997; eff. Jun. 30, 1997.

Rule 120-2-21-.02. Application for Original and Renewal License.

(1) Each application for an original license as an Insurance Premium Finance Company shall be made on Form GID-21, entitled "Application for License as an Insurance Premium Finance Company." Fees shall be remitted in accordance with O.C.G.A. § 33-8-1.

(2) Each application for a renewal as an Insurance Premium Finance Company shall be made prior to March 1 of each year on Form GID-22, entitled "Application for Renewal License as an Insurance Premium Finance Company." Fees shall be remitted in accordance with O.C.G.A. § 33-8-1.

Cite as Ga. Comp. R. & Regs. R. 120-2-21-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-8-1, 33-22-1, *et seq.*
History. Original Rule entitled "Biographical Questionnaire" adopted. F. Aug. 29, 1969; eff Jul. 16, 1969.
Repealed: New Rule, entitled, "Application forOriginal and Renewal License" adopted. F. Jun. 10, 1997; eff Jun. 30, 1997.

Rule 120-2-21-.03. Licenses and Application Procedures.

(1) Each application for an original license as an Insurance Premium Finance company shall be accompanied by a Form GID-23, entitled "Biographical Questionnaire and Affidavit." A separate form shall be completed and executed:

(a) in the case of a sole proprietor, by the sole proprietor;

(b) in the case of a partnership, by each partner; or

(c) in the case of a corporation, by each officer, director, and owner of more than 10% of the outstanding shares of stock.

(2) Biographical Questionnaires need not be filed with an application for renewal of a license unless changes have taken place in the business organization involving individuals who have not previously filed such questionnaire.

(3) Each individual listed in section (1) above shall submit one copy of an investigative background report. The reports should be submitted directly to this office from the investigative firm.

(4) Each licensee shall deposit with the Commissioner a bond in the amount of $25,000 or securities in the amount of $25,000. The bond must be submitted on form GID-28, "Insurance Premium Finance Company's Bond." Prior to cancellation or termination of a bond, 30 days written notice must be filed with the Commissioner of Insurance.

(5) If such licensee chooses to deposit securities, as opposed to a bond, with the Commissioner under the provisions of subsection (4) above:

(a) A licensee may invest in assets deemed eligible for deposit under O.C.G.A. § 33-12-3 and as described in O.C.G.A. § 33-11-5(3).

(b) Such licensee shall also file necessary documents as required by the custodian bank for state security deposits.

Cite as Ga. Comp. R. & Regs. R. 120-2-21-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-22-1*et seq.*
History. Original Rule entitled "Termination and Transfer of Licenses" adopted. F. Aug. 29, 1969; eff. Jul. 16, 1969.
Repealed: New Rule, entitled, "Licenses and Application Procedures", adopted. F. Jun. 10, 1997; eff. Jun. 30, 1997.

Rule 120-2-21-.04. Termination and Transfer of Licenses.

(1) Death of a proprietor shall terminate the license; provided, however, that if notice of such death is furnished to the Commissioner and the Commissioner is satisfied, by examination or otherwise, that the interests of insureds and insurers have been adequately protected, he may issue a temporary license:

(a) To the executor or administrator of the estate of a deceased proprietor;

(b) To a surviving next of kin of such deceased proprietor if no administrator or executor has been appointed or qualified, but any such license issued shall be revoked upon issuance of a license to an administrator or executor under subsection (1)(a) of this section.

(2) Death or withdrawal of a partner shall suspend the license if the licensee is a partnership; provided, however, that if notice of such death or withdrawal is provided to the Commissioner within 30 days of the event and the Commissioner is satisfied by examination or otherwise, that the interests of insured and insurers have been adequately protected, he may reinstate the suspended license.

(3) Licenses are not transferable, except that the withdrawal of a partner from a licensed partnership or the admission of a new partner shall not require a new license for the new partnership provided that the new partnership complies with Rule 120-2-21-.04(4).

(4) When a partner retires from a licensed partnership or a new partner is admitted, or when a person ceases to be an officer, director, or 10% stockholder of a licensed corporation or a person becomes an officer, director or 10% stockholder of a licensed corporation, the Commissioner shall, within ten (10) days after the event, be advised of the facts in detail by letter. The letter shall be accompanied by a duly completed Biographical Questionnaire (on Form GID-23) of any new partner or any new officer, director or 10% stockholder. Each licensee shall supply such additional information as the Commissioner may request.

Cite as Ga. Comp. R. & Regs. R. 120-2-21-.04
Authority: O.C.G.A. Sees. 33-2-9, 33-22-1 *et seq.*
History. Original Rule entitled "Changes in Composition of Licensee" adopted. F. Aug. 29, 1969; eff Jul. 16, 1969.
Repealed: New Rule entitled Termination and Transfer of Licenses" adopted. F. Jun. 10, 1997; eff Jun. 30, 1997.

Rule 120-2-21-.05. Separation and Preservation of Records.

(1) If the licensee engages in any other business, the records relating to the insurance premium finance business shall be kept separate from the records of any other business.

(2) Every licensee shall preserve every premium finance contract and all documents relating thereto (and copies of all documents delivered to an insured) for at least three years after making the final entry in respect to any premium finance agreement.

(3) The Commissioner may, at any time, require any licensee to bring such records as he may direct to the Commissioner's Office for examination, or the Commissioner or his duly authorized representative may conduct an examination of such records on the premises of the licensee.

Cite as Ga. Comp. R. & Regs. R. 120-2-21-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-22-1*et seq.*
History. Original Rule entitled "Changes in Condition" adopted. F. Aug. 29, 1969; eff. Jul. 16, 1969.
Repealed: New Rule entitled "Separation and Preservation of Records" adopted. F. Jun. 10, 1997; eff Jun. 30, 1997.

Rule 120-2-21-.06. Notice to the Insurer.

Any licensee which enters into a premium finance agreement shall notify the insurer of the existence of such agreement within twenty (20) days of the date such agreement is signed.

Cite as Ga. Comp. R. & Regs. R. 120-2-21-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-22-1*et seq.*
History. Original Rule entitled "Separation of Records" adopted. F Aug. 29, 1969; eff. Jul. 16, 1969.
Repealed: New Rule entitled "Notice of the Insurer" adopted. F. Jun. 10, 1997; eff Jun. 30, 1997.

Rule 120-2-21-.07. Description of Insurance Contracts Where Policy Information Is Not Immediately Known.

(1) In case of an application to the Georgia Automobile Insurance Plan where the policy information is not immediately available, the Premium Finance Contract shall show "Georgia Automobile Insurance Plan" and all descriptive information pertaining to the policy which is known.

(2) In other instances where complete policy information is not immediately available, the Premium Finance Contract shall show all descriptive information pertaining to the policy which is known.

Cite as Ga. Comp. R. & Regs. R. 120-2-21-.07
Authority: Ga. L. 1969, p. 561, 566; O.C.G.A. Secs. 33-2-9, 33-22-1*et seq.*
History. Original Rule entitled "Preservation of Records" adopted. F. Aug. 29, 1969; eff. Jul. 16, 1969.
Amended: F. Mar. 9, 1976; eff Mar. 29, 1976.
Repealed: New Rule entitled "Description of Insurance Contracts Where Policy Information Is Not Immediately Known" adopted. F. Jun. 10, 1997; eff Jun. 30, 1997.

Rule 120-2-21-.08. Penalties.

Any person failing to comply with the requirements of this Regulation Chapter shall be subject to such penalties as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-21-.08
Authority: Ga. L. 1969, p. 561, 566; O.C.G.A. Secs. 33-2-9.
History. Original Rule entitled "Notice to the Insurer" adopted. F. Aug. 29, 1969; eff. Jul. 16, 1969.
Amended: F. Mar. 9, 1976; eff. Mar. 29, 1976.
Repealed: New Rule entitled "Penalties" adopted. F. Jun. 10, 1997; eff. Jun. 30, 1997.

Rule 120-2-21-.09. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-21-.09
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Description of Insurance Contracts where Policy Information Is Not Immediately Known" adopted. F. Aug. 29, 1969; eff. Jul. 16, 1969.
Repealed: New Rule entitled "Severability" adopted. F. Jun. 10, 1997; eff. Jun. 30, 1997.

Rule 120-2-21-.10. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-21-.10
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Annual Report" adopted. F Aug. 29, 1969; eff. Jul. 16, 1969.
Repealed: F. Jun. 10, 1997; eff. Jun. 30, 1997.

Rule 120-2-21-.11. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-21-.11
Authority: Ga. L. 1969, p. 561, 566.
History. Original Rule entitled "Bond or Deposit Requirement" was filed on March 9, 1976, effective March 29, 1976.
Amended: Filed December 21, 1976; effective January 10, 1977.
Amended: Filed March 8, 1977; effective March 28, 1977.
Repealed: F. Jun. 10, 1997; eff. Jun. 30, 1997.

Subject 120-2-22. GEORGIA VARIABLE ANNUITY CONTRACT REGULATION.

Rule 120-2-22-.01. Definitions and Scope.

(1) The term "variable annuity contract" shall mean any individual or group contract issued by an insurance company providing for annuity benefits and incidental contractual payments or values which vary in whole or in part so as to reflect investment results of any segregated portfolio of investments or of a designated separate account or accounts in which amounts received or retained in connection with any of such contracts have been placed.

(2) "Agent," when used in this Regulation, shall mean any person, who, under the laws of this State, is licensed as a life insurance agent.

(3) "Variable annuity agent," when used in this Regulation, shall mean an agent who shall sell or offer to sell any variable annuity contract.

(4) A "satisfactory alternative examination" to Part I of the written examination called for by paragraph (3) of Section 120-2-22-.07 shall include any securities examination which is declared by the Commissioner to be an equivalent examination on the basis of content and administration. The following examinations are deemed to be a satisfactory alternative examination:

(a) any State Securities Examination accepted by the Securities and Exchange Commission;

(b) the National Association of Securities Dealers, Inc. Examination for Principals, or Examination for Qualification as a Registered Representative;

(c) the various securities examinations required by the New York Stock exchange, the American Stock Exchange, Pacific Stock exchange, or any other registered national securities exchange;

(d) the Securities and Exchange Commission test given pursuant to Section 15(b)(8) of the Securities Exchange Act of 1934;

(e) the examination recommended for the testing of variable annuity agents by the National Association of Insurance Commissioners, when adopted by the Insurance Department of any State or Territory of the United States and approved for use by such Department by the Securities and Exchange Commission.

(5) The scope of this Regulation shall be limited to those variable annuity contracts which are provided for in Section 33-11-35 of the Code of Georgia, as amended, and does not apply to variable annuity benefit contracts provided for in Section 33-11-34 of the Code of Georgia, as amended, nor to agents who sell variable annuity benefit contracts described in said Section only.

Cite as Ga. Comp. R. & Regs. R. 120-2-22-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-11-35.
History. Original Rule entitled "Definitions and Scope" adopted. F. Dec. 11, 1969; eff. Dec. 1, 1969, as specified by the Agency.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-22-.02. Qualifications of Insurance Companies to Issue Variable Annuity Contracts.

(1) No company shall deliver or issue for delivery variable annuity contracts within this State unless (a) it is licensed or organized to do a life insurance or annuity business in this State; and (b) the Commissioner is satisfied that its condition or method of operation in

connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this State. In this connection, the Commissioner shall consider among other things:

(i) the history and financial condition of the company;

(ii) the character, responsibility and fitness of the officers and directors of the company; and

(iii) the law and regulation under which the company is authorized in the state of domicile to issue variable contracts.

(2) If the company is a subsidiary of an admitted life insurance company, or affiliated with such company by common management or ownership, it may be deemed by the Commissioner to have satisfied the provisions of clause (b) of paragraph (1) hereof if either it or such admitted life company satisfies the aforementioned provisions.

(3) Before any company shall deliver or issue for delivery variable annuity contracts within this State it shall submit to the Commissioner (a) a general description of the kinds of variable annuity contracts it intends to issue; (b) if requested by the Commissioner, a copy of the statutes and regulations of its state of domicile under which it is authorized to issue variable annuity contracts and (c) if requested by the Commissioner, biographical data with respect to officers and directors of the company on the NAIC uniform biographical data forms.

Cite as Ga. Comp. R. & Regs. R. 120-2-22-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-11-35.
History. Original Rule entitled "Qualifications of Insurance Companies to Issue Variable Annuity Contracts" adopted. F. Dec. 11, 1969; eff. Dec. 1, 1969, as specified by the Agency.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-22-.03. Separate Account or Separate Accounts.

A domestic company issuing variable annuity contracts shall establish one or more separate accounts pursuant to Section 33-11-35 of the Insurance Law of this State, subject to the following provisions of this Section:

(1) Except as hereinafter provided, amounts allocated to any separate account and accumulation thereon may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this State governing the investments of life insurance companies; provided, that to the extent that the company's reserve liability with regard to (a) benefits guaranteed as to dollar amount and duration, and (b) funds guaranteed as to principal amount or stated rate of interest is maintained in any separate account, a portion of the assets of such separate account at least equal to such reserve liability shall be, invested in accordance with the laws of this State governing the

investments of life insurance companies. The investments in such separate account or accounts shall not be taken into account in applying the investment limitations applicable to the investments of the company.

(2) Unless otherwise approved by the Commissioner, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate account; provided, that the portion of the assets of such separate account equal to the company's reserve liability with regard to the benefits and funds referred to in clauses (a) and (b) of paragraph (1), if any, shall be valued in accordance with the rules otherwise applicable to the company's assets.

(3) Notwithstanding any other provisions of law a company may

(a) with respect to any separate account registered with the Securities and Exchange Commission as a unit investment trust excercise voting rights in connection with any securities of a regulated investment company registered under the Investment Company Act of 1940 and held in such separate accounts in accordance with instructions from persons having interests in such accounts ratably as determined by the company, or

(b) with respect to any separate account registered with the Securities and Exchange Commission as a management investment company, establish for such account a committee, board, or other body, the members of which may or may not be otherwise affiliated with such company and may be elected to such membership by the vote of persons having interests in such account ratably as determined by the company. Such committee, board, or other body may have the power, exercisable alone or in conjunction with others, to manage such separate account and the investment of its assets.

A company, committee, board or other body may make such other provisions in respect to any such separate account as may be deemed appropriate to facilitate compliance with requirements of any Federal or State law now or hereafter in effect; provided that the Commissioner approves such provisions as not hazardous to the public or the company's policyholders in this State.

(4) No sale, exchange or other transfer of assets may be made by a company between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless such transfer, whether into or from a separate account, is made (a) by a transfer of case, or (b) by a transfer of securities having a valuation which could be readily determined in the marketplace, provided that such transfer of securities is approved by the Commissioner. The Commissioner may authorize other transfers among such accounts if, in his opinion, such transfers would not be inequitable.

(5) The company shall maintain in each such separate accounts assets with a value at least equal to the reserves and other contract liabilities with respect to such account.

(6) Rules under any provision of the Insurance Laws of this State or any regulation applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate account's committee, board or other similar body. No officer or director of such company nor any members of the committee, board or body of a separate account shall receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of such separate account.

Cite as Ga. Comp. R. & Regs. R. 120-2-22-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-11-35.
History. Original Rule entitled "Separate Account or Separate Accounts" adopted. F. Dec. 11, 1969; eff. Dec. 1, 1969, as specified by the Agency.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-22-.04. Filing of Contracts.

All provisions pertinent to the Insurance Laws of this State, applicable to the filing requirements of all insurance policies and annuity contracts, shall apply to variable annuity contracts.

Cite as Ga. Comp. R. & Regs. R. 120-2-22-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-11-35.
History. Original Rule entitled "Filing of Contracts" adopted. F. Dec. 11, 1969; eff. Dec. 1, 1969, as specified by the Agency.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-22-.05. Contracts Providing for Variable Benefits.

(1) Any variable annuity contract providing benefits payable in variable amounts delivered or issued for delivery in this State shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits. Any such contract, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state that such dollar amount will vary to reflect investment experience and shall contain on its first page a clear statement to the effect that the benefits thereunder are on a variable basis.

(2) Illustrations of benefits payable under any variable annuity contract providing benefits payable in variable amounts shall not include projections of past investment experience into the future or attempted predictions of future investment experience; provided that nothing contained herein is intended to prohibit use of hypothetical assumed rates of return to illustrate possible levels of annuity payments.

(3) No individual variable annuity contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this State unless it contains in substance the following provisions or provisions which in the opinion of the Commissioner are more favorable to the holders of such contracts:

(a) a provision that there shall be a period of grace of 30 days or of one month, within which any stipulated payment to the insurer falling due after the first may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which any such payment received during the period of grace shall be applied to produce the values under the contract arising therefrom;

(b) a provision that, at any time within one year from the date of default, in making periodic stipulated payments to the insurer during the life of the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as required by the contract, and of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and indebtedness shall be applied to produce the values under the contract arising therefrom.

(4) Any individual variable annuity contract delivered or issued for delivery in this State shall stipulate the investment increment factor to be used in computing the dollar amount of variable benefits or other contractual payments or values thereunder, and may guarantee that expense and/or mortality results shall not adversely affect such dollar amounts. If not guaranteed, the expense and mortality factors shall also be stipulated in the contract.

In computing the dollar amount of variable benefits or other contractual payments or values under an individual variable annuity contract:

(a) the annual net investment increment assumption shall not exceed 5%, except with the approval of the Commissioner;

(b) to the extent that the level of benefits may be affected by future mortality results, the mortality factor shall be determined from the Annuity Mortality Table for 1949, Ultimate, or any modification of that table not having a lower life expectancy at any age, or, if approved by the Commissioner, from another table.

"Expense," as used in this paragraph, may exclude some or all taxes, as stipulated in the contract.

(5) Variable annuity contracts may include as an incidental benefit provision for payment on death during the deferred period of an amount not in excess of the greater of the sum of the premiums or stipulated payments paid under the contract or the value of the contract at the time of death.

(6) The reserve liability for variable annuities shall be established pursuant to the requirements of the standard valuation law in accordance with actuarial procedures that recognize the variable nature of the benefits provided and mortality guarantees.

Cite as Ga. Comp. R. & Regs. R. 120-2-22-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-11-35.
History. Original Rule entitled "Contracts Providing for Variable Benefits" adopted. F. Dec. 11, 1969; eff. Dec. 1, 1969, as specified by the Agency.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-22-.06. Required Reports.

(1) Any company issuing individual variable annuity contracts providing benefits in variable amounts shall mail to each contract holder at least once in each contract year after the first contract year at his last address known to the company, a statement or statements reporting the investments held in the separate account and, in the case of variable annuity contracts under which payments have not yet commenced, a statement reporting as of a date not more than four months previous to the date of mailing, (a) the number of accumulation units credited to such contracts and the dollar value of a unit, or (b) the value of each contract holder's account.

(2) The company shall submit annually to the Insurance Commissioner a statement of the business of its separate account or accounts in such form as may be prescribed by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-22-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-11-35.
History. Original Rule entitled "Required Reports" adopted. F. Dec. 11, 1969; eff. Dec. 1, 1969, as specified by the Agency.
Submitted for Publishing: Mar. 7, 2007.

Rule 120-2-22-.07. Examination of Agents and Other Persons.

(1) No agent shall be eligible to sell or offer for sale a variable annuity contract unless prior to making any solicitation or sale of such a contract, be also be licensed as a variable annuity agent.

(2) Any agent applying for a license as a variable annuity agent shall do so by filing with this Department form No. GID-103V A designated "Uniform Form AP for Securities Salesmen, Variable Contract Salesmen and Other Associated Persons."

(3) The licensing as a variable annuity agent of any agent complying with paragraph (2) shall not become effective until such agent shall have satisfactorily passed a written

examination upon securities and variable annuity contracts. Such examination shall be divided into two parts. Part I shall be on securities generally. Part II shall deal with variable annuity contracts, and shall be composed of at least fifteen questions, but not more than fifty questions, concerning the history, purpose, regulation, and sale of contracts on a variable basis.

(4) The examination will be given in such places and at such times as the Commissioner shall from time to time designate. Upon application for license as a variable annuity agent, the applicant shall be notified of the date of the next examination.

(5) The examination recommended for the testing of variable annuity agents by the National Association of Insurance Commissioners is hereby adopted for use in this State in its present form, or as it may be amended, and it shall be used in all tests given pursuant to this regulation.

(6) Any applicant for license as a variable annuity agent shall not be required to take Part I of the NAIC examination if, at the time of application, evidence is presented that the applicant (a) has previously passed a satisfactory alternative examination as defined in paragraph (4) of Section 120-2-22-.01 of these Regulations, or (b) is currently registered with the Federal Securities and Exchange Commission as a broker-dealer, or is currently associated with a broker-dealer and has met qualification requirements with respect to such association.

(7) Every applicant applying for license as a variable annuity agent shall satisfactorily complete Part II of the examination required by paragraph (3) with a grade of at least seventy percent (70%). The Commissioner may, in his discretion, accept, in lieu of such examination, evidence of successful completion of either a variable contract examination given under the supervision of an insurance department of any state or territory of the United States which has adopted Part II of the examination recommended for the testing of variable annuity agents by the National Association of Insurance Commissioners or has been examined and licensed by any such department pursuant to an examination prior to its adoption of the National Association of Insurance Commissioners Model Regulation provided it is substantially equivalent to that given in Georgia.

(8) Any applicant who fails to pass Part I or Part II of the examination required by paragraph (3) may not take Part I or Part II of the examination again until 30 days after initially taking it. After a second such failure, such applicant may not take the examination again until the expiration of six months from the date of the last examination in which he failed. If such applicant shall fail to pass Part I or Part II on the third taking of such, he may not take it again for 30 days after such third failure. If such person shall thereafter fail to pass the fourth such examination, he shall not be eligible to take any further examinations until after the expiration of one year from the date of his last unsuccessful examination.

(9) Every application for a license as a variable annuity agent shall be accompanied by a license fee of $15.00 and an examination fee of $10.00. A fee of $5.00 will be charged for each re-examination administered to an applicant. No fees are refundable.

(10) Report of the results of any examination given pursuant to this Regulation shall be made by the Department on "Commissioner's Report of Examination No. GID-106VA."

(11) Except as modified by these regulations, the regulations of this Department governing the licensing of life insurance agents including examinations therefor shall apply hereto.

(12) Part I of the written examination provided for in paragraph (3) may also be administered to other persons who are not required to be licensed to sell life insurance in this State upon their submission of form No. GID-103VA "Uniform Form AP for Securities Salesmen, Variable Contract Salesmen and Other Associated Persons" and payment of the examination fee.

(13) Results of the examination administered pursuant to paragraph (3) will be reported by this Department to the applicant's company. In addition, examination results will be reported by this Department to any other State Insurance Department requesting confirmation of the examination grade, either upon request of such Department or upon request of the applicant or his company.

(14) Records of the examination grade of each applicant upon an examination administered by this Department, or upon an examination deemed to be a satisfactory alternative examination and administered by another agency or authority and reported to this Department, will be retained in the file pertaining to said applicant.

(15) Any person licensed in this state as a variable annuity agent shall immediately report to the Commissioner (a) any suspension or revocation of his variable annuity agent's license or life insurance agent's license in any other State or Territory of the United States, (b) the imposition of any disciplinary sanction (including suspension or expulsion from membership, suspension or revocation of or denial of registration) imposed upon him by any national securities exchange, or national securities association, or any Federal, or State or Territorial agency with jurisdiction over securities or contracts on a variable basis; (c) any judgment or injunction entered against him on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or regulation.

(16) The Commissioner may reject any application or suspend or revoke or refuse to renew any variable annuity agent's license upon any ground that would bar such applicant or such agent from being licensed to sell life insurance contracts in this State. The rules governing any proceeding relating to the suspension or revocation of a life insurance agent's license shall also govern any proceeding for suspension or revocation of a variable annuity agent's license.

(17) Renewal of a variable annuity agent's license shall follow the same procedure established for renewal of an agent's license to sell life insurance contracts in this State. Applications for renewal shall be by Form No. GID-101VA.

Cite as Ga. Comp. R. & Regs. R. 120-2-22-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-11-35.

History. Original Rule entitled "Examination of Agents and Other Persons" adopted. F. Dec. 11, 1969; eff. Dec. 1, 1969, as specified by the Agency.
Submitted for Publishing: Mar. 7, 2007.

Subject 120-2-23. INSURANCE HOLDING COMPANY REGULATIONS.

Rule 120-2-23-.01. Authority.

This regulation is promulgated pursuant to the authority granted by O.C.G.A. Section 33-2-9 and O.C.G.A. Section 33-13-8.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-13-8.
History. Original Rule entitled "Definitions" was filed and effective October 30, 1970.
Repealed: New Rule entitled "Authority" adopted. F. Jul. 14, 1992; eff. Aug. 3, 1992.

Rule 120-2-23-.02. Purpose.

The purpose of this Regulation is to set forth rules and procedural requirements which the Commissioner deems necessary to carry out the provisions of Chapter 13 of Title 33, relating to insurance holding company systems hereinafter referred to as the "Act". The information called for by this Regulation is hereby declared to be necessary and appropriate in the public interest and for the protection of the policyholders in this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-13-8.
History. Original Rule entitled "Acquisition of Control - Statement Filing" was filed and effective October 30, 1970.
Repealed: New Rule entitled "Purpose" adopted. F. Jul. 14, 1992; eff. Aug. 3, 1992.

Rule 120-2-23-.03. Forms - General Requirements.

(1) Forms A, B, C, D, E and F are intended to be guides in the preparation of the statements required by O.C.G.A. Sections 33-13-3, 33-13-3.1, 33-13-4, and 33-13-5. They are not intended to be blank forms which are to be filled in. These statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(2) Three complete copies of each statement including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Commissioner by personal

delivery or mail addressed to: Insurance Commissioner of the State of Georgia, Attention: Division of Insurance and Financial Oversight, 6th Floor, West Tower, 2 Martin Luther King, Jr. Drive, Atlanta, Georgia 30334. A copy of Form C shall be filed in each state in which the insurer is authorized to do business, if the Commissioner of that state has notified the insurer of its request in writing, in which case the insurer has fifteen (15) days from receipt of the notice to file such form. At least one of the copies shall be manually signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.

(3) If an applicant requests a hearing on a consolidated basis under O.C.G.A. Section 33-13-3(d)(3), in addition to filing the Form A with the Commissioner, the applicant shall file a copy of Form A with the National Association of Insurance Commissioners (NAIC) in electronic form.

(4) Statement should be prepared on paper 8 1/2" × 11" in size and preferably bound at the top or the top left-hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements, or exhibits shall be clear, easily readable, and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted in to United States currency.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-13-3, 33-13-4, 33-13-5, 33-13-9.
History. Original Rule entitled "Registration of Insurers - Statement Filing" was filed and effective October 30, 1970.
Repealed: New Rule entitled "Form - General Requirements" adopted. F. Jul. 14, 1992; eff. Aug. 3, 1992.
Amended: F. Nov. 6, 2013; eff. Nov. 26, 2013.

Rule 120-2-23-.04. Forms - Incorporation by Reference, Summaries and Omissions.

(1) Information required by any item of Form A, Form B, Form D, Form E or Form F may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of Form A, Form B, Form D, Form E or Form F provided such document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the Commissioner which are filed within three years need not be attached as

exhibits. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear, or confusing.

(2) Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provision of the document. In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the Commissioner which was filed within three years and may be qualified in its entirety by such reference. In any case where two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one of such documents needs to be filed with a schedule identifying the omitted documents and setting forth the material details in which such documents differ from the documents a copy of which is filed.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-13-9.
History. Original Rule entitled "Extraordinary Dividends and Other Distributions" was filed and effective October 30, 1970.
Repealed: New Rule entitled "Forms - Incorporation by Reference, Summaries and Omissions" adopted. F. Jul. 14, 1992; eff. Aug. 3, 1992.
Amended: F. Nov. 6, 2013; eff. Nov. 26, 2013.

Rule 120-2-23-.05. Forms - Information Unknown or Unavailable and Extension of Time to Furnish.

(1) Information required need be given only insofar as it is known or reasonably available to the person filing the statement. If any required information is unknown and not reasonably available to the person filing, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted, subject to the following conditions:

(a) The person filing shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof; and

(b) The person filing shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

(2) If it is impractical to furnish any required information, document, or report at the time it is required to be filed, there may be filed with the Commissioner a separate document:

(a) Identifying the information, document, or report in question;

(b) Stating why the filing thereof at the time required is impractical; and

(c) Requesting an extension of time for filing the information, document, or report to a specified date. The request for extension shall be deemed granted unless the Commissioner within sixty (60) days after receipt thereof enters an order denying the request.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-13-8.
History. Original Rule entitled "Forms - Information Unknown or Unavailable and Extension of Time to Furnish" adopted. F. Jul. 14, 1992; eff. Aug. 3, 1992.

Rule 120-2-23-.06. Additional Information and Exhibits.

In addition to the information expressly required to be included in Form A, Form B, Form C, Form D, Form E and Form F, there shall be added such further material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as it may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer. Changes to Forms A, B, C, D, E or F shall include on the top of the cover page the phrase: "Change No. (insert number) to" and shall indicate the date of the change and not the date of the original filing.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-13-9.
History. Original Rule entitled "Additional Information and Exhibits" adopted. F. Jul. 14, 1992; eff. Aug. 3, 1992.
Amended: F. Nov. 6, 2013; eff. Nov. 26, 2013.

Rule 120-2-23-.07. Definitions.

(1) As used in this Regulation, the term:

(a) "Executive officer" means chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.

(b) "Ultimate controlling person" means that person which is not controlled by any other person.

(2) Unless the context otherwise requires, other terms found in this Regulation and in O.C.G.A. Section 33-13-1 are used as defined in O.C.G.A. Section 33-13-1. Other nomenclature or terminology is according to the Georgia Insurance Code, or industry usage if not defined by the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-13-9.
History. Original Rule entitled "Definitions" adopted. F. Jul. 14, 1992; eff. Aug. 3, 1992.
Amended: F. Nov. 6, 2013; eff. Nov. 26, 2013.

Rule 120-2-23-.08. Subsidiaries of Domestic Insurers.

The authority to invest in subsidiaries under subsection (b) of O.C.G.A. Section 33-13-2 is in addition to any authority to invest in subsidiaries which may be contained in any other provision of the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-13-8.
History. Original Rule entitled "Subsidiaries of Domestic Insurers" adopted. F. Jul. 14, 1992; eff. Aug. 3, 1992.

Rule 120-2-23-.09. Acquisition of Control - Statement Filing.

A person required to file a statement pursuant to O.C.G.A. Section 33-13-3 shall furnish the required information on Form A, hereby made a part of this Regulation. Such person shall also furnish the required information on Form E, hereby made part of this Regulation and described in Rule 120-2-23-.12.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-13-9.
History. Original Rule entitled "Acquisition of Control - Statement Filing" adopted. F. Jul. 14, 1992; eff. Aug. 3, 1992.
Amended: F. Nov. 6, 2013; eff. Nov. 26, 2013.

Rule 120-2-23-.10. Amendments to Form A.

The applicant shall promptly advise the Commissioner of any changes in the information so furnished on Form A arising subsequent to the date upon which such information was furnished but prior to the Commissioner's disposition of the application.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-13-8.
History. Original Rule entitled "Amendments to Form A" adopted. F. Jul. 14, 1992; eff. Aug. 3, 1992.

Rule 120-2-23-.11. Acquisition of O.C.G.A. Section 33-13-3(a)(1) Insurers.

(1) If the person being acquired is deemed to be a "domestic insurer" solely because of the provisions of paragraph (1) of subsection (a) of O.C.G.A. Section 33-13-3, the name of the domestic insurer on the cover page should be indicated as follows:

"ABC Insurance Company, a subsidiary of XYZ Holding Company".

(2) Where an insurer deemed "domestic insurer" under paragraph (4) of subsection (a) of O.C.G.A. Section 33-13-3 is being acquired, references to "the insurer" contained in

Form A shall refer to both the domestic subsidiary insurer and the person being acquired.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.11
Authority: O.C.G.A. Secs. 33-2-9, 33-13-9.
History. Original Rule entitled "Acquisition of O.C.G.A. Section 33-13-3(a)(1) Insurers" adopted. F. Jul. 14, 1992; eff. Aug. 3, 1992.
Amended: F. Nov. 6, 2013; eff. Nov. 26, 2013.

Rule 120-2-23-.12. Pre-Acquisition Notification.

If a domestic insurer, including any person controlling a domestic insurer, is proposing a merger or acquisition pursuant to O.C.G.A. Section 33-13-3(a)(1) of the Act, that person shall file a pre-acquisition notification form, Form E, which was developed pursuant to O.C.G.A. Section 33-13-3.1(c).

Additionally, if a non-domiciliary insurer licensed to do business in this state is proposing a merger or acquisition pursuant to O.C.G.A. Section 33-13-3.1, that person shall file a pre-acquisition notification form, Form E. No pre-acquisition notification form need be filed if the acquisition is beyond the scope of O.C.G.A. Section 33-13-3.1 as set forth in Section O.C.G.A. Section 33-13-3.1(b)(2).

In addition to the information required by Form E, the Commissioner may wish to require an expert opinion as to the competitive impact of the proposed acquisition.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.12
Authority: O.C.G.A. Secs. 33-2-9, 33-13-3.1, 33-13-9.
History. Original Rule entitled "Annual Registration of Insurers - Statement Filing" adopted. F. Jul. 14, 1992; eff. Aug. 3, 1992.
Repealed: New Rule entitled "Pre-Acquisition Notification" adopted. F. Nov. 6, 2013; eff. Nov. 26, 2013.

Rule 120-2-23-.13. Annual Registration of Insurers - Statement Filing.

An insurer required to file an annual registration statement pursuant to O.C.G.A. Section 33-13-4 shall furnish the required information on Form B, hereby made a part of this Regulation, on or before April 30 of each calendar year.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.13
Authority: O.C.G.A. Secs. 33-2-9, 33-13-4, 33-13-9.
History. Original Rule entitled "Summary of Registration - Statement Filing" adopted. F. Jul. 14, 1992; eff. Aug. 3, 1992.
Repealed: New Rule entitled "Annual Registration of Insurers - Statement Filing" adopted. F. Nov. 6, 2013; eff. Nov. 26, 2013.

Rule 120-2-23-.14. Summary of Registration - Statement Filing.

An insurer required to file an annual registration statement pursuant to O.C.G.A. Section 33-13-4 is also required to furnish information required on Form C, hereby made a part of this Regulation. An insurer shall file a copy of Form C in each state in which the insurer is authorized to do business, if requested by the Commissioner of that state.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.14
Authority: O.C.G.A. Secs. 33-2-9, 33-13-4, 33-13-9.
History. Original Rule entitled "Alternative and Consolidated Registration" adopted. F. Jul. 14, 1992; eff. Aug. 3, 1992.
Repealed: New Rule entitled "Summary of Registration - Statement Filing" adopted. F. Nov. 6, 2013; eff. Nov. 26, 2013.

Rule 120-2-23-.15. Alternative and Consolidated Registrations.

(1) Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under O.C.G.A. Section 33-13-4. A registration statement may include information not required by Chapter 13 of Title 33 regarding any insurer in the insurance holding company system even if such insurer is not authorized to do business in this State. In lieu of filing a registration statement on Form B, the authorized insurer may file a copy of the registration statement or similar report which is required to file in its State of domicile, provided:

   (a) The statement or report contains substantially similar information required to be furnished on Form B; and

   (b) The filing insurer is the principal insurance company in the insurance holding company system.

(2) The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact and an insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer shall set forth a

brief statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.

(3) With the prior approval of the Commissioner, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under paragraph (1) of this Rule.

(4) Any insurer may take advantage of the provisions of subsection (h) or (i) of O.C.G.A. Section 33-13-4 without obtaining the prior approval of the Commissioner. The Commissioner, however, reserves the right to require individual filings if he deems such filings necessary in the interest of clarity, ease of administration, or a public good.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.15
Authority: .C.G.A. Secs. 33-2-9, 33-13-3, 33-13-4, 33-13-9.
History. Original Rule entitled "Disclaimers and Termination of Registration" adopted. F. Jul. 14, 1992; eff. Aug. 3, 1992.
Repealed: New Rule entitled "Alternative and Consolidated Registrations" adopted. F. Nov. 6, 2013; eff. Nov. 26, 2013.

Rule 120-2-23-.16. Disclaimers and Termination of Registration.

(1) A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person (hereinafter referred to as the "subject") shall contain the following information:

(a) The number of authorized, issued, and outstanding voting securities of the subject;

(b) With respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of such shares concerning which there is a right to acquire, directly or indirectly;

(c) All material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person; and

(d) A statement explaining why such person should not be considered to control the subject.

(2) A request for termination of registration shall be deemed to have been granted unless the Commissioner, within thirty (30) days after he receives the request, notifies the registrant otherwise.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.16
Authority: O.C.G.A. Secs. 33-2-9, 33-13-4, 33-13-9.
History. Original Rule entitled "Transactions Subject to Prior Notice - Notice Filing" adopted. F. Jul. 14, 1992; eff. Aug. 3, 1992.

Repealed: New Rule entitled "Disclaimers and Termination of Registration" adopted. F. Nov. 6, 2013; eff. Nov. 26, 2013.

Rule 120-2-23-.17. Transactions Subject to Prior Notice - Notice Filing.

(1) An insurer required to give notice of a proposed transaction pursuant to O.C.G.A. Section 33-13-5 shall furnish the required information on Form D, hereby made a part of this Regulation.

(2) Agreements for cost sharing services and management services shall at a minimum and as applicable:

(a) Identify the person providing services and the nature of such services;

(b) Set forth the methods to allocate costs;

(c) Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual;

(d) Prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;

(e) State that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;

(f) Define books and records of the insurer to include all books and records developed or maintained under or related to the agreement;

(g) Specify that all books and records of the insurer are and remain the property of the insurer and are subject to control of the insurer;

(h) State that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer and are subject to the control of the insurer;

(i) Include standards for termination of the agreement with and without cause;

(j) Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services;

(k) Specify that, if the insurer is placed in receivership or seized by the commissioner under Chapter 37 of Title 33:

1. All of the rights of the insurer under the agreement extend to the receiver or commissioner; and,

2. All books and records will immediately be made available to the receiver or the commissioner, and shall be turned over to the receiver or commissioner immediately upon the receiver or the commissioner's request;

(l) Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed in receivership pursuant to the State Receivership Act; and

(m) Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding a seizure by the commissioner under the Insurers Rehabilitation and Liquidation Act, and will make them available to the receiver, for so long as the affiliate continues to receive timely payment for services rendered.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.17
Authority: O.C.G.A. Secs. 33-2-9, 33-13-9.
History. Original Rule entitled "Extraordinary Dividends and Other Distributions" adopted. F. Jul. 14, 1992; eff. Aug. 3, 1992.
Repealed: New Rule entitled "Transactions Subject to Prior Notice - Notice Filing" adopted. F. Nov. 6, 2013; eff. Nov. 26, 2013.

Rule 120-2-23-.18. Enterprise Risk Report.

The ultimate controlling person of an insurer required to file an enterprise risk report pursuant to O.C.G.A Section 33-13-4(l)shall furnish the required information on Form F, hereby made a part of this Regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.18
Authority: O.C.G.A. Secs. 33-2-9, 33-13-4, 33-13-9.
History. Original Rule entitled "Adequacy of Surplus" adopted. F. Jul. 14, 1992; eff. Aug. 3, 1992.
Repealed: New Rule entitled "Enterprise Risk Report" adopted. F. Nov. 6, 2013; eff. Nov. 26, 2013.

Rule 120-2-23-.19. Extraordinary Dividends and Other Distributions.

(1) Request for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:

(a) The amount of the proposed dividend;

(b) The date established for payment of the dividend;

(c) A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation;

(d) A copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information:

1. The amounts, dates and form of payment of all dividends or distributions (including regular dividends but excluding distributions of other insurers own securities) paid within the period of 12 consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;

2. Surplus as regards policyholders (total capital and surplus) as of December 31 next preceding;

3. If the insurer is a life insurer, the net gain from operations for the twelve (12) month period ending December 31 next preceding;

4. If the insurer is not a life insurer, the net income less realized capital gains for the twelve (12) month period ending December 31 next preceding and the two preceding twelve (12) months periods; and

5. If the insurer is not a life insurer, the dividends paid to stockholders excluding distributions of the insurer's own securities in the preceding two calendar years.

(e) A balance sheet and statement of income for the period intervening from the last annual statement filed with the Commissioner and the end of the month preceding the month in which the request for dividend approval is submitted; and

(f) A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

(2) Subject to O.C.G.A. Section 33-13-5(b) of the Act, each registered insurer shall report to the Commissioner all dividends and other distributions to shareholders within five (5) business days following the declaration and ten (10) business days prior to payment thereof, including the same information required by Subsection (d) of this Rule.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.19
Authority: O.C.G.A. §§ 33-2-9, 33-12-8, 33-13-9.
History. Original Rule entitled "Severability Clause" adopted. F. Jul. 14, 1994; eff. Aug. 3, 1994.
Repealed: New Rule entitled "Extraordinary Dividends and Other Distributions" adopted. F. Nov. 6, 2013; eff. Nov. 26, 2013.

Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-23-.20. Adequacy of Surplus.

The factors set forth in subsection (c) of O.C.G.A. Section 33-13-5 are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer's surplus no single factor is necessarily controlling. The Commissioner, instead, will consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the Commissioner will consider the extent to which each of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the Commissioner will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.20
Authority: O.C.G.A. Secs. 33-2-9, 33-13-9.
History. Original Rule entitled "Adequacy of Surplus" adopted. F. Nov. 6, 2013; eff. Nov. 26, 2013.

Rule 120-2-23-.21. Confidentiality of Information Received From International Regulators.

(1) Scope of Rule. This Rule shall apply where confidential information is shared between an international regulator and the Commissioner pursuant to a memorandum of understanding between the Commissioner and the international regulator covering the sharing of confidential information.

(2) Definitions.

(a) "Access confidentiality statement" shall mean the statement set forth in Form G that is executed by any individual who is authorized by the Commissioner to have access to confidential information.

(b) "Authorized individual" shall mean an individual who has executed an access confidentiality statement.

(c) "Confidential information" shall mean all information that is confidential pursuant to O.C.G.A. §§ 33-2-14(g) and 33-13-8(a) and which is covered by the memorandum of understanding.

(d) "Disclosure restriction" shall mean any restriction that is set forth in the memorandum of understanding that restricts or otherwise prevents the Commissioner from exercising his discretion to disclose confidential information.

(e) "International regulator" shall mean the entity that has responsibility for regulating insurance in a non-U.S. jurisdiction.

(f) "Memorandum of understanding" shall mean the agreement governing the sharing and use of confidential information between the Commissioner and the international regulator.

(g) "Person" shall mean an individual, insurer, company, association, trade association,organization, society, reciprocal or interinsurance exchange, partnership, syndicate, business trust, corporation, Lloyd's association, and associations, groups, or department of underwriters, and any other legal entity.

(h) "Scope of use" shall mean the use of confidential information in manner that is consistent with the description of the regulatory need for confidential information set forth in the Commissioner's request for confidential information from an international regulator or as otherwise approved by the international regulator.

(3) Access to confidential information. Only authorized individuals shall have access to confidential information.

(4) Use of confidential information. Confidential information may only be used in a manner that is consistent with the scope of use.

(5) Unauthorized disclosure. It is a violation of this Rule for an individual to knowingly disclose confidential information to any person that is not authorized to access confidential information. An individual acts knowingly if he or she knows that the disclosure is a violation of this Rule.

(6) Inadvertent disclosure. It is not a violation of this Rule for an individual to inadvertently disclose confidential information to any person that is not authorized to access confidential information. An individual acts inadvertently if he or she does not knowingly disclose confidential information to a person that is not authorized to access the confidential information.

(7) Required disclosure. If the Commissioner is required to disclose confidential information to a person that is not an authorized individual by law or by court order, then the Commissioner will provide notice of such disclosure in accordance with the terms of the memorandum of understanding or, if not addressed in the memorandum of understanding, the Commissioner shall give notice to the international regulator prior to the disclosure.

(8) Immunity. This Rule does not waive or alter the applicability of any statutory or common law immunity available to an authorized individual or employee of the Department of Insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.21
Authority: O.C.G.A. Secs. 33-2-9, 33-2-14, 33-13-3, 33-13-8, 33-13-9.
History. Original Rule entitled "Severability Clause" adopted. F. Nov. 6, 2013; eff. Nov. 26, 2013.
Repealed: New Rule entitled "Confidentiality of Information Received From International Regulators" adopted. F. July 15, 2015; eff. Aug. 4, 2015.

Form (120-2-23) A. STATEMENT REGARDING THE ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER.

_____

Name of Domestic Insurer

BY

_____

Name of Acquiring Person (Applicant)

Filed with the Insurance Department of

_____

(State of domicile of insurer being acquired)

Dated:_____, 20_____

Name, Title, address and telephone number of Individual to Whom Notices and Correspondence Concerning this Statement Should be Addressed:

_____

_____

_____

ITEM 1. **METHOD OF ACQUISITION**

State the name and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired.

ITEM 2. **IDENTITY AND BACKGROUND OF THE APPLICANT**

(a) State the name and address of the applicant seeking to acquire control over the insurer.

(b) If the applicant is not an individual, state the nature of its business operations for the past 5 years or for such lesser period as such person and any predecessors thereof shall have been in existence. Briefly describe the business intended to be done by the applicant and the applicant's subsidiaries.

(c) Furnish a chart or listing clearly presenting the identities of the interrelationships among the applicant and all affiliates of the applicant. Indicate in such chart or listing the percentage of

voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g. corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.

ITEM 3. **IDENTITY AND BACKGROUND OF INDIVIDUALS ASSOCIATED WITH THE APPLICANT**

On the biographical affidavit, include a third party background check, and state the following with respect to (1) the applicant if (s)he is an individual or (2) all persons who are directors, executive officers or owners of 10% or more of the voting securities of the applicant if the applicant is not an individual.

(a) Name and business address.

(b) Present principal business activity, occupation or employment including position and office held and the name, principal business and address of any corporation or other organization in which such employment is carried on.

(c) Material occupations, positions, offices or employment during the last 5 years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which each such occupation, position, office or employment was carried on; if any such occupation, position, office or employment required licensing by or registration with any federal, state or municipal governmental agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection therewith.

(d) Whether or not such person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last 10 years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

ITEM 4. **NATURE, SOURCE AND AMOUNT OF CONSIDERATION**

(a) Describe the nature, source and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes and security arrangements relating thereto.

(b) Explain the criteria used in determining the nature and amount of such consideration.

(c) If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity of the lender to remain confidential, he must specifically request that the identity be kept confidential.

ITEM 5. **FUTURE PLANS OF INSURER**

Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate the insurer, to sell its assets to or merge it with any person or persons or to make any other material change in its business operations or corporate structure or management.

ITEM 6. **VOTING SECURITIES TO BE ACQUIRED**

State the number of shares of the insurer's voting securities which the applicant, its affiliates and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.

ITEM 7. **OWNERSHIP OF VOTING SECURITIES**

State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates or any person listed in Item 3.

ITEM 8. **CONTRACTS, ARRANGEMENTS, OR UNDERSTANDINGS WITH RESPECT TO VOTING SECURITIES OF THE INSURER**

Give a full description of any contracts, arrangements or understandings with respect to any voting security of the insurer in which the applicant, its affiliates or any person listed in Item 3 is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom the contracts, arrangements or understandings have been entered into.

ITEM 9. **RECENT PURCHASES OF VOTING SECURITIES**

Describe any purchases of any voting securities of the insurer by the applicant, its affiliates or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement. Include in the description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid therefor. State whether any shares so purchased are hypothecated.

ITEM 10. **RECENT RECOMMENDATIONS TO PURCHASE**

Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates or any person listed in Item 3, or by anyone based upon interviews or at

the suggestion of the applicant, its affiliates or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement.

ITEM 11. **AGREEMENTS WITH BROKER-DEALERS**

Describe the terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

ITEM 12. **FINANCIAL STATEMENTS AND EXHIBITS**

(a) Financial statements, exhibits, and three-year financial projections of the insurer(s) shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statements shall include the annual financial statements of the persons identified in Item 2(c) for the preceding 5 fiscal years (or for such lesser period as such applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of such person's last fiscal year, if the information is available. The statements may be prepared on either an individual basis, or, unless the Commissioner otherwise requires, on a consolidated basis if consolidated statements are prepared in the usual course of business.

The annual financial statements of the applicant shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the applicant is an insurer which is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the Annual Statement of the person filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of the state.

(c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting material relating thereto, any proposed employment, consultation, advisory or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the applicant for the last two fiscal years, and any additional documents or papers required by Form A or Rules 120-2-23-.04 and .06.

ITEM 13. **AGREEMENT REQUIREMENTS FOR ENTERPRISE RISK MANAGEMENT**

Applicant agrees to provide, to the best of its knowledge and belief, the information required by Form F within fifteen (15) days after the end of the month in which the acquisition of control occurs.

ITEM 14. **SIGNATURE AND CERTIFICATION**

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of O.C.G.A. Section 33-13-3 _____ has caused this application to be duly signed on its behalf in the City of _____ and State of on the _____ day of _____, 20_____.

(SEAL)_____

Name of Applicant

BY_____

(Name) (Title)

Attest:

_____

(Signature of Officer)

_____

(Title)

CERTIFICATION the undersigned deposes and says that (s)he has duly executed the attached application dated _____, 20_____, for and on behalf of _____(Name of Applicant); that (s)he is the _____(Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with the instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)_____

(Type or print name beneath)_____

Form (120-2-23) B. INSURANCE HOLDING COMPANY SYSTEM ANNUAL REGISTRATION STATEMENT.

Filed with the Insurance Department of the State of_____

By

_____

Name of Registrant

On Behalf of Following Insurance Companies

Name Address

_____

_____

_____

_____

Date:_____, 20_____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

_____

_____

_____

_____

ITEM 1. **IDENTITY AND CONTROL OF REGISTRANT**

Furnish the exact name of each insurer registering or being registered (hereinafter called "the Registrant"), the home office address and principal executive offices of each; the date on which each registrant became part of the insurance holding company system; and the method(s) by which control of each registrant was acquired and is maintained.

ITEM 2. **ORGANIZATIONAL CHART**

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of control. As to each person specified in the chart or listing indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

ITEM 3. **THE ULTIMATE CONTROLLING PERSON**

As to the ultimate controlling person in the insurance holding company system furnish the following information:

(a) Name;

(b) Home office address;

(c) Principal executive office address;

(d) The organizational structure of the person, i.e., corporation, partnership, individual, trust, etc.;

(e) The principal business of the person;

(f) The name and address of any person who holds or owns 10% or more of any class of voting security, the class of such security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned; and

(g) If court proceedings involving a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings and the date when commenced.

ITEM 4. **BIOGRAPHICAL INFORMATION**

If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, furnish the following information for the directors and executive officers of the ultimate controlling person: the individual's name and address, his or her principal occupation and all offices and positions held during the past 5 years, and any conviction of crimes other than minor traffic violations. If the ultimate controlling person is an individual, furnish the individual's name and address, his or her principal occupation and all offices and positions held during the past 5 years, and any conviction of crimes other than minor traffic violations.

ITEM 5. **TRANSACTIONS AND AGREEMENTS**

Briefly describe the following agreements in force, and transactions currently outstanding or which have occurred during the last calendar year between the registrant and its affiliates:

(a) Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the Registrant or of the Registrant by its affiliates;

(b) Purchases, sales or exchanges of assets;

(c) Transactions not in the ordinary course of business;

(d) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the Registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the registrant's business;

(e) All management agreements, service contracts and all cost-sharing arrangements;

(f) Reinsurance agreements;

(g) Dividends and other distributions to shareholders;

(h) Consolidated tax allocation agreements; and

(i) Any pledge of the registrant's stock and/or of the stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system.

No information need be disclosed if such information is not material for purposes of O.C.G.A. Section 33-13-4.

Sales, purchases, exchanges, loans or extensions of credit, investments or guarantees involving one-half of 1% or less of the registrant's admitted assets as of the 31st day of December next preceding shall not be deemed material.

The description shall be in a manner as to permit the proper evaluation thereof by the Commissioner, and shall include at least the following: the nature and purpose of the transaction, the nature and amounts of any payments or transfers of assets between the parties, the identity of all parties to the transaction, and relationship of the affiliated parties to the registrant.

ITEM 6. **LITIGATION OR ADMINISTRATIVE PROCEEDINGS**

A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which the litigation or proceeding is or was pending:

(a) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and

(b) Proceedings which may have a material effect upon the solvency or capital structure of the ultimate holding company including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations.

ITEM 7. **STATEMENT REGARDING PLAN OR SERIES OF TRANSACTIONS**

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions, the

purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.

ITEM 8. **FINANCIAL STATEMENTS AND EXHIBITS**

(a) Financial statements and exhibits should be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, the financial statements shall include the annual financial statements of the ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent such information is available. Such financial statements may be prepared on either an individual basis; or, unless the Commissioner otherwise requires, on a consolidated basis if consolidated statements are prepared in the usual course of business.

Other than with respect to the foregoing, such financial statement shall be filed in a standard form and format adopted by the National Association of Insurance Commissioners, unless an alternative form is accepted by the Commissioner. Documentation and financial statements filed with the Securities and Exchange Commission or audited GAAP financial statements shall be deemed to be an appropriate form and format.

Unless the Commissioner otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that the statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the Annual Statement of the insurer's domiciliary state and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of that state.

Any ultimate controlling person who is an individual may file personal financial statements that are reviewed rather than audited by an independent public accountant. The review shall be conducted in accordance with standards for review of personal financial statements published in the *Personal Financial Statements Guide* by the American Institute of Certified Public Accountants. Personal financial statements shall be accompanied by the independent public accountant's Standard Review Report stating that the accountant is not aware of any material modifications that should be made to the financial statements in order for the statements to be in conformity with generally accepted accounting principles.

(c) Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person; and any additional documents or papers required by Form B or Rules 120-2-23-.03 and 120-2-23-.05.

ITEM 9. **FORM C REQUIRED**

A Form C, Summary of Changes to Registration Statement, must be prepared and filed with this Form B.

ITEM 10. **SIGNATURE AND CERTIFICATION**

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of O.C.G.A. Section 33-13-4, Registrant has caused this annual registration statement to be duly signed on its behalf of the City of _____ and State of _____ on the _____ day of _____, 20 _____.

(SEAL)_____

Name of Applicant

BY_____

(Name) (Title)

Attest:

_____

(Signature of Officer)

_____

(Title)

CERTIFICATION the undersigned deposes and says that (s)he has duly executed the attached annual registration statement dated _____, 20_____, for and on behalf of _____(Name of Applicant); that (s)he is the _____(Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)_____

(Type or print name beneath)_____

Form (120-2-23) C. SUMMARY OF CHANGES TO REGISTRATION STATEMENT.

Filed with the Insurance Department of the State of_____

By

_____

Name of Registrant

On Behalf of Following Insurance Companies

Name Address

_____

_____

_____

_____

Date:_____, 20_____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

_____

_____

_____

Furnish a brief description of all items in the current annual registration statement which represent changes from the prior year's annual registration statement. The description shall be in a manner as to permit the proper evaluation thereof by the Commissioner, and shall include specific references to Item numbers in the annual registration statement and to the terms contained therein.

Changes occurring under Item 2 of Form B insofar as changes in the percentage of each class of voting securities held by each affiliate is concerned, need only be included where such changes are ones which result in ownership or holdings of 10% or more of voting securities, loss or transfer of control, or acquisition or loss of partnership interest.

Changes occurring under Item 4 of Form B need only be included where an individual is, for the first time, made a director or executive officer of the ultimate controlling person; a director or executive officer terminates his or her responsibilities with the ultimate controlling person; or in the event an individual is named president of the ultimate controlling person.

If a transaction disclosed on the prior year's annual registration statement has been changed, the nature of such change shall be included. If a transaction disclosed on the prior year's annual registration statement has been effectuated, furnish the mode of completion and any flow of funds between affiliates resulting from the transaction.

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions whose purpose it is to avoid statutory threshold amounts and the review that might otherwise occur.

SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

Pursuant to the requirements of O.C.G.A. Section 33-13-4, Registrant has caused this annual registration statement to be duly signed on its behalf of the City of _____ and State of _____ on the _____ day of _____, 20 _____.

(SEAL)_____

Name of Applicant

BY_____

(Name) (Title)

Attest:

_____

(Signature of Officer)

_____

(Title)

CERTIFICATION the undersigned deposes and says that (s)he has duly executed the attached annual registration statement dated _____, 20_____, for and on behalf of _____(Name of Applicant); that (s)he is the _____(Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)_____

(Type or print name beneath)_____

Form (120-2-23) D. PRIOR NOTICE OF A TRANSACTION.

Filed with the Insurance Department of the State of_____

By

_____

Name of Registrant

On Behalf of Following Insurance Companies

Name Address

_____

_____

_____

_____

Date:_____, 20_____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

_____

_____

_____

ITEM 1. **IDENTITY OF PARTIES TO TRANSACTION**

Furnish the following information for each of the parties to the transaction:

(a) Name;

(b) Home office address;

(c) Principal executive office address;

(d) The organizational structure, i.e. corporation, partnership, individual, trust, etc.;

(e) A description of the nature of the parties' business operations;

(f) Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties;

(g) Where the transaction is with a non-affiliate, the name(s) of the affiliate(s) which will receive, in whole or in substantial part, the proceeds of the transaction.

ITEM 2. **DESCRIPTION OF THE TRANSACTION**

Furnish the following information for each transaction for which notice is being given:

(a) A statement as to whether notice is being given under O.C.G.A. Section 33-13-5(a)(2)(A),(B),(C),(D),(E),(F), or (G);

(b) A statement of the nature of the transaction;

(c) A statement of how the transaction meets the 'fair and reasonable' standard of O.C.G.A. Section 33-13-5(a)(2); and

(d) The proposed effective date of the transaction.

ITEM 3. **SALES, PURCHASES, EXCHANGES, LOANS, EXTENSIONS OF CREDIT, GUARANTEES OR INVESTMENTS**

Furnish a brief description of the amount and source of funds, securities, property or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee, or investment, whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice, a description of the terms of any securities being received, if any, and a description of any other agreements relating to the transaction such as contracts or agreements for services, consulting agreements and the like. If the transaction involves other than cash, furnish a description of the consideration, its cost and its fair market value, together with an explanation of the basis for evaluation.

If the transaction involves a loan, extension of credit or a guarantee, furnish a description of the maximum amount which the insurer will be obligated to make available under such loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of or deferral of interest.

If the transaction involves an investment, guarantee or other arrangement, state the time period during which the investment, guarantee or other arrangement will remain in effect, together with any provisions for extensions or renewals of such investments, guarantees or arrangements. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the maximum amount which can at any time be outstanding or for which the insurer can be legally obligated under the loan, extension of credit or guarantee is less than (a) in the case of non-life insurers, the lesser of 3% of the insurer's admitted assets or 25% of surplus as regards policyholders, or (b) in the case of life insurers, 3% of the insurer's admitted assets, each as of the 31st day of December next preceding.

ITEM 4. **LOANS OR EXTENSIONS OF CREDIT TO A NON-AFFILIATE**

If the transaction involves a loan or extension of credit to any person who is not an affiliate, furnish a brief description of the agreement or understanding whereby the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the insurer making such loans or extensions of credit, and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets of or make investments in any affiliate. Describe the amount and source of funds, securities, property or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value together with an explanation of the basis for evaluation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the loan or extension of credit is one which equals less than, in the case of non-life insurers, the lesser of 3% of the insurer's admitted assets or 25% of surplus as regards policyholders or, with respect to life insurers, 3% of the insurer's admitted assets, each as of the 31st day of December next preceding.

ITEM 5. **REINSURANCE**

If the transaction is a reinsurance agreement or modification thereto, as described by O.C.G.A. Section 33-13-5(a)(2)(C)(ii), or a reinsurance pooling agreement or modification thereto as described by O.C.G.A. Section 33-13-5(a)(2)(C)(i), furnish a description of the known and/or estimated amount of liability to be ceded and/or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the insurer and non-affiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given for reinsurance agreements or modifications thereto if the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or change in the insurer's liabilities in any of the next three years, in connection with the reinsurance agreement or modification thereto is less than 5% of the insurer's surplus as regards policyholders, as of the 31st day of December next preceding. Notice shall be given for all reinsurance pooling agreements including modifications thereto.

ITEM 6. **MANAGEMENT AGREEMENTS, SERVICE AGREEMENTS AND COST-SHARING ARRANGEMENTS.**

For management and service agreements, furnish:

(a) A brief description of the managerial responsibilities, or services to be performed;

(b) A brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.

For cost-sharing arrangements, furnish:

(a) A brief description of the purpose of the agreement;

(b) A description of the period of time during which the agreement is to be in effect;

(c) A brief description of each party's expenses or costs covered by the agreement;

(d) A brief description of the accounting basis to be used in calculating each party's costs under the agreement;

(e) A brief statement as to the effect of the transaction upon the insurer's policyholder surplus;

(f) A statement regarding the cost allocation methods that specifies whether proposed charges are based on "cost or market." If market based, rationale for using market instead of cost, including justification for the company's determination that amounts are fair and reasonable; and

(g) A statement regarding compliance with the *NAIC Accounting Practices and Procedure Manual* regarding expense allocation.

ITEM 7. **SIGNATURE AND CERTIFICATION**

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of O.C.G.A. Section 33-13-5, _____ has caused this application to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 20 ____.

(SEAL)_____

Name of Applicant

BY_____

(Name) (Title)

Attest:

_____

(Signature of Officer)

_____

(Title)

CERTIFICATION the undersigned deposes and says that (s)he has duly executed the attached application dated _____, 20_____, for and on behalf of _____(Name of Applicant); that (s)he is the _____(Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)_____

(Type or print name beneath)_____

Form (120-2-23) E. PRE-ACQUISITION NOTIFICATION FORM REGARDING THE POTENTIAL COMPETITIVE IMPACT OF A PROPOSED MERGER OR ACQUISITION BY A NON-DOMICILIARY INSURER DOING BUSINESS IN THIS STATE OR BY A DOMESTIC INSURER.

_____

Name of Applicant

_____

Name of Other Person

Involved in Merger or

Acquisition

Filed with the Insurance Department of

_____

Dated:_____, 20 _____

Name, title, address and telephone number of person completing this statement:

_____

_____

_____

_____

ITEM 1. **NAME AND ADDRESS**

State the names and addresses of the persons who hereby provide notice of their involvement in a pending acquisition or change in corporate control.

ITEM 2. **NAME AND ADDRESSES OF AFFILIATED COMPANIES**

State the names and addresses of the persons affiliated with those listed in Item 1. Describe their affiliations.

ITEM 3. **NATURE AND PURPOSE OF THE PROPOSED MERGER OR ACQUISITION**

State the nature and purpose of the proposed merger or acquisition.

ITEM 4. **NATURE OF BUSINESS**

State the nature of the business performed by each of the persons identified in response to Item 1 and Item 2.

ITEM 5. **MARKET AND MARKET SHARE**

State specifically what market and market share in each relevant insurance market the persons identified in Item 1 and Item 2 currently enjoy in this state. Provide historical market and market share data for each person identified in Item 1 and Item 2 for the past five years and identify the source of such data. Provide a determination as to whether the proposed acquisition or merger, if consummated, would violate the competitive standards of the state as stated in O.C.G.A. Section 33-13-3.1(d). If the proposed acquisition or merger would violate competitive standards, provide justification of why the acquisition or merger would not substantially lessen competition or create a monopoly in the state.

For purposes of this question, market means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state.

Form (120-2-23) F. ENTERPRISE RISK REPORT.

Filed with the Insurance Department of the State of_____

By

_____

Name of Registrant/Applicant

On Behalf of/Related to Following Insurance Companies

Name Address

_____

_____

_____

_____

Date:_____, 20_____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

_____

_____

_____

ITEM 1. **ENTERPRISE RISK**

The Registrant/Applicant, to the best of its knowledge and belief, shall provide information regarding the following areas that could produce enterprise risk as defined in O.C.G.A. Section 33-13-1(4), provided such information is not disclosed in the Insurance Holding Company System Annual Registration Statement filed on behalf of itself or another insurer for which it is the ultimate controlling person:

* Any material developments regarding strategy, internal audit findings, compliance or risk management affecting the insurance holding company system;

* Acquisition or disposal of insurance entities and reallocating of existing financial or insurance entities within the insurance holding company system;

* Any changes of shareholders of the insurance holding company system exceeding ten percent (10%) or more of voting securities;

* Developments in various investigations, regulatory activities or litigation that may have a significant bearing or impact on the insurance holding company system;

* Business plan of the insurance holding company system and summarized strategies for next 12 months;

* Identification of material concerns of the insurance holding company system raised by supervisory college, if any, in last year;

* Identification of insurance holding company system capital resources and material distribution patterns;

* Identification of any negative movement, or discussions with rating agencies which may have caused, or may cause, potential negative movement in the credit ratings and individual insurer financial strength ratings assessment of the insurance holding company system (including both the rating score and outlook);

* Information on corporate or parental guarantees throughout the holding company and the expected source of liquidity should such guarantees be called upon; and

* Identification of any material activity or development of the insurance holding company system that, in the opinion of senior management, could adversely affect the insurance holding company system.

The Registrant/Applicant may attach the appropriate form most recently filed with the U.S. Securities and Exchange Commission, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the form provides responsive information. If the Registrant/Applicant is not domiciled in the U.S., it may attach its most recent public audited financial statement filed in its country of domicile, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the financial statement provides responsive information.

ITEM 2: OBLIGATION TO REPORT.

If the Registrant/Applicant has not disclosed any information pursuant to Item 1, the Registrant/Applicant shall include a statement affirming that, to the best of its knowledge and belief, it has not identified enterprise risk subject to disclosure pursuant to Item 1.

Rule 120-2-23-.22. Severability Clause.

If any provision of this Regulation or the application thereof to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this

Regulation which can be given effect without the invalid provision or application, and to that end the provisions of this Regulation are severable.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.22
Authority: O.C.G.A. Secs. 33-2-9, 33-13-9.
History. Original Rule entitled "Severability Clause" adopted. F. July 15, 2015; eff. Aug. 4, 2015.

Rule 120-2-23-.23. Exemption for Passive Investors.

1) Institutional investors, their sponsored investment funds, subsidiaries and affiliates who meet the following criteria will not be presumed to control a domestic insurer under O.C.G.A. § 33-13-1(3), and therefore, the Commissioner may exempt such investors, in accordance with O.C.G.A. § 33-13-3(e), from Form A filing requirements and being included in Form B requirements in accordance with O.C.G.A. § 33-13-4(j)in connection with such passive investments. Investors may seek this exemption are those who:
   a) Only make passive investment directly or indirectly in publicly traded voting securities of insurance holding companies with a domestic insurer;
   b) Whose investments directly or indirectly equal or exceed 10% of the voting securities of such companies; and
   c) Whose passive investment in such companies are not entered into for the purpose of changing or influencing the control of a domestic insurer.
2) The Commissioner may grant the exemption in accordance with O.C.G.A. § 33-13-3(e) and O.C.G.A. § 33-13-4(j)if an applicant meets the following conditions:
   a) The applicant is a "Qualifying Investor"
      i) A "Qualifying Investor" is an investor that directly or indirectly purchases voting securities of publicly-traded insurance holding companies held in an investment fund or in order to track a specified reference index; and
      ii) Files, or would be eligible to file, a Schedule 13G pursuant to 17 CFR 240.13d-1(b) of the Regulations of the Securities and Exchange Commission with respect to the publicly traded securities of the relevant insurance holding company held by such investor.
   b) On an annual basis, each Qualifying Investor will certify to the Commissioner that:
      i) It does not seek to exercise "control" within the meaning of O.C.G.A. § 33-13-1(3)over any applicable domestic insurer or its holding company; and

ii) As evidence of its passive intent it has filed or would be eligible to file a Schedule 13G under the Exchange Act with respect to the publicly traded securities of the relevant insurance holding company. Provided that:

(1) Qualifying Investors who certify to the Commissioner their mere eligibility to file a Schedule 13G must make a certification to the Commissioner identical to that found in Schedule 13G Item 10 (a).

iii) The Qualifying Investor shall submit to the Department annual reports of its holdings in insurance holding companies with domestic insurer subsidiaries.

iv) The Qualifying Investor shall commit to refrain from seeking or accepting representation on the board of directors of any insurance holding companies with domestic insurer subsidiaries in which it invests. Similarly, the Qualifying Investor would commit to refrain from proposing a director or slate of directors in opposition to a nominee proposed by the management or board of directors of such companies.

3) Qualifying Investors whose investments exceed 20% of the total voting securities of such relevant companies or who are no longer eligible to file a Schedule 13G and instead must file a 13D pursuant to 17 CFR 240.13d-1(a) of the Regulations of the Securities and Exchange Commission with respect to the publicly traded voting securities of the relevant insurance holding company held by such investor, must notify the Commissioner within 10 of the date the Qualifying Investor became aware of such a change.

4) Any officer, director, representative, or employee of a Qualifying Investor or insurance holding company system who willfully and knowingly subscribes to or makes or causes to be made any false statements or false reports or false filings with the intent to deceive the Commissioner in the performance of his or her duties under this rule shall be subject to the penalties provided for in O.C.G.A. § 33-13-11 and any other relevant penalties that may be found in O.C.G.A. Title 33.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.23
Authority: O.C.G.A. §§ 33-2-9, 33-13-3, 33-13-4.
History. Original Rule entitled "Exemption for Passive Investors" adopted. F. Aug. 18, 2020; eff. Aug. 24, 2020, as specified by the Agency.

Subject 120-2-24. REPLACEMENT OF LIFE INSURANCE POLICIES.

Rule 120-2-24-.01. Statutory Authority.

This Regulation is made and promulgated by the Insurance Commissioner pursuant to the authority set forth in Section 33-2-9 and Section 33-6-12 of the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-24-.01
Authority: Ga. L. 1960, pp. 289, 305, 1972, pp. 1261, 1264.
History. Original Rule entitled "Statutory Authority" adopted. F. June 5, 1972; eff. June 25, 1972.
Repealed: New Rule entitled "Authority" adopted. F. Apr. 28, 1982; eff. June 1, 1982, as specified by the Agency.
Submitted for Publishing: Rule entitled "Statutory Authority" Apr. 6, 2007.

Rule 120-2-24-.02. Purpose.

The purpose of this Regulation is to protect the interests of life insurance policyholders by establishing minimum standards of conduct to be observed in the replacement or proposed replacement of existing life insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-24-.02
Authority: Ga. L. 1960, pp. 289, 305, 1972, pp. 1261, 1264.
History. Original Rule entitled "Promulgation and Purpose" adopted. F. June 5, 1972; eff. June 25, 1972.
Repealed: New Rule entitled "Purpose" adopted. F. Apr. 28, 1982; eff. June 1, 1982, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-24-.03. Definitions.

The following words and terms, when used in this Regulation shall have the following meanings, unless the context clearly indicates otherwise:

(1) "Advertisement" shall be defined as set forth in Chapter 120-2-11 of the Rules and Regulations of the Georgia Insurance Department, entitled "Advertising of Life Insurance and Annuity Contracts," at Rule 120-2-11-.03.

(2) "Agent" means any person licensed by this state as a life insurance agent or counselor.

(3) "Annuity" means a contract by which one party in return for a stipulated payment or payments promises to pay periodic installments for a stated certain period of time or for the life or lives of the person or persons specified in the contract, but does not cover the proceeds of life insurance no matter how payable.

(4) "Commissioner" means the Insurance Commissioner of the State of Georgia.

(5) "Conservation" means any attempt by the existing insurer, its agent or a counselor to discourage a policyowner from the replacement of existing life insurance. A conservation does not include routine administrative procedures such as late payment reminders or late payment or reinstatement offers.

(6) "Direct response insurer" means an insurer that does not utilize an agent or counselor in the sale or delivery of the policy.

(7) "Existing insurer" means the insurer whose policy is or is proposed to be replaced.

(8) "Existing life insurance" means any in-force life insurance, including life insurance under a binding or conditional receipt or within the unconditional refund period.

(9) "Insurer" shall include any individual, corporation, association, partnership, or any other legal entity which is defined as an "Insurer" in the Georgia Insurance Code or issues life insurance or annuity contracts for delivery in this State.

(10) "Policy Summary" shall be defined as set forth in Chapter 120-2-31 of the Rules and Regulations of the Georgia Insurance Department, entitled "Life Insurance Solicitation Regulation," at Rule 120-2-31-.04(8), and as required under Rule 120-2-31-.05.

(11) "Replacing insurer" means the insurer that issues or is proposed to issue a new policy or annuity that is a replacement of existing life insurance.

(12) "Replacement" means any transaction in which new life insurance or an annuity has been or is to be purchased, and the proposing agent or counselor or the proposing insurer if no agent or counselor is involved, knows or should know that because of such transaction, existing life insurance has been or is to be:

(a) lapsed, forfeited, surrendered, or otherwise terminated;

(b) changed to reduced paid-up or extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits, policy loans, or other policy values.

(c) amended to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force; or

(d) reissued with any reduction in cash value.

Cite as Ga. Comp. R. & Regs. R. 120-2-24-.03
Authority: Ga. L. 1960, pp. 289, 305, 1972, pp. 1261, 1264.
History. Original Rule entitled "Definitions" adopted. F. June 5, 1972; eff. June 25, 1972.
Repealed: New Rule of same title adopted. F. Apr. 28, 1982; eff. June 1, 1982, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-24-.04. Exemptions.

Unless otherwise specifically included, this Regulation shall not apply to:

(1) Replacement of annuity contracts;

(2) Credit life insurance;

(3) Group life insurance;

(4) Life insurance issued in connection with a pension, profit-sharing or other benefit plan qualifying for tax deductibility of premiums, provided that

(a) a portion or all of the premium is paid by someone other than the policyholder, certificate holder, insured, beneficiary, or no individual underwriting is required with respect to any proposed insurance policy, and

(b) as to any plan otherwise qualifying for exemption by this subsection, full and complete disclosure of all material facts shall be provided the administrator of the plan subject to replacement.

Cite as Ga. Comp. R. & Regs. R. 120-2-24-.04
Authority: Ga. L. 1960, pp. 289, 305, 1972, pp. 1261, 1264.
History. Original Rule entitled "Exemptions from Regulation" adopted. F. June 5, 1972; eff. June 25, 1972.
Repealed: New Rule entitled "Exemptions" adopted. F. Apr. 28, 1982; eff. June 1, 1982, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-24-.05. Duties of Agents.

(1) Each agent shall submit to the insurer to whom an application for life insurance is presented, with or as part of the application:

(a) a statement signed by the applicant as to whether replacement of existing life insurance is involved in the transaction; and

(b) a statement signed by the agent as to whether the agent knows replacement is or may be involved in the transaction.

(2) Where a replacement is involved, the agent shall:

(a) Present to the applicant, not later than at the time of taking the application, a Replacement Notice as described in Exhibit A or other substantially similar form approved by the Commissioner. The Replacement Notice shall be signed by both the applicant and the agent and left with the applicant.

(b) Obtain with or as part of each application a list of all existing life insurance to be replaced. Such existing life insurance shall be identified by name of insurer, insured, and policy number. If a policy number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

(c) Leave with the applicant the original or a copy of all written or printed advertisement used in the presentation to the applicant.

(d) Submit to the replacing insurer with the application a copy of the Replacement Notice provided pursuant to Section 120-2-24-.05(2)(a) of this Regulation and a statement containing the information described in Section 120-2-24-.05(2)(b) of this Regulation.

(3) Each agent who uses written or printed advertisement material in a conservation shall leave with the applicant the original or a copy of the written or printed advertisement used in the conservation.

Cite as Ga. Comp. R. & Regs. R. 120-2-24-.05
Authority: Ga. L. 1960, pp. 289, 305, 1972, pp. 1261, 1264.
History. Original Rule entitled "Duties of Agent to Applicant and Existing Insurer" adopted. F. June 5, 1972; eff. June 25, 1972.
Repealed: New Rule entitled "Duties of Agents" adopted. F. Apr. 28, 1982; eff. June 1, 1982, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-24-.06. Duties of All Insurers.

Each insurer shall:

(1) Inform its agents and other personnel responsible for compliance with this Regulation of the requirements of this Regulation.

(2) Require with or as a part of each completed application for life insurance or annuity a statement signed by the applicant as to whether such proposed insurance or annuity will replace existing life insurance.

(3) Maintain copies of the Replacement Notice, all written communications required under Rule 120-2-24-.07 and -.08, the applicant's signed statement with respect to replacement, and a replacement register, cross indexed, by replacing agent and existing insurer to be replaced, in its home office for at least three years or until the conclusion of the next succeeding regular examination by the Insurance Department of its state of domicile, whichever is later.

(4) Any insurer which receives a Replacement Notice and written communication that its existing insurance may be replaced shall maintain copies thereof on its premises, indexed by insurer, notifying it of such replacement, for three years or until the conclusion of the next regular examination conducted by the Insurance Department of its state of domicile, whichever is later.

(5) Any insurer which receives a Replacement Notice and written communication that its existing insurance may be replaced shall, within ten (10) working days after receipt

thereof, furnish a policy summary statement to their present policyholder if so indicated or requested.

Cite as Ga. Comp. R. & Regs. R. 120-2-24-.06
Authority: Ga. L. 1960, pp. 289, 305, 1972, pp. 1261, 1264.
History. Original Rule entitled "Duties of Insurer to Applicant and Insurer of Policy to Be Replaced" adopted. F. June 5, 1972; eff. June 25, 1972.
Repealed: New Rule entitled "Duties of All Insurers" adopted. F. Apr. 28, 1982; eff. June 1, 1982, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-24-.07. Duties of Insurers That Use Agents.

Each insurer that uses an agent in a life insurance or annuity sale shall:

(1) Require with or as part of each completed application for life insurance or annuity, a statement signed by the agent as to whether he or she knows replacement is or may be involved in the transaction.

(2) Where a replacement is involved:

(a) Require from the agent with the application for life insurance or annuity (i) a list of all of the applicant's existing life insurance to be replaced and (ii) a copy of the Replacement Notice provided the applicant pursuant to Section 120-2-24-.05(2)(a). Such existing life insurance shall be identified by name of insurer, insured, and policy number. If a policy number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

(b) Send to the existing insurer a copy of the Replacement Notice and written communication advising of the replacement or proposed replacement, including the name of the replacing insurer, the insured, and the identification information with respect to the existing life insurance to be replaced obtained pursuant to Section 120-2-24-.07(2)(a). The Replacement Notice and written communication shall be mailed within three (3) working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy is issued, whichever is sooner.

Cite as Ga. Comp. R. & Regs. R. 120-2-24-.07
Authority: Ga. L. 1960, pp. 289, 305, 1972, pp. 1261, 1264.
History. Original Rule entitled "Penalties for Failure of Insurer or Agents to Comply with Rules and Regulations" adopted. F. June 5, 1972; eff. June 25, 1972.
Repealed: New Rule entitled "Duties of Insurers That Use Agents" adopted. F. Apr. 28, 1982; eff. June 1, 1982, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-24-.08. Duties of Replacing Insurers That Are Direct Response Insurers.

Each replacing insurer that is a direct response insurer shall:

(1) Provide to applicants or prospective applicants with or as a part of the application a Replacement Notice as described in Exhibit A or other substantially similar form approved by the Commissioner.

Such Replacement Notice shall not be required to contain paragraph three, the signature blanks and related information, nor the "Items to Consider" on the reverse side of the Replacement Notice, where the original solicitation contains the application for insurance and it appears in a newspaper, magazine, or similar type of publication.

(2) Request from the applicant with or as a part of the application, a list of all existing life insurance to be replaced. Such existing life insurance shall be identified by name of insurer, insured and policy number.

(3) If the applicant furnishes the name of existing insurers, send to the existing insurer a copy of the Replacement Notice and written communication advising of the replacement or proposed replacement, including the name of the replacing insurer, the insured, and the identification information with respect to the existing life insurance to be replaced obtained pursuant to subsection (2) above. The Replacement Notice and written communication shall be mailed within three (3) working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy is issued, whichever is sooner.

Exhibit A.

Replacement Notice

EXHIBIT A

REPLACEMENT NOTICE

(Name, Address and Telephone Number of Company)

REPLACING YOUR LIFE INSURANCE POLICY?

Are you thinking about buying a new policy and discontinuing or changing an existing policy? If you are, your decision could be a good one - or a mistake. You will not know for sure unless you make a careful comparison of your existing policy and the proposed policy.

Make sure you understand the facts. Georgia law gives you the right to obtain a policy summary statement from your existing insurer at any time. Ask the company or agent that sold you your existing policy to give you information about it.

The reverse side contains a check list of some of the items you should consider in making your decision. TAKE TIME TO READ IT.

Do not let one agent or insurer prevent you from obtaining information from another agent or insurer which may be to your advantage.

Hear both sides before you decide. This way you can be sure you are making a decision that is in *your* best interest.

[] If you wish a policy summary statement from your existing insurer, or insurers, check this box.

We are required to notify your existing company that you may be replacing their policy.

Applicant's Signature	Date	Agent's Signature	Date
Applicant's Name and Address (Printed)		Agent's Name, Address, Telephone Number and License Number (Printed)	

ORIGINAL TO APPLICANT - COPY TO REPLACING INSURER - COPY TO REPLACED INSURER

[The bracketed information below is provided for the insurer and *is not* a part of the Replacement Notice.]

[Note to insurers: information concerning existing coverage(s) can be required on this form, on the application, or on a separate form at the company's discretion.]

[Direct response insurers may delete paragraph three, and the signature blanks and related information, and the reverse side of this Exhibit where the original solicitation contains the application for insurance and it appears in a newspaper, magazine or similar type publication, and still be in compliance with this Regulation.]

ITEMS TO CONSIDER

1. If the policy coverages are basically similar, premiums for a new policy may be higher because rates increase as your age increases.

2. Cash values and dividends, if any, may grow slower under a new policy initially because of the initial costs of issuing a policy.

3. Your present insurance company may be able to make a change on terms which may be more favorable than if you replace existing insurance with new insurance.

4. If you borrow against an existing policy to pay premiums on a new policy, death benefits payable under your existing policy will be reduced by the amount of any unpaid loan, including unpaid interest.

5. Current interest rates are not guaranteed. Guaranteed interest rates are usually considerably lower than current rates. What rates are guaranteed?

6. Are premiums guaranteed or subject to change - up or down?

7. Participating policies pay dividends that may materially reduce the cost of insurance over the life of the contract. Dividends, however, are not guaranteed.

8. CAUTION, you are urged not to take action to terminate, assign, or alter your existing life insurance coverage until after you have been issued the new policy, examined it and have found it to be acceptable to you.

and

REMEMBER, you have ten (10) days following receipt of any individual life insurance policy to examine its contents. If you are not satisfied with it for *any* reason, you have the right to return it to the insurer at its home or branch office or to the agent through whom it was purchased, for a full refund of premium.

Cite as Ga. Comp. R. & Regs. R. 120-2-24-.08
Authority: Ga. L. 1960, pp. 289, 305, 1972, pp. 1261, 1264.
History. Original Rule entitled "Exhibits to Rules and Regulations" adopted. F. June 5, 1972; eff. June 25, 1972.
Repealed: New Rule entitled "Duties of Replacing Insurers That Are Direct Response Insurers" adopted. F. Apr. 28, 1982; eff. June 1, 1982, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-24-.09. Relationship to Other Rules and Regulations.

If any portion of this Regulation is inconsistent with any provision of any other regulation dealing with life insurance or annuity marketing practices or disclosure, said inconsistent portion shall be interpreted so as to provide the greatest information or protection to the policyholder.

Cite as Ga. Comp. R. & Regs. R. 120-2-24-.09
Authority: Ga. L. 1960, pp. 289, 305, 1972, pp. 1261, 1264.
History. Original Rule entitled "Application of Regulation" adopted. F. June 5, 1972; eff. June 25, 1972.
Repealed: New Rule entitled "Relationship to Other Rules and Regulations" adopted. F. Apr. 28, 1982; eff. June 1, 1982, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-24-.10. Severability.

If any section, term, or provision of these rules and regulations shall be adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other section, term, or provision of these rules and regulations and the remaining sections, terms, and provisions shall be and remain in full force.

Cite as Ga. Comp. R. & Regs. R. 120-2-24-.10
Authority: Ga. L. 1960, pp. 289, 305, 1972, pp. 1261, 1264.
History. Original Rule entitled "Effective Date of Regulation" adopted. F. June 5, 1972; eff. June 25, 1972.
Repealed: New Rule entitled "Severability" adopted. F. Apr. 28, 1982; eff. June 1, 1982, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-24-.11. Penalties.

(1) Any insurer, agent, representative, officer, employee of an insurer, or counselor failing to comply with the requirements of this Regulation shall be subject to such penalties as may be appropriate under the Insurance Laws of Georgia and the Rules and Regulations of the Georgia Insurance Department.

(2) This Regulation does not prohibit the use of additional material other than that which is required that is not in violation of this Regulation or any other Georgia statute or regulation.

(3) Policyholders have the right to replace existing life insurance after indicating in or as part of the application for life insurance or annuity that such is not their intention. However, patterns of such action by policyholders who purchase the replacing policies from the same insurer, agent or counselor shall be deemed prima facie evidence of the insurer's, agent's or counselor's knowledge that replacement was intended in connection with the sale of those policies, and such patterns of action shall be deemed prima facie evidence of the insurer's, agent's or counselor's intent to violate this Regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-24-.11
Authority: Ga. L. 1960, pp. 289, 305, 1972, pp. 1261, 1264.
History. Original Rule entitled "Penalties" adopted. F. Apr. 28, 1982; eff. June 1, 1982, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Subject 120-2-25. EXEMPTION FROM FILING CERTAIN LIFE AND HEALTH POLICY FORMS.

Rule 120-2-25-.01. Statutory Authority.

This Regulation is made and promulgated by the undersigned Insurance Commissioner pursuant to authority set forth in Section 33-2-9; Chapter 33-6; and Chapter 33-24 of the Georgia Code Annotated.

Cite as Ga. Comp. R. & Regs. R. 120-2-25-.01
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Statutory Authority" adopted. F. June 5, 1972; eff. June 25, 1972.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-25-.02. Purpose.

The purpose of this Regulation is:

1. To provide for the exemption of filing certain Life and Accident and Sickness Policy Forms and Annuity Contract Forms with the Office of the Insurance Commissioner.

2. To maintain a system of filing to best protect the interests of the insurance public by establishing clear and reasonable guidelines to review Life and Accident and Sickness Policy Forms and Annuity Contract Forms for the purpose of reducing misrepresentation, unfair methods of competition and unfair practices.

Cite as Ga. Comp. R. & Regs. R. 120-2-25-.02
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Purpose" adopted. F. June 5, 1972; eff. June 25, 1972.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-25-.03. Filing Provisions.

All basic Life and Accident and Sickness Policy Forms and Annuity Contract Forms, including Application Forms, where written application is required and is to be made a part of the policy or contract, and printed rider or endorsement forms, or form of renewal certificate not specifically exempted by this Regulation, must be filed in compliance with Section 33-24-9 of the Georgia Code Annotated.

Cite as Ga. Comp. R. & Regs. R. 120-2-25-.03
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Filing Provisions" adopted. F. June 5, 1972; eff. June 25, 1972.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-25-.04. Listing of Forms in Use.

1. On or before March 1, 1972, all insurers writing Life and Accident and Sickness Insurance Policies or Annuity Contracts in this State, shall file with this Office a List of all basic

insurance policies and annuity contract forms, including applications, where written applications are required and are to be made a part of the policy or contract, and printed rider or endorsement forms, and all other such forms available for use as of December 31, 1971 in connection with such basic policies and contracts and which are exempted from filing under this Regulation.

(a) Forms must be grouped on the List by Type: Group Life, Individual Life, Group Accident and Health, Blanket Accident and Health, Etc. - and Kind: Policy, Rider, Application, Etc.

(b) The List must be accompanied by a statement executed by an authorized officer of the insurer, stating that to the best of his knowledge, the listed forms are in compliance with all statutory requirements and all Rules and Regulations of this Department, contain nothing that has previously been disapproved or objected to by this Department, and that the forms are exempted from filing by this Regulation.

2. ANNUAL FILINGS must be made in accordance with instructions given above. On or before March 1, 1973, and annually thereafter, filings must be submitted listing all forms available for use in Georgia as of December 31st of the preceding year. This listing shall include all additions or deletions made during the calendar year, with date of such addition or deletion.

3. On or before March 1, 1972, all insurers writing Life and Accident and Sickness Insurance Policies and Annuity Contracts in this State shall file with this Office a List of such forms and contracts, including Application Forms where written application is required to be made a part of the Policy or Contract, and Printed Rider or Endorsement Forms, and all other forms used in connection with such policies and contracts available for use as of December 31, 1971, and WHICH ARE NOT EXEMPTED from filing by this Regulation.

   (a) Forms must be listed by type and kind, and each must be identified by descriptive title and form number, and date approved for use in Georgia.

4. In addition, an up-to-date List shall be maintained by the insurer of all Exempt and Non-Exempt Forms, which shall be available to the Commissioner upon request at any time.

5. Forms and documents exempted by this Regulation are not to be submitted to this Office unless specifically requested.

Cite as Ga. Comp. R. & Regs. R. 120-2-25-.04
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Listing of Forms in Use" adopted. F. June 5, 1972; eff. June 25, 1972.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-25-.05. Exemptions.

On and after the effective date of this Regulation, and continuing until further Order of the Commissioner, the following policies and contract forms are hereby exempted from filing under the provisions of Section 33-24-9 of the Georgia Code Annotated:

1. Group Life Exemptions (Not including Credit Life)

   (a) All Group Life Insurance Policies and Group Annuity Contracts, except as provided in Sections 33-11-19 and 33-11-34 of the Georgia Code Annotated.

   (b) Applications, riders, endorsements and Amendments applicable to Group Life Insurance Policies and Group Annuity Contracts, except as provided in Sections 33-11-19 and 33-11-34 of the Georgia Code Annotated.

   (c) Group Life Rate and Classification Manuals.

2. Individual Policy Exemptions - Ordinary and Industrial

   (a) Level Amount Whole Life Policies

      (i) Straight Life

      (ii) Modified Life with not more than one premium increase at the end of three or five years

      (iii) Level Premium Limited Payment Life

      (iv) Single Premium Life

      (v) Level Premium Joint Life

      (vi) Family Plan, including Dependent Riders

   (b) Level Amount Endowment Policies

      (i) Level Premium Endowments for a specific number of years including limited payment endowments

      (ii) Single Premium Endowments

      (iii) Level Premium Retirement Income

   (c) Level Premium Term Policies and Riders

      (i) Level Term

      (ii) Uniformly Decreasing or Increasing Term

      (iii) Mortgage Cancellation Term for a duration of ten years or more

(iv) Family Income

(v) Single Premium Term

(vi) Family Plan Riders including Children's Insurance Riders

(d) Annuities - Except Variable and Separate Accounts (Section 33-11-35)

(i) Single Premium Immediate and Deferred Annuities

(ii) Annual Premium, including Limited Payment, Retirement Annuities

(e) Applications, additional benefit riders, endorsements, and amendments applicable to policies listed in this section.

3. Group Accident and Health Exemptions

(a) All group Accident and Health Policies except as provided in Section 33-30-1(5)at the discretion of the Commissioner.

(b) Applications, riders, endorsements and amendments applicable to policies listed in this Section.

(c) Group Accident and Health Rate and Classification Manuals.

4. Blanket Accident and Health Exemptions

(a) Policies

(i) Issued to any common carrier or to any operator, owner or lessee of a means of transportation, who or which shall be deemed the policyholder covering a group defined as all persons or all persons of a class who may become passengers on such common carrier or such means of transportation. (Section 33-13-4(1))

(ii) Issued to an employer, who shall be deemed the policyholder, covering all employees, dependents or guests defined by reference to specified hazards incident to the activities or operations of the employer or any class of employees, dependents or guests similarly defined. (Section 33-30-3(2))

(iii) Issued to a school, or other institution of learning, camp, or sponsor thereof; or to the head or principal thereof, who or which shall be deemed the policyholder, covering students or campers. Supervisors and employees may be included. (Section 33-30-3(3))

(iv) Issued in the name of any religious, charitable, recreational, educational, or civic organization, which shall be deemed the policyholder, covering participants in activities sponsored by the organization. (Section 33-30-3(4))

(v) Issued to a sports team or sponsors thereof which shall be deemed the policyholder, covering members, officials and supervisors. (Section 33-30-3(5))

(b) Applications, riders, endorsements and amendments applicable to policies and/or riders listed in this Section.

Cite as Ga. Comp. R. & Regs. R. 120-2-25-.05
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Exemptions" adopted. F. June 5, 1972; eff. June 25, 1972.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-25-.06. General Information-Unfair Practices.

1. Regulation

(a) This Order is not intended to relieve any insurer from complying with the terms of Chapter 33-6 of the Georgia Code Annotated, and the use of any policy or contract form, or the inclusion in any policy or contract forms of any language which violates the provisions of (b) through (g) of this Rule is hereby deemed and determined to be an unfair method of competition and an unfair and deceptive act or practice described by said Code Chapter, and the same is hereby prohibited.

(b) The insurer shall see that all forms comply with all required provisions in the Statutes, and Regulations of this Department.

(c) The insurer shall be held responsible for, and shall see that no forms contain any ambiguous, deceptive or misleading terms.

(d) The insurer shall be responsible for, and shall see that no forms contain any exception, exclusion, limitation or reduction that is unfair or inequitable or that would deceptively affect the risk purported to be assumed in the general coverage of the contract, or would, because of such provisions being unclear or deceptively worded, encourage misrepresentation.

(e) The insurer shall be responsible for, and shall see that no form is printed or otherwise reproduced in such a manner as to render any provision of the form substantially illegible or not easily legible to persons of normal vision.

{Footnote 1}

(f) No life insurance policy issued in this State shall have incorporated therein an interest rate on policy loans in excess of eight (8%) percent.

(g) Any form which contains provisions, conditions, or concepts which depart from those used by the industry in general in the State of Georgia, or which may be construed as uncommon or unusual, *must be submitted* whether or not it falls within one of the exempt filings as set forth herein.

(h) The Commissioner reserves the right to require insurers newly licensed in Georgia to submit all forms proposed for use in Georgia for so long as deemed necessary.

(i) The Commissioner shall have the authority at any time to examine and to require the filing of any or all forms used in this State by any insurer at the expense of said insurer.

{Footnote 1}Amended by order of Hon. Johnnie L. Caldwell, Insurance Commissioner, dated October 2, 1975; *effective January 1, 1976.*

Cite as Ga. Comp. R. & Regs. R. 120-2-25-.06
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "General Information - Unfair Practices" adopted. F. June 5, 1972; eff. June 25, 1972.
Amended: F. Dec. 3, 1975; eff. Dec. 23, 1975.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-25-.07. Penalties for Failure to Comply.

Any insurer, or any officer, agent or employee of any insurer failing to comply with the requirements of this Regulation shall be subject to such penalties as authorized by Title 33 of the Georgia Code Annotated, and the Rules and Regulations promulgated thereunder.

Cite as Ga. Comp. R. & Regs. R. 120-2-25-.07
Authority: Ga. L. 1960, pp. 289 to 755.
History. Original Rule entitled "Penalties for Failure to Comply" adopted. F. June 5, 1972; eff. June 25, 1972.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-25-.08. Effective Date.

This Regulation shall become effective January 1, 1972.

Cite as Ga. Comp. R. & Regs. R. 120-2-25-.08
Authority: Ga. L. 1960, pp. 289 to 755.

History. Original Rule entitled "Effective Date" adopted. F. June 5, 1972; eff. June 25, 1972.
Submitted for Publishing: Mar. 15, 2007.

Subject 120-2-26. FINANCING OF PREMIUMS OF LIFE INSURANCE POLICIES.

Rule 120-2-26-.01. Statutory Authority.

This Regulation is made and promulgated by the undersigned Insurance Commissioner pursuant to the authority set forth in Section 33-2-9 of the Insurance Laws of this State, and especially Chapter 33-6 of the Georgia Code Annotated.

Cite as Ga. Comp. R. & Regs. R. 120-2-26-.01
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-6.
History. Original Rule entitled "Statutory Authority" adopted. F. July 18, 1972; eff. Aug. 7, 1972.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-26-.02. Purpose.

The purpose of this Regulation is:

(1) To implement the Insurance Laws of this State with respect to the financing of premiums of life insurance in this State;

(2) To protect the interests of the life insurance public by establishing minimum standards of conduct to be observed in the financing of life insurance policies, and by making available full and clear information on which an applicant for life insurance can make a decision in his own best interest by reducing the opportunity for misrepresentation.

The following Regulation and standards shall be observed and followed in the financing of life insurance policy premiums. Failure to observe said Regulation and standards is hereby deemed an unfair method of competition and an unfair and deceptive act or practice prohibited by Chapter 33-6 of the Insurance Laws of the State of Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-26-.02
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-6.
History. Original Rule entitled "Purpose" adopted. F. July 18, 1972; eff. Aug. 7, 1972.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-26-.03. Exemptions from Regulation.

This Regulation shall not apply to a credit life insurance policy financed by lending institutions, or merchants financing consumer products.

Cite as Ga. Comp. R. & Regs. R. 120-2-26-.03
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-6.
History. Original Rule entitled "Exemptions From Regulation" adopted. F. July 18, 1972; eff. Aug. 7, 1972.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-26-.04. Notice for Minors.

In the event the insured is a minor, and executes a promissory note for the payment of part or all of the first year's premium, such note must be witnessed or acknowledged by at least one of the insured's parents, legal guardian, or adult spouse.

Cite as Ga. Comp. R. & Regs. R. 120-2-26-.04
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-6.
History. Original Rule entitled "Notice for Minors" adopted. F. July 18, 1972; eff. Aug. 7, 1972.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-26-.05. Disclosure of Note Obligation.

(1) The fact that a promissory note is to be executed by the insured must:

(a) Be set forth in the Application, preceding the applicant's signature;

(b) Show the amount of the note for premiums;

(c) Specify the true rate of interest of the note;

(d) Give the amount of any down payment made at the time of taking the application; and

(e) If applicable, State the fact that the note becomes due and payable in full upon any default in premium payment.

(2) A down payment of at least ten dollars ($10.00) must be paid by the insured at the time the application is signed.

(3) The down payment must be paid by the applicant in cash, or its equivalent, and any payment made directly or indirectly by the agent to or for the benefit of the applicant in connection with the sale shall be presumed to be a rebate or special inducement.

Cite as Ga. Comp. R. & Regs. R. 120-2-26-.05
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-6.
History. Original Rule entitled "Disclosure of Note Obligation" adopted. F. July 18, 1972; eff. Aug. 7, 1972.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-26-.06. Delivery of Note.

(1) If the payee of the Note is an insurer or any affiliate thereof, except the agent, a copy of the Note must be delivered with the policy at the time of delivery.

(2) If the payee is the agent, a copy of the Note must be delivered with the policy at the time of policy delivery.

(3) Delivery must be in person by a company representative.

(4) In the event that personal delivery is, for good reason, impractical, delivery may be made by use of the United States Certified Mail - Return Receipt Requested. Delivery must be to addressee only.

(5) Upon delivery, a policy receipt or acceptance form must be executed which recites that:

(a) The face amount, premium payment frequency and periodic premium amount of the policy have been presented as represented; and

(b) The insured has examined the "Remarks" Section of the Application and acknowledges and understands the provisions and obligations of the financial indebtedness he has incurred.

(6) It shall be the responsibility of the company representative to read the policy receipt or acceptance form to the insured. In the event that delivery is made by use of the United States Mail as in Item 4 above, the Company shall request the insured to sign and return the policy receipt or acceptance form.

Cite as Ga. Comp. R. & Regs. R. 120-2-26-.06
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-6.
History. Original Rule entitled "Delivery of Note" adopted. F. July 18, 1972; eff. Aug. 7, 1972.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-26-.07. Duties of Payee.

(1) If the Company, or any affiliate thereof, except the agent, be the payee and the promissory note is sold or otherwise transferred, the Company shall:

(a) Notify the note maker and all co-makers regarding such transfer or sale after it occurs, inviting any questions relative to the note, or the policy which is used as collateral security for the note.

(b) Such notice may be given by the purchaser, transferee, or assignee of the note.

(2) If the agent, or a party other than the Company or any affiliate thereof be the payee:

(a) The agent shall bear the duty of notice as in this Regulation provided; and

(b) Shall furnish the Company with a copy of said notice.

(3) If the payee or intended assignee of the Note is the insurer or any affiliate thereof, except the agent, the promissory note shall not be sold or otherwise transferred by the payee, nor any commissions on the sale paid to the agent until the form outlined in Item 2 above has been received in the home office of the Company.

Cite as Ga. Comp. R. & Regs. R. 120-2-26-.07
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-6.
History. Original Rule entitled "Duties of Payee" adopted. F. July 18, 1972; eff. Aug. 7, 1972.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-26-.08. Underwriting Principles.

(1) The maximum amount of any financing arrangement which may be executed in connection with such a transaction shall be in accordance with reasonable and sound underwriting and business practices.

(2) A financed program shall not be sold to an undergraduate on a basis where premiums would come due prior to the anticipated date of graduation by the insured.

Cite as Ga. Comp. R. & Regs. R. 120-2-26-.08
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-6.
History. Original Rule entitled "Underwriting Principles" adopted. F. July 18, 1972; eff. Aug. 7, 1972.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-26-.09. Cash Values of Policy.

(1) The cash values shown at the time of presentation shall be a specimen of the policy being offered and not for a larger policy. (Example: if $10,000 policy is being sold, values for this policy shall be shown - not those for a $50,000 or $75,000 program.) This leads to misunderstanding on the part of the insured when he receives his $10,000 policy and the cash values are less than those shown at the time of sale.

(2) In the event a sales presentation is made for an amount of insurance greater than that actually sold, then an approximate summary must be given to the insured for the exact amount of the policy sold, not later than the date of delivery.

Cite as Ga. Comp. R. & Regs. R. 120-2-26-.09
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-6.
History. Original Rule entitled "Cash Values of Policy" adopted. F. July 18, 1972; eff. Aug. 7, 1972.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-26-.10. Misleading Titles.

(1) An agent or field representative who is licensed by this State as a life insurance agent shall not represent, refer to, or hold himself out to the public under any special title which would obscure the fact that he is a licensed agent of the Company. Identification as an agent or representative of a special division of such company may be permitted, providing:

   (a) Such a division actually exists,

   (b) The agency relationship is disclosed, and

   (c) Such identification is not misleading as to the agent's identity as a representative of an insurer.

Cite as Ga. Comp. R. & Regs. R. 120-2-26-.10
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-6.
History. Original Rule entitled "Misleading Titles" adopted. F. July 18, 1972; eff. Aug. 7, 1972.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-26-.11. Free Insurance.

(1) Impressions left with the applicant that he will receive the first year's insurance free will be considered an improper presentation of the sales transaction by the agent involved.

(2) Repeated complaints of "free insurance" for the first year shall be considered strong evidence of failure on the part of the agent to clearly explain the note process and its payment.

Cite as Ga. Comp. R. & Regs. R. 120-2-26-.11
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-6.
History. Original Rule entitled "Free Insurance" adopted. F. July 18, 1972; eff. Aug. 7, 1972.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-26-.12. Request to Cancel Insurance.

In the event an insured expresses a desire to cancel such a policy and premium arrangement, the Georgia Insurance Department will expect the cooperation of the Company and its agents in bringing such matters to a satisfactory conclusion as expeditiously as possible.

If it should be determined that the Company or agent has violated this Regulation, or if it is determined that there has been a material misrepresentation of the contract, the policy may, at the option of the insured, be returned to the Company with a signed request for release. The said

policy will then be cancelled, and the applicant released from any liability, and refund made of any down payment.

Cite as Ga. Comp. R. & Regs. R. 120-2-26-.12
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-6.
History. Original Rule entitled "Request to Cancel Insurance" adopted. F. July 18, 1972; eff. Aug. 7, 1972.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-26-.13. Penalties.

Any insurer, agent, representative, officer, or employee of such insurer, failing to comply with the requirements of this Regulation shall be subject to such penalties as may be appropriate under the Insurance Laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-26-.13
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-6.
History. Original Rule entitled "Penalties" adopted. F. July 18, 1972; eff. Aug. 7, 1972.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-26-.14. Effective Date.

This Regulation shall become effective August 1, 1972.

Cite as Ga. Comp. R. & Regs. R. 120-2-26-.14
Authority: O.C.G.A. Sec. 33-2-9, Ch. 33-6.
History. Original Rule entitled "Effective Date" adopted. F. July 18, 1972; eff. Aug. 7, 1972.
Submitted for Publishing: Mar. 15, 2007.

Subject 120-2-27. CREDIT LIFE AND CREDIT ACCIDENT AND SICKNESS INSURANCE FORMS.

Rule 120-2-27-.01. Statutory Authority.

This Regulation is made and promulgated by the undersigned Insurance Commissioner pursuant to the authority set forth in Section 33-2-9; Section 33-7-14; Chapter 33-6; Chapter 33-24; Chapter 33-27; Chapter 33-29; Chapter 33-30; Chapter 33-31 and in particular Sections 33-31-8 and 33-31-12 of the Georgia Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-27-.01
Authority: Ga. L. 1960, pp. 289, 305, 333, 393, 657, 714, 734, 747, 750.
History. Original Rule entitled "Statutory Authority" adopted as ER. 120-2-27-0.1-.01. F. June 9, 1972; eff. June 15, 1972, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Dec. 12, 1972; eff. Jan. 1, 1973.
Amended: F. Mar. 8, 1977; eff .July 1, 1977, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-27-.02. Purpose.

The Purpose of this Regulation is:

(1) To implement the Insurance Laws of this State with respect to the filing of Credit Life and Credit Accident and Sickness Insurance Forms in this State;

(2) To protect the interests of the credit life and credit accident and sickness insurance public by establishing and maintaining guidelines and standards pertaining to Credit Life and Credit Accident and Sickness Insurance Forms for the purpose of maintaining rates which are reasonable in relation to benefits provided, and are not unjust, unfair, inequitable, misleading, deceptive, or which encourage misrepresentation of the policy.

Cite as Ga. Comp. R. & Regs. R. 120-2-27-.02
Authority: Ga. L. 1960, pp. 289, 305, 333, 393, 657, 714, 734, 747, 750.
History. Original Rule entitled "Purpose" adopted as ER. 120-2-27-0.1-.02. F. June 9, 1972; eff. June 15, 1972, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Dec. 12, 1972; eff. Jan. 1, 1973.
Amended: F. Mar. 8, 1977; eff. July 1, 1977, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-27-.03. Credit Life Insurance Rates.

The following standards shall be observed and followed in the use of Credit Life Insurance Forms in this state:

(a) All credit life insurance forms used in this state shall contain schedules of premium rates to be charged in connection therewith which:

1. are reasonable in relation to the benefits and coverage provided; and

2. are neither excessive nor inadequate, nor shall they be unfairly discriminatory.

(b) No credit life insurance form shall be used in this state which contains a schedule of premiums in excess of the applicable premium rates contained in the following subparagraphs 1., 2., and 3., and approval of all credit life insurance forms heretofore given is hereby withdrawn:

1. For decreasing term credit life insurance, where the insured indebtedness is repayable in substantially equal installments during the term of the coverage, and the premium rate is based on initial insured indebtedness, a single premium of $.45 per annum, per $100.00 of initial insured indebtedness. For premiums not based on initial insured indebtedness, a monthly premium rate of $.70 per $1,000.00 of outstanding insured loan balance.

2. For net decreasing term credit life insurance, where the premium is not based on the initial insured indebtedness, the rate charged shall not exceed $.70 per month per $1,000, and the single premium shall not exceed the premium as calculated using the formula illustrated in Exhibit A of this Regulation.

3. For level term credit life insurance, a single premium rate of $.84 per annum, per $100.00 of initial insured indebtedness.

4. Single premiums for credit life insurance covering joint lives on either of the bases in subparagraph 1., 2., or 3. of this rule shall not exceed 150 percent of the appropriate single life rate specified in subparagraph 1., 2., or 3. of this rule.

(c) Any agency agreement or agency contract for the payment of any commissions, service fees, or other forms of compensation of any kind, directly or indirectly, to any agent or broker for the writing of credit life insurance in this state may not provide for all such payments in the aggregate to exceed twenty-five percent (25%) of the net written premium. For the purpose of this Rule, the term "net written premium" shall mean gross written premium minus refunds due to terminations of coverage.

(d) Any agency agreement in effect prior to the effective date of this regulation, providing for the additional payment of commissions above the 25% soliciting commissions for credit life policies written or credit life certificates issued prior to the effective date of this regulation, shall remain in effect for coverage commencing prior to March 1, 1993.

(e) The term "initial insured indebtedness" shall mean the total payments as that term is defined under the Federal Consumer Credit Protection Act. This Act defines the 'total of payments' as the amount you will have paid when you have made all scheduled payments.

Cite as Ga. Comp. R. & Regs. R. 120-2-27-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-7-6, 33-27-1, 33-31-8, 33-31-12.
History. Original Rule entitled "Rates" adopted as ER. 120-2-27-0.1-.03. F. June 9, 1972; eff. June 15, 1972, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Dec. 12, 1972; eff. Jan. 1, 1973.
Repealed: New Rule entitled "Credit Life Insurance Rates" adopted. F. Mar. 8, 1977; eff July 1, 1977, as specified by the Agency.
Amended: F. Dec. 7, 1984; eff. June 1, 1985, as specified by the Agency.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Oct. 1, 1990, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Oct. 12, 1993; eff. Nov. 1, 1993.
Amended: F. Dec. 6, 1993; eff. Dec. 26, 1993.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-27-.04. Requirements for Standard Credit Life Premium Rates.

The premium rates set forth in Rule .03 of this Regulation assume at least the following minimum policy provisions and requirements:

(1) The policy contains no provision which excludes or restricts liability for death other than as a result of suicide occurring within one year of the incurred indebtedness.

(2) The policy contains no age restrictions whatsoever, or the only age restrictions contained in the policy are those which make ineligible for coverage debtors who have attained age seventy (70) at the time the indebtedness is incurred or debtors who will have attained age seventy-one (71) prior to the maturity date of the indebtedness. However, coverage shall remain in effect and benefits shall be payable to the beneficiaries under the policy or certificate, notwithstanding the age of the debtor, in cases where an individual policy or certificate is issued to a debtor who has correctly stated his age on the application for insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-27-.04
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Requirements for Standard Credit Life Premium Rates" adopted. F. Mar. 8, 1977; eff July 1, 1977, as specified by the Agency.
Amended: F. Dec. 7, 1984; eff. June 1, 1985, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-27-.05. Disability Benefit Provisions in Credit Life Insurance Policies.

(1) If a credit life insurance policy otherwise meeting the requirements of Rule 120-2-27-.04, also provides for payment of the policy proceeds in the event of the loss of two limbs or in the event of the complete loss of eyesight, the insurer may charge a rate not to exceed one percent (1%) more than the rates set forth in Rule 120-2-27-.03.

(2) If a credit life insurance policy otherwise meeting the requirements of Rule 120-2-27-.04 provides for payment of the policy proceeds in the event of the loss of a single limb or in the event of the loss of the sight of one eye, the insurer may charge a rate not to exceed three percent (3%) more than the rates set forth in Rule 120-2-27-.03.

(3) If a credit life insurance policy otherwise meeting the requirements of Rule 120-2-27-.04 provides for payment of the policy proceeds in the event of total and permanent disability, other than as set forth in subsections 120-2-27-.05(1) and 120-2-27-.05(2) above, the Commissioner may authorize an appropriate increase in the premium rates set forth in Rule 120-2-27-.03.

Cite as Ga. Comp. R. & Regs. R. 120-2-27-.05
Authority: Ga. L. 1960, pp. 289, 305, 333, 393, 657, 714, 734, 747, 750.
History. Original Rule entitled "Disability Benefit Provisions in Credit Life Insurance Policies" adopted. F. Mar. 8, 1977; eff July 1, 1977, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-27-.06. Joint Credit Insurance Policies.

(1) Where a credit life insurance policy or certificate is issued to cover two lives jointly, the amount of credit life insurance shall be made payable upon the death of the first to die during the term of the policy, and the policy or certificate will then terminate. The phrase "two lives" as used in the preceding sentence means only persons who are jointly and severally liable for repayment of the single indebtedness and are joint signers of the instrument of indebtedness. Endorsers and guarantors are not eligible for such credit insurance coverage covering joint lives. Joint life coverage shall not be written covering more than two lives. Jointly indebted persons shall not be covered separately at single life rates.

(2) Where a credit disability insurance policy or certificate is issued to cover two persons jointly, the credit disability insurance benefits shall be payable as provided in the policy, upon the disability of one of the persons. The phrase "two persons" as used in the preceding sentence means only persons who are jointly and severally liable for repayment of the single indebtedness and are joint signers of the instrument of indebtedness. Endorsers and guarantors are not eligible for joint disability insurance coverage. Joint disability coverage shall not be written covering more than two persons. Jointly indebted persons shall not be covered separately at single disability rates.

(3) If a credit life policy containing a suicide exclusion is issued on joint lives, the policy must be specific regarding termination of the policy, or continuation of the policy on the life of the survivor, and appropriate refunds to be made in the event suicide does occur.

(4) All joint credit insurance policy forms and rates must be filed with and approved by the Commissioner prior to their use.

Cite as Ga. Comp. R. & Regs. R. 120-2-27-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-7-14; Chapters 33-6, 33-24, 33-27, 33-29, 33-30, 33-31 and in particular Secs. 33-31-8 and 33-31-12.
History. Original Rule entitled "Credit Life Insurance Policies Covering Joint Lives" adopted. F. Mar. 8, 1977; eff. July 1, 1977, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.
Repealed: New Rule entitled "Joint Credit Insurance Policies" adopted. F. Feb. 20, 2015; eff. Mar. 12, 2015.

Rule 120-2-27-.07. Credit Accident and Sickness Insurance Rates.

The following standards shall be observed and followed in the use of Credit Accident and Sickness Insurance Forms in this State:

(1) All credit accident and sickness insurance forms used in this State shall contain schedules of premium rates to be charged in connection therewith which:

(a) are reasonable in relation to the benefits and coverages provided;

(b) are neither excessive nor inadequate, nor shall they be unfairly discriminatory; and

(c) have been determined after due consideration has been given to past and prospective loss experience within and outside this State, to a reasonable margin for underwriting profits and contingencies, to past and prospective expenses both within and outside this State, to all other factors including judgment factors deemed relevant within and outside this State, and to such other relevant factors and data as the Commissioner may from time to time require.

(2) No credit accident and sickness insurance shall be used in this State which provides for a waiting period less than fourteen (14) days, except for loans made pursuant to the Georgia Industrial Loan Act and Rules and Regulations of such Act.

Cite as Ga. Comp. R. & Regs. R. 120-2-27-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-27-1, 33-31-8, 33-31-12.
History. Original Rule entitled "Credit Accident and Sickness Insurance Rates" adopted. F. Mar. 8, 1977; eff July 1, 1977, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 7, 1984; eff. June 1, 1985, as specified by the Agency.
Amended: F. Oct. 12, 1993; eff. Nov. 1, 1993.
Amended: F. Dec. 6, 1993; eff. Dec. 26, 1993.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-27-.08. Minimum Requirements for Credit Accident and Sickness Insurance Forms.

All credit accident and sickness insurance forms filed with the Commissioner pursuant to the provisions of Sections 33-24-9 and 33-31-8 of the Georgia Code for use in this State which do not meet the following minimum standards shall be deemed to be forms which contain provisions which are unjust, unfair, inequitable, misleading, deceptive or which encourage misrepresentation of the policy and therefore shall be disapproved by the Commissioner or the previous approval thereof withdrawn:

(1) The form shall not contain any exclusions for preexisting conditions except conditions which, within six months prior to the effective date of the coverage, manifested themselves to the insured debtor by requiring medical consultation, diagnosis, or treatment, provided that such preexisting conditions cause loss commencing within six months following the effective date of the coverage. However, disability commencing six months or more after the effective date of the coverage shall not be excluded regardless of whether or not such disability results from any preexisting condition.

(2) The form must contain a definition of "total disability" which provides coverage during the first 12 months of such disability even though the insured is able to perform an occupation other than the one he held at the time such disability occurred. During the first 12 months of such disability, the definition of "total disability" must relate such disability,

to the occupation of the debtor at the time the disability occurred. After such disability continues for more than 12 months, the definition of "total disability" may relate such continuing disability to the inability to perform any occupation for which the debtor is reasonably fitted by education, training or experience. The provisions of this subsection shall not apply to credit accident and sickness insurance policies which provide exclusively for payment of the policy proceeds in a lump sum in the event of "total disability."

(3) The form shall provide that in event the indebtedness covered by the policy results from the refinancing in whole or in part of a prior debt with the same creditor, any period of exclusion for preexisting conditions shall be reduced by any period that creditor-debtor disability coverage was in force in connection with the prior indebtedness.

(4) The form shall provide for the payment of a daily benefit equal in amount to at least one-thirtieth of the scheduled monthly payments on the indebtedness or their equivalent if the debt is repayable periodically at terms differing from monthly.

(5) The form shall contain either no age restrictions whatsoever, or shall contain only those age restrictions which make ineligible for coverage debtors who have attained age 65 at the time the indebtedness is incurred or who will have attained age 66 prior to the maturity date of the indebtedness. However, coverage will remain in effect and benefits shall be payable to the beneficiaries under the policy or certificate, notwithstanding the age of the debtor, in cases where an individual policy or certificate is issued to a debtor who has correctly stated his age on the application.

(6) The form shall contain either no other exclusions whatsoever or only those exclusions which exclude coverage for disability resulting from normal pregnancy, intentionally self-inflicted injuries, from flight in non-scheduled aircraft, or from war or military service.

(7) The form shall state that the insurer shall not deny a claim due to the debtor's subsequent unemployment or retirement during the term of the insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-27-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-30-1, 33-31-7, 33-31-8, 33-31-12.
History. Original Rule entitled "Minimum Requirements for Credit Accident and Sickness Insurance Forms" adopted. F. Mar. 8, 1977; eff. July 1, 1977, as specified by the Agency.
Amended: F. Dec. 6, 1993; eff. Dec. 26, 1993.
Submitted for Publishing: Apr. 6, 2007.
Amended: F. Feb. 20, 2015; eff. Mar. 12, 2015.

Rule 120-2-27-.09. Mandatory Provisions in Policies and Certificates of Credit Insurance; Disclosure to Debtors; Proper Construction of Certain Policy Provisions Defined.

(1) On the face of each individual policy, group policy, group certificate or notice of proposed insurance there shall be placed a title which shall briefly and accurately describe the nature and form of the policy.

(2) Every printed portion of the policy, certificate, or notice of proposed insurance and any endorsements thereto or applications therefor must be plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than ten-point.

(3) Each individual policy, group policy, and group certificate shall state that the benefits payable thereunder shall only be paid to the creditor to reduce or extinguish the debtor's then outstanding loan balance in the case of credit life insurance coverage or the exact amount of the debtor's covered installment payment due in the case of credit accident and sickness insurance and shall further state that if the amount of insurance benefits payable exceeds the insured's then outstanding insured loan balance in the case of credit life insurance or the exact amount of the debtor's covered installment payment due in the case of credit accident and sickness insurance by an amount of ten dollars ($10.00) or more, such excess amount shall be payable either to the debtor or to a beneficiary named by the debtor other than the creditor or to the debtor's estate.

(a) Payment of any such excess amount to the debtor or to any beneficiary named by the debtor other than the creditor or to the debtor's estate shall be made payable by check or draft of the insurer and shall be made payable only to such debtor or to such other beneficiary named by the debtor or to such debtor's estate, provided that at the option of the insurer, the delivery of such excess benefit check or draft may be accomplished by the creditor acting as an authorized agent of the insurer. For the purpose of this Rule, the term "excess amount" shall mean any amount which is payable to the debtor or to the beneficiaries of the debtor other than the creditor or to the debtor's estate under the credit insurance policy which exceeds the amount necessary to extinguish the debtor's then outstanding insured loan balance in the case of the credit life insurance, or the exact amount of the debtor's covered installment payment due in the case of credit accident and sickness insurance by an amount of ten dollars ($10.00) or more.

(4)

(a) No credit insurance form used in this State shall refer to an aggregate maximum amount of insurance for all indebtedness, for all certificates or for all individual policies. However, a company may establish an underwriting maximum amount of insurance per indebtedness, per certificate or per individual policy and, if established, the insurer must clearly set forth on each individual policy and each certificate that the maximum amount of insurance applies to each indebtedness, each certificate, or each individual policy.

(b) If an insurer fails to comply with the provisions of O.C.G.A. Sections 33-27-1(2)(d), 33-27-1(3) and 33-30-1(4)by insuring a debtor under a group policy in an amount in excess of the amount authorized by law, or insures a debtor for an amount of credit life insurance or credit accident or sickness insurance greater

than the maximum amount set forth in the group policy, and a claim occurs or commences, the full amount of credit life insurance insured under each certificate shall be payable on the death of the debtor, and the full amount of credit disability benefits insured under each certificate shall be payable upon the disability of the debtor. If a certificate has been issued in error to a debtor, under which the amount of insurance exceeds the indebtedness, or the maximum amount set forth in the group policy, or the maximum amount authorized by law, the insurer has the right, before a claim occurs or commences, to correct the amount of insurance not to exceed the maximum amount set forth in the group policy or the maximum amount authorized by law. Where a lower premium results, a refund is required.

(c) If an insurer insures a debtor for an amount of credit life insurance or credit accident and sickness insurance greater than the maximum amount set forth in an individual credit insurance policy, and a claim occurs or commences, the full amount of credit life insurance set forth in the individual policy shall be payable on the death of the debtor, and the full amount of credit accident or sickness insurance benefits insured under the individual policy shall be payable upon the disability of the debtor. If an individual credit insurance policy has been issued in error to a debtor, under which the amount of insurance exceeds the indebtedness, or the maximum amount set forth in the individual credit insurance policy, the insurer has the right, before a claim occurs or commences, to correct the amount of insurance not to exceed the maximum amount set forth in the individual policy. Where a lower premium results, a refund is required.

(5) In any refinancing of an insured indebtedness, the effective date of the coverage as it affects any policy provision shall be deemed to be the first date on which the debtor became insured under the initially purchased policy or certificate covering the refinanced indebtedness, at least to the extent of the amount and term of the indebtedness outstanding at the time of refinancing.

(6) Every individual credit insurance policy and certificate of insurance shall contain a schedule of benefits section.

(7) Where insurance is written to cover any of the following transactions, the types of insurance, terms and disclosure notices must conform to the following requirements:

(a) Balloon Transactions and Open-end Lease Agreements. Net decreasing term insurance shall be the only authorized coverage.

1. Where insurance is written to cover balloon transactions and disability insurance is purchased, the balloon payment must be indicated in the schedule and the following disclosure notice, using the same or substantially equivalent language, must appear in bold print on the face of the individual policy or the certificate of insurance:

NOTICE: If you are eligible for total disability benefits on the disability insurance expiration date, your balloon payment shown in the schedule will only be insured up to an amount equal to the monthly total disability benefit.

2. The disclosure notice for open-end lease agreements providing for disability coverage, must contain the following notice using the same or substantially equivalent language:

   NOTICE: If you are eligible for total disability benefits on the disability insurance expiration date, the end of the term residual value shown in the schedule will only be insured up to an amount equal to the monthly disability benefit.

   This notice must appear in bold print on the face of the individual policy or the certificate of insurance, with the end of the term residual value shown in the schedule. The debtor must have a binding contractual obligation to purchase the item(s) leased at the end of the lease term. Proof of a binding contractual obligation must be submitted with the credit insurance forms.

(b) Truncated Term. Net decreasing term insurance shall be the only authorized coverage. The schedule must show the maturity date of the loan and the following notice, using the same or substantially equivalent language, must appear in bold print on the face of the individual policy or certificate of insurance:

NOTICE: The life insurance benefit might not completely pay off your loan. If the term of your loan exceeds the terms of insurance, the death benefit is only payable if death occurs during the term of the insurance. Total disability benefits will not be paid for any period of total disability continuing after the termination date shown in the schedule.

(c) Revolving or Open-end Credit Transactions. The following notice, using the same or substantially equivalent language, must appear in bold print on the face of an individual policy or certificate of insurance to address the effective date and termination date of coverage:

NOTICE: Coverage will be effective from the time the account has a balance and will continue, subject to policy provisions, as long as there is an open balance. Coverage will cease when the account does not reflect an open balance and will automatically be reinstated when there is an open balance, subject to the termination provisions herein.

(d) Critical Period Disability. The following notice, using the same or substantially equivalent language, must appear in bold print on the face of the individual policy or certificate of insurance:

IMPORTANT NOTICE TO DEBTOR: If the term of your loan exceeds thirty-six (36) months, the credit disability coverage provided by this policy is limited. This coverage provides for an aggregate disability benefit which is limited to thirty-six (36) times your monthly disability benefit.

Cite as Ga. Comp. R. & Regs. R. 120-2-27-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-27-1, 33-30-1, 33-31-7, 33-31-8, 33-31-12.
History. Original Rule entitled "Mandatory Provisions in Policies and Certificates of Credit Insurance; Disclosure to Debtors; Proper Construction of Certain Policy Provisions Defined" adopted. F. Mar. 8, 1977; eff July 1, 1977, as specified by the Agency.
Amended: F. Dec. 7, 1984; eff. June 1, 1985, as specified by the Agency.
Amended: F. Oct. 12, 1993; eff. Nov. 1, 1993.
Amended: F. Dec. 6, 1993; eff. Dec. 26, 1993.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-27-.10. Prohibited Transactions; Unfair Trade Practices Defined.

The following practices, when engaged in by insurers in connection with the sale or placement of credit insurance in this State or as an inducement thereto, shall constitute unfair methods of competition and unfair or deceptive acts or practices in the business of insurance in this State and shall constitute the establishment or perpetuation of a condition or conditions in this State which are detrimental to free competition in the business of insurance and injurious to the public as provided for and defined in O.C.G.A. § 33-6-4(b)(8) and in O.C.G.A. § 33-6-13(a):

(a) the offer or grant by an insurer either directly or indirectly, to a creditor agent or managing general agent of any special advantage or service other than the payment of commissions, service fees, or other forms of compensation which are set forth in the agency agreement or agency contract between the insurer and its agent or managing general agent;

(b) an agreement by an insurer to deposit with a bank or financial institution money or securities of the insurer with the design or intent that the same shall have an effect on or take the place of a deposit of money or securities which otherwise would be required of such creditor by such bank or financial institution as a compensating balance or offsetting deposit for a loan or other advancement; and

(c) an agreement by an insurer to deposit money or securities with a creditor bank or financial institution without interest or at a lesser rate of interest than is currently being paid by the creditor bank or financial institution to other depositors of like amounts. This paragraph shall not be construed to prohibit the maintenance by an insurer of such

demand deposits or premium deposit accounts deemed reasonably necessary for use in the ordinary course of the insurer's business.

Cite as Ga. Comp. R. & Regs. R. 120-2-27-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-6-4, 33-6-13, 33-31-12.
History. Original Rule entitled "Prohibited Transactions; Unfair Trade Practices Defined" adopted. F. Mar. 8, 1977; eff July 1, 1977, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Oct. 12, 1993; eff. Nov. 1, 1993.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-27-.11. Reinsurance of Credit Risks.

(1) Any insurance company writing credit life or credit accident and sickness insurance subject to the provisions of this Regulation, may reinsure its liability under any or all of such insurance with any domestic or foreign or alien insurance company authorized or approved to transact reinsurance in this State in accordance with the provisions of Section 33-7-14 of the Georgia Insurance Code; provided, that in the event such reinsurance is placed with an insurer not so authorized or approved to transact reinsurance in this State, the ceding insurer shall, notwithstanding such unauthorized reinsurance, be required to maintain all of the reserves required by Title 33, the Georgia Insurance Code for such line or lines of insurance ceded as if such reinsurance contract or treaty had not been entered into and no credit shall be allowed, as an asset or as a deduction from liability, to any ceding insurer for such reinsurance nor shall such ceding insurer be authorized to increase the amount it has at risk as a result of such unauthorized reinsurance.

(2) No reinsurance between insurers, takeover, or other change of insurers over which the debtor has no control shall operate to reduce the benefits or advantages which the insured debtor is entitled to receive under the policy or certificate of insurance in any manner.

Cite as Ga. Comp. R. & Regs. R. 120-2-27-.11
Authority: Ga. L. 1960, pp. 289, 305, 333, 393, 657, 714, 734, 747, 750.
History. Original Rule entitled "Reinsurance of Credit Risks" adopted. F. Mar. 8, 1977; eff July 1, 1977, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-27-.12. Collection of Insurance Premiums, Single Premium Basis; Outstanding Balance Basis.

An insurer may collect premiums on either a single premium basis or on a monthly outstanding balance basis. However, if the creditor adds identifiable insurance charges or premiums for credit insurance to the total amount of indebtedness, the creditor shall be deemed to have loaned the premium or insurance charge to the debtor and the premium or the insurance charge shall be deemed to have been collected by the insurer as soon as it is added to the indebtedness. In that event, the insurer shall be obligated to provide the complete coverage which the debtor is entitled

to receive under the policy or certificate for the full period of time which the single premium has been paid. Also, the reserves held by the insurer on such risks must be based on the liability assumed for the entire period of time for which a single premium has been paid by the insured. However, if such insurance charges or premiums are not added to the amount of the loan and do not constitute a part of the insured debtor's outstanding indebtedness, the insurer shall be obligated to provide insurance coverage to the debtor only for the period of time for which such insurance charges or premiums have been paid under the insurance contract and reserves shall be computed accordingly as provided for in the applicable provisions of Title 33, the Georgia Insurance Code.

Any refunds applicable in the event of termination of the coverages discussed above shall be made in the manner provided for in subsection (3) of Section 33-31-9 of the Georgia Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-27-.12
Authority: Ga. L. 1960, pp. 289, 305, 333, 393, 657, 714, 734, 747, 750.
History. Original Rule entitled "Collection of Insurance Premiums, Single Premium Basis, Outstanding Balance Basis" adopted. F. Mar. 8, 1977; eff July 1, 1977, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-27-.13. Agency Matters; Agreements; Claims; and Maintenance of File by Insurer.

(1) Insurers transacting credit insurance in this State shall only pay directly or indirectly to their agents or managing general agents or to any other person as remuneration for the sale of credit insurance in this State those commissions, service fees, or other forms of compensation as are contained in the written agency agreement or agency contract between such insurer and its agent and is limited by these regulations.

(2) Each insurer shall maintain at its home or principal office a complete file containing copies of all agency agreements or agency contracts between such insurer and its agents who are authorized to collect credit insurance premiums on behalf of said insurer in this State. Such file and its contents shall be subject to regular and periodic inspection by the Office of Commissioner of Insurance. All such agency agreements or agency contracts shall be maintained in said file in a manner suitable for inspection by the Office of Commissioner of Insurance for a period of not less than five (5) years.

(3) Any agent, subagent, agency or creditor writing credit life or credit accident and sickness insurance in this State shall provide forms necessary to file claims within fifteen calendar days of a request with reasonable explanations regarding their use and shall forward such claim to the insurer within twenty (20) business days of receipt of written proof of loss.

(4) No person shall solicit, directly or indirectly, make, or cause to be made, any contract of credit insurance unless such person holds a valid agent, subagent, or a limited subagent license.

Cite as Ga. Comp. R. & Regs. R. 120-2-27-.13
Authority: O.C.G.A. Secs. 33-2-9, 33-6-13, 33-23-4, 33-31-10, 33-31-12.
History. Original Rule entitled "Agency Agreements; Agency Contracts; Maintenance of File by Insurer" adopted. F. Mar. 8, 1977; eff. July 1, 1977, as specified by the Agency.
Repealed: New Rule entitled "Agency Matters; Agreements; Claims; and Maintenance of File by Insurer" adopted.F. Oct. 12, 1993; eff. Nov. 1, 1993.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-27-.14. Filing of Forms and Rates.

(1) All forms and rates to be utilized for the sale of credit insurance shall be filed with the Commissioner of Insurance for review and approval.

(2) No insurer shall use any forms or rates unless they have been filed with and approved by the Commissioner of Insurance.

(3) If an insurer files a request for approval of any rate greater than the prima facie rates, the insurer shall demonstrate to the satisfaction of the Commissioner of Insurance that such rate or rates will satisfy the requirements of O.C.G.A. Section 33-31-8 and this chapter.

(4) The requirements and procedures for filing upward rate deviations shall be as follows:

(a) No insurer shall file deviated rates for approval unless such insurer's statewide loss ratio exceeds 60%, and it can be demonstrated to the satisfaction of the Commissioner of Insurance that such upward deviated rate or rates will not reduce the insurer's statewide loss ratio below 60%.

(b) No deviation request shall be filed unless the forms used by the insurer comply with all requirements of Rule 120-2-27-.04, or 120-2-27-.08 throughout the entire experience period.

(c) No single account rate deviation filing request shall be considered unless a life or accident and sickness medical application or questionnaire was required for all applicants of the creditor during the entire experience period.

(d) Filings for upward rate deviations shall specify the account or accounts to which such rates shall apply, and shall include the policy and application forms in use, and a demonstration and certification by a qualified actuary that such deviated rates are expected to result in a loss ratio of not less than 60%.

(e) No approved deviation in rates will be in effect for a period of time longer than the experience period used to establish such rate deviation; however, such period may be shorter in term if so ordered by the commissioner of Insurance. An insurer may file for a new rate before the end of a rate period but not more often than once during any twelve (12) month period. Experience on accounts with approved rate deviations must be filed annually with this office, Life and Health Section, within 90 days after the end of each experience year.

(f) If a creditor account changes insurers, any deviated rate approved for use on such account by the prior insurer is the maximum rate to be used by the succeeding insurer for the remainder of the approved deviation term of the prior insurer, or until a new rate is filed by the succeeding insurer and approved by the Commissioner of Insurance, if sooner.

(5) An insurer may at any time file lower rates and use such rates upon approval by the Commissioner of Insurance.

(6) Any premiums charged by an insurer shall be deemed to be reasonable and in compliance with Chapter 31 of Title 33 of the Official Code of Georgia Annotated and this regulation if the rate utilized in the calculation of the premium has been approved by the Commissioner of Insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-27-.14
Authority: O.C.G.A. Secs. 33-2-9, 33-31-8, 33-31-12.
History. Original Rule entitled "Filing of Forms; Certified Listing Required" adopted. F. Mar. 8, 1977; eff. July 1, 1977, as specified by the Agency.
Repealed: New Rule entitled "Filing of Forms" adopted. F. Dec. 7, 1984; eff. June 1, 1983, as specified by the Agency.
Repealed: New Rule entitled "Filing of Forms and Rates" adopted. F. Oct. 12, 1993; eff. Nov. 1, 1993.
Amended: F. Dec. 6, 1993; eff Dec. 26, 1993.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-27-.15. Annual Experience Reports.

(1) Each insurer authorized to transact credit insurance in this state shall compile and maintain a complete file containing adequate detailed statistical information and supporting data which shall be sufficient to indicate to the Commissioner of Insurance or to his authorized representative such insurer's loss experience in Georgia for each line of credit insurance which such insurer transacts in this state and which shall be sufficient to indicate such insurer's compliance with the requirements of this regulation.

(2) The file required to be maintained by the insurer under subsection (1) of this rule and its contents shall be maintained in a manner suitable and readily available for inspection by the Office of Commissioner of Insurance and shall be maintained by such insurer for a period of not less than five (5) years.

Cite as Ga. Comp. R. & Regs. R. 120-2-27-.15
Authority: O.C.G.A. Secs. 33-2-9, 33-31-12.
History. Original Rule entitled "Statistical Information Required; Maintenance of File by Insurer; Disapproval of Forms" adopted. F. Mar. 8, 1977; eff. July 1, 1977, as specified by the Agency.
Repealed: New Rule entitled "Annual Experience Reports" adopted. F. Oct. 12, 1993; eff. Nov. 1, 1993.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-27-.16. Severability Provision.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-27-.16
Authority: Ga. L. 1960, pp. 289, 305, 333, 393, 657, 714, 734, 747, 750.
History. Original Rule entitled "Severability Provision" adopted. F. Mar. 8, 1977; eff July 1, 1977, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-27-.17. Penalties.

Any insurer, agent, representative, officer, or employee of such insurer, failing to comply with the requirements of this Regulation shall be subject to such penalties as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-27-.17
Authority: Ga. L. 1960, pp. 289, 305, 333, 393, 657, 714, 734, 747, 750.
History. Original Rule entitled "Penalties" adopted. F. Mar. 8, 1977; eff July 1, 1977, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-27-.18. Refunds.

(1) In the event of termination, no charge for credit insurance shall be made for the first 15 days of a loan month and a full month may be charged for 16 days or more of a loan month.

(2) If the debt is prepaid by the debtor, the refund check or draft shall be made payable to the debtor.

(3) The refund method must be set forth in the group policy, rider, individual policy and certificate of insurance.

(4) No refund of less than $10.00 need be made.

Cite as Ga. Comp. R. & Regs. R. 120-2-27-.18
Authority: O.C.G.A. Secs. 33-2-9, 33-31-7, 33-31-9, 33-31-12.
History. Original Rule entitled "Effective Date" adopted. F. Mar. 8, 1977; eff. July 1, 1977, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 7, 1984; eff. June 1, 1985, as specified by the Agency.
Repealed: New Rule entitled "Refunds" adopted. F. Oct. 12, 1993; eff Nov. 1, 1993.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-27-.19. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-27-.19
Authority: O.C.G.A. 33-2-9, 33-31-8, 33-31-12.
History. Original Rule entitled "Effective Date" adopted. F. Oct. 12, 1993; eff. Nov. 1, 1993.
Repealed: F. Dec. 6, 1993; eff Dec. 26, 1993.
Submitted for Publishing: Apr. 6, 2007.

Exhibit (120-2-27) A. .

EXHIBIT A

CREDIT LIFE AND HEALTH INSURANCE PREMIUM FORMULAS FOR LOANS WITH OR WITHOUT BALLOON PAYMENTS OR TRUNCATED PAYMENT PERIODS.

AF = Amount Financed (Total Amount of Loan)
= Cash Advanced + Total Premium
CA = Cash Advanced
LP = Life Premium
DP = Disability Premium
TP = Total Premium = LP + DP
FC = Finance Charges
MP = Monthly Payment
m = Number of scheduled monthly payments
n = Number of monthly payments required to fully amortize the Amount Financed
B = Scheduled Balloon Payment
MOB = Monthly Outstanding Balance life rate per $1,000
SPD = Single Premium Disability rate per $100 of amount financed
i = Monthly interest rate

$$v^t = \left(\frac{1}{1+i}\right)^t \qquad a_t = \frac{1-v^t}{i}$$

$$MP = \frac{CA}{a_n - \left(\frac{MOB}{1000}\right)\left[\frac{m - (a_n - a_{n-m})}{i}\right](1 + 2i) - (m)\frac{SPD}{100}}$$

$$LP = \left(\frac{MOB}{1000}\right)(MP)\left[\frac{m - (a_n - a_{n-m})}{i}\right](1 + 2i)$$

$$DP = \frac{SPD}{100}(m)(MP) \qquad B = (MP)\,a_{(n-m)}$$

$$AF = (MP)(a_n) \qquad FC = (m)(MP) + B - AF$$

Subject 120-2-28. GEORGIA MOTOR VEHICLE ACCIDENT REPARATIONS ACT.

Rule 120-2-28-.01. Authority.

This Regulation is made and promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. § 33-2-9 and 33-34-1*et seq.)*

Cite as Ga. Comp. R. & Regs. R. 120-2-28-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-34-1*et seq.*, 33-34-11.
History. Original Rule entitled "Statutory Authority" was filed and effective on December 20, 1974, as Emergency Rule 120-2-28-0.2-.01.
Amended Emergency Rule repealed and permanent Rule of the same title adopted. Filed January 16, 1975; effective February 5, 1975.
Amended: Rule repealed and a new Rule of the same title adopted. Filed October 28, 1983; effective December 1, 1983, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Sept. 4, 1990; eff. Oct. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Authority" adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.
Repealed: New Rule, same title, adopted. F. Apr. 14, 1998; eff. May 4, 1998.

Rule 120-2-28-.02. Purpose.

The purpose of this Regulation Chapter is to implement the insurance laws of this State with respect to the Georgia Motor Vehicle Accident Reparations Act (O.C.G.A. §§ 33-34-1*et seq.*) by:

(a) developing minimum requirements and suggested forms for the coverages required by the Act;

(b) establishing procedures and forms for the filing and approval of rates, rating plans, forms, and amnuals;

(c) developing minimum standards and forms for the handling of motor vehicle liability insurance claims; and

(d) establishing minimum requirements for cooperation by insurers with the Department of Public Safety.

Cite as Ga. Comp. R. & Regs. R. 120-2-28-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-34-1*et seq.*, 33-34-11.
History. Original Rule entitled "Purpose" was filed and effective on December 20, 1974, as Emergency Rule 120-2-28-0.2-.02.
Amended Emergency Rule repealed and permanent Rule of the same title adopted. Filed January 16, 1975; effective February 5, 1975.
Amended: Rule repealed and a new Rule of the same title adopted. Filed October 28, 1983; effective December 1, 1983, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Sept. 4, 1990; eff. Oct. 1, 1990, as specified by the agency.
Repealed: New Rule of same title adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.
Repealed: New Rule, same title, adopted. F. Apr. 14, 1998; eff. May 4, 1998.

Rule 120-2-28-.03. Applicability.

This Regulation Chapter shall apply to all insurers transacting motor vehicle liability insurance in this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-28-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-34-1*et seq.*, 33-34-11.
History. Original Rule entitled "Applicability" was filed and effective on December 20, 1974, as Emergency Rule 120-2-28-0.2-.03.
Amended Emergency Rule repealed and permanent Rule of the same title adopted. Filed January 16, 1975; effective February 5, 1975.
Amended: Rule repealed and a new Rule of the same title adopted. Filed October 28, 1983; effective December 1, 1983, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Sept. 4, 1990; eff. Oct. 1, 1990, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.
Repealed: New Rule, same title, adopted. F. Apr. 14, 1998; eff. May 4, 1998.

Rule 120-2-28-.04. Definitions.

The following terms shall have the meaning set forth in this Regulation Chapter and in the Georgia Motor Vehicle Accident Reparations Act (O.C.G.A. §§ 33-34-1*et seq.*) Unless a different meaning or construction is clearly required by the context:

(a) "Act" shall mean the Georgia Motor Vehicle Accident Reparations Act.

(b) "Commissioner" shall mean the Commissioner of Insurance.

(c) "Medical Payments Coverage" shall be defined as set forth in O.C.G.A. § 33-34-2(1).

(d) "Motor vehicle" shall be defined as provided for in O.C.G.A. §§ 33-34-1*et seq.*, provided however that the term "motor vehicle" shall not include:

1. vehicles owned by the federal government which are not required to be registered in this State:

2. farm vehicles, mobile equipment and other vehicles not designed primarily for use on the public roads and which are not required to be registered in this State.

(e) "Mobile equipment" shall mean land vehicles such as power cranes, shovels, loaders, diggers and drills; concrete mixers (other than the mix-in-transit type); graders, scrapers, rollers and other road construction or repair equipment; air compressors, pumps and generators, including spraying, welding and building equipment; and geophysical exploration and well servicing equipment, and machinery, or apparatuses attached thereto, regardless of whether such vehicles are self-propelled.

(f) The phrases "personal automobile policy," "personal or familytype policy of motor vehicle insurance," and "private passenger" as used in O.C.G.A. §§ 33-34-1*et seq.*, shall mean policy or policies insuring a natural person as named insured or one or more related individuals resident of the same household which provides bodily injury and property damage liability coverage, medical payments coverage, comprehensive and/or collision coverage, and loss of use coverage, or any combination of coverages and under which the insured vehicles designated in the policy are of the following types only:

1. any motor vehicle of the private passenger, station wagon, or jeep type that is not used as a public or livery conveyance for passengers nor rented to others; or

2. any other four-wheel motor vehicle with a load capacity of 1,500 pounds or less which is not in the occupation or professional business of the insured, provided, however, these phrases shall not apply to any policy covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards.

(g) "Insurer" shall mean an insurance company transacting motor vehicle liability insurance in this State.

(h) "Motorcycle" means any motor vehicle traveling on public streets or highways having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor or moped.

(i) "Loss or Use" as used in Rules 120-2-28-.05 and 120-2-28-.07 shall mean reasonable and necessary rental expenses or other reasonable transportation expenses incurred as a result of the loss of use of a motor vehicle by an injured third party as the result of an auto

accident. These payments shall be available until such time as the insurer has determined the amount of the loss and offered to pay or the limit of liability has been exhausted.

Cite as Ga. Comp. R. & Regs. R. 120-2-28-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-34-1, 33-34-11.
History. Original Rule entitled "Definitions, Words, and Phrases" was filed and effective on December 20, 1974, as Emergency Rule 120-2-28-0.2-.04.
Amended Emergency Rule repealed and permanent Rule of the same title adopted. Filed January 16, 1975; effective February 5, 1975.
Amended: Rule repealed and a new Rule of the same title adopted. Filed October 28, 1983; effective December 1, 1983, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Sept. 4, 1990; eff. Oct. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Definitions" adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.
Repealed: New Rule, same title, adopted. F. Apr. 14, 1998; eff. May 4, 1998.

Rule 120-2-28-.05. Minimum Insurance Coverage Required: Filing of Rates and Forms.

(1) No insurer transacting motor vehicle liability insurance in this State shall offer, or cause to be offered, or sold, any new or renewal policy of motor vehicle liability insurance with a policy term of less than six (6) months and any policy of motor vehicle liability insurance coverage in an amount less than that required by the Motor Vehicle Safety Responsibility Act (O.C.G.A. §§ 40-9-1*et seq.*), in the amounts as follows:

(a) Damage for liability on account of accidents of not less than $15,000 because of bodily injury or death of one person in any one accident; and subject to such limit for one person, to a limit of not less than $30,000 because of bodily injury or death to two (2) or more persons in any one accident; and $10,000 because of injury to or destruction of property of others in any one accident, including its loss of use.

(2) Each policy of motor vehicle liability insurance shall be deemed to contain a provision to provide that the requirement for giving notice of a claim may be satisfied by an injured third party if all the following conditions are satisfied:

(a) the insured has not given notice to the insurer within thirty (30) days of the accident.

(b) the injured third party has a claim against the insured as a result of the accident; and

(c) the injured third party notifies the insurer by registered mail.

(3) Each insurer transacting motor vehicle liability insurance in this State shall file proposed policy forms, endorsements, manuals, rates and rating plans with the Commissioner for his or her approval as is required by law.

Cite as Ga. Comp. R. & Regs. R. 120-2-28-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-34-1 et. seq., 33-34-11.
History. Original Rule entitled "Minimum Insurance Coverage Required; Filing of Rates and Forms" was filed and effective on December 20, 1974, as Emergency Rule 120-2-28-0.2-.05.
Amended: Emergency Rule repealed and permanent Rule of the same title adopted. Filed January 16, 1975; effective February 5, 1975.
Amended: Rule repealed and a new Rule of the same title adopted. Filed October 28, 1983; effective December 1, 1983.
Repealed: New Rule of same title adopted. F. Sept. 4, 1990; eff. Oct. 1, 1990, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.
Repealed: New Rule, same title, adopted. F. Apr. 14, 1998; eff. May 4, 1998.

Rule 120-2-28-.06. Optional Coverage.

(1) Insurers may offer other optional coverage as set forth in O.C.G.A. § 33-34-3.1(b)provided that the optional coverage provided for in this paragraph shall not be referenced in a way that is ambiguous, misleading, or could be easily confused with other optional coverages. Medical payments coverage should be offered at a limit of at least $2,000. Insurers shall not be prohibited from offering medical payment limits in addition to, or less than, those specified herein. Insurers shall be required to file rates and rating plans on such additional optional coverages with the Commissioner for such approval as required by law.

(2) As of January 15, 2008 for new business and April 1, 2008 for any policy of insurance renewal, and that policy includes uninsured motorist coverage as defined in O.C.G.A. § 33-7-11, a Notice must be given to the insured that contains the following language:

"If you have chosen to accept Uninsured Motorists coverage from your automobile insurance company, and have any questions after reading this statement regarding Uninsured Motorists coverage or the amount of coverage you have selected, your agent or company representative will be able to assist you. You should have chosen the amount of Uninsured Motorists coverage you want based on this question: If I get hit by someone with little or no liability insurance, how much protection do I need to cover the cost associated with car repair, medical bills, other expenses, and lost wages? If the person who hits your automobile has no liability coverage or liability coverage equal to or less than the Uninsured Motorists amount you chose, your total automobile insurance recovery (from all companies involved) may not exceed the amount of Uninsured Motorists coverage you chose.

The purpose of this notice is informational. This notice does not change or replace the wording in your policy."

(3) Notice shall be provided to all applicants as provided below:

(a) If at the time of application, the applicant is physically present, written and signed confirmation that notice was provided shall be maintained by the insurer;

(b) If the application is taken over the phone or by other electronic means, this notice shall be mailed to the insured and/or made available by other electronic means for the applicant's physical or electronic signature. Such confirmation shall be maintained by the insurer; or

(c) At or prior to renewal. Signatures are not required on renewals.

Cite as Ga. Comp. R. & Regs. R. 120-2-28-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-6-4, 33-7-11, 33-34-1*et seq.*, 33-34-11.
History. Original Rule entitled "Minimum Optional Coverage Required to Be Offered" adopted as ER. 120-2-28-0.2-.06. F. and eff. Dec. 20, 1974.
Amended: Permanent Rule of same title adopted. F. Jan. 16, 1975; eff. Feb. 5, 1975.
Repealed: New Rule entitled "Optional Coverages Required to Be Made Available" adopted. F. Oct. 28, 1983; eff. Dec. 1, 1983, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Sept. 4, 1990; eff. Oct. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Optional Coverage" adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.
Repealed: New Rule of same title adopted. F. Apr. 14, 1998; eff. May 4, 1998.
Repealed: New Rule of same title adopted. F. Dec. 7, 2007; eff. Dec. 27, 2007.

Rule 120-2-28-.07. Motorcycle Liability Insurance.

No insurer shall issue a policy providing coverage for liability arising from the operation or use of a motorcycle on public streets or highways unless the policy provides liability coverage on account of accidents of not less than $15,000 because of bodily injury or death of one person in any one accident and subject to such limit for one person, to a limit of not less than $30,000 because of bodily injury or death of two (2) or more persons in any one accident; and $10,000 because of injury or destruction of property of others in any one accident, including its loss of use.

Cite as Ga. Comp. R. & Regs. R. 120-2-28-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-34-1*et seq.*, 33-34-11.
History. Original Rule entitled "Transition Period Procedure" adopted as ER. 120-2-28-0.2-.07. F. and eff. Dec. 20, 1974.
Amended: Permanent Rule of same title adopted. F. Jan. 16, 1975; eff. Feb. 5, 1975.
Repealed: New Rule entitled "Claims Handling Procedures; Model Claims Forms" adopted. F. Oct. 28, 1983; eff. Dec. 1, 1983, as specified by the Agency.
Repealed: New Rule entitled "Motorcycle Liability Insurance" adopted. F. Sept. 4, 1990; eff. Oct. 1, 1990, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.
Repealed: New Rule of same title adopted. F. Apr. 14, 1998; eff. May 4, 1998.

Rule 120-2-28-.08. Good Student Premium Reduction.

(1) For each personal or family-type policy of private passenger motor vehicle insurance there shall be offered by the insurer a reduction in the premium for motor vehicle

liability, first-party medical, and collision coverage for each named driver under 25 years of age, as listed on the policy application or provided in information subsequent to such application, of each motor vehicle covered by such policy, if that driver:

(a) is unmarried:

(b) is enrolled as a full-time student in:

1. high school;

2. academic courses in a college or university; or

3. vocational technical school;

(c) is an honor student because the scholastic records for the immediately preceding quarter, semester, or comparable segment show that such person:

1. ranks scholastically in the upper 20 percent of the class;

2. has a "B" average or better;

3. has a 3.0 average or better; or

4. is on the "Dean's List" or "Honor Roll"; and

(d) is a driver whose use of the automobile is considered by the insurer in determining the applicable classification.

(2) Proof of meeting the requirements for the discount provided by this section shall be provided annually to the insurer by the insured student or policyholder upon such forms as the Commissioner shall prescribe. The premium reduction required by this section shall be approved by the Commissioner and reflected in the insurer's automobile rating plan.

(3) An insusrer shall not be required to offer the premium reduction provided in this Regulation to a driver who, at any time within a period of three (3) years prior to the beginning of the policy year during which that reduction is otherwise required, has;

(a) been involved in any motor vehicle accident in which that person has been determined to have been at fault;

(b) been finally convicted of, pleaded nolo contendere to, or been found to have committed a delinquent act constituting any of the following offenses:

(1) any serious traffic offense described in the Official Code of Georgia Annotated, Title 40, Chapter 6, Article 15;

(2) any traffic offense for which three (3) or more points may be assessed pursuant to O.C.G.A. § 40-5-57; or

(3) any felony or any offense prohibited pursuant to the Official Code of Georgia Annotated, Title 16, Chapter 13, relating to dangerous drugs, marijuana, and controlled substances; or

(c) had that person's driver's license suspended for refusal to submit to chemical tests pursuant to O.C.G.A. § 40-5-67.1 and that suspension has not been reversed, if appealed from.

(4) Insurers shall use the form the same as or substantially similar to the one contained in Exhibit A of this Regulation. Insurers shall provide this form annually to insured students or policyholders for proof of meeting the requirements of this Rule. In lieu of the form contained in Exhibit A, insurers may accept, or insureds may provide, a transcript or other proof of academic performance from the university, college, technical or vocational school or high school.

Cite as Ga. Comp. R. & Regs. R. 120-2-28-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-9-43, 33-34-1*et seq.*, 33-34-11.
History. Original Rule entitled "Claims Handling Procedures; Model Claims Forms" adopted as ER. 120-2-28-0.2-.08. F. and eff. Dec. 20, 1974.
Amended: Permanent Rule of same title adopted. F. Jan. 16, 1975; eff. Feb. 5, 1975.
Repealed: New Rule entitled "Insurer's Obligation to Cooperate With the Department of Public Safety" adopted. F. Oct. 28, 1983; eff. Dec. 1, 1983, as specified by the Agency.
Repealed: New Rule entitled "Good Student Premium Reduction Plans" adopted. F. Sept. 4, 1990; eff. Oct. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Good Student Premium Reduction" adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.
Repealed: New Rule of same title adopted. F. Apr. 14, 1998; eff. May 4, 1998.

Rule 120-2-28-.09. Applicability of the Good Student Premium Reduction and Other Statutory Premium Reduction(s).

(1) The good student premium reduction as contained in this Regulation Chapter shall apply to each driver who qualifies. The good student premium reduction shall conform with the following:

(a) The good student premium reduction shall apply to any qualifying driver whose use of the automobile was considered in determining the applicable classification; and

(b) An insured eligible for the good student premium reduction or any other statutory premium reduction(s) shall receive all such reductions.

Cite as Ga. Comp. R. & Regs. R. 120-2-28-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-9-43, 33-34-1*et seq.*, 33-34-11.
History. Original Rule entitled "Mandatory Arbitration Procedures for Insurers and Self-Insurers" adopted as ER. 120-2-28-0.2-.09. F. and eff. Dec. 20, 1974.
Amended: Permanent Rule of same title adopted. F. Jan. 16, 1975; eff. Feb. 5, 1975.
Repealed: New Rule entitled "Penalties" adopted. F. Oct. 28, 1983; eff. Dec. 1, 1983, as specified by the Agency.
Repealed: New Rule entitled "Defensive Driver - Good Driver Rating Plan" adopted. F. Sept. 4, 1990; eff. Oct. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Applicability of the Good Student Premium Reduction and Other Statutory Premium Reduction(s)" adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.
Repealed: New Rule of same title adopted. F. Apr. 14, 1998; eff. May 4, 1998.

Rule 120-2-28-.10. Insurers Obligations to Cooperate With the Department of Public Safety.

Insurers shall be required to:

(a) cooperate fully with the Department of Public Safety;

(b) furnish their insureds with a satisfactory proof of insurance in accordance with the Rules and Regulations of the Commissioner of Public Safety; and

(c) notify the Department of Public Safety, in a form acceptable to the Department of Public Safety, of cancellation of the minimum insurance coverage required by the Act in accordance with the Rules and Regulations of the Commissioner of Public Safety.

Cite as Ga. Comp. R. & Regs. R. 120-2-28-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-34-11.
History. Original Rule entitled "Insurer's Obligation to Cooperate With the Department of Public Safety" adopted as ER. 120-2-28-0.2-.10. F. and eff. Dec. 20, 1974.
Amended: Permanent Rule of same title adopted. F. Jan. 16, 1975; eff. Feb. 5, 1975.
Repealed: New Rule entitled "Severability" adopted. F. Oct. 28, 1983; eff. Dec. 1, 1983, as specified by the Agency.
Repealed: New Rule entitled "Applicability of the Good Student Premium Reduction and Defensive Driver - Good Driver Rating Plan" adopted. F. Sept. 4, 1990; eff. Oct. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Insurer's Obligations to Cooperate With the Department of Public Safety" adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.
Repealed: New Rule of same title adopted. F. Apr. 14, 1998; eff. May 4, 1998.

Rule 120-2-28-.11. Penalties.

Any insurer, agent, representative, officer or employee of such insurer, failing to comply with the requirements of this Regulation Chapter shall be subject to such penalties as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-28-.11
Authority: O.C.G.A. Secs. 33-2-9, 33-34-11.

History. Original Rule entitled "Effective Date" adopted as ER. 120-2-28-0.2-.11. F. and eff. Dec. 20, 1974.
Amended: Permanent Rule of same title adopted. F. Jan. 16, 1975; eff. Feb. 5, 1975.
Repealed: F. Oct. 28, 1983; eff. Dec. 1, 1983, as specified by the Agency.
Amended: New Rule entitled "Claims Handling Procedures; Model Claims Forms" adopted. F. Sept. 4, 1990; eff. Oct. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Penalties" adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.
Repealed: New Rule of same title adopted. F. Apr. 14, 1998; eff. May 4, 1998.

Rule 120-2-28-.12. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-28-.12
Authority: O.C.G.A. Secs. 33-2-9, Chap. 33-34.
History. Original Rule entitled "Insurer's Obligations to Cooperrate with the Department of Public Safety" adopted. F. Sept. 4, 1990; eff. Oct. 1, 1990, as specified by the Agency.
Repealed: New Rule entitled "Severability" adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.
Repealed: New Rule, same title, adopted. F. Apr. 14, 1998; eff. May 4, 1998.

Rule 120-2-28-.13. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-28-.13
Authority: O.C.G.A. Secs. 33-2-9, Chap. 33-34.
History. Original Rule entitled "Penalties" adopted. F. Sept. 4, 1990; eff. Oct. 1, 1990, as specified by the Agency.
Repealed: F. Nov. 25, 1996; eff. Dec. 15, 1996.

Rule 120-2-28-.14. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-28-.14
Authority: O.C.G.A. Secs. 33-2-9, Chap. 33-34.
History. Original Rule entitled "Severability" adopted. F. Sept. 4, 1990; eff. Oct. 1, 1990, as specified by the Agency.
Repealed: F. Nov. 25, 1996; eff. Dec. 15, 1996.

Exhibit (120-2-28) A. .

EXHIBIT A
GOOD STUDENT CERTIFICATE

This is to certify that

1. Is enrolled as a full time student in

❑ High School _____
Enter Name and Address

❑ College, University, or Vocational/Technical School

_____
Enter Name and Address

2. The scholastic records for the immediately preceding semester (or comparable period) show that this student has attained one or more of the following:

❑ ranked among the upper 20% of the class scholastically; or
❑ in a school using letter grades, had a grade average of "B" (if the system of letter grading cannot be averaged, no grade shall be below "B"); or
❑ had a grade average of at least 3 points on a 4 point scale (or its equivalent); or
❑ was included in "Dean's List" or "Honor Roll" (or other comparable list for scholastic achievement).

Date: _____

Signed by:

_____
(School Official's Signature) (Title)

_____
(Signature of Applicant for Insurance or of Producer)

_____
(Signature of Applicant for Insurance)

_____
(Name of Insurance Company) (Policy Number)

_____
(Name and Address of Agency)

Subject 120-2-29. PREPAID LEGAL SERVICES PLAN.

Rule 120-2-29-.01. Statutory Authority.

Cite as Ga. Comp. R. & Regs. R. 120-2-29-.01
Authority: Ga. L. 1960, p. 289 at p. 305; 1975, p. 1268 at p. 1284.
History. Original Rule was filed on February 28, 1977; effective March 20, 1977.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public

examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-29-.02. Purpose.

Cite as Ga. Comp. R. & Regs. R. 120-2-29-.02
Authority: Ga. L. 1960, p. 289 at p. 305; 1975, p. 1268 at p. 1284.
History. Original Rule was filed on February 28, 1977; effective March 20, 1977.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-29-.03. Definitions.

Cite as Ga. Comp. R. & Regs. R. 120-2-29-.03
Authority: Ga. L. 1960, p. 289 at p. 305; 1975, p. 1268 at p. 1284.
History. Original Rule was filed on February 28, 1977; effective March 20, 1977.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-29-.04. Application for License.

Cite as Ga. Comp. R. & Regs. R. 120-2-29-.04
Authority: Ga. L. 1960, p. 289 at p. 305; 1975, p. 1268 at p. 1284.
History. Original Rule was filed on February 28, 1977; effective March 20, 1977.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-29-.05. Bond or Deposit Requirement.

Cite as Ga. Comp. R. & Regs. R. 120-2-29-.05
Authority: Ga. L. 1960, p. 289 at p. 305; 1975, p. 1268 as p. 1284.
History. Original Rule was filed on February 28, 1977; effective March 20, 1977.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-29-.06. Biographical Questionnaire.

Cite as Ga. Comp. R. & Regs. R. 120-2-29-.06
Authority: Ga. L. 1960), p. 289 at p. 305; 1975, p. 1268 at p. 1284.
History. Original Rule was filed on February 28, 1977; effective March 20, 1977.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-29-.07. Termination. and Transfer of Licenses.

Cite as Ga. Comp. R. & Regs. R. 120-2-29-.07
Authority: Ga. L. 1960, p. 289 at p. 305; 1975. p. 1268 at p. 1284.
History. Original Rule was filed on February 28, 1977; effective March 20, 1977.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-29-.08. Changes in Composition of a Sponsor.

Cite as Ga. Comp. R. & Regs. R. 120-2-29-.08
Authority: Ga. L. 1960, p. 289 at p. 305; 1975, p. 1268 at p. 1284.
History. Original Rule was filed on February 28, 1977; effective March 20, 1977.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-29-.09. Changes in Condition.

Cite as Ga. Comp. R. & Regs. R. 120-2-29-.09
Authority: Ga. L. 1960, p. 289 at p. 305; 1975. p. 1268 at p. 1284.
History. Original Rule was filed on February 28, 1977; effective March 20, 1977.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-29-.10. Rates, Underwriting Rules.

Cite as Ga. Comp. R. & Regs. R. 120-2-29-.10
Authority: Ga. L. 1960, p. 289 at p. 305; 1975, p. 1268 at p. 1284.
History. Original Rule was filed on February 28, 1977; effective March 20, 1977.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-29-.11. Contracts; Forms and Contents.

Cite as Ga. Comp. R. & Regs. R. 120-2-29-.11
Authority: Ga. L. 1960, p. 289 at p. 305; 1975, p. 1268 at p. 1284.
History. Original Rule was filed on February 28, 1977; effective March 20, 1977.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-29-.12. Annual Statement; Other Filings.

Cite as Ga. Comp. R. & Regs. R. 120-2-29-.12
Authority: Ga. L. 1960, p. 289 at p. 305; 1975, p. 1268 at p. 1284.
History. Original Rule was filed on February 28, 1977; effective March 20, 1977.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-29-.13. Examination; Books and Records.

Cite as Ga. Comp. R. & Regs. R. 120-2-29-.13
Authority: Ga. L. 1960, p. 289 at p. 305; 1975, p. 1268 at p. 1284.
History. Original Rule was filed on February 28, 1977; effective March 20, 1977.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-29-.14. Advertising.

Cite as Ga. Comp. R. & Regs. R. 120-2-29-.14
Authority: Ga. L. 1960, p. 289 at p. 305; 1975, p. 1268 at p. 1284.
History. Original Rule was filed on February 28, 1977; effective March 20, 1977.

Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-29-.15. Hearings.

Cite as Ga. Comp. R. & Regs. R. 120-2-29-.15
Authority: Ga. L. 1960, p. 289 at p. 305; 1975, p. 1268 at p. 1284.
History. Original Rule was filed on February 28, 1977; effective March 20, 1977.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-29-.16. Penalties.

Cite as Ga. Comp. R. & Regs. R. 120-2-29-.16
Authority: Ga. L. 1960, p. 289 at p. 305; 1975, p. 1268 at p. 1284.
History. Original Rule was filed on February 28, 1977; effective March 20, 1977.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-29-.17. Effective Date.

Cite as Ga. Comp. R. & Regs. R. 120-2-29-.17
Authority: Ga. L. 1960, p. 289 at p. 305; 1975, p. 1268 at p. 1284.
History. Original Rule was filed on February 28, 1977; effective March 20, 1977.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Subject 120-2-30. ISSUANCE AND REPAYMENT OF SURPLUS LOANS OF DOMESTIC MUTUAL INSURERS.

Rule 120-2-30-.01. Statutory Authority.

This Regulation is made and promulgated by the Insurance Commissioner pursuant to the authority set forth in Section 33-2-9 and Section 33-14-45 of the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-30-.01
Authority: Ga. L. 1960, pp. 289, 305, 549, 1969, pp. 490, 491.
History. Original Rule entitled "Statutory Authority" adopted as ER. 120-2-30-0.3-.01. F. and eff. Aug. 5, 1977, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Dec. 19, 1977; eff. Jan. 8, 1978.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-30-.02. Purpose.

The purpose of this Regulation is to establish guidelines and procedures for the issuance and repayment of surplus loans of mutual insurers issued pursuant to Section 33-14-15 of the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-30-.02
Authority: Ga. L. 1960, pp. 289, 305, 549, 1969, pp. 490, 491.
History. Original Rule entitled "Purpose" adopted as ER. 120-2-30-0.3-.02. F. and eff. Aug. 5, 1977, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Dec. 19, 1977; eff. Jan. 8, 1978.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-30-.03. Definitions.

(1) "Commissioner" shall mean the Georgia Insurance Commissioner.

(2) "Domestic mutual insurer" shall mean an insurance company incorporated under the laws of Georgia without capital stock or shares, and is owned and governed by its policyholders.

(3) "Earned surplus" shall mean those funds remaining after deducting required liabilities and contingent liabilities, special surplus, gross paid in and contributed surplus from net admitted assets of a domestic mutual insurer.

(4) "Surplus loan" shall mean money borrowed to defray the expenses of an insurer's organization, to provide it with surplus funds, or for any purpose required by its business, upon a written agreement that such money is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement.

(5) "Surplus note" or "surplus certificate" shall mean the written agreement referred to in subsection .03(4) of this Chapter.

Cite as Ga. Comp. R. & Regs. R. 120-2-30-.03
Authority: Ga. L. 1960, pp. 289, 305, 549, 1969, pp. 490, 491.
History. Original Rule entitled "Definitions" adopted as ER. 120-2-30-0.3-.03. F. and eff. Aug. 5, 1977, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Dec. 19, 1977; eff. Jan. 8, 1978.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-30-.04. Issuance of Notes or Certificates.

(1) Prior to the making of any surplus loan, the borrowing insurer must file with the Georgia Insurance Department a sample copy of each series and type of surplus note or certificate to be issued and a statement which relates the purposes of the loan and reasons why such loan should be approved.

(2) The loan and the note or certificate shall be subject to the Commissioner's approval. Without the approval of both the loan and the note or certificate, the loan cannot be made and no note or certificate may be issued.

   (a) The Commissioner shall disapprove any proposed loan if he finds the loan is unnecessary or excessive for the purpose intended, or that the information filed by the insurer which relates the purposes and reasons why such loan should be approved is inadequate.

   (b) The Commissioner shall disapprove a note or certificate if its terms are not fair to the policyholders of the issuing insurer.

Cite as Ga. Comp. R. & Regs. R. 120-2-30-.04
Authority: Ga. L. 1960, pp. 289, 305, 549, 1969, pp. 490, 491.
History. Original Rule entitled "Issuance of Notes or Certificates" adopted as ER. 120-2-30-0.3-.04. F. and eff. Aug. 5, 1977, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Dec. 19, 1977; eff. Jan. 8, 1978.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-30-.05. Required Provisions on all Notes or Certificates.

The body of the note or certificate shall provide that:

(a) All payment of interest and principal shall be payable only out of earned surplus in excess of that surplus required by law to transact the kind(s) of insurance for which the company is authorized.

(b) All proposed payments of any interest and principal shall be submitted to the Commissioner for his approval prior to any payments being made.

(c) The Commissioner may disapprove the repayment of any surplus loan if it is found that a reduction of the insurer's surplus would be hazardous to its policyholders or to the public.

Cite as Ga. Comp. R. & Regs. R. 120-2-30-.05
Authority: Ga. L. 1960, pp. 289, 305, 549, 1969, pp. 490, 491.
History. Original Rule entitled "Required Provisions on all Notes or Certificates" adopted as ER. 120-2-30-0.3-.05. F. and eff. Aug. 5, 1977, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Dec. 19, 1977; eff. Jan. 8, 1978.

Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-30-.06. Conditions Authorizing Issuing Insurer to Make Repayment.

(1) All payments of any interest and principal shall be payable only out of earned surplus in excess of that surplus required by law to transact the kind(s) of insurance for which the company is authorized, or in excess of the insurer's surplus at the time the loan was made, whichever is greater.

(2) All payments are payable only after providing for all reserves and other liabilities of the issuing insurer.

(3) All proposed payments of any interest and principal shall be submitted to the Commissioner for his approval prior to payment being made.

(4) The Commissioner may disapprove the repayment of any surplus loan if it is found that a reduction of the insurer's surplus would be hazardous to its policyholders or to the public.

(5) The issuing insurer may reserve the right to repay the principal and any accrued interest or unpaid interest of a surplus note or certificate at any time.

Cite as Ga. Comp. R. & Regs. R. 120-2-30-.06
Authority: Ga. L. 1960, pp. 289, 305, 549, 1969, pp. 490, 491.
History. Original Rule entitled "Conditions Authorizing Issuing Insurer to Make Repayment" adopted as ER. 120-2-30-0.3-.06. F. and eff. Aug. 5, 1977, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Dec. 19, 1977; eff. Jan. 8, 1978.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-30-.07. Reporting and Accounting Requirements.

(1) The principal together with the interest shall not be considered on the financial statement of the insurer as a legal liability or be the basis of any set off.

(2) The total amount of principal for all surplus loans, then unpaid, shall be entered in the annual statement, in a form approved for current use by the Commissioner, on the *Liabilities, Surplus, and Other Funds* page under the caption, "Unassigned Funds (Surplus)," with appropriate footnote disclosing the amount of such surplus loans therein contained, together with any interest thereon accrued but unpaid.

Cite as Ga. Comp. R. & Regs. R. 120-2-30-.07
Authority: Ga. L. 1960, pp. 289, 305, 549, 1969, pp. 490, 491.
History. Original Rule entitled "Reporting and Accounting Requirements" adopted as ER. 120-2-30-0.3-.07. F. and eff. Aug. 5, 1977, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Dec. 19, 1977; eff. Jan. 8, 1978.

Submitted for Publishing: Mar. 15, 2007.

Subject 120-2-31. LIFE INSURANCE SOLICITATION REGULATION.

Rule 120-2-31-.01. Authority.

This Regulation is made and promulgated by the Insurance Commissioner pursuant to the authority set forth in Section 33-2-9 and Chapter 33-6 of the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-31-.01
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Authority" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-31-.02. Purpose.

(1) The purpose of this regulation is to require insurers to deliver to purchasers of life insurance information which will improve the buyer's ability to select the most appropriate plan of life insurance for his needs, improve the buyer's understanding of the basic features of the policy which has been purchased or which is under consideration and to improve the ability of the buyer to evaluate the relative costs of similar plans of life insurance.

(2) This regulation does not prohibit the use of additional material which is not in violation of this regulation or any other Georgia statute or insurance regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-31-.02
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Purpose" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-31-.03. Scope.

(1) Except as hereafter exempted, this regulation shall apply to any solicitation, negotiation or procurement of life insurance occurring within this State. This regulation shall apply to any issuer of life insurance contracts.

(2) Unless otherwise specifically included, this regulation shall not apply to:

   (a) Annuities.

   (b) Credit life insurance.

(c) Group life insurance.

(d) Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA).

(e) Variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

Cite as Ga. Comp. R. & Regs. R. 120-2-31-.03
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Scope" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-31-.04. Definitions.

For the purpose of this Regulation, the following definitions shall apply:

(1) "Commissioner" means the Georgia Insurance Commissioner.

(2) "Buyer's Guide" means a document which contains, and is limited to, the language contained in "Exhibit A" attached hereto and incorporated herein or language approved by the Commissioner.

(3) "Cash Dividend" means the current illustrated dividend which can be applied toward payment of the gross premium.

(4) Equivalent Level Annual Dividend is calculated by applying the following:

(a) Accumulate the annual cash dividends at five percent interest compounded annually to the end of the tenth and twentieth policy years.

(b) Divide each accumulation of Step (a) by an interest factor that converts it into one equivalent level annual amount, that, if paid at the beginning of each year, would accrue to the values in Step (a) over the respective periods stipulated in Step (a). If the period is ten years, the factor is 13.207 and if the period is twenty years, the factor is 34.719.

(c) Divide the results of Step (b) by the number of thousands of the Equivalent Level Death Benefit to arrive at the Equivalent Level Annual Dividend.

(5) Equivalent Level Death Benefit is an amount calculated as follows:

(a) Accumulate the guaranteed amount payable upon death, regardless of the cause of death, at the beginning of each policy year for ten and twenty years at five percent

interest compounded annually to the end of the tenth and twentieth policy years respectively.

(b) Divide each accumulation of Step (a) by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in Step (a) above over the respective periods stipulated in Step (a). If the period is ten years, the factor is 13.207 and if the period is twenty years, the factor is 34.719.

(6) "Generic Name" means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.

(7) Life Insurance Cost Indexes.

(a) The Life Insurance Surrender Cost Index is calculated by applying the following:

1. Determine the guaranteed cash surrender value, if any, available at the end of the tenth and twentieth policy years.

2. For participating policies, add the terminal dividend payable upon surrender, if any, to the accumulation of the annual Cash Dividends at five percent interest compounded annually to the end of the period selected and add this sum to the amount determined in Step 1.

3. Divide the result of Step 2. (Step 1. for guaranteed-cost policies) by an interest factor that converts it into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in Step 2. (Step 1. for guaranteed-cost policies) over the respective periods stipulated in Step 1. If the period is ten years, the factor is 13.207 and if the period is twenty years, the factor is 34.719.

4. Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider at five percent interest compounded annually to the end of the period stipulated in Step 1. and dividing the result by the respective factors stated in Step 3. (this amount is the annual premium payable for a level premium plan).

5. Subtract the result of Step 3. from Step 4.

6. Divide the result of Step 5. by the number of thousands of the Equivalent Level Death Benefit to arrive at the Life Insurance Surrender Cost Index.

(b) Life Insurance Net Payment Cost Index. The Life Insurance Net Payment Cost Index is calculated in the same manner as the comparable Life Insurance Cost Index except that the cash surrender value and any terminal dividend are set at zero.

(8) "Policy Summary" means a written statement describing the elements of the policy including, but not limited to:

(a) A prominently placed title as follows:

STATEMENT OF POLICY COST AND BENEFIT INFORMATION.

(b) The name and address of the insurance agent, or, if no agent is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the Policy Summary.

(c) The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.

(d) The Generic Name of the basic policy and each rider.

(e) The following amounts, where applicable, for the first five policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns, including, but not necessarily limited to, the years for which life insurance cost indexes are displayed and at least one age from sixty through sixty-five or maturity whichever is earlier:

1. The annual premium for the basic policy.

2. The annual premium for each optional rider.

3. Guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death other than suicide, or other specifically enumerated exclusions, which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately.

4. Total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider.

5. Cash Dividends payable at the end of the year with values shown separately for the basic policy and each rider. (Dividends need not be displayed beyond the twentieth policy year.)

6. Guaranteed endowment amounts payable under the policy which are not included under guaranteed cash surrender values above.

(f) The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is variable, the Policy Summary includes the maximum annual percentage rate.

(g) Life Insurance Cost Indexes for ten and twenty years but in no case beyond the premium paying period. Separate indexes are displayed for the basic policy and for each optional term life insurance rider. Such indexes need not be included for optional riders which are limited to benefits such as accidental death benefits, disability waiver of premiums, preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits nor for the basic policies or optional riders covering more than one life.

(h) The Equivalent Level Annual Dividend, in the case of participating policies and participating optional term life insurance riders, under the same circumstances and for the same durations at which Life Insurance Cost Indexes are displayed.

(i) A Policy Summary which includes dividends shall also include a statement that dividends are based on the company's current dividend scale and are not guaranteed in addition to a statement in close proximity to the Equivalent Level Annual Dividend as follows: An Explanation of the intended use of the Equivalent Level Annual Dividend is included in the Life Insurance Buyer's Guide.

(j) A statement in close proximity to the Life Insurance Cost Indexes as follows: An Explanation of the intended use of these indexes is provided in the Life Insurance Buyer's Guide.

(k) The date on which the Policy Summary is prepared. The Policy Summary must consist of a separate document. All information required to be disclosed must be set out in such a manner as to not minimize or render any portion thereof obscure. Any amounts which remain level for two or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in item (e) of this section shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.

"**EXHIBIT A**"

LIFE INSURANCE BUYER'S GUIDE

The face page of the Buyer's Guide shall read as follows:

Life Insurance Buyer's Guide

This guide can show you how to save money when you shop for life insurance. It helps you to:

- Decide how much life insurance you should buy,

- Decide what kind of life insurance policy you need, and

- Compare the cost of similar life insurance policies.

Prepared by the National Association of Insurance Commissioners.

Reprinted by (Company Name) (Month and year of printing).

The Buyer's Guide shall contain the following language at the bottom of page 2:

The National Association of Insurance Commissioners is an association of state insurance regulatory officials. This association helps the various Insurance Departments to coordinate insurance laws for the benefit of all consumers. You are urged to use this Guide in making a life insurance purchase.

This Guide Does Not Endorse Any Company or Policy.

The remaining text of the Buyer's Guide shall begin on page 3 as follows:

Buying Life Insurance

When you buy life insurance, you want a policy which fits your need without costing too much. Your first step is to decide how much you need, how much you can afford to pay and the kind of policy you want. Then, find out what various companies charge for that kind of policy. You can find important differences in the cost of life insurance by using the life insurance cost indexes which are described in this guide. A good life insurance agent or company will be able and willing to help you with each of these shopping steps.

If you are going to make a good choice when you buy life insurance, you need to understand which kinds are available. If one kind does not seem to fit your needs, ask about the other kinds which are described in this Guide. If you need more information than is given here, you may want to check with a life insurance agent or company or books on life insurance in your public library.

Choosing the Amount

One way to decide how much life insurance you need is to figure how much cash and income your dependents would need if you were to die. You should think of life insurance as a source of cash needed for expenses of final illnesses, paying taxes, mortgages or other debts. It can also provide income for your family's living expenses, educational costs and other future expenses. Your new policy should come as close as you can afford to making up the difference between (1) what your dependents would have if you were to die now, and (2) what they would actually need.

Choosing the Right Kind

All life insurance policies agree to pay an amount of money if you die. But all policies are not the same. There are three basic kinds of life insurance.

1. Term Insurance

2. Whole Life Insurance

3. Endowment Insurance

Remember, no matter how fancy the policy title or sales presentation might appear, all life insurance policies contain one or more of the three basic kinds. If you are confused about a policy that sounds complicated, ask the agent or company if it combines more than one kind of life insurance.

The following is a brief description of the three basic kinds:

Term Insurance:

Term Insurance is death protection for a "term" of one or more years. Death benefits will be paid only if you die within that term of years. Term insurance generally provides the largest immediate death protection for your premium dollar.

Some term insurance policies are "renewable" for one or more additional terms even if your health has changed. Each time you renew the policy for a new term, premiums will be higher. You should check the premiums at older ages and the length of time the policy can be continued. Some term insurance policies are also "convertible." This means that before the end of the conversion period, you may trade the term policy for a whole life or endowment insurance policy even if you are not in good health. Premiums for the new policy will be higher than you have been paying for term insurance.

Whole Life Insurance:

Whole life insurance gives death protection for as long as you live. The most common type is called "straight life" or "ordinary life" insurance, for which you pay the same premiums for as long as you live. These premiums can be several times higher than you would pay initially for the same amount of term insurance. But they are smaller than the premiums you would eventually pay if you were to keep renewing a term insurance policy until your later years.

Some whole life policies let you pay premiums for a shorter period such as 20 years, or until age 65. Premiums for these policies are higher than for ordinary life insurance since the premium payments are squeezed into a shorter period.

Although you pay higher premiums, to begin with, for whole life insurance than for term insurance, whole life insurance policies develop "cash values" which you may have if you stop paying premiums. You can generally either take the cash, or use it to buy some continuing insurance protection. Technically speaking, these values are called "nonforfeiture benefits." This

refers to benefits you do not lose (or "forfeit") when you stop paying premiums. The amount of these benefits depends on the kind of policy you have, its size, and how long you have owned it.

A policy with cash values may also be used as collateral for a loan. If you borrow from the life insurance company, the rate of interest is shown in your policy. Any money which you owe on a policy loan would be deducted from the benefits if you were to die, or from the cash value if you were to stop paying premiums.

Endowment Insurance:

An endowment insurance policy pays a sum or income to you - the policyholder - if you live to a certain age. If you were to die before then, the death benefit would be paid to your beneficiary. Premiums and cash values for endowment insurance are higher than the same amount of whole life insurance. Thus, endowment insurance gives you the least amount of death protection for your premium dollar.

Finding a Low Cost Policy

After you have decided which kind of life insurance fits your needs, look for a good buy. Your chances of finding a good buy are better if you use two types of index numbers that have been developed to aid in shopping for life insurance. One is called the "Surrender Cost Index" and the other is the "Net Payment Cost Index." It will be worth your time to try to understand how these indexes are used, but in any event, use them only for comparing the relative costs of similar policies. LOOK FOR POLICIES WITH LOW COST INDEX NUMBERS.

What is Cost?

"Cost" is the difference between what you pay and what you get back. If you pay a premium for life insurance and get nothing back, your cost for the death protection is the premium. If you pay a premium and get something back later on, such as a cash value, your cost is smaller than the premium.

The cost of some policies can also be reduced by dividends; these are called "participating" policies. Companies may tell you what their current dividends are, but the size of future dividends is unknown today and cannot be guaranteed. Dividends actually paid are set each year by the company.

Some policies do not pay dividends. These are called "guaranteed cost" or "non-participating" policies. Every feature of a guaranteed cost policy is fixed so that you know in advance what your future cost will be. The premiums and cash values of a participating policy are guaranteed, but the dividends are not. Premiums for participating policies are typically higher than for guaranteed cost policies, but the cost to you may be higher or lower, depending on the dividends actually paid.

What Are Cost Indexes?

In order to compare the cost of policies, you need to look at:

1. Premiums

2. Cash Values

3. Dividends

Cost indexes use one or more of these factors to give you a convenient way to compare relative costs of similar policies. When you compare costs, an adjustment must be made to take into account that money is paid and received at different times. It is not enough to just add up the premiums you will pay and to subtract the cash values and dividends you expect to get back. These indexes take care of the arithmetic for you. Instead of having to add, subtract, multiply and divide many numbers yourself, you just compare the index numbers which you can get from life insurance agents and companies.

1. *Life Insurance Surrender Cost Index.* This index is useful if you consider the level of the cash values to be of primary importance to you. It helps you compare costs if at some future point in time, such as 10 or 20 years, you were to surrender the policy and take its cash value.

2. *Life Insurance Net Payment Cost Index.* This index is useful if your main concern is the benefits that are to be paid at your death and if the level of cash values is of secondary importance to you. It helps you compare costs at some future point in time, such as 10 or 20 years, if you continue paying premiums on your policy and do not take its cash value.

There is another number called the Equivalent Level Annual Dividend. It shows the part dividends play in determining the cost index of a participating policy. Adding a policy's Equivalent Level Annual Dividend to its cost index allows you to compare total costs of similar policies before deducting dividends. However, if you make any cost comparisons of a participating policy with a non-participating policy, remember that the total cost of the participating policy will be reduced by dividends, but the cost of the non-participating policy will not change.

How Do I Use Cost Indexes?

The most important thing to remember when using cost indexes is that a policy with a small index number is generally a better buy than a comparable policy with a larger index number. The following rules are also important:

(1) Cost comparisons should only be made between similar plans of life insurance. Similar plans are those which provide essentially the same basic benefits and require premium payments for approximately the same period of time. The closer policies are to being identical, the more reliable the cost comparison will be.

(2) Compare index numbers only for the kind of policy, for your age and for the amount you intend to buy. Since no one company offers the lowest cost for *all* types of insurance at *all* ages

and for *all* amounts of insurance, it is important that you get the indexes for the actual policy, age and amount which you intend to buy. Just because a "Shopper's Guide" tells you that one company's policy is a good buy for a particular age and amount, you should not assume that all of that company's policies are equally good buys.

(3) Small differences in index numbers could be offset by other policy features, or differences in the quality of service you may expect from the company or its agent. Therefore, when you find small differences in cost indexes, your choice should be based on something other than cost.

(4) In any event, you will need other information on which to base your purchase decision. Be sure you can afford the premiums, and that you understand its cash values, dividends and death benefits. You should also make a judgment on how well the life insurance company or agent will provide service in the future, to you as a policyholder.

(5) These life insurance cost indexes apply to new policies and should not be used to determine whether you should drop a policy you have already owned for a while, in favor of a new one. If such a replacement is suggested, you should ask for information from the company which issued the old policy before you take action.

IMPORTANT THINGS TO REMEMBER - A SUMMARY

The first decision you must make when buying a life insurance policy is choosing a policy whose benefits and premiums most closely meet your needs and ability to pay. Next, find a policy which is also a relatively good buy.

If you compare Surrender Cost Indexes and Net Payment Cost Indexes of similar competing policies, your chances of finding a relatively good buy will be better than if you do not shop. REMEMBER, LOOK FOR POLICIES WITH LOWER COST INDEX NUMBERS. A good life insurance agent can help you to choose the amount of life insurance and kind of policy you want and will give you cost indexes so that you can make cost comparisons of similar policies.

Don't buy life insurance unless you intend to stick with it. A policy which is a good buy when held for 20 years can be very costly if you quit during the early years of the policy. If you surrender such a policy during the first few years, you may get little or nothing back and much of your premium may have been used for company expenses.

Read your new policy carefully, and ask the agent or company for an explanation of anything you do not understand. Whatever you decide now, it is important to review your life insurance program every few years to keep up with changes in your income and responsibilities.

Cite as Ga. Comp. R. & Regs. R. 120-2-31-.04
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Rule 120-2-31-.05. Disclosure Requirements.

(1) Prior to soliciting, procuring or receiving an application, the insurer shall provide, to all prospective purchasers, a Buyer's Guide. The insurer shall also provide to all prospective purchasers a Policy Summary prior to accepting the applicant's initial premium or premium deposit, unless the policy for which application is made contains an unconditional refund provision of at least ten days or unless the Policy Summary contains such an unconditional refund offer, in which event, the Policy Summary must be delivered with the policy or prior to delivery of the policy.

(2) The insurer shall provide a Buyer's Guide and a Policy Summary to any prospective purchaser or present policyholder upon request.

(3) In the case of policies whose Equivalent Level Death Benefit does not exceed $5,000, the requirement for providing a Policy Summary will be satisfied by delivery of a written statement containing the information described in Rule 120-2-31-.04(8), items (b), (c), (d), (e)1., (e)2., (e)3., (f), (g), (j) and (k).

Cite as Ga. Comp. R. & Regs. R. 120-2-31-.05
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Disclosure Requirements" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
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Rule 120-2-31-.06. General Rules.

(1) Each insurer shall maintain at its home office or principal office, a complete file containing one copy of each document authorized by the insurer for use pursuant to this regulation. Such file shall contain one copy of each authorized form for a period of three years following the date of its last authorized use.

(2) An agent shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that he is acting as a life insurance agent and inform the prospective purchaser of the full name of the insurance company which he is representing to the buyer. In sales situations in which an agent is not involved, the insurer shall identify its full name.

(3) Terms such as financial planner, investment advisor, financial consultant, or financial counseling shall not be used in such a way as to imply that the insurance agent is generally engaged in an advisory business in which compensation is unrelated to sales unless such is actually the case.

(4) Any reference to policy dividends must include a statement that dividends are not guaranteed.

(5) A system or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of two or more insurance policies. Such a system may be used for the purpose of demonstrating the cash-flow pattern of a policy if such presentation is accompanied by a statement disclosing that the presentation does not recognize that, because of interest, a dollar in the future has less value than a dollar today.

(6) A presentation of benefits shall not display guaranteed and non-guaranteed benefits as a single sum unless they are shown separately in close proximity thereto.

(7) A statement regarding the use of the Life Insurance Cost Indexes shall include a prominent explanation to the effect than the indexes are useful only for the comparison of the relative costs of two or more similar policies.

(8) A Life Insurance Cost Index which reflects dividends or an Equivalent Level Annual Dividend shall be accompanied by a statement that it is based on the company's current dividend scale and is not guaranteed.

(9) For the purposes of this regulation, the annual premium for a basic policy or rider, for which the company reserves the right to change the premium, shall be the maximum annual premium.

Cite as Ga. Comp. R. & Regs. R. 120-2-31-.06
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "General Rules" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
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Rule 120-2-31-.07. Severability Provision.

If any section or portion of a section of this regulation or the applicability thereof to any waiver or circumstances is held invalid by a court of competent jurisdiction, the remainder of the rules or the applicability of such provisions to other insurers or circumstances, shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-2-31-.07
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Severability Provision" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
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Rule 120-2-31-.08. Failure to Comply; Penalties.

Failure of an insurer to provide or deliver a Buyer's Guide, or a Policy Summary as provided in Section .05 of this rule, shall constitute an omission which misrepresents the benefits, advantages, conditions or terms of an insurance policy.

Any insurer failing to comply with the requirements of this regulation shall be subject to such penalties as may be appropriate under the Insurance Laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-31-.08
Authority: Ga. L. 1960, pp. 289, 305, 394, 395.
History. Original Rule entitled "Failure to Comply; Penalties" adopted. F. Apr. 11, 1980; eff. July 1, 1980, as specified by the Agency.
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Subject 120-2-32. VARIABLE LIFE INSURANCE.

Rule 120-2-32-.01. Statutory Authority.

This Regulation is made and promulgated by the Commissioner of Insurance pursuant to the authority set forth in Sections 33-2-9 and 33-11-36 of the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-32-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-11-36.
History. Original Rule entitled "Statutory Authority" adopted. F. Oct. 18, 1979; eff. Nov. 7, 1979.
Repealed: New Rule of same title adopted. F. Oct. 2, 1985; eff. Dec. 1, 1985, as specified by the Agency.
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Rule 120-2-32-.02. Purpose.

The purpose of this Regulation is to regulate the insurers which issue variable life insurance policies and the agents or other persons who sell such policies in the State of Georgia and to otherwise implement the insurance laws of the State of Georgia with respect to the solicitation, sale and issuance of variable life insurance policies.

Cite as Ga. Comp. R. & Regs. R. 120-2-32-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-11-36.
History. Original Rule entitled "Purpose" adopted. F. Oct. 18, 1979; eff. Nov. 7, 1979.
Repealed: New Rule of same title adopted. F. Oct. 2, 1985; eff. Dec. 1, 1985, as specified by the Agency.
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Rule 120-2-32-.03. Definitions.

For the purpose of this Regulation:

(1) "Affiliate" of an insurer means any person, directly or indirectly, controlling, controlled by, or under common control with such insurer; any person who regularly furnishes investment advice to such insurer with respect to its variable life insurance separate accounts for which a specific fee or commission is charged; or any director, officer, partner, or employee of any such insurer, controlling or controlled person, or person providing investment advice or any member of the immediate family of such person.

(2) "Agent" means any person licensed by this State as a life insurance agent.

(3) "Assumed investment rate" means the rate of investment return which would be required to be credited to a variable life insurance policy, after deduction of charges for taxes, investment expenses, and mortality and expense guarantees, to maintain the variable death benefit equal at all times to the amount of death benefit, other than incidental insurance benefits, which would be payable under the plan of insurance if the death benefit did not vary according to the investment experience of the separate account.

(4) "Benefit base" means the amount to which the net investment return is applied.

(5) "Commissioner" means the Commissioner of Insurance of the State of Georgia.

(6) "Control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing more than ten percent (10%) of the voting securities of any other person. This presumption may be rebutted by a showing made to the satisfaction of the Commissioner that control does not exist in fact. The Commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(7) "Flexible premium policy" means any variable life insurance policy other than a scheduled premium policy as specified in paragraph (15) of this Rule.

(8) "General account" means all assets of the insurer other than assets in separate accounts established pursuant to Section 33-11-36 of the Georgia Insurance Code, or pursuant to the corresponding section of the insurance laws of the State of domicile of a foreign or alien insurer, whether or not for variable life insurance.

(9) "Incidental insurance benefit" means all insurance benefits in a variable life insurance policy, other than the variable death benefit and the minimum death benefit, including but not limited to accidental death and dismemberment benefits, disability income benefits, guaranteed insurability options, family income, or fixed benefit term riders.

(10) "May" is permissive.

(11) "Minimum death benefit" means the amount of the guaranteed death benefit, other than incidental insurance benefits, payable under a variable life insurance policy regardless of the investment performance of the separate account.

(12) "Net investment return" means the rate of investment return in a separate account to be applied to the benefit base.

(13) "Person" means an individual, corporation, partnership, association, trust, or fund.

(14) "Policy processing day" means the day on which charges authorized in the policy are deducted from the policy's cash value.

(15) "Scheduled premium policy" means any variable life insurance policy under which both the amount and timing of premium payments are fixed by the insurer.

(16) "Separate account" means a separate account established for variable life insurance pursuant to Section 33-11-36 of the Georgia Insurance Code or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

(17) "Shall" is mandatory.

(18) "Variable death benefit" means the amount of the death benefit, other than incidental insurance benefits, payable under a variable life insurance policy dependent on the investment performance of the separate account, which the insurer would have to pay in the absence of the minimum death benefit.

(19) "Variable life insurance policy" means any individual policy which provides for life insurance the amount or duration of which varies according to the investment experience of any separate account or accounts established and maintained by the insurer as to such policy, pursuant to Section 33-11-36 of the Georgia Insurance Code or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

Cite as Ga. Comp. R. & Regs. R. 120-2-32-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-11-36.
History. Original Rule entitled "Definitions" adopted. F. Oct. 18, 1979; eff. Nov. 7, 1979.
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Rule 120-2-32-.04. Qualification of Insurer to Issue Variable Life Insurance.

The following requirements are applicable to all insurers either seeking authority to issue variable life insurance in this State or having authority to issue variable life insurance in this State:

(1) Licensing and Approval to do Business in this State. An insurer shall not deliver or issue for delivery in this State any variable life insurance policy unless:

(a) the insurer is licensed or organized to transact the business of life insurance in this State;

(b) the insurer has obtained the written approval of the Commissioner for the issuance of variable life insurance policies in this State. The Commissioner shall grant such written approval only after he has found that:

1. the plan of operation for the issuance of variable life insurance policies is not unsound;

2. the insurer has the administrative capability in terms of executive qualifications and staff qualifications as well as the computer capability to comply with the requirements of this Regulation;

3. the general character, reputation, and experience of the management and those persons or firms proposed to supply consulting, investment, administrative, or custodial services to the insurer are such as to reasonably assure competent operation of the variable life insurance business of the insurer in this State; and

4. the present and foreseeable future financial condition of the insurer and its method of operation in connection with the issuance of such policies is not likely to render operation hazardous to the public or its policyholders in this State.

The Commissioner shall consider, among other things:

(i) the history of operation and financial condition of the insurer;

(ii) the qualifications, fitness, character responsibility, reputation, and experience of the officers and directors and other management of the insurer and those persons or firms proposed to supply consulting, investment, administrative, or custodial services to the insurer.

(iii) the applicable law and regulations under which the insurer is authorized in its state of domicile to issue variable life insurance policies. The state of entry of an alien insurer shall be deemed its state of domicile for this purpose; and

(iv) if the insurer is a subsidiary of, or is affiliated by common management or ownership with another company, its relationship to such other company and the degree to which the requesting insurer, as well as the other company, meet these standards.

5. the company has submitted either as a part of its application for variable life authority (or within ninety (90) days after the effective date of this Regulation for those companies presently authorized for variable life insurance in this State) a detailed outline of the training course agents will receive with respect to variable life insurance. This preexamination course should meet the following requirements:

   (i) candidates for variable life agents' licenses must hold a current life agents' license and be a N.A.S.D. Registered Representative.

   (ii) the preexamination course must contain a minimum of eight (8) classroom hours of instruction.

   (iii) the instructors must have had training or educational experience satisfactory to the Commissioner in order to be certified to teach any part of an approved course. Each instructor must have two (2) or more years in relevant insurance work or otherwise qualify with equivalent educational and teaching experience and be approved in writing by the Commissioner prior to teaching any preexamination course or any part thereof, which has been approved by the Commissioner.

   (iv) reference materials such as sample policy forms, prospectuses, policy proposals and projections, reports to policyholders as required by this Regulation, the Georgia Insurance Code, text books, study manuals as appropriate and any other illustrative materials are required to be readily available for students' use.

   (v) All classrooms used shall be rooms separate from other activities while instruction is being given, while providing comfortable and appropriate physical facilities for the students.

   (vi) The subject matter of agent's preexamination courses must include the applicable provisions of the Georgia law and Georgia Insurance Department Regulations regarding variable life insurance.

(2) Filing for Approval to do Business in this State. Before any insurer shall deliver or issue for delivery or permit agents to offer for sale any of its variable life insurance policies in this State, it must file with this Department completed application forms provided by the

Department including but not limited to the following information for the consideration of the Commissioner in making the determination required by Section (1)(b) of this Rule:

(a) copies of and a general description of the variable life insurance policies it intends to issue:

(b) a general description of the methods of operation of the variable life insurance business of the insurer, including methods of distribution of policies and the names of those persons or firms proposed to supply consulting, investment, administrative, custodial or distribution services to the insurer;

(c) with respect to any separate account maintained by an insurer for any variable life insurance policy, a statement of the investment policy the insurer intends to follow for the investment of the assets held in such separate account, and a statement of the procedures for changing such investment policy. The statement of investment policy shall include a description of the investment objectives intended for the separate account;

(d) a description of any investment advisory services contemplated as required by Section (10) of rule 120-2-32-.07;

(e) a copy of the statutes and regulations of the state of domicile of the insurer under which it is authorized to issue variable life insurance policies;

(f) biographical data with respect to officers and directors of the insurer on the National Association of Insurance Commissioners Uniform Biographical Data Form; and

(g) a statement by the insurer's actuary describing the mortality and expense risks which the insurer will bear under the policy.

(3) Standards of Suitability. Every insurer seeking approval to enter into the variable life insurance business in this State shall establish and maintain a written statement specifying the Standards of Suitability to be used by the insurer. Such Standards of Suitability shall specify that no recommendations shall be made to an applicant to purchase a variable life insurance policy and that no variable life insurance policy shall be issued in the absence of reasonable grounds to believe that the purchase of such policy is not unsuitable for such applicant on the basis of information furnished after reasonable inquiry of such applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and any other information known to the insurer or to the agent making the recommendation.

(4) Use of Sales Materials. An insurer authorized to transact variable life insurance business in this State shall not use any sales material, advertising material, or descriptive literature or other materials of any kind in connection with its variable life insurance business in this State which is false, misleading, deceptive, or inaccurate. Additionally, such insurers shall file all variable life insurance sales material, advertising material, and descriptive

literature thirty (30) business days prior to use with the Commissioner. The Commissioner shall require an insurer to cease the use of any such materials upon finding that any such materials are false, misleading, deceptive, or inaccurate. Revised versions of such materials containing substantial changes from versions on file with the Commissioner shall be filed with the Commissioner in accordance with the foregoing requirement.

Variable life insurance sales material, advertising material, and descriptive literature shall be subject to the additional requirements of Chapter 120-2-11 of the Rules and Regulations of the Georgia Insurance Department.

(5) Requirements Applicable to Contractual Services. The following requirements shall be applicable to contractual services:

Any national contract between an insurer and suppliers of consulting, investment, administrative, sales, marketing, custodial, or other services with respect to variable life insurance operations shall be in writing and provide that the supplier of such services shall furnish the Commissioner with any information or reports in connection with such services which the Commissioner may request in order to ascertain whether the variable life insurance operations of the insurer are being conducted in a manner consistent with this Regulation and any other applicable law or regulation.

(6) Reports to the Commissioner. Any insurer authorized to transact the business of variable life insurance in this State shall submit to the Commissioner, in addition to any other materials which may be required by this Regulation or any other applicable law or regulation:

(a) an annual statement of the business of its separate account or accounts in such form as may be prescribed by the National Association of Insurance Commissioners; and

(b) prior to the use in this State any information furnished to applicants as provided for in Rule 120-2-32-.08; and

(c) prior to the use in this State the form of any of the Reports to Policyholders as provided for in Rule 120-2-32-.10; and

(d) such additional information concerning its variable life insurance operations or its separate accounts as the Commissioner shall deem necessary; and

(e) any material submitted to the Commissioner under this Section (6) shall be disapproved if it is found to be false, misleading, deceptive, or inaccurate in any material respect and, if previously distributed, the Commissioner shall require the distribution of amended material.

(7) Authority of Commissioner to Disapprove. Any material required to be filed with and approved by the Commissioner shall be subject to disapproval if at any time it is found by him not to comply with the standards established by this Regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-32-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-11-36.
History. Original Rule entitled "Qualification of Insurer to Issue Variable Life Insurance" adopted. F. Oct. 18, 1979; eff. Nov. 7, 1979.
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Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-32-.05. Insurance Policy Requirements.

The Commissioner shall not approve any variable life insurance form filed pursuant to this Regulation unless it conforms to the following requirements of this Rule:

(1) Filing of Variable Life Insurance Policies. All variable life insurance policies, and all riders, endorsements, applications and other documents which are to be attached to and made a part of the policy, shall be filed with and approved by the Commissioner in writing prior to delivery or issuance for delivery in this State, subject to the following:

(a) The procedures and requirements for such filing and approval shall be, to the extent appropriate and not inconsistent with this Regulation, the same as those otherwise applicable to other life insurance policies.

(b) The Commissioner may approve variable life insurance policies and related forms with provisions the Commissioner deems to be not less favorable to the policyholder and the beneficiary than those required by this Regulation.

(2) Mandatory Policy Benefit and Design Requirements. Variable life insurance policies delivered or issued for delivery in this State shall comply with the following minimum requirements:

(a) Mortality and expense risks shall be borne by the insurer. The mortality and expense charges shall be subject to the maximum stated in the contract.

(b) For scheduled premium policies, a minimum death benefit shall be provided in an amount at least equal to the initial face amount of the policy so long as premiums are duly paid, subject to the provisions of Section (3)(b) of this Rule;

(c) The policy shall reflect the investment experience of one or more separate accounts established and maintained by the insurer. The insurer must demonstrate that the variable life insurance policy is actuarially sound.

(d) Each variable life insurance policy shall be credited with the full amount of the net investment return applied to the benefit base.

(e) Any changes in variable death benefits of each variable life insurance policy shall be determined at least annually.

(f) The cash value of each variable life insurance policy shall be determined at least monthly. The method of computation of cash values and other nonforfeiture benefits, as described either in the policy or in a statement filed with the Commissioner, shall be in accordance with actuarial procedures that recognize the variable nature of the policy. The method of computation may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees include, for example, but are not limited to, a guarantee that the amount payable at death or maturity shall be at least equal to the amount that otherwise would have been payable if the net investment return credited to the policy at all times from the date of issue had been equal to the assumed investment rate.

(g) The computation of values required for each variable life insurance policy may be based upon such reasonable and necessary approximations as are acceptable to the Commissioner.

(3) Mandatory Policy Provisions. Every variable life insurance policy filed for approval in this State shall contain at least the following:

(a) the cover page or pages corresponding to the cover page of each such policy shall contain:

1. a statement in boldface type which is at least four points larger than the type size of the largest type used in the text of any provision on that page, that the amount or duration of death benefit may be variable or fixed under specified conditions. Such statement shall be set forth in a separate paragraph;

2. a statement in boldface type which is at least four points larger than the type size of the largest type used in the text of any provision on that page that cash values may increase or decrease in accordance with the experience of the separate account subject to any specified minimum guarantees. Such statement shall be set forth in a separate paragraph;

3. a statement describing any minimum death benefit required pursuant to Section (2)(b) of Rule 120-2-32-.05;

4. the method, or a reference to the policy provision which describes the method, for determining the amount of insurance payable at death;

5. a captioned provision which provides that the policyholder may return the variable life insurance policy within ten (10) days or such longer period as required by law of the receipt of the policy by the policyholder, and receive a refund of the total premium payments; and

6. such other items as are currently required for fixed benefit life insurance policies and which are not inconsistent with this Regulation.

(b)

1. For scheduled premium policies, a provision for a grace period of not less than thirty-one (31) days from the premium due date which shall provide that where the premium is paid within the grace period, policy values will be the same, except for the deduction of any overdue premium, as if the premium were paid on or before the due date;

2. For flexible premium policies, a provision for a grace period beginning on the policy processing day when the total charges authorized by the policy that are necessary to keep the policy in force until the next policy processing day exceed the amounts available under the policy to pay such charges in accordance with the terms of the policy. Such grace period shall end on a date not less than sixty-one (61) days after the mailing date of the Report to Policyholders required by Section (3) of Rule 120-2-32-.10.

   The death benefit payable during the grace period will equal the death benefit in effect immediately prior to such period less any overdue charges. If the policy processing days occur monthly, the insurer may require the payment of not more than three (3) times the charges which were due on the policy processing day on which the amounts available under the policy were insufficient to pay all charges authorized by the policy that are necessary to keep such policy in force until the next policy processing day.

(c) For scheduled premium policies, a provision that the policy will be reinstated at any time within two years from the date of default upon the written application of the insured and evidence of insurability, including good health, satisfactory to the insurer, unless the cash surrender value has been paid or the period of extended insurance has expired, upon the payment of any outstanding indebtedness arising subsequent to the end of the grace period following the date of default together with accrued interest thereon to the date of reinstatement and payment of an amount not exceeding the greater of:

1. all overdue premiums with interest at a rate not exceeding six percent (6%) per annum compounded annually and any indebtedness in effect at the end of the grace period following the date of default with interest at a rate not exceeding six percent (6%) per annum compounded annually; or

2. one hundred ten percent (110%) of the increase in cash surrender value resulting from reinstatement plus all overdue premiums for incidental insurance benefits with interest at a rate not exceeding six percent (6%) per annum compounded annually.

(d) a full description of the benefit base and of the method of calculation and application of any factors used to adjust variable benefits under the policy;

(e) a provision designating the separate account to be used and stating that:

1. the assets of such separate account shall be available to cover the liabilities of the general account of the insurer only to the extent that the assets of the separate account exceed the liabilities of the separate account arising under the variable life insurance policies supported by the separate account; and

2. the assets of such separate account shall be valued at least as often as any policy benefits vary but at least monthly.

(f) a provision that at any time during the first eighteen (18) months of the variable life insurance policy, so long as premiums are duly paid the owner may exchange the policy for a policy of permanent fixed benefit life insurance on the life of the insured for the same initial amount of insurance as the variable life insurance policy, and on a plan of insurance specified in the policy, provided that the new policy:

1. shall bear the same date of issue and age at issue as the original life insurance policy;

2. is issued on a substantially comparable plan of permanent insurance offered in this State by the insurer or an affiliate on the date of issue of the variable life insurance policy and at the premium rates in effect on the date for the same class of insurance;

3. includes such riders and incidental insurance benefits as were included in the original policy if such riders and incidental insurance benefits are issued with the fixed benefit policy;

4. shall be issued subject to an equitable premium or cash value adjustment that takes appropriate account of the premiums and cash values under the original and new policies. A detailed statement of the method of computing such adjustment shall be filed with the Commissioner.

(g) a provision that the policy and any papers attached thereto by the insurer, including the application if attached, constitute the entire insurance contract;

(h) a designation of the officers who are empowered to make an agreement or representation on behalf of the insurer and an indication that statements by the insured, or on his behalf, shall be considered as representations and not warranties;

(i) an identification of the owner of the insurance contract;

(j) a provision setting forth conditions or requirements as to the designation, or change of designation, of a beneficiary and a provision for disbursement of benefits in the absence of a beneficiary designation;

(k) a statement of any conditions or requirements concerning the assignment of the policy;

(l) a description of any adjustments in policy values to be made in the event of misstatement of age or sex of the insured;

(m) a provision that the policy shall be incontestable by the insurer after it has been in force for two (2) years during the lifetime of the insured; provided, however, that any increase in the amount of the policy's death benefits subsequent to the policy issue date, which increase occurred upon a new application or request of the owner and was subject to satisfactory proof of the insured's insurability, shall be incontestable after any such increase has been in force, during the lifetime of the insured, for two (2) years from the date of issue of such increase;

(n) a provision stating that the investment policy of the separate account shall not be changed without the approval of the Insurance Commissioner of the state of domicile of the insurer, and that the approval of process is on file with the Commissioner of Insurance of Georgia;

(o) a provision that payment of variable death benefits in excess of any minimum death benefits, cash values, policy loans, or partial withdrawals (except when used to pay premiums) or partial surrenders may be deferred:

1. for up to six (6) months from the date of request, if such payments are based on policy values which do not depend on the investment performance of the separate account, or

2. otherwise, for any period during which the New York Stock Exchange is closed for trading (except for normal holiday closing) or when the Securities and Exchange Commission has determined that a state of emergency exists which may make such payment impractical.

(p) if settlement options are provided at least one such option shall be provided on a fixed basis only;

(q) a description of the basis for computing the cash value and the surrender value under the policy shall be included.

(r) premiums or charges for incidental insurance benefits shall be stated separately;

(s) any other policy provisions required by this Regulation;

(t) such other items as are currently required for fixed benefit life insurance policies and are not inconsistent with this Regulation; and

(u) a provision for nonforfeiture insurance benefits which may include a reasonable minimum cash value below which reduced paid-up insurance, extended term insurance and settlement options will not be available. The policy may not provide for a minimum cash surrender value.

(4) Policy Loan Provisions. Every variable life insurance policy, other than term insurance policies and pure endowment policies, delivered or issued for delivery in this State shall contain provisions which are not less favorable to the policyholder than the following:

(a) A provision for policy loans after the policy has been in force for three (3) full years which provides the following:

1. At least seventy-five percent (75%) of the policy's cash surrender value may be borrowed.

2. The amount borrowed shall bear interest at a rate not to exceed that permitted by Section 33-25-3.1 of the Georgia Insurance Code.

3. Any indebtedness shall be deducted from the proceeds payable on death.

4. Any indebtedness shall be deducted from the cash surrender value upon surrender or in determining any nonforfeiture benefit.

5. For scheduled premium policies, whenever the indebtedness exceeds the cash surrender value, the insurer shall give notice of any intent to cancel the policy if the excess indebtedness is not repaid within thirty-one (31) days after the date of mailing of such notice. For flexible premium policies, whenever the total charges authorized by the policy that are necessary to keep the policy in force until the next following processing day exceed the amounts available under the policy to pay such charges, a report must be sent to the policyholder containing the information specified in Section (3) of Rule 120-2-32-.10.

6. The policy may provide that if, at any time, so long as premiums are duly paid, the variable death benefit is less than it would have been if no loan or withdrawal had ever been made, the policyholder may increase such

variable death benefit up to what it would have been if there had been no loan or withdrawal by paying an amount not exceeding one hundred ten percent (110%) of the corresponding increase in cash value and by furnishing such evidence of insurability as the insurer may request.

7. The policy may specify a reasonable minimum amount which may be borrowed at any time but such minimum shall not apply to any automatic premium loan provision.

8. No policy loan provision is required if the policy is under the extended insurance nonforfeiture option.

9. The policy loan provisions shall be constructed so that variable life insurance policyholders who have not exercised such provisions are not disadvantaged by the exercise thereof.

10. Amounts paid to the policyholders upon the exercise of any policy loan provision shall be withdrawn from the separate account and shall be returned to the separate account upon repayment except that a stock insurer may provide the amounts for policy loan from the general account.

(5) Other Policy Provisions. The following provision may in substance be included in a variable life insurance policy or related form delivered or issued for delivery in this State;

(a) an exclusion for suicide within two (2) years of the issue date of the policy; provided, however, that to the extent of the increased death benefits only, the policy may provide an exclusion for suicide within two years of any increase in death benefits which results from an application of the owner subsequent to the policy issue date;

(b) incidental insurance benefits may be offered on a fixed or variable basis;

(c) policies issued on a participating basis shall offer to pay dividend amounts in cash. In addition, such policies may offer the following dividend options:

1. the amount of the dividend may be credited against premium payments;

2. the amount of the dividend may be applied to provide amounts of additional fixed or variable benefit life insurance;

3. the amount of the dividend may be deposited in the general account at a specified minimum rate of interest;

4. the amount of the dividend may be applied to provide paid-up amounts of fixed benefit one-year term insurance;

5. the amount of the dividend may be deposited as a variable deposit in a separate account.

(d) A provision allowing the policyholder to elect in writing in the application for the policy or thereafter an automatic premium loan on a basis not less favorable than that required of the policy loans under Section (4) of this Rule, except that a restriction that no more than two consecutive premiums can be paid under this provision may be imposed;

(e) A provision allowing the policyholder to make partial withdrawals;

(f) Any other policy provision approved by the Commissioner.

Note - As in original. There is no (4)(b).

Cite as Ga. Comp. R. & Regs. R. 120-2-32-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-11-36.
History. Original Rule entitled "Insurance Policy Requirements" adopted. F. Oct. 18, 1979; eff. Nov. 7, 1979.
Repealed: New Rule of same title adopted. F. Oct. 2, 1985; eff. Dec. 1, 1985, as specified by the Agency.
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Rule 120-2-32-.06. Reserve Liabilities for Variable Life Insurance.

(1) Reserve liabilities for variable life insurance policies shall be established under Section 33-10-13 of the Georgia Insurance Code in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

(2) For scheduled premium policies, reserve liabilities for the guaranteed minimum death benefit shall be the reserve needed to provide for the contingency of death occurring when the guaranteed minimum death benefit exceeds the death benefit that would be paid in the absence of the guarantee, and shall be maintained in the general account of the insurer and shall be not less than the greater of the following minimum reserves:

(a) The aggregate total of the term costs, if any, covering a period of one full year from the valuation date, of the guarantee on each variable life insurance contract, assuming an immediate one-third depreciation in the current value of the assets of the separate account followed by a net investment return equal to the assumed investment rate; or

(b) The aggregate total of the "attained age level" reserves on each variable life insurance contract. The "attained age level" reserve on each variable life insurance contract shall not be less than zero and shall equal the "residue," as described in paragraph 1., of the prior year's "attained age level" reserve on the contract, with

any such "residue," increased or decreased by a payment computed on an attained age basis as described in paragraph 2. below.

1. the "residue" of the prior year's "attained age level" reserve on each variable life insurance contract shall not be less than zero and shall be determined by adding interest at the valuation interest rate to such prior year's reserve, deducting the tabular claims based on the "excess," if any, of the guaranteed minimum death benefit over the death benefit that would be payable in the absence of such guarantee, and dividing the net result by the tabular probability of survival. The "excess" referred to in the preceding sentence shall be based on the actual level of death benefits that would have been in effect during the preceding year in the absence of the guarantee, taking appropriate account of the reserve assumptions regarding the distribution of death claim payments over the year.

2. the payment referred to in subsection (2)(b) of this Rule shall be computed so that the present value of a level payment of that amount each year over the future premium paying period the contract is equal to (A) minus (B) minus (C), where (A) is the present value of the future guaranteed minimum death benefits, (B) is the present value of the future death benefits that would be payable in the absence of such guarantee, and (C) is any "residue," as described in paragraph 1., of the prior year's "attained age level" reserve on such variable life insurance contract. If the contract is paid-up, the payment shall equal (A) minus (B) minus (C). The amounts of future death benefits referred to in (B) shall be computed assuming a net investment return of the separate account which may differ from the assumed investment rate and/or the valuation interest rate but in no event may exceed the maximum interest rate permitted for the valuation of life contracts.

3. For flexible premium policies, reserve liabilities for any guaranteed minimum death benefit shall be maintained in the general account of the insurer and shall be not less than the aggregate total of the term costs, if any, covering the period provided for in the guarantee not otherwise provided for by the reserves held in the separate account assuming an immediate one-third depreciation in the current value of the assets of the separate account followed by a net investment return equal to the valuation interest rate. The valuation interest rate and mortality table used in computing this additional reserve, if any, shall conform to permissible standards for the valuation of life insurance contracts. In determining such minimum reserve, the company may employ suitable approximations and estimates, including but not limited to groupings and averages.

4. Reserve liabilities for all fixed incidental insurance benefits and any guarantees associated with variable incidental insurance benefits shall be maintained in the general account and reserve liabilities for all variable

aspects of the variable incidental insurance benefits shall be maintained in a separate account, in amounts determined in accordance with the actuarial procedures appropriate to such benefit.

(c) The valuation interest rate and mortality table used in computing the two minimum reserves described in Section (2)(a) and (b) of this Rule shall conform to permissible standards for the valuation of life insurance contracts. In determining such minimum reserve, the company may employ suitable approximations and estimates, including but not limited to groupings and averages.

Cite as Ga. Comp. R. & Regs. R. 120-2-32-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-11-36.
History. Original Rule entitled "Reserve Liabilities for Variable Life Insurance" adopted. F. Oct. 18, 1979; eff. Nov. 7, 1979.
Repealed: New Rule of same title adopted. F. Oct. 2, 1985; eff. Dec. 1, 1985, as specified by the Agency.
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Rule 120-2-32-.07. Separate Accounts.

The following requirements apply to the establishment and administration of variable life insurance separate accounts by any domestic insurer:

(1) Establishment and Administration of Separate Accounts. Any domestic insurer issuing variable life insurance in this State shall establish one or more separate accounts pursuant to Section 33-11-36 of the Georgia Insurance Code, subject to the following:

(a) If no law or other regulation provides for the custody of separate account assets and if the insurer itself is not the custodian of such separate account assets, all contracts for such custody shall be in writing and the Commissioner shall have the authority to review and approve both the terms of any such contract and the proposed custodian prior to the transfer of custody

(b) Such insurer shall not without the prior written approval of the Commissioner employ in any material connection with the handling of separate account assets any person who:

1. within the last ten (10) years has been convicted of any felony or a misdemeanor arising out of such person's conduct involving embezzlement, fraudulent conversion, or misappropriation of funds or securities or involving violation of Sections 1341, 1342, or 1343 of Title 18, United States Code; or

2. within the last ten (10) years has been found by any state regulatory authority to have violated or has acknowledged violation of any provision of any state insurance law involving fraud, deceit, or knowing misrepresentation; or

3. within the last ten (10) years has been found by federal or state regulatory authorities to have violated or has acknowledged violation of any provision of federal or state securities laws involving fraud, deceit, or knowing misrepresentation.

(c) All persons with access to the cash, securities, or other assets of the separate account shall be under bond in an amount not less than the following amounts for each separate account:

TOTAL ASSETS		MINIMUM AMOUNT OF BOND
Under $100,000		$10,000
More Than:	But Not More Than:	
$ 100,000	$ 600,000	$10,000 plus 4% of assets over $100,000
600,000	1,200,000	$30,000 plus 3 1/3% of assets over $600,000
1,200,000	3,200,000	$50,000 plus 2 1/2% of assets over $1,200,000
3,200,000	4,450,000	$100,000 plus 2 % of assets over $3,200,000
4,450,000	6,450,000	$125,000 plus 1 1/4% of assets over $4,450,000
6,450,000	90,450,000	$150,000 plus 5/8% of assets over $6,450,000
90,450,000	350,450,000	$675,000 plus 3/8% of assets over $90,450,000
350,450,000	1,070,450,000	$1,625,000 plus 3/16% of assets over $350,450,000
1,070,450,000	—	$3,075,000 plus 3/32% of assets over $1,070,450,000 until total bond equals $5,000,000

(d) The assets of such separate accounts established for variable life insurance policies shall be valued at least as often as variable benefits are determined but in any event at least monthly.

(2) Amounts in the Separate Account. Amounts in a separate account shall be maintained in accordance with the following:

The insurer shall maintain in each separate account assets with a value at least equal to the greater of the valuation reserves for the variable portion of the variable life insurance policies or the benefit base for such policies.

(3) Investments by the Separate Account. Investments by a separate account shall be made as follows:

(a) No sale, exchange, or other transfer of assets may be made by an insurer or any of its affiliates between any of its separate accounts or between any other investment account and one or more of its separate accounts unless:

1. in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the policies with respect to the separate account to which the transfer is made; and

2. such transfer, whether into or from a separate account, is made by a transfer of cash; but other assets may be transferred if approved by the Commissioner in advance.

(b) The separate account shall have sufficient net investment income and readily marketable assets to meet anticipated withdrawals under policies funded by the account.

(4) Limitations on Ownership. The following limitations shall apply to the ownership of the assets of a separate account:

(a) A separate account shall not purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal and interest by the United States, if immediately after such purchase or acquisition the value of such investment, together with prior investments of such account in such security valued as required by this Regulation, would exceed ten percent (10%) of the value of the assets of the separate account. The Commissioner may waive this limitation in writing if he believes such waiver will not render the operation of the separate account hazardous to the public or the policyholders in this State.

(b) No separate account shall purchase or otherwise acquire the voting securities of any issuer if as a result of such acquisition the insurer and its separate accounts, in the aggregate, will own more than ten percent (10%) of the total issued and outstanding voting securities of such issuer. The Commissioner may waive this limitation in writing if he believes such waiver will not render the operation of the separate account hazardous to the public or the policyholders in this State or jeopardize the independent operation of the issuer of such securities.

(c) The percentage limitation specified in subsection (a) of this Section shall not be construed to preclude the investment of the assets of separate accounts in shares of investment companies registered pursuant to the Investment Company Act of 1940 or other pools of investment assets if the investments and investment policies of such investment companies or assets pools comply substantially with the provisions of Section (3) of this Rule and other applicable portions of this Regulation.

(5) Valuation of Separate Account Assets. Investments of the separate account shall be valued at their market value on the date of valuation, or at amortized cost if it approximates market value.

(6) Separate Account Investment Policy.

(a) The investment policy of a separate account operated by a domestic insurer filed under Section (2)(c) of Rule 120-2-32-.04 shall not be changed without the approval of the Commissioner of Insurance.

1. Any change filed pursuant to this Section shall be effective sixty (60) days after the date it was filed with the Commissioner, unless the Commissioner notifies the insurer before the end of such sixty-day period of his disapproval of the proposed change. At any time the Commissioner may, after notice and public hearing, disapprove any change that has become effective pursuant to this Section.

2. The Commissioner may disapprove the change if he determines that the change would be detrimental to the interest of the policyholders participating in such separate account.

(7) Charges Against Separate Account.

(a) The insurer must disclose in writing, prior to or contemporaneously with delivery of the policy, all charges that may be made against the separate account, including, but not limited to, the following:

1. taxes or reserves for taxes attributable to investment gains and income of the separate account;

2. actual cost of reasonable brokerage fees and similar direct acquisition and sale costs incurred in the purchase or sale of separate account assets;

3. actuarially determined costs of insurance (tabular costs) and the release of separate account liabilities;

4. charges for administrative expenses and investment management expenses, including internal costs attributable to the investment management of assets of the separate account;

5. a charge, at a rate specified in the policy, for mortality and expense guarantees;

6. any amounts in excess of those required to be held in the separate accounts;

7. charges for incidental insurance benefits.

(8) Standards of Conduct. Every insurer seeking approval to enter into the variable life insurance business in this State shall adopt by formal action of its Board of Directors a written statement specifying the Standards of Conduct of the insurer, its officers, directors, employees, and affiliates with respect to the purchase or sale of investments of separate accounts. Such Standards of Conduct shall be binding on the insurer and those to whom it refers. A code or codes of ethics meeting the requirements of Section 17j under the Investment Company Act of 1940 and applicable rules and regulations thereunder shall satisfy the provisions of this Section.

(9) Conflicts of Interest. Rules under any provision of the insurance laws of this State or any regulation applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate accounts committee or other similar body.

(10) Investment Advisory Services to a Separate Account. The following requirements shall be applicable to investment advisory services contracted for by an insurer with respect to its separate accounts:

(a) An insurer shall not enter into a contract under which any person undertakes, for a fee, to regularly furnish investment advice to such insurer with respect to its separate accounts maintained for variable life insurance policies unless:

1. the person providing such advice is registered as an investment advisor under the Investment Advisers Act of 1940; or

2. the person providing such advice is an investment manager under the Employee Retirement Income Security Act of 1974 with respect to the assets of each employee benefit plan allocated to the separate account; or

3. the insurer has filed with the Commissioner and continues to file annually the following information and statements concerning the proposed advisor:

(i) the name and form of organization, state of organization, and its principal place of business;

(ii) the names and addresses of its partners, officers, directors, and persons performing similar functions or, if such an investment advisor be an individual, of such individual;

(iii) a written Standard of Conduct complying in substance with the requirements of Section (8) of this Rule which has been adopted by the investment advisor and is applicable to the investment advisor, its officers, directors and affiliates;

(iv) a statement provided by the proposed advisor as to whether the advisor or any person associated therewith:

(I) has been convicted within ten (10) years of any felony or misdemeanor arising out of such person's conduct as an employee, salesman, officer or director of an insurance company, a bank, an insurance agent, a securities broker, or an investment advisor; involving embezzlement, fraudulent conversion, or misappropriation of funds or securities, or involving the violation of Sections 1341, 1342, or 1343 of Title 18 of the United States Code;

(II) has been permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment advisor, underwriter, broker, or dealer, or as an affiliated person or as an employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity;

(III) has been found by federal or state regulatory authorities to have willfully violated or has acknowledged willful violation of any provision of federal or state securities laws or state insurance laws or of any rule or regulation under any such laws; or

(IV) has been censured, denied an investment advisor registration, had a registration as an investment advisor revoked or suspended, or been barred or suspended from being associated with an investment advisor by order of federal or state regulatory authorities; and

4. such investment advisory contract shall be in writing and provide that it may be terminated by the insurer without penalty to the insurer or the separate account upon no more than sixty (60) days' written notice to the investment advisor.

(b) The Commissioner may, after notice and opportunity for hearing, by order require such investment advisory contract to be terminated if he deems continued operation thereunder to be hazardous to the public or the insurer's policyholders.

Note - As in original. There is no (6)(b) or (7)(b).

Cite as Ga. Comp. R. & Regs. R. 120-2-32-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-11-36.
History. Original Rule entitled "Separate Accounts" adopted. F. Oct. 18, 1979; eff. Nov. 7, 1979.

Repealed: New Rule of same title adopted. F. Oct. 2, 1985; eff. Dec. 1, 1985, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-32-.08. Information Furnished to Applicants.

An insurer delivering or issuing for delivery in this State any variable life insurance policies shall deliver to the applicant for the policy, and obtain a written acknowledgement of receipt from such applicant coincident with or prior to the execution of the application, the following information: The requirements of this Rule shall be deemed to have been satisfied to the extent that a disclosure containing information required by this Rule is delivered, either in the form of (1) a prospectus included in a registration statement relating to the policies which satisfies the requirements of the Securities Act of 1933 and which was declared effective by the Securities and Exchange Commission; or (2) all information and reports required by the Employee Retirement Income Security Act of 1974 if the policies are exempted from the registration requirements of the Securities Act of 1933 pursuant to Section (3)(a)(2) thereof.

(1) a summary explanation, in nontechnical terms, of the manner in which the variable benefits will reflect the investment experience of the separate account and the factors which affect such variation. Such explanation must include notices of the provision required by Sections (3)(a)5. and (3)(f) of Rule 120-2-32-.05;

(2) a statement of the investment policy of the separate account, including:

   (a) a description of the investment objective and orientation intended for the separate account and the principal types of investments intended to be made; and

   (b) any restriction or limitations on the manner in which the operations of the separate account are intended to be conducted.

(3) a statement of the net investment return of the separate account for each of the last ten (10) years for which the separate account was in existence;

(4) a statement of the charges levied against the separate account during the previous year;

(5) a summary of the method to be used in valuing assets held by the separate account;

(6) a summary of the federal income tax aspects of the policy applicable to the insured, the policyholder and the beneficiary;

(7) illustrations of benefits payable under the variable life insurance contract. Such illustrations shall be prepared by the insurer and shall not include projections of past investment experience into the future or attempted predictions of future investment experience, provided that nothing contained herein prohibits use of hypothetical assumed rates of return to illustrate possible levels of benefits if it is made clear that such assumed rates are hypothetical only;

(8) a statement in a separate paragraph in boldface type which is at least four (4) points larger than the type size of the largest type used in the text of any provision on the page, providing in substance the following information:

(a) The purpose of this variable life insurance policy is to provide insurance protection for the beneficiary named therein.

(b) No claim is made that this variable life insurance policy is in any way similar or comparable to a systematic investment plan of a mutual fund.

Cite as Ga. Comp. R. & Regs. R. 120-2-32-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-11-36.
History. Original Rule entitled "Information Furnished to Applicants" adopted. F. Oct. 18, 1979; eff. Nov. 7, 1979.
Repealed: New Rule of same title adopted. F. Oct. 2, 1985; eff. Dec. 1, 1985, as specified by the Agency.
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Rule 120-2-32-.09. Applications.

The application for a variable life insurance policy shall contain:

(1) a prominent statement that the death benefit may be variable or fixed under specified conditions;

(2) a prominent statement that cash values may increase or decrease in accordance with the experience of the separate account (subject to any specified minimum guarantees);

(3) questions designed to elicit information which enables the insurer to determine the suitability of variable life insurance for the applicant.

Cite as Ga. Comp. R. & Regs. R. 120-2-32-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-11-36.
History. Original Rule entitled "Applications" adopted. F. Oct. 18, 1979; eff. Nov. 7, 1979.
Repealed: New Rule of same title adopted. F. Oct. 2, 1985; eff. Dec. 1, 1985, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-32-.10. Reports to Policyholders.

Any insurer delivering or issuing for delivery in this State any variable life insurance policies shall mail to each variable life insurance policyholder at his or her last known address the following reports:

(1) within thirty (30) days after each anniversary of the policy, a statement or statements of the cash surrender value, death benefit, any partial withdrawal or policy loan, any interest

charge, and any optional payments allowed pursuant to Section (4) of Rule 120-2-32-.05 under the policy computed as of the policy anniversary date. Provided, however, that such statement may be furnished within thirty (30) days after a specified date in each policy year so long as the information contained therein is computed as of a date not more than sixty (60) days prior to the mailing of such notice. This statement shall state in contrasting color or distinctive type that, in accordance with the investment experience of the separate account, the cash values and the variable death benefit may increase or decrease, and shall prominently identify any value described therein which may be recomputed prior to the next statement required by this Section. If the policy guarantees that the variable death benefit on the next policy anniversary date will not be less than the variable death benefit specified in such statement, the statement shall be modified to so indicate. For flexible premium policies, the report must contain a reconciliation of the change since the previous report in cash value and cash surrender value, if different, because of payments made (less deductions for expense charges), withdrawals, investment experience, insurance charges and any other charges made against the cash value. In addition, the report must show the projected cash value and cash surrender value, if different, as of one year from the end of the period covered by the report assuming that:

(i) planned periodic premiums, if any, are paid as scheduled;

(ii) guaranteed costs of insurance are deducted; and

(iii) the net investment return is equal to the guaranteed rate or, in the absence of a guaranteed rate, is not greater than zero. If the projected value is less than zero, a warning message must be included that states that the policy may be in danger of terminating without value in the next twelve (12) months unless additional premium is paid.

(2) annually, a statement or statements including:

(a) a summary of the financial statement of the separate account based on the annual statement last filed with the Commissioner;

(b) the net investment return of the separate account for the last year and, for each year after the first, a comparison of the investment rate of the separate account during the last year with the investment rate during prior years, up to a total of five (5) years when available;

(c) a list of investments held by the separate account as of a date not earlier than the end of the last year for which an annual statement was filed with the Commissioner;

(d) any charges levied against the separate account during the previous year;

(e) a statement of any change, since the last report, in the investment objective and orientation of the separate account, in any investment restriction or material

quantitative or qualitative investment requirement applicable to the separate account or in the investment advisor of the separate account.

(3) For flexible premium policies, a report must be sent to the policyholder if the amounts available under the policy on any policy processing day to pay the charges authorized by the policy are less than the amount necessary to keep the policy in force until the next following policy processing day. The report must indicate the minimum payment required under the terms of the policy to keep it in force and the length of the grace period for payment of such amount.

Cite as Ga. Comp. R. & Regs. R. 120-2-32-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-11-36.
History. Original Rule entitled "Reports to Policyholders" adopted. F. Oct. 18, 1979; eff. Nov. 7, 1979.
Repealed: New Rule of same title adopted. F. Oct. 2, 1985; eff. Dec. 1, 1985, as specified by the Agency.
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Rule 120-2-32-.11. Foreign Companies.

If the law or regulation in the place of domicile of a foreign company provides a degree of protection to the policyholders and the public which is substantially similar to that provided by this Regulation, the Commissioner to the extent deemed appropriate by him in his discretion, may consider compliance with such law or regulation as compliance with this Regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-32-.11
Authority: O.C.G.A. Secs. 33-2-9, 33-11-36.
History. Original Rule entitled "Foreign Companies" adopted. F. Oct. 18, 1979; eff. Nov. 7, 1979.
Repealed: New Rule of same title adopted. F. Oct. 2, 1985; eff. Dec. 1, 1985, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-32-.12. Qualification of Agents for the Sale of Variable Life Insurance.

(1) Qualification to Sell Variable Life Insurance. Agents shall be qualified to sell variable life insurance upon satisfying the following requirements:

(a) No person may sell or offer for sale in this State any variable life insurance policy unless such person:

1. holds a current life agent's license.

2. holds a current N.A.S.D. Registration as certified by the Central Registration Depository.

3. has filed with the Commissioner evidence that such person holds any license or authorization which may be required by the solicitation or sale of variable life insurance by any federal or state securities law.

4. has submitted an application for licensing and a certification by his sponsoring company that the agent has completed a preexamination course meeting the requirements of this State.

5. has passed the variable life agent examination administered by this State.

(b) Any examination administered by the Insurance Department for the purpose of determining the eligibility of any person for licensing as an agent shall include such questions concerning the history, purpose, regulation, and sale of variable life insurance as the Commissioner deems appropriate.

(2) Reports of Disciplinary Actions. Any person qualified in this State under this Rule to sell or offer to sell variable life insurance shall immediately report to the Commissioner:

(a) any suspension or revocation of his agent's license in any other state or territory of the United States;

(b) the imposition of any disciplinary sanction, including suspension or expulsion from the membership, suspension, or revocation of or denial of registration, imposed upon him by any national securities exchange, or national securities association, or any federal, state, or territorial agency with jurisdiction over securities or variable life insurance;

(c) any judgment or injunction entered against him on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or regulation.

(3) Refusal to Qualify Agent to Sell Variable Life Insurance, Suspension, Revocation, or Nonrenewal of Qualification. The Commissioner may reject any application or suspend or revoke or refuse to renew any agent's qualification under this Rule to sell or offer to sell variable life insurance upon any ground that would bar such applicant or such agent from being licensed to sell other life insurance contracts in this state. The rules governing any proceeding relating to the suspension or revocation of any agent's license shall also govern any proceeding for suspension or revocation of an agent's qualification to sell or offer to sell variable life insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-32-.12
Authority: O.C.G.A. Secs. 33-2-9, 33-11-36.
History. Original Rule entitled "Qualification of Agents for the Sale of Variable Life Insurance" adopted. F. Oct. 18, 1979; eff. Nov. 7, 1979.
Repealed: New Rule of same title adopted. F. Oct. 2, 1985; eff. Dec. 1, 1985, as specified by the Agency.

Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-32-.13. Separability Article.

If any provision of this Regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the Regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-2-32-.13
Authority: O.C.G.A. Secs. 33-2-9, 33-11-36.
History. Original Rule entitled "Separability Article" adopted. F. Oct. 18, 1979; eff. Nov. 7, 1979.
Repealed: New Rule of same title adopted. F. Oct. 2, 1985; eff. Dec. 1, 1985, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-32-.14. Penalties.

Any insurer or agent, representative, officer or employee of such insurer, failing to comply with the requirements of this Regulation shall be subject to such penalties as prescribed by the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-32-.14
Authority: O.C.G.A. Secs. 33-2-9, 33-11-36.
History. Original Rule entitled "Penalties" adopted. F. Oct. 18, 1979; eff. Nov. 7, 1979.
Repealed: New Rule of same title adopted. F. Oct. 2, 1985; eff. Dec. 1, 1985, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Subject 120-2-33. HEALTH MAINTENANCE ORGANIZATIONS.

Rule 120-2-33-.01. Authority.

This Regulation is made and promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. Sections 33-21-18 and 33-2-9.

Cite as Ga. Comp. R. & Regs. R. 120-2-33-.01
Authority: O.C.G.A. Secs. 33-2-9, Ch. 33-21.
History. Original Rule entitled "Authority" adopted. F. Apr. 21, 1980; eff. May 11, 1980.
Repealed: New Rule of same title adopted. F. July 24, 1986; eff. Sept. 1, 1986, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-33-.02. Purpose.

(1) To govern and regulate various phases of operations of Health Maintenance Organizations ("HMOs").

(2) To protect the interests of the enrolled public.

(3) To provide means by which the quality of care rendered, in conjunction with such Rules and Regulations as may be established by the Commissioner of Human Resources, and the fiscal stability of such organizations can be monitored.

Cite as Ga. Comp. R. & Regs. R. 120-2-33-.02
Authority: O.C.G.A. Secs. 33-2-9, Ch. 33-21.
History. Original Rule entitled "Purpose" adopted. F. Apr. 21, 1980; eff. May 11, 1980.
Repealed: New Rule of same title adopted. F. July 24, 1986; eff. Sept. 1, 1986, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-33-.03. Definitions.

(1) All terms defined in Acts 1979, p. 1148 (O.C.G.A. Chapter 33-21), as amended, hereinafter referred to as the Health Maintenance Organization Act or Act, which are used in this Regulation, shall have the same meaning as in the Act.

(2) The following words and terms, when used in this Regulation, shall have the following meanings:

(a) "Basic Rates" means rates for various categories of individuals that are calculated by or certified by a qualified actuary using reasonable assumptions as to expected medical expenses, administrative expenses and margins for contingencies.

(b) "Commissioner" means the Commissioner of Insurance of the State of Georgia.

(c) "Complaint" means a written expression of concern or displeasure by an enrollee regarding any aspect of the HMO relative to the enrollee which is delivered to the HMO, Department of Insurance or the Department of Human Resources.

(d) "Department" means the Department of Insurance, State of Georgia.

(e) "Governing body" means the Board of Directors, or if otherwise designated in the Charter or Bylaws, those individuals vested with the ultimate responsibility for the management of a corporation which has been issued or is applying for a certificate of authority to operate as a Health Maintenance Organization.

(f) "Public Member" means an individual who has no vested interest, financial or otherwise, in the operations of the HMO by reason of his relationship with the HMO as an employee, provider, stockholder or director.

Cite as Ga. Comp. R. & Regs. R. 120-2-33-.03
Authority: O.C.G.A. Secs. 33-2-9, Ch. 33-21.
History. Original Rule entitled "Definitions" adopted. F. Apr. 21, 1980; eff. May 11, 1980.
Repealed: New Rule of same title adopted. F. July 24, 1986; eff. Sept. 1, 1986, as specified by the Agency.

Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-33-.04. Establishment of Health Maintenance Organizations.

(1) All applications for a certificate of authority will be reviewed in accordance with the standards set forth in the Act, these rules and the Rules and Regulations of the Department of Human Resources.

(2) An applicant applying for a certificate of authority to operate an HMO in the State of Georgia, shall fully comply with the requirements of O.C.G.A. Chapter 33-21. An applicant shall fully and truthfully supply and insert the information required in the following listed forms which have been adopted for use by Order of the Commissioner, and shall provide such other information as the Commissioner may require:

   (a) Form GID-2-HMO, the Application; Form GID-3-HMO, Appointment of Attorney for Service of Process; Forms GID-5a, 5b and 5c, as applicable for a Security Deposit; Forms GID-6, and 6c as applicable for a Security Deposit; and Form GID-41, Biographical Affidavit for the principal officers and directors of the HMO.

   (b) A Foreign or Alien HMO shall provide, in addition to the items listed in (a) above, Form GID-4-HMO, Appointment of Commissioner as Attorney for Service of Process.

(3) The HMO shall submit to the Commissioner as part of its application for approval every contract, policy, certificate or evidence of coverage, rider, endorsement, application or outline of coverage which it intends to use prior to use.

(4) All HMOs are subject to the fees and taxes required by O.C.G.A. Chapter 33-8.

Cite as Ga. Comp. R. & Regs. R. 120-2-33-.04
Authority: O.C.G.A. Secs. 33-2-9, Ch. 33-21.
History. Original Rule entitled "Establishment of Health Maintenance Organizations" adopted. F. Apr. 21, 1980; eff. May 11, 1980.
Repealed: New Rule of same title adopted. F. July 24, 1986; eff. Sept. 1, 1986, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-33-.05. Change in HMO Status or Services.

(1) No name, other than that approved by the Commissioner, may be used by the HMO and the name of the HMO may not be changed without prior approval of the Commissioner.

(2) No HMO may change a service within the contract period, unless approved arrangements equitable to enrollees are made providing for a rate adjustment or substitution or an equivalent service, and prior approval of the Commissioner is obtained.

Cite as Ga. Comp. R. & Regs. R. 120-2-33-.05
Authority: O.C.G.A. Secs. 33-2-9, Ch. 33-21.
History. Original Rule entitled "Change in HMO Status or Service" adopted. F. Apr. 21, 1980; eff. May 11, 1980.
Repealed: New Rule of same title adopted. F. July 24, 1986; eff. Sept. 1, 1986, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-33-.06. Termination of Coverage or Service.

(1) No HMO may cancel or refuse to renew the coverage of an enrollee for any reason which is not related to nonpayment of premium except as provided by the Rules and Regulations of the Office of Commissioner of Insurance Chapter 120-2-67.

(2) No HMO may cease offering a service or terminate a service within a contract period, unless approved arrangements equitable to enrollees are made providing for a rate adjustment or substitution of an equivalent service, and prior approval of the Commissioner is obtained.

(3) When an HMO terminates all or a portion of an enrollee's coverage, or the enrollee, access must be provided to the complaint system set forth in Rule 120-2-33-.09. No such termination shall be effective until the enrollee, if he so desires, and in accordance with the Act and Rule 120-2-33-.09, has exhausted the complaint system.

(4) Notwithstanding paragraphs (5) and (6), an HMO offering a point of service policy form may not terminate coverage under that policy form for a group or individual because no member of that group lives, resides, or works in the approved service area, or, in the case of individual policy coverage, the insured no longer lives, resides, or works in the approved service area.

(5) The HMO shall not terminate the coverage of an enrollee under a group contract or group policy because the enrollee moves out of the approved service area, provided the enrollee continues to be an eligible enrollee of the insured group and agrees in writing to return to the approved service area for covered medical care.

(6) The HMO shall not terminate the coverage of an enrollee under an individual contract because the enrollee moves out of the approved service area, provided the enrollee agrees in writing to return to the approved service area for covered medical care.

Cite as Ga. Comp. R. & Regs. R. 120-2-33-.06
Authority: O.C.G.A. Secs. 33-2-9, Ch. 33-21.
History. Original Rule entitled "Termination of Coverage or Service" adopted. F. Apr. 21, 1980; eff. May 11, 1980.
Repealed: New Rule of same title adopted. F. July 24, 1986; eff. Sept. 1, 1986, as specified by the Agency.
Amended: ER. 120-2-33-0.6-.06 adopted. F. and eff. Nov. 10, 1997, as specified by the Agency.

Amended: Permanent Rule adopted. F. Feb. 17, 1998; eff. Mar. 9, 1998.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-33-.07. Financial and Statistical Reporting.

(1) Each HMO shall annually, on or before the first day of March, file with the Commissioner, on Annual Statement Forms prescribed and adopted by Order of the Commissioner, an annual statement as of December 31st of the preceding year, certified by at least two principal officers, and a copy of said report shall also be delivered to the Commissioner of Human Resources, as required by O.C.G.A. Section 33-21-15.

(2) Quarterly financial reports on forms adopted by the NAIC shall be filed by each HMO not later than forty-five (45) days after the end of each calendar quarter.

(3) In addition to the requirements of the Act, each federally qualified HMO shall file with the Department copies of any financial or statistical reports required by the federal government.

Cite as Ga. Comp. R. & Regs. R. 120-2-33-.07
Authority: O.C.G.A. Secs. 33-2-9, Ch. 33-21.
History. Original Rule entitled "Financial Reporting" adopted. F. Apr. 21, 1980; eff. May 11, 1980.
Repealed: New Rule entitled "Financial and Statistical Reporting" adopted. F. July 24, 1986; eff. Sept. 1, 1986, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-33-.08. Rates and Forms.

(1) Basic rates along with the method of computation of charges for enrollee coverage or any amendments thereto to be used in conjunction with any health benefits plan must be filed with and approved by the Commissioner prior to use.

(2) The Commissioner shall approve or disapprove any basic rate or method of computation of charges, or change thereto, as provided in O.C.G.A. Section 33-21-13.

(3) Such basic rates and methods of computation of charges shall be established in accordance with actuarial principles for various categories of enrollees, provided that charges applicable to an enrollee shall not be individually determined based on the status of health.

(4) Basic rates and charges shall not be excessive, inadequate, or unfairly discriminatory.

(5) A certification by a qualified actuary to the appropriateness of the basic rates, based on reasonable assumptions, shall accompany the filing, along with adequate supporting

information. Supporting information shall include a detailed description, as applicable, but not necessarily limited to the following:

(a) projected and actual hospital utilization in days per thousand members per year;

(b) projected and actual hospital costs attributable to those hospitals specifically utilized by the HMO through contract or otherwise;

(c) projected and actual utilization of physician services, expressed in terms of numbers of visits per member per year;

(d) projected and actual costs of physician services, expressed in terms of cost per visit;

(e) projected and actual costs of emergency and out of area services of non-HMO providers, differentiated as to hospital and medical service components;

(f) identification, justification and derivation of any trend or protection factors; and

(g) identification and justification for any reserve or surplus contribution factor included within its charges.

(6) The HMO shall submit to the Commissioner every contract, policy, certificate or evidence of coverage, rider, endorsement, application or outline of coverage for approval prior to use in this State.

(7) Each form shall have the corporate name and address of the HMO as on file with the Commissioner. Any name or title of the policy shall be printed in a size of type smaller than that used for the name of the HMO. All material shall be printed in accordance with the standards set forth in O.C.G.A. Section 33-29-2.

(8) Each form shall be clearly worded with all limitations, exclusions and exceptions printed in the same size of type used to describe the benefits and grouped together under appropriate captions and bold face type.

(9) An enrollee under an individual contract may, if not satisfied for any reason, return the contract or other evidence of coverage within ten (10) days of receipt and receive a full refund of any payment made. This right may not be exercised if the enrollee utilizes the services of the HMO within the ten (10) day period unless the enrollee pays the reasonable cost of said services.

(10) Each group contract or group policy shall contain a provision that the policyholder is entitled to a grace period of not less than thirty-one (31) days for the payment of any premium due except the first, during which grace period the coverage shall continue in force, unless the policyholder shall have given the insurer notice of discontinuance thirty (30) days in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder may be liable to the HMO for

payment of a pro rate premium for the time the coverage was in force during such grace period.

(11) Individual contract or policies shall be subject to O.C.G.A. Section 33-29-3(b)(3).

Cite as Ga. Comp. R. & Regs. R. 120-2-33-.08
Authority: O.C.G.A. Secs. 33-2-9, Ch. 33-21.
History. Original Rule entitled "Rates and Forms" adopted. F. Apr. 21, 1980; eff. May 11, 1980.
Repealed: New Rule of same title adopted. F. July 24, 1986; eff. Sept. 1, 1986, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-33-.09. Complaint System.

(1) Each HMO shall establish and maintain a complaint system to provide adequate and reasonable procedures for expeditious resolution of complaints made by enrollees concerning any matter related to any provision of such organization's health services, including, but not limited to, claims regarding the scope of coverage for health services, denials, cancellations, terminations or renewals of enrollee coverage, and the quality of health maintenance services rendered.

(2) The complaint system shall be organized in a manner that provides meaningful procedures for hearing and resolving complaints by enrollees. These procedures shall be fully set forth in group contracts, certificates and individual policies. The complaint system must be established and approved by the HMO's board of directors. Such complaint system shall include, but not be limited to:

(a) a definition of a legitimate complaint;

(b) details on how, when, where and with whom an enrollee is to file a complaint;

(c) appeals mechanisms and processes;

(d) the responsibilities of the various levels of the complaint system and the HMO staff;

(e) a written description of the process for timely review and disposition of all complaints; and

(f) a written policy about the reasonable time period for resolving complaints.

(3) These procedures shall also include any complaint submitted to the HMO by the Department or the Department of Human Resources as may be received by either Department from enrollees.

(4) If a complaint is made to the Department or the Department of Human Resources, such Department shall provide a copy of such complaint to the HMO concerned. The HMO

shall provide a written response to such complaint within ten (10) working days to the complainant, with copies of such response to the Department and the Department of Human Resources.

(5) Pursuant to O.C.G.A. Section 33-21-9, each HMO shall submit for prior approval by the Commissioner and the Commissioner of Human Resources, and thereafter maintain, a system for the resolution of complaints. Such complaint procedures shall be filed in duplicate with the Department and the Department of Human Resources. In addition, each HMO shall:

(a) submit to the Commissioner and the Commissioner of Human Resources for prior approval any amendments or proposed changes to the system by which complaints may be filed and reviewed;

(b) maintain records of each complaint filed with the HMO for a period of five (5) years, such record to include, but not be limited to:

1. a copy of the complaint and the date of its filing;
2. the date and outcome of all consultations, hearings and hearing findings;
3. the date and decisions of any appeal proceedings;
4. the date and proceedings of any litigation; and
5. all letters, documents or evidence submitted regarding the complaint.

(6) The HMO shall also work with the medical group, individual practice association, or physicians under contract to promote the operation of peer review mechanisms internal to those provider groups.

(7) All enrollees who file written complaints shall first exhaust the complaint system available under the HMO. The complaint may then be investigated by the Commissioner or the Commissioner of Human Resources. The decision whether to investigate any complaint shall be at the discretion of the Commissioner or the Commissioner of Human Resources.

Cite as Ga. Comp. R. & Regs. R. 120-2-33-.09
Authority: O.C.G.A. Secs. 33-2-9, Ch. 33-21.
History. Original Rule entitled "Complaint System" adopted. F. Apr. 21, 1980; eff. May 11, 1980.
Repealed: New Rule of same title adopted. F. July 24, 1986; eff. Sept. 1, 1986, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-33-.10. Regulation of Agents.

(1) An agent representing an HMO must comply with all of the requirements for a life, accident and sickness agent in O.C.G.A. Chapter 33-23 and have a current license and certificate of authority to represent the HMO.

(2) The HMO must comply with the provisions of O.C.G.A. Section 33-23-15 with regard to obtaining a certificate of authority for each agent representing the HMO as required in O.C.G.A. Section 33-23-15(a), filing a certified listing of agents whose certificates of authority are to be renewed along with the appropriate fees, and maintaining a list of authorized agents as required in O.C.G.A. Section 33-23-15(d).

(3) All HMO agents shall act in a fiduciary capacity in regard to monies collected or held by such agent.

Cite as Ga. Comp. R. & Regs. R. 120-2-33-.10
Authority: O.C.G.A. Secs. 33-2-9, Ch. 33-21.
History. Original Rule entitled "Regulation of Agents" adopted. F. Apr. 21, 1980; eff. May 11, 1980.
Repealed: New Rule of same title adopted. F. July 24, 1986; eff. Sept. 1, 1986, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-33-.11. Conflict of Interest and Required Disclosure.

Each applicant for a certificate of authority shall file with the application and shall immediately file any changes thereafter, a summary disclosure of any contractual or financial arrangements (or any future plans for contractual or financial arrangements) between the incorporators, all members of the governing body, the principal officers or any members of their immediate families, or any persons in which incorporators, members of the governing body, or principal officers, or any members of their immediate families, have any financial interest whatsoever in the HMO or a contracting provider of the HMO. The Commissioner may require such additional information as he may deem necessary to implement the Act or this Regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-33-.11
Authority: O.C.G.A. Secs. 33-2-9, Ch. 33-21.
History. Original Rule entitled "Conflict of Interest and Required Disclosure" adopted. F. Apr. 21, 1980; eff. May 11, 1980.
Repealed: New Rule of same title adopted. F. July 24, 1986; eff. Sept. 1, 1986, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-33-.12. Department of Human Resources.

The Act provides for the Regulation of HMOs by the Department of Insurance and the Department of Human Resources. While those areas of HMO operation dealing with health care delivery will be monitored by the Commissioner, the quality of care and certain complaints which fall within the expertise of the Department of Human Resources shall be regulated by the Commissioner of the Department of Human Resources in accordance with the provisions of the Act and the applicable Rules and Regulations.

Cite as Ga. Comp. R. & Regs. R. 120-2-33-.12
Authority: O.C.G.A. Secs. 33-2-9, Ch. 33-21.
History. Original Rule entitled "Insurance - General Liability, Medical Malpractice, Catastrophic or Backup Coverage" adopted. F. Apr. 21, 1980; eff. May 11, 1980.
Repealed: New Rule entitled "Department of Human Resources" adopted. F. July 24, 1986; eff. Sept. 1, 1986, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-33-.13. Notice of Modification in Operations.

Pursuant to O.C.G.A. Section 33-21-2(c)(1), any modification in the operation of the HMO which is not otherwise specifically referenced within this Regulation shall be filed prior to the modification. Examples of such changes would include, but not necessarily be limited to, service area expansion, addition to or contraction in the number or size of health facilities operated, amendments or to provider contracts and loss of federal qualification.

Cite as Ga. Comp. R. & Regs. R. 120-2-33-.13
Authority: O.C.G.A. Secs. 33-2-9, Ch. 33-21.
History. Original Rule entitled "Department of Human Resources" adopted. F. Apr. 21, 1980; eff. May 11, 1980.
Repealed: New Rule entitled "Notice of Modification in Operations" adopted. F. July 24, 1986; eff. Sept. 1, 1986, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-33-.14. Severability.

If any section, term or provision of these Rules and Regulations shall be adjudged invalid for any reason, such adjudgement shall not affect, impair or invalidate any other section, term or provision of these Rules and Regulations and the remaining sections, terms and provisions shall be and remain in full force.

Cite as Ga. Comp. R. & Regs. R. 120-2-33-.14
Authority: O.C.G.A. Secs. 33-2-9, Ch. 33-21.
History. Original Rule entitled "Changes in Operations" adopted. F. Apr. 21, 1980; eff. May 11, 1980.
Repealed: New Rule entitled "Severability" adopted. F. July 24, 1986; eff. Sept. 1, 1986, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-33-.15. Penalties.

(1) Violations of these Regulations by an HMO or an officer of the HMO shall be deemed grounds for the revocation of the HMO's certificate of authority as provided in O.C.G.A. Section 33-21-5, which shall be in addition to any other penalty provided by statute.

(2) Violations of these Regulations by any agent or representative of an HMO shall be grounds for the revocation of an agent's license or any other penalty provided by statute.

Cite as Ga. Comp. R. & Regs. R. 120-2-33-.15
Authority: O.C.G.A. Secs. 33-2-9, Ch. 33-21.
History. Original Rule entitled "Severability" adopted. F. Apr. 21, 1980; eff. May 11, 1980.
Repealed: New Rule entitled "Penalties" adopted. F. July 24, 1986; eff. Sept. 1, 1986, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-33-.16. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-33-.16
Authority: O.C.G.A. Secs. 33-2-9, Ch. 33-21.
History. Original Rule entitled "Federal Qualifications" adopted. F. Apr. 21, 1980; eff. May 11, 1980.
Repealed: F. July 24, 1986; eff. Sept. 1, 1986, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-33-.17. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-33-.17
Authority: O.C.G.A. Secs. 33-2-9, Ch. 33-21.
History. Original Rule entitled "Relationship With the Act" adopted. F. Apr. 21, 1980; eff. May 11, 1980.
Repealed: F. July 24, 1986; eff. Sept. 1, 1986, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Rule 120-2-33-.18. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-33-.18
Authority: O.C.G.A. Secs. 33-2-9, Ch. 33-21.
History. Original Rule entitled "Penalties" adopted. F. Apr. 21, 1980; eff. May 11, 1980.
Repealed: F. July 24, 1986; eff. Sept. 1, 1986, as specified by the Agency.
Submitted for Publishing: Apr. 6, 2007.

Subject 120-2-34. GROUP SELF-INSURANCE FUNDS.

Rule 120-2-34-.01. Authority.

This Regulation is made and promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. Section 34-9-174.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.01
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Sec. 34-9-174.
History. Original Rule entitled "Authority" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.

Rule 120-2-34-.02. Purpose.

(1) To provide for the establishment and regulation of Group Self- Insurance Funds by which Workers' Compensation Insurance benefits may be provided for employees of certain qualified associations or groups.

(2) To protect the interests of the members of a Fund and those employees thereof that are provided Workers' Compensation benefits thereunder.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.02
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-174.
History. Original Rule entitled "Purpose" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Rule 120-2-34-.03. Definitions.

All terms defined in O.C.G.A. § 34-9-150*et seq.*, hereinafter referred to as the "Group Self-Insurance Funds Act" or "Act", which are used in this Regulation shall have the same meaning as in the Act.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.03
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-174.
History. Original Rule entitled "Definitions" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Rule 120-2-34-.04. Notice of Intent to Form a Fund.

(1) At least thirty (30) days prior to forming a Group Self-Insurance Fund or signing the Intrastate Agreement, applicants shall first file with the Commissioner a "Notice of Intent to Form a Self- Insured Fund," referred to as form GSF-IN. The GSF-IN shall comply with O.C.G.A. § 34-9-151.1 and must contain:

(a) The name of the group forming the Fund;

(b) The name of the proposed administrator;

(c) The type or types of employers to be offered membership into the Fund;

(d) A statement that the group is knowledgeable of and will comply with the requirements of Article 5 of Chapter 9 of Title 34 of the Official Code of Georgia Annotated and this regulation; and

(e) A copy of the intrastate agreement that will be used to establish the Fund.

(2) The Commissioner shall have thirty (30) days to review the "Notice of Intent to Form a Self-Insured Fund" and shall render a decision to accept or reject the proposed Fund within thirty (30) days of filing. If the Commissioner approves the Notice, or does not respond within a thirty (30) day period, the filing is deemed accepted and the Fund may begin recruiting new members and may file an application for a Certificate of Authority. Approval of the Notice does not equate to approval of an application for issuance of a Certificate of Authority.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.04
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-151.1, 34-9-174.
History. Original Rule entitled "Application for Certificate of Authority" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.
Repealed: New Rule entitled "Notice of Intent to Form a Fund" adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Rule 120-2-34-.05. Application for Certificate of Authority.

Each application for an original Certificate of Authority shall be made on Form GSF-1, entitled "Application for Certificate of Authority for Group Self-Insurance Fund." The application must be accompanied by all stipulated documents including, but not limited to: GSF-1, GSF-5, GSF-6, GSF-7 and GSF-11 as well as the required, non-refundable filing fee specified in O.C.G.A. § 33-8-1 and adhere to the following conditions:

(a) Conditional on acceptance of the Fund under previous section.

(b) The Commissioner's decision on "Notice of Intent" is not binding on the "Certificate of Authority."

(c) The application must be submitted within ninety (90) days of the first signed intrastate agreement.

(d) If the application is not filed within six (6) months of the acceptance of the "Notice of Intent," the Commissioner's acceptance of the "Notice of Intent" is withdrawn.

(e) The Commissioner has ninety (90) days, from the date the application is received, to accept or reject the application.

(f) No application for a Certificate of Authority shall be deemed complete until all information requested, whether of any member, trustee or administrator of the Fund, or of the Fund itself, is provided to the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.05
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-174.
History. Original Rule entitled "Application for Membership in Fund" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.

Repealed: New Rule entitled "Application for Certificate of Authority" adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Rule 120-2-34-.06. Renewal of Certificate of Authority.

Each application for renewal of a Certificate of Authority shall be made on or before the first day of March of each year on Form GSF-2 entitled "Application for Renewal of Certificate of Authority for Group Self- Insurance Fund." It shall be accompanied by all stipulated documents, including the annual statement, and a renewal fee as specified in O.C.G.A. § 33-8-1(1)(CC). The Certificate of Authority issued pursuant to this chapter shall continue in full force and effect until specifically refused or revoked by the Commissioner in accordance with O.C.G.A. § 34-9-169.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.06
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-153, 34-9-174.
History. Original Rule entitled "Application for Termination of Membership" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.
Repealed: New Rule entitled "Renewal of Certificate of Authority" adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Rule 120-2-34-.07. Application for Membership to a Fund.

(1) Each application for a Certificate of Authority shall be accompanied, for each member of the Fund, by a separate Form GSF-3 or a comparable form containing the same information as the GSF-3, entitled "Application for Membership in Group Self-Insurance Fund."

(2) After the Fund has been granted a Certificate of Authority, it may add new members in the following manner:

   (a) By submitting underwriting criteria to the Department in accordance with O.C.G.A. § 34-9-155 and having the criteria approved by the Department; or

   (b) By submitting a Form GSF-3 fifteen (15) days prior to the effective date of coverage; and

   (c) For Funds that have a potential member which does not meet their approved underwriting criteria, they may submit a GSF-3 and ask for specific approval of the new member.

(3) Any new member application submitted on or after the proposed effective date of coverage will automatically be rejected for lack of timely submission.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.07
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-155, 34-9-174.
History. Original Rule entitled "Application to Serve as Officer, Director, or Trustee" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.

Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.
Repealed: New Rule entitled "Application for Membership to a Fund" adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Rule 120-2-34-.08. Termination of Membership.

(1) A Fund may submit Termination Criteria to the Commissioner for approval. The criteria should stipulate reasons for terminating the relationship between the Fund and the member including, but not limited to, non-payment of premium, claims experience, and failure to report claims.

(2) A member electing to terminate its participation in the Fund shall submit to the Fund and to the Commissioner a Form GSF-4 entitled "Application for Termination of Membership in Group Self-Insurance Fund" at least ninety (90) days prior to the requested date of termination. If the Fund has an approved Termination Criteria in place, the member may submit a letter terminating its participation at least thirty (30) days prior to the requested date of termination.

(3) As a prerequisite to approval of termination of membership in the Fund, a member must demonstrate to the Commissioner, and to the Trustees, that it will, after termination, comply with its duty as an employer under O.C.G.A. § 34-9-1 through § 34-9-134.

(4) Except where termination criteria has been approved, within ten (10) days of receipt of the application for termination of membership, the Fund shall notify the Commissioner of the applicant's current standing, and state any reasons why the application should not be approved.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.08
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-156, 34-9-174.
History. Original Rule entitled "Application to Serve as Administrator" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.
Repealed: New Rule entitled "Termination of Membership" adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Rule 120-2-34-.09. Application to Serve as Officer, Director or Trustee.

Each prospective officer, director or trustee of a Fund shall submit to the Fund and to the Commissioner a Form GSF-5, entitled "Application to Serve as Officer, Director or Trustee of Group Self-Insurance Fund".

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.09
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-174.
History. Original Rule entitled "Request for Additional Information" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.
Repealed: New Rule entitled "Application to Serve as Officer, Director or Trustee" adopted. F. Nov. 4, 1997; eff.

Nov. 24, 1997.

Rule 120-2-34-.10. Application to Serve as Administrator.

Each prospective administrator of a Fund shall submit to the Fund and to the Commissioner a Form GSF-6, entitled "Application to Serve as Administrator of Group Self-Insurance Fund".

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.10
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-174.
History. Original Rule entitled "Financial Reporting: Annual Statement; Quarterly Statements" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.
Repealed: New Rule entitled "Application to Serve as Administrator" adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Rule 120-2-34-.11. Execution of Intrastate Agreement.

The following requirements must be met for the Intrastate Agreement to be properly executed:

(a) The member must sign the signature page, or resolution if a government entity, certifying that:

1. The member subscribes to and abides by the Intrastate Agreement: the entire document does not have to be signed;
2. The member has received a copy of the Intrastate Agreement;
3. The member is aware of joint and several liability.

(b) A copy of the signed Intrastate Agreement shall be provided to the member.

(c) After approval by the Commissioner, amendments to the Intrastate Agreement only become effective after providing written notice to all members.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.11
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-174.
History. Original Rule entitled "Books and Records; Examination" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.
Repealed: New Rule entitled "Execution of Intrastate Agreement" adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Rule 120-2-34-.12. Request for Additional Information.

(1) The Commissioner may, in connection with any filing required by § 120-2-34, submit a written request to the Fund for additional information needed to complete the review of the filing.

(2) No filing shall be deemed complete until all such requested information is provided to the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.12
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-174.
History. Original Rule entitled "Surety Bond" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.
Repealed: New Rule entitled "Request for Additional Information" adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Rule 120-2-34-.13. Financial Reporting: Annual and Quarterly Statements.

(1) On or before the first day of March, each Fund shall file with the Commissioner financial statements on forms approved by the Commissioner. These forms shall relate to the financial condition of the Fund as of December 31st of the preceding calendar year.

(2) Unless otherwise exempted by the Commissioner, on or before the fifteenth (15) day of May, August and November, each Fund shall file a quarterly statement on forms approved by the Commissioner.

(3) Only forms approved by the Commissioner will be accepted as financial statements for the Funds. All other forms used will be returned to the Fund.

(4) Funds operating on a fiscal year, versus a calendar year, shall annually file a financial statement on or before the first day of March and quarterly statements on or before the fifteenth (15th) of May, August, and November. Each statement shall reflect the appropriate complete reporting period of either 3, 6, 9, or 12 months.

(5) Upon written request from a Fund, and payment of the necessary fee as specified by O.C.G.A. § 33-8-1, the Commissioner may allow for an amended or updated filing of an annual or quarterly statement and such statement shall then be substituted for the original filing.

(6) Pursuant to O.C.G.A. § 33-8-1(6)(W), a per day late fee will apply to late filings.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.13
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-159, 34-9-174.
History. Original Rule entitled "Specific and Aggregate Excess Insurance" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.
Repealed: New Rule entitled "Financial Reporting: Annual and Quarterly Statements" adopted. F. Nov. 4, 1997;

eff. Nov. 24, 1997.

Rule 120-2-34-.14. Books and Records: Examination.

(1) The Commissioner or his representative may, either before granting a Certificate of Authority or at any time thereafter, at least once every five (5) years, examine the Fund. The examination will include all affairs that relate to the business of operating a Fund. All fund-related accounts, books, publications, records and vouchers shall be held for a term of at least five (5) years and maintained at the principal address shown on its Certificate of Authority. 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 an Insurance Department examination, whichever period is longer.

(2) The Commissioner or his representative shall have free access to all fund-related accounts, records, books, publications and vouchers. The administrators, officers, trustees, employees and representatives of the Fund shall aid the Commissioner or his representative, as far as it is in their power, in making the examination.

(3) If, at any time, the Commissioner finds the records or accounts to be inadequate or incorrectly kept or posted, he may employ experts to rewrite, post or balance such records at the expense of the Fund being examined if the Fund has failed to correct such records or accounts within sixty (60) days after the Commissioner has given it notice to do so.

(4) The costs of any examination performed by the Commissioner, or his designated representative under this section, shall be borne by the Fund being examined, in accordance with O.C.G.A. § 33-2-15.

(5) The examination report shall be processed in accordance with O.C.G.A. § 33-2-14.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.14
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-172, 34-9-174.
History. Original Rule entitled "Administrator's Bond and Insurance" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.
Repealed: New Rule entitled "Books and Records: Examination" adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Rule 120-2-34-.15. Security Deposit.

(1) Each Fund granted a Certificate of Authority by the Commissioner shall be required to establish and maintain a security deposit as set forth in O.C.G.A. § 34-9-161.

(2) Any surety bond pledged as security deposit must be on a form approved by the Commissioner.

(3) When a security deposit is pledged in cash or eligible securities, the agreement with the bank or institution must be reviewed and approved by the Commissioner prior to the pledge of the security deposit.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.15
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-161, 34-9-174.
History. Original Rule entitled "Compensation of Administrator or Trustee" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.
Repealed: New Rule entitled "Security Deposit" adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Rule 120-2-34-.16. Specific and Aggregate Excess Insurance Program.

(1) The Fund shall maintain a specific and aggregate excess loss funding program acceptable to the Commissioner.

(2) A Fund shall submit a plan for funding excess losses which, in the opinion of the Commissioner, provides for stability and protection to the Fund members. Any subsequent changes relating to coverages, terms and/or conditions of coverage, including loss fund and retention level, shall be submitted to the Commissioner for approval shall be submitted thirty (30) days prior to their expected use. The Commissioner shall approve or disapprove submitted plans within thirty (30) days of receipt. If the Commissioner fails to approve or disapprove such plan within thirty (30) days, a Fund may use such plan. However, the Commissioner may require a Fund to resubmit the Fund's excess loss funding plan upon written request to the Fund or the Fund's administrator of record. Upon request, a Fund shall resubmit their excess loss funding program to the Commissioner for approval.

(3) The Fund may submit a plan which has been developed or reviewed by an actuary who is a Member of the Casualty Actuarial Society and a Member of the American Academy of Actuaries. Plans developed or reviewed by actuaries may utilize alternative funding techniques including pledging of a Fund's unobligated surplus, spread loss programs or other programs which, in the opinion of the actuary, shall not unduly jeopardize the Fund's stability.

(4) Any plan submitted by a Fund to the Commissioner for approval of an excess loss funding program which is not supported by detailed actuarial analysis by an actuary who is a Member of the Casualty Actuarial Society and a Member of the American Academy of Actuaries shall include:

(a) Specific Excess insurance with minimum coverage limits of $2,000,000 per occurrence or in such greater limits as may be required by the Commissioner in order to assure stability of the Fund; and,

(b) Aggregate Excess Insurance with minimum annual aggregate coverage limits of $1,000,000 or such greater limits as may be required by the Commissioner; and,

(c) An attachment point for the Specific Excess Insurance of no greater than $350,000 per occurrence. A Fund may apply for such higher attachment points that, in the opinion of the Commissioner, will not unduly jeopardize the Fund's stability. If a higher attachment point is requested, the application shall be made 30 days in advance of the intended change but does not mandate that such change be effectuated. And,

(d) An attachment point for the Aggregate Excess Insurance no greater than the Fund's normal annual premium plus investment income less the Fund's administrative expenses. A Fund may apply for a higher attachment point for the Aggregate Excess Insurance that, in the opinion of the Commissioner, will not unduly jeopardize the Fund's stability. If a higher attachment point is requested, the application shall be made 30 days in advance of the intended change but does not mandate that such change be effectuated.

(5) Any policy of insurance written for the benefit of a Fund in accordance with this rule shall contain the following:

(a) A provision that cancellation or termination of the policy is not effective except upon sixty (60) days written notice by certified or registered mail to the Fund and to the Commissioner; and,

(b) A provision that the policy shall be automatically renewed at the expiration of the policy period except upon sixty (60) days by written certified or registered mail to the Fund and to the Commissioner; and,

(c) A statement by the aggregate excess insurer that the excess insurance coverage limits and retention are not subject to any side agreements or the increases or decreases other than as set forth in the Fund's application for approval of their excess loss funding program; and,

(d) A statement that the policy does not exclude or restrict coverages due to the insolvency or bankruptcy of the Fund or any of its members.

(e) Such policy shall not contain any restrictions which would relieve the insurer of its duties and liabilities due to any administrative action taken by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.16
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-161, 34-9-174.
History. Original Rule entitled "Premiums" was filed on March 16, 1982; effective April 15, 1982, by Order of the In- surance Commissioner.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.
Repealed: New Rule entitled "Specific and Aggregate Excess Insurance Program" adopted. F. Nov. 4, 1997; eff.

Nov. 24, 1997.

Rule 120-2-34-.17. Administrator's Bond and Errors and Omissions Coverage.

(1) Each administrator shall have and maintain a fidelity bond in the amount of at least $100,000, as required by Rule 120-2-49-.07, on a form approved by the Commissioner.

(2) Each administrator shall have and maintain errors and omissions 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 or certified mail;

   (b) the policy is automatically renewable at the expiration of the policy period except upon sixty (60) days written notice of either party; and

   (c) copies of notices required in subparagraphs (a) and (b) be mailed to the Commissioner by registered or certified mail.

(4) Upon approval by the Commissioner, bonds or policies may be written by an eligible surplus lines insurer.

(5) Compliance by the administrator with paragraphs (1) and (2) of this Rule is a prerequisite to approval of its application by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.17
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-167, 34-9-174.
History. Original Rule entitled "Reserve Requirements" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.
Repealed: New Rule entitled "Administrator's Bond and Errors and Omissions Coverage" adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Rule 120-2-34-.18. Compensation of Administrator or Trustee.

(1) Each administrator, trustee or officer of the Fund, or any employee or agent of any or all of them, shall submit to the Commissioner a copy of any proposed contract entitling him or her to any direct or indirect compensation from the Fund for services performed or sales or purchases made to or for the Fund.

(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 or reject the proposed contract. The trustee, officer or administrator, or any employee or agent of any or all of them, may withdraw his or her proposed contract prior to its effective date.

(3) Any forms 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, O.C.G.A. § 34-9-180(c), or the Bylaws of the Fund, shall be a violation of the trustee, officer 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 Fund.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.18
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-174, 34-9-180.
History. Original Rule entitled "Dividends" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.
Repealed: New Rule entitled "Compensation of Administrator or Trustee" adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Rule 120-2-34-.19. Rates and Premiums.

(1) The Fund shall obtain prior approval of the Commissioner for any proposed rate, rating plan, or rating rule to be used by the Fund to determine premium. The Fund shall make any proposed rate filing with the Commissioner thirty (30) days prior to the proposed effective date. The filing shall include all supporting data to justify the proposed rates or rating plan. The Commissioner may require an actuarial report certifying that the proposed rates are adequate, not excessive nor unfairly discriminatory.

(2) Each charter and subsequent member of the Fund shall pay yearly premiums as outlined in the Intrastate Agreement or according to a plan approved by the Fund's Board of Trustees and the Commissioner. Payment plans will not be approved if they conflict with the Intrastate Agreement.

(3) Any rate, rating plan, or rating rule filing shall include a letter from the excess carrier(s) stating they have acknowledged the proposed changes.

(4) The Fund shall obtain prior approval for any other assessment against any member that falls outside of subsection (1) above. The method used to determine the assessment shall also be submitted.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.19
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-174.
History. Original Rule entitled "Organization of Fund" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.

Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.
Repealed: New Rule entitled "Rates and Premiums" adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Rule 120-2-34-.20. Reserve Requirement.

(1) The Fund shall maintain loss reserves computed in the same manner and upon the same basis as required by O.C.G.A. § 34-9-163(1) and (2), and shall report these reserves in all financial reports filed with the Commissioner.

(2) The Annual Report shall include an actuarial opinon specifically stating that carried reserves:

   (a) meet the requirements of O.C.G.A. § 34-9-163(1) and (2);

   (b) are computed in accordance with accepted loss reserving standards and principles; and

   (c) make a reasonable provision for all unpaid loss and loss expense obligations of the Fund under the terms of its agreement.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.20
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-163, 34-9-174.
History. Original Rule entitled "Penalties" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.
Repealed: New Rule entitled "Reserve Requirement" adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Rule 120-2-34-.21. Dividends.

(1) Dividends may be returned to the members of the Fund pursuant to O.C.G.A. § 34-9-162(d).

(2) A dividend shall not be paid out of a specific Fund year which would cause the Fund to show an overall negative surplus.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.21
Authority: Ga. L. 1960, pp. 289, 305; Ga. L. 1981, pp. 1759, 1778; O.C.G.A. Secs. 33-2-9, 34-9-162, 34-9-174.
History. Original Rule entitled "Severability" was filed on March 16, 1982; effective April 15, 1982, by Order of the Insurance Commissioner.
Repealed: New Rule of same title adopted. F. May 9, 1990; eff. Jun. 15, 1990, as specified by the Agency.
Repealed: New Rule entitled "Dividends" adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Rule 120-2-34-.22. Organization of a Fund.

Bona fide members of trade associations and professional associations as well as groups of municipalities, counties, school boards and hospital authorities may extend workers' compensation benefits to their employees through group self-insurance programs, or "Funds". Any Fund may designate a person to act as an agent, pursuant to the Principal and Agent statutes in Chapter 6 of Title 10 of the Official Code of Georgia Annotated, on behalf of such group and assist in the organizational activities of the Fund, or to perform such other duties as are specified by such group.

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.22
Authority: O.C.G.A. Secs. 33-2-9, 34-9-174.
History. Original Rule entitled "Organization of a Fund" adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Rule 120-2-34-.23. Penalties.

Any Fund administrator failing to comply with the requirements of this Regulation shall be subject to such penalties as prescribed in O.C.G.A. § 34-9-173 or § 34-9-181. Furthermore, if the Commissioner has cause to believe that improper rates, classifications or experience modification factors are used, any Fund administrator will be subject to the penalties and related expenses set forth in O.C.G.A. § 33-9-40.1(c)(1),(2) and (3).

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.23
Authority: O.C.G.A. Secs. 33-2-9, 33-9-40.1, 34-9-174, 34-9-181.
History. Original Rule entitled "Penalties" adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Rule 120-2-34-.24. 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.

EXHIBIT A

OFFICE OF

COMMISSIONER OF INSURANCE

WARREN D. EVANS

COMMISSIONER OF INSURANCE

SAFETY FIRE COMMISSIONER

INDUSTRIAL LOAN COMMISSIONER

COMPTROLLER GENERAL

SEVENTH FLOOR, WEST TOWER

FLOYD BUILDING

2 MARTIN LUTHER KING, JR. DRIVE

ATLANTA, GEORGIA 30334

APPLICATION FOR CERTIFICATE OF AUTHORITY

FOR GROUP SELF-INSURANCE FUND

To the Commissioner of Insurance, State of Georgia:

Application is hereby made for a Certificate of Authority for Group

Self-Insurance Fund.

(If additional space is required to answer any question, use separate sheets of paper number each to correspond to the question being answered.)

(1) Name of Fund _____

(2) Address of principal office of Fund _____

_____

(3) Location of Fund records _____

(4) Desired effective date of Fund _____

(5) Address of principal office of association or group _____

_____

(6) Telephone number _____

(7) Name of registered agent of Fund _____

(8) Address of registered agent of Fund _____

(9) List the complete membership of the Fund and their addresses:

NameAddress

(10) How will the administrative obligations of the Fund be met?
_____

(11) Name and address of the administrator _____

(12) Is any officer or trustee of the Fund an owner, partner, officer, director, shareholder or employee of the administrator or any parent or affiliated company?
_____

If so, explain. _____

(13) Name and address of designated depository _____

(14) Fund balance in depository as of application date _____

(15) Other assets of Fund (describe) _____

(16) Estimated amount of first year normal annual premium _____

(17) Estimated administrative costs, amount and percentage _____

(18) Estimated first year losses based on members' loss history of last three years
_____

(19) Other liabilities of Fund (describe) _____

(20) Has each applicant for membership been informed that it will be jointly and severally liable for all liabilities of the Fund?

_____ Yes _____ No

THE FOLLOWING MUST ACCOMPANY THE APPLICATION:

_____ A copy of the bylaws of the Fund

_____ A copy of the intrastate agreement among the members

_____ A copy of any agreement between the Fund and any contract administrator of the Fund

_____ A copy of any contract, endorsement or application form the

Fund intends to use

_____ An "Application for Membership in Group Self-Insurance

Fund" from each member of the Fund

_____ An "Application to Serve as Officer, Director or Trustee of Group Self-Insurance Fund" from any officer, director or member of the board of trustees of the Fund

_____ An "Application to Serve as Administrator of Group

Self-Insurance Fund" from any administrator of the Fund

In consideration of the approval of the application, the applicant agrees to the following:

(A) That its trustees, officers, administrator and members will comply with all provisions of O.C.G.A. Chapter 34-9, the Regulations promulgated thereunder, all lawful Orders of the Commissioner and the Rules and Order of the State Board of Workers' Compensation.

(B) That it will admit as a new member any eligible applicant who complies with the requirements of O.C.G.A. Section 34-9-152(h) and the Regulations thereunder and will notify the Commissioner of its evaluation of each new applicant for membership.

(C) That it will notify the Commissioner of the amount and method of determination of any proposed premium or other assessment to be paid by a member or members.

(D) That it will notify the Commissioner of any dividend in accordance with Regulation.

(E) That any and all books and records of the Fund will be made available for inspection and examination by the Commissioner or his representative.

(F) That the Fund will deposit acceptable securities with the Commissioner in the amount equal to twenty-five percent (25%) of the normal annual premium (ten percent (10%) if the Fund consists of a group of municipalities, counties or school boards) or post surety bond in the form prescribed by the Commissioner in the amount equal to thirty-five percent (35%) of the normal annual premium (fifteen percent (15%) if the Fund consists of a group of municipalities, counties or school boards).

(G) That it will obtain specific and aggregate excess insurance policies written by companies authorized or approved to transact insurance in this State in the amounts prescribed by Regulation or such other amounts as the Commissioner deems necessary, and that it will submit copies of these policies to the Commissioner.

(H) That it will continuously maintain these policies and will, if it desires to make any change in these policies, notify the Commissioner at least sixty (60) days before the proposed effective date of the change.

(I) That the Commissioner may, at any time, revoke, suspend or fail to renew this Certificate of Authority in accordance with O.C.G.A. Section 34-9-169.

(J) THAT THE FUND WILL NOT GUARANTEE ANY FINANCIAL OBLIGATION OF ANY of its OFFICERS, TRUSTEES OR ADMINISTRATORS. _____ (Initial)

(K) THAT NO OFFICER, TRUSTEE, ADMINISTRATOR, OR MEMBER OF ANY COMMITTEE OR EMPLOYEE OF THE FUND WHO IS CHARGED WITH THE DUTY OF INVESTING OR HANDLING THE FUND'S ASSETS WILL BORROW ANY ASSET OF THE FUND; DEPOSIT OR INVEST SUCH ASSETS EXCEPT IN THE NAME OF THE FUND; BE PECUNIARILY INTERESTED IN ANY LOAN, PLEDGE OF DEPOSIT, SECURITY, INVESTMENT, SALE, PURCHASE, EXCHANGE, REINSURANCE OR OTHER SIMILAR TRANSACTION OR PROPERTY OF THE FUND; OR TAKE OR RECEIVE FOR HIS OWN USE ANY FEE, BROKERAGE, COMMISSION, GIFT OR OTHER CONSIDERATION FOR OR ON ACCOUNT OF ANY SUCH TRANSACTION MADE BY OR ON BEHALF OF THE FUND, EXCEPT AS PROVIDED BY O.C.G.A. SECTION 34-9-180(c)OR BY REGULATION OF THE COMMISSIONER _____ (Initial)

(L) That it will notify the Commissioner within fourteen (14) days of any change in any of the information contained in this application.

_____

(PRINT NAME OF FUND)

BY:_____

_____

(PRINT NAME)

_____

(PRINT TITLE)

_____

(DATE)

AFFIDAVIT

COUNTY_____

STATE _____

I,_____, the undersigned being the _____ of the

(Title)

_____

(Name of Fund)

swear (or affirm) that to the best of my knowledge and belief, the statements contained in the application, including the accompanying documents, are true and complete.

By:_____

Sworn before me this_____

day of_____, 19 ___

_____

NOTARY PUBLIC

My Commission Expires_____

EXHIBIT B

OFFICE OF

COMMISSIONER OF INSURANCE

WARREN D. EVANS

COMMISSIONER OF INSURANCE

SAFETY FIRE COMMISSIONER

INDUSTRIAL LOAN COMMISSIONER

COMPTROLLER GENERAL

SEVENTH FLOOR WEST TOWER

FLOYD BUILDING

2 MARTIN LUTHER RING, JR. DRIVE

ATLANTA, GEORGIA 30334

APPLICATION FOR

RENEWAL OF CERTIFICATE OF AUTHORITY

FOR GROUP SELF-INSURANCE FUND

To the Commissioner of Insurance, State of Georgia:

_____

(NAME OF FUND)

_____

(ADDRESS)

hereby applies for the renewal of its Certificate of Authority for the year

_____. In consideration for the approval of this application, the applicant agrees to all conditions contained in the original

"Application for Certificate of Authority for Group Self-Insurance

Fund." List any changes in the information contained in the Application for Certificate of Authority, as amended by subsequent applications for renewal. Use separate sheets of paper, numbering each to correspond to the question. List changes even if the Commissioner has been notified unless such changes were listed on the previous application for renewal.

_____

(PRINT NAME OF FUND)

BY: _____

_____

(PRINT NAME)

_____

(PRINT TITLE)

_____

(DATE)

AFFIDAVIT

COUNTY_____

STATE _____

I,_____, the undersigned being the_____ of the

(Title)

_____

(Name of Fund)

swear (or affirm) that to the best of my knowledge and belief; the statements contained in the application, including the accompanying documents, are true and complete.

By:_____

Sworn before me this_____

day of_____, 19_____

_____

NOTARY PUBLIC

My Commission Expires_____

EXHIBIT C

OFFICE OF

COMMISSIONER OF INSURANCE

WARREN D. EVANS

COMMISSIONER OF INSURANCE

SAFETY FIRE COMMISSIONER

INDUSTRIAL LOAN COMMISSIONER

COMPTROLLER GENERAL

SEVENTH FLOOR WEST TOWER

FLOYD BUILDING

2 MARTIN LUTHER RING, JR. DRIVE

ATLANTA, GEORGIA 30334

APPLICATION FOR MEMBERSHIP IN

GROUP SELF-INSURANCE FUND

All information pertaining to the application shall not be deemed to be a public document and shall be maintained in confidence by the Commissioner and the Fund.

To the Commissioner of Insurance of the State of Georgia and the

_____Fund.

Application is hereby made for membership in above Fund.

(1) Member Name _____

(2) Address _____

(3) Telephone Number _____ Number of Employees____

(4) Federal Employer I.D. Number _____

(5) Nature of Business _____

(6) Type of Business: () Corporate () Partnership () Individual

() Other

(7) List of Partners, Owners or Corporate Officers:

NAMEADDRESSTITLEPERCENTAGE OWNERSHIP

(7a) List Chief Administrative Officer of a governmental or hospital entity:

_____

(8) If Corporation, name and address of Resident Agent_____

_____

(9) Locations of all operations to be included in the Fund:

NAMEPRINCIPAL ADDRESSTYPE OF BUSINESS

(10) If applicant is a subsidiary, name parent company:

NAMEADDRESSTYPE OF BUSINESS

IF THE APPLICANT IS UNABLE TO OBTAIN ALL THE INFORMATION REQUESTED IN QUESTION (11) IT MAY, INSTEAD, INCLUDE A CERTIFICATION SIGNED BY THE ADMINISTRATOR OR CHAIRMAN OF THE BOARD OF TRUSTEES OF THE FUND THAT the information ACTUALLY PROVIDED IS SATISFACTORY TO THE FUND.

(11) Loss history for last three completed years:

Year EndingYear EndingYear Ending

a. Number of accidents requiring medical attention only

b. Number of accidents requiring lost time of more than 3 days

Year EndingYear EndingYear Ending

c. Total paid claims $ $ $

d. Outstanding reserves $ $ $

e. Total incurred losses $ $ $

(Paid and Reserves)

f. Fatalities in the last three years: No_____ Yes_____ Number_____

If yes, explain._____

_____

(12) Estimated premium for twelve month period

Beginning: Month_____ Day_____ Year _____

Classification Classification Estimated Current Estimated

Code Description Annual Rate Annual

Payroll Premium

_____

Total Payroll _____ Total Premium _____

(13) Present carrier of workers' compensation insurance or indicate if applicant participated in a workers' compensation self-insurance program:

_____

(14) Present workers' compensation premium_____

(15) Statement of Assets and Liabilities as of_____

(Date)

APPLICANT MAY SUBMIT A COPY OF THE MOST RECENT AUDITED FINANCIAL STATEMENT CERTIFIED BY A CERTIFIED PUBLIC ACCOUNTANT, IN LIEU OF COMPLETING QUESTIONS (15) AND (16). QUESTIONS (15) AND (16) DO NOT HAVE TO BE ANSWERED BY MUNICIPALITY, COUNTY AND SCHOOL BOARD APPLICANTS.

DOLLARS ONLY

Current Assets:Current Liabilities:

Cash on hand _____ Accounts Payable _____

Cash in bank _____ Notes payable given for merchandise

Notes receivable _____

(Less than 1 year old) _____ Notes payable negotiated otherwise

(not transferable) _____ _____

Merchandise_____ Other current liabilities and

Other current assets: accruals:

_____ _____

_____ _____

_____ _____

_____ TOTAL CURRENT

LIABILITIES _____

TOTAL CURRENT ASSETS: _____ Long-Term Debt:

Fixed Assets: Notes payable _____

Machinery and fixtures _____ Bonded Indebtedness

(net of depreciation) _____ Mortgage Indebtedness

Real Estate Other long-term debts

(net of depreciation)_____ TOTAL LONG-TERM DEBT

Investment (describe nature TOTAL LIABILITIES

of same) _____

_____ Surplus/Owner Equity:

TOTAL FIXED ASSETS _____ Capital Stock (Common)

Other non-current assets Paid-in excess

(describe)_____ Retained Earnings

_____ Undivided Profits

_____ (Partnership only)

_____ Other _____

_____

TOTAL SURPLUS/OWNER EQUITY

_____

TOTAL LIABILITIES, SURPLUS/

TOTAL ASSETS _____ OWNERS EQUITY_____

_____

_____

Contingent Liability - Notes Receivable of customers discounted or sold and not included in Assets _____

_____

Other Contingent Liabilities_____

_____

If a limited partnership, give date of formation and duration _____

_____

STATEMENT - Is it based on actual inventory?_____

If so, date. _____

VERIFICATION - Have the books been audited by a certified public accountant? _____ If so, give date of audit. _____

If applicant is a corporation: Authorized capital stock

(Common) $_____ (Preferred) $_____

Paid and subscribed as follows:

Cash _____ $_____

Patents, Trademarks _____ $_____

Goodwill _____ $_____

Property listed among Assets _____ $_____

(16) Relate facts, covering the past three years:

Sales Expenses Payroll Profits

Inc. Payroll)

Year 19_____

Year 19_____

Year 19_____

Amount of indebtedness past due _____ $ _____

Insurance of merchandise _____ $ _____

Insurance on buildings and plant _____ $ _____

(17) Safety, sanitation and welfare conditions:

Is your business or any part thereof inspected otherwise than by State

Authority? _____ If so, by whom? _____

Have you fulfilled all safety requirements of the State Board of Workers'

Compensation?_____

Have you a committee of safety whose duty it is to recommend safety devices and to secure compliance with statutes or general orders of the

Board of Workers' Compensation as to safety and sanitation?_____

Do you maintain a hospital in connection with your works?_____

If so, state description of its equipment and service._____

_____

_____

In consideration for the approval of this application, the applicant agrees as follows:

(A) That the applicant will comply with O.C.G.A. Chapter 34-9 , the

Regulations promulgated thereunder, all lawful Orders of the Commissioner, the Rules and Orders of the State Board of Workers' Compensation, and the rules, regulations and bylaws of this Fund.

(B) That the applicant will be jointly and severally liable for all obligations of this Fund during the entire period of membership in the Fund.

(C) That the applicant will pay promptly any lawful premiums or assessments due as a member of the Fund.

(D) That the Commissioner will approve or disapprove this application within the time allowed by O.C.G.A. Section 34-9-155 following receipt by him of the application and all supporting information requested.

(E) That the applicant will be notified by at least first class mail as to date (12:01 a.m.) coverage begins which is understood to be the effective date of membership in the Fund.

(F) That the applicant will submit an "Application to Withdraw from

Group Self-Insurance Fund" ninety (90) days prior to voluntary withdrawal from the Fund.

(G) That the coverage under this membership shall be for Georgia operations only, including incidental coverage *in other States.*

(H) That the application will notify the Fund and the Commissioner within fourteen (14) days of any change in any of the information contained in questions (1) through (10) of this application.

PLEASE SIGN BELOW - INDICATING THAT YOU HAVE READ AND UNDERSTAND THE ABOVE A. - H.

_____

(PRINT NAME OF APPLICANT)

BY: _____

_____

(PRINT NAME)

_____

(PRINT TITLE)

_____

(DATE)

AFFIDAVIT

COUNTY_____

STATE _____

I,_____, the undersigned being the_____of the

(Title)

_____

(Name of Applicant)

swear (or affirm) that to the best of my knowledge and belief, the statements contained in the application, including the accompanying documents, are true and complete.

BY:_____

Sworn to and subscribed before me this_____

day of_____, 19___.

_____

NOTARY PUBLIC

My Commission Expires_____

EXHIBIT D

OFFICE OF

COMMISSIONER OF INSURANCE

WARREN D. EVANS

COMMISSIONER OF INSURANCE

SAFETY FIRE COMMISSIONER

INDUSTRIAL LOAN COMMISSIONER

COMPTROLLER GENERAL

SEVENTH FLOOR WEST TOWER

FLOYD BUILDING

2 MARTIN LUTHER RING, JR. DRIVE

ATLANTA, GEORGIA 30334

APPLICATION FOR TERMINATION OF MEMBERSHIP

IN GROUP SELF-INSURANCE FUND

_____, a member in good standing of the _____ Fund, hereby applies to terminate its membership in the Fund effective _____, which date will comply with

O.C.G.A. Section 34-9-156 requiring the member to give ninety (90) days advance written notice to the Fund and to the Commissioner. The applicant understands and agrees that it will remain jointly and severally liable for all obligations of the Fund as of the date of termination. The applicant will continue to comply with its obligations as an employer under O.C.G.A. Chapter 34-9 as follows: "Secure and maintain full insurance against his liability for payment of workmen's compensation to his employees or provide the State Board of Worker's Compensation with satisfactory proof of his financial ability to pay the compensation directly in the amount and manner and when due as provided in O.C.G.A. Chapter 34-9 ."

_____

(PRINT NAME OF MEMBER)

BY: _____

_____

(PRINT NAME)

_____

(PRINT TITLE)

_____

(DATE)

AFFIDAVIT

COUNTY_____

STATE _____

I,_____, the undersigned being the _____ of the

(Title)

_____

(Name of Applicant)

swear (or affirm) that to the best of my knowledge and belief; the statements contained in the application, including the accompanying documents, are true and complete.

By:_____

Sworn to and subscribed before me this_____

day of_____, 19_____.

_____

NOTARY PUBLIC

My Commission Expires_____

EXHIBIT E

OFFICE OF

COMMISSIONER OF INSURANCE

WARREN D. EVANS

COMMISSIONER OF INSURANCE

SAFETY FIRE COMMISSIONER

INDUSTRIAL LOAN COMMISSIONER

COMPTROLLER GENERAL

SEVENTH FLOOR WEST TOWER

FLOYD BUILDING

2 MARTIN LUTHER RING, JR. DRIVE

ATLANTA, GEORGIA 30334

APPLICATION TO SERVE AS

OFFICER, DIRECTOR OR TRUSTEE OF

GROUP SELF-INSURANCE FUND

To the Commissioner of Insurance, State of Georgia, and the
_____ Fund:

Application is hereby made to serve as _____ of the Fund.

(If additional space is required to answer any question, use separate sheets of paper, numbering each to correspond to the question being answered.)

(1) Name_____

(2) Address_____

(3) Telephone Number _____

(4) Name of Fund _____

(5) Address of Fund _____

(6) Position applied for_____

(7) Term of Office _____

(8) Duties_____

(9) Date of Birth _____

(10) Social Security Number _____

(11) Have you been convicted of any crime other than minor traffic violations within the last ten years? _____If so, explain.

_____

_____

(12) Are you an owner, officer, director, shareholder or employee of any administrator or any parent of affiliated company? _____ If so, explain._____

_____

(13) Educational Background. List all institutions of higher learning,

dates attended, areas of study and degrees received. Include any specialized training, courses or seminars.

(14) Experience. List all relevant employment experience. Include at least three professional references. Include any specialized licenses in any state, memberships in professional, technical or honorary societies, publications, honors or awards. If any license has been refused, suspended, cancelled or revoked, explain.

(15) Have you ever been an officer, director, trustee, investment committee member, key employee or major stockholder of any company which became insolvent, received a cease and desist order, was placed in receivership or conservatorship, was charged with any securities regulation or any insurance violation regulation? _____ If so, explain.
_____

_____

(16) Have you ever been declared bankrupt? _____ If so, explain.
_____

Enclose any proposed contract with the Fund providing for compensation to the applicant, organization, company or firm in which the applicant is interested.

In consideration for the application, the applicant agrees as follows:

(A) That the applicant will comply with all provisions of O.C.G.A. Chapter 34-9, the Regulations promulgated thereunder, all lawful Orders of the Commissioner, the Rules and Orders of the State Board of Workers' Compensation, the bylaws of the Fund and the terms of any contract with the Fund approved by the Commissioner.

(B) THAT THE APPLICANT WILL BE IN A FIDUCIARY RELATIONSHIP WITH RESPECT TO ANY MONIES OF THE FUND RECEIVED, COLLECTED, DISBURSED, OR INVESTED._____ (Initial)

(C) THAT NO FINANCIAL OBLIGATION OF THE APPLICANT WILL BE GUARANTEED BY THE FUND. _____(Initial)

(D) THAT THE APPLICANT AND ANY COMPANY OR FIRM IN WHICH THE APPLICANT IS INTERESTED WILL NOT DEPOSIT OR INVEST THE FUND'S ASSETS EXCEPT IN THE NAME OF THE FUND, BORROW THE ASSETS OF THE FUND; BE PECUNIARILY INTERESTED IN ANY LOAN, PLEDGE OF DEPOSIT, SECURITY, INVESTMENT, SALE, PURCHASE, EXCHANGE, REINSURANCE OR OTHER SIMILAR TRANSACTION OR PROPERTY OF THE FUND; TAKE OR RECEIVE FOR HIS OWN USE ANY FEE, BROKERAGE, COMMISSION, GIFT, OR OTHER CONSIDERATION FOR OR ON ACCOUNT OF ANY SUCH TRANSACTION MADE BY OR ON BEHALF OF THE FUND; EXCEPT IN ACCORDANCE WITH O.C.G.A. SECTION 34-9-180 OR FOR REASONABLE COMPENSATION FOR SERVICES PERFORMED OR SALES OR PURCHASES MADE TO OR FOR THE FUND IN ACCORDANCE WITH THE TERMS OF A CONTRACT APPROVED BY THE COMMISSIONER. _____(Initial)

(E) That any contract providing for compensation from the Fund to the applicant or any company or firm in which the applicant is interested must be approved and may be modified by the Commissioner. In the event of modification by the Commissioner, the applicant reserves the right to withdraw this application.

(F) That the applicant will notify the Fund and the Commissioner within fourteen (14) days of any change in any of the information contained in this application.

_____

(NAME)

AFFIDAVIT

COUNTY_____

STATE _____

I,_____, the undersigned, being the _____of the

(Title)

_____

(Name of Applicant)

swear (or affirm) that to the best of my knowledge and belief the statements contained in the application, including the accompanying documents, are true and complete.

BY:_____

Sworn to and subscribed before me this_____

day of_____, 19____.

_____

NOTARY PUBLIC

My Commission Expires_____

EXHIBIT F

OFFICE OF

COMMISSIONER OF INSURANCE

WARREN D. EVANS

COMMISSIONER OF INSURANCE

SAFETY FIRE COMMISSIONER

INDUSTRIAL LOAN COMMISSIONER

COMPTROLLER GENERAL

SEVENTH FLOOR WEST TOWER

FLOYD BUILDING

2 MARTIN LUTHER RING, JR. DRIVE

ATLANTA, GEORGIA 30334

APPLICATION TO SERVE AS

ADMINISTRATOR OF

GROUP SELF-INSURANCE FUND

To the Commissioner of Insurance, State of Georgia, and the _____

_____ Fund:

Application is hereby made to administer the Fund.

(If additional space is required to answer any question, use separate sheets of paper, number each to correspond to the question being answered.)

(1) Name_____

(2) Address_____

(3) Telephone Number_____

(4) Name of Fund _____

(5) Address of Fund _____

(6) Status: () Corporation () Partnership () Individual

(7) List Names and Addresses of Owners and Partners _____

_____

(8) If Administrator is a company, list name and address of Resident Agent

_____

(9) List the names, addresses, and titles of the officers and directors of the administrator:

NameAddressTitle

(10) Have any of the above-named people been convicted of any crime other than minor traffic violations within the last ten years? _____ If so, explain.
_____

(11) Is any officer or trustee of the Fund an owner, partner, officer,

director, stockholder or employee of the administrator or any parent or affiliate company? _____ If so, explain.
_____

_____

(12) Are you affiliated with or a subsidiary of a company licensed to transact insurance in this State? _____ If so, list names and address.

_____
_____

(13) List all administrative services you intend to perform.

(14) List those individuals primarily responsible for administering the

Fund and give their experience and educational background including any license in this or any other state within the last ten years. If any license has ever been refused, suspended, cancelled or revoked, explain. Include all institutions of higher learning, dates attended and degrees received, any specialized training courses or seminars, membership in professional, technical or honorary societies, publications, honors or awards. List at least three different professional references for each individual.

(15) Detail the organizational structure and staff, available facilities, equipment and support personnel, how the various administrative services will be performed, and indicate the location in the structure of each individual in question (14).

Enclose a copy of your most recent audited statement of your financial condition (or the most recent annual statement if an insurance company) and of any agreement or contract between you and the Fund.

In consideration for this application, the applicant agrees as follows:

(A) That the applicant will comply with O.C.G.A. Chapter 34-9 , the

Regulations promulgated thereunder, all lawful Orders of the Commissioner, the Rules and Orders of the State Board of Workers' Compensation, the rules, regulations and bylaws of the Fund and the terms of any contract with the Fund approved by the Commissioner.

(B) THAT THE APPLICANT AND ITS EMPLOYEES WILL BE IN A FIDUCIARY RELATIONSHIP WITH RESPECT TO ANY MONIES OF THE FUND RECEIVED, COLLECTED, DISBURSED OR INVESTED. _____ (Initial)

(C) THAT THE FUND WILL NOT GUARANTEE ANY FINANCIAL OBLIGATION OF the applicant OR ANY OF ITS EMPLOYEES._____(Initial)

(D) THAT THE APPLICANT, ITS EMPLOYEES, AND ANY COMPANY OR FIRM IN which the APPLICANT IS INTERESTED WILL NOT DEPOSIT OR INVEST THE FUND'S ASSETS EXCEPT IN THE NAME OF THE FUND; BORROW THE ASSETS OF THE FUND; BE PECUNIARILY INTERESTED IN ANY LOAN, PLEDGE OF DEPOSIT, SECURITY, INVESTMENT, SALE, PURCHASE, EXCHANGE, REINSURANCE OR OTHER SIMILAR TRANSACTION OR PROPERTY OF THE FUND; TAKE OR RECEIVE FOR HIS OR THEIR OWN USE ANY FEE, BROKERAGE, COMMISSION, GIFT, OR OTHER CONSIDERATION OF THE FUND; EXCEPT IN ACCORDANCE WITH O.C.G.A. SECTION 34-9-180, OR FOR REASONABLE COMPENSATION FOR SERVICES PERFORMED OR SALES OR PURCHASES MADE TO OR FOR THE FUND IN ACCORDANCE WITH THE TERMS OF A CONTRACT APPROVED BY THE COMMISSIONER. _____ (Initial)

(E) That any contract providing for compensation from the Fund to the applicant or any company or firm in which the applicant is interested must be approved and may be modified by the Commissioner. In the event of modification by the Commissioner, the applicant reserves the right to withdraw this application.

(F) That the applicant will obtain and maintain a fidelity bond in the amount of $100,000 written by a company authorized to transact insurance in this State and will submit a copy of the bond to the Commissioner.

(G) That the applicant will obtain errors and omissions coverage or other appropriate liability insurance written by a company authorized to transact insurance in this State, in the amount of at least $100,000, and that it will submit a copy of this policy to the Commissioner.

(H) That the applicant will continuously maintain this policy throughout the term as administrator and will, if it desires to make any change in this policy, notify the Commissioner at least sixty (60) days before the proposed effective date of the change.

(I) That the applicant notify the Fund and the Commissioner within fourteen (14) days of any change in any of the information contained in this application.

_____

(PRINT NAME OF ADMINISTRATOR)

BY: _____

_____

(PRINT NAME)

_____

(PRINT TITLE)

_____

(DATE)

EXHIBIT G

OFFICE OF

COMMISSIONER OF INSURANCE

WARREN D. EVANS

COMMISSIONER OF INSURANCE

SAFETY FIRE COMMISSIONER

INDUSTRIAL LOAN COMMISSIONER

COMPTROLLER GENERAL

SEVENTH FLOOR WEST TOWER

FLOYD BUILDING

2 MARTIN LUTHER RING, JR. DRIVE

ATLANTA, GEORGIA 30334

GROUP SELF-INSURANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that _____

_____,

a group self-insurance fund as defined in the laws of the State of _____, as Principal, _____, a corporation duly incorporated under the laws of the State of

_____, as Surety, are held and firmly bound unto the State of Georgia in the full and just sum of _____ dollars, current money of the United States, to be paid to the State of Georgia, to the payment we hereby bind ourselves and each of us, our and each of our successors and assigns, jointly and severally, firmly by these presents, sealed with our seals and dated this _____ day of _____ A.D., 19____.

WHEREAS, the above bounden _____ did on the _____ day of _____, A.D., 19 _____, file with the Commissioner of Insurance of Georgia its application for a certificate of authority for group self-insurance fund under O.C.G.A. Section 34-9-152.

AND WHEREAS, the Commissioner on the _____ day of _____, A.D.,

19_____, granted the application for the certificate of authority upon condition that _____ group self-insurance fund enter into bond in the penalty of _____ dollars conditioned among other things that the fund shall abide by and perform the requirements of the aforesaid Act with reference to paying or furnishing compensation, medical or surgical services, etc., and the rules and regulations that are now or may hereafter be adopted by the Commissioner of Insurance and the State Board of Workers' Compensation.

NOW, THEREFORE, the condition of this obligation is such that if the above bounden _____ shall well and truly, from time to time, and at all times hereafter, abide by and perform all the requirements of the aforesaid Act and of any amendments thereto, as well as the rules and regulations that now are or hereafter may be adopted by the State board of Workers' Compensation of Georgia, respecting the payment of the Compensation to any covered injured employees or the dependents of killed employees, and the furnishing at its own cost the expenses of medical, surgical and other services, and funeral expenses as provide in the Act, then this obligation shall be void, otherwise to remain in full force and virtue in law.

This Bond may be cancelled at any time by the Surety upon giving sixty (60) days written notice to the Commissioner of Insurance of Georgia, in which event liability of the Surety shall, at the expiration of the said sixty (60) days, cease and determine, except as to such liability of the Principal on account of injury or death to any covered employees, as may have accrued prior to the expiration of the sixty (60) days, it being understood that the Surety shall be liable, within the penal sum mentioned herein, for the default of the Principal in fully discharging any liability on its part accruing during the life of this obligation.

IN WITNESS WHEREOF, the said Principal has caused these presents to be executed by the signature of the Chairman of its Board of Trustees and the said Surety has caused these presents to be executed by the signature of its _____ and its corporate seal affixed thereto (Agent or Attorney-in-Fact) with attestation where required.

This _____ day of _____, 19 _____.

_____

(Principal) (Name of Fund)

BY:_____

Title: Chairman, Board of Trustees_____

_____

(Surety)(Name of Company)

BY:_____

Title: _____

Attest: _____

(If required by Power-of Attorney)

Title: _____

_____

(SURETY'S SEAL) (Licensed Registered Agent)

Attest as to Seal:

BY: _____

Title: _____

EXHIBIT H

OFFICE OF

COMMISSIONER OF INSURANCE

WARREN D. EVANS

COMMISSIONER OF INSURANCE

SAFETY FIRE COMMISSIONER

INDUSTRIAL LOAN COMMISSIONER

COMPTROLLER GENERAL

SEVENTH FLOOR WEST TOWER

FLOYD BUILDING

2 MARTIN LUTHER RING, JR. DRIVE

ATLANTA, GEORGIA 30334

ADMINISTRATOR'S FIDELITY BOND FOR

GROUP SELF-INSURANCE

STATE OF GEORGIA

COUNTY OF _____

KNOW ALL MEN BY THESE PRESENTS:

That _____, whose place of business in the City of _____, as Principal, and _____, as Surety, a corporation duly authorized to write surety bonds in this State, are held and firmly bound unto Warren D. Evans, Commissioner of Insurance, State of Georgia, and his successors in office in the penal sum of ONE HUNDRED THOUSAND DOLLARS ($100,000.00) lawful money of the United States of America, for the payment of which well and truly to be made, we bind ourselves, and each of our heirs, executors, administrators, successors and assigns jointly, severally and firmly by these presents:

WHEREAS, the above bounden Principal pursuant to the provisions of O.C.G.A. Chapter 34-9, entitled "Group Self-Insurance Funds," is about to apply or has applied to the Commissioner of Insurance of the State of Georgia to act as administrator of the

_____

_____ Fund.

NOW, THEREFORE, the conditions of the above obligation are such that if the said above bounden Principal shall fully and faithfully comply with the requirements of the said Chapter, and the laws of this State, and shall properly account for all monies collected in connection therewith, then this obligation is to be void, otherwise to remain in full force and effect.

This bond shall remain in full force and effect until the surety is released from liability by the Commissioner or until the bond is cancelled by the surety. The bond may not be cancelled or terminated unless sixty (60) days prior written notice is filed with the Commissioner.

IN WITNESS WHERE OF, the said Principal has caused these presents to be executed by lawful signature under seal and the said surety has caused these presents to be executed by the signature of its_____ and its corporate seal to be affixed

(Agent or Attorney-in-Fact)

there to, with attestation where required.

This _____ day of _____, 19____.

_____

(Principal)(Name of person, corporation, partnership, etc.)

By: _____

(ADMINISTRATOR'S SEAL) Title: _____

Attest: _____ Attest: _____

Title: _____ Title: _____

(Secretary of Assistant Secretary)

By: _____

(SURETY'S SEAL) Title: _____

Attest: _____ Attest: _____

(If required by Power-of-Attorney)

Title: _____

_____

(Licensed Registered Agent)

Cite as Ga. Comp. R. & Regs. R. 120-2-34-.24
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Severability" adopted. F. Nov. 4, 1997; eff. Nov. 24, 1997.

Subject 120-2-35. BOOK-ENTRY SECURITIES.

Rule 120-2-35-.01. Purpose.

The purpose of this Regulation Chapter is to set forth guidelines for book-entry securities eligible for deposit under O.C.G.A. §§ 33-11-1*et seq.* and 33-12-4 and for deposits required under O.C.G.A. §§ 33-3-8 through 33-3-10.

Cite as Ga. Comp. R. & Regs. R. 120-2-35-.01
Authority: O.C.G.A. Sections 33-2-9, 33-3-8, 33-3-9, 33-3-10, 33-11-1, *et seq.* 33-12-4, 33-14-13.
History. Original Rule entitled "Statutory Authority" was filed on March 31, 1983; effective May 1, 1983, as specified by the Agency.
Repealed New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule entitled "Purpose" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-35-.02. Definitions of Book-Entry Securities.

For the purpose of this Regulation Chapter, book-entry securities shall mean the following:

(a) Any United States obligations as specified in § 33-11-9 of the Official Code of Georgia Annotated which are issued in the form of any entry on the records of a Federal Reserve Bank or the records of the Department of the Treasury; or

(b) Any other securities as allowed by Chapters 10 and 11 of Title 33 of the Official Code of the Georgia Annotated which are issued in the form of an entry on the records of The Depository Trust Company or other similar programs approved by the Commissioner of Insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-35-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-11-10, 33-12-4, 33-14-13.
History. Original Rule entitled "Purpose" was filed on March 31, 1983; effective May 1, 1983, as specified by the Agency.
Repealed New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule of entitled "Definitions of Book-Entry Securities" adopted. F. Jul. 19, 1996; eff Aug. 8, 1998.

Rule 120-2-35-.03. Replacement Upon Reduction of Market Value Securities.

When any company licensed in Georgia is required to have a deposit of securities in this state in accordance with O.C.G.A. §§ 33-12-7 or pursuant to any rule or regulation of the Office of Commissioner of Insurance, the amount of such deposit required shall be at the market value thereof and shall be increased from time to time as necessary to maintain the required amount of deposit.

Cite as Ga. Comp. R. & Regs. R. 120-2-35-.03
Authority: O.C.G.A. Sections 33-2-9, 33-3-8, 33-3-9, 33-3-10, 33-11-10, 33-12-4, 33-12-6, 33-12-7, 33-14-13.
History. Original Rule entitled "Definitions" was filed on March 31, 1983; effective May 1, 1983, as specified by the Agency.
Repealed New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule entitled "Replacement Upon Reduction of Market Value Securities" adopted. F. July 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-35-.04. Interest Received on Deposits.

Interest checks from issuing agents or institutions on bonds, notes, debentures or other securities on deposit shall be forwarded to the custodian bank. The interest shall be transmitted to the insurance company in a manner as previously agreed to by the Office of Commissioner of Insurance and the custodian bank.

Cite as Ga. Comp. R. & Regs. R. 120-2-35-.04
Authority: O.C.G.A. Sections 33-2-9, 33-11-10, 33-12-4, 33-12-5, 33-14-13.
History. Original Rule entitled "Investments" was filed on March 31, 1983; effective May 1, 1983, as specified by the Agency.
Repealed New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule entitled "lnterest Received on Deposits" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-35-.05. The Right of the Commissioner of Insurance to Receive and Hold Interest.

The Commissioner of Insurance may receive and retain the interest on deposit of a company licensed in Georgia which is placed in conservatorship, rehabilitation or receivership by its state of domicile and when the Commissioner has reason to believe that such company may potentially be unable to meet its claims and obligations in Georgia or when the market value of deposits falls below the amount required by O.C.G.A. §§ 33-3-8 through 33-3-10. Such interest may be placed in an interest bearing account established by the Commissioner in an institution of the Commissioner's choice and will be held in trust by the Commissioner for policyholders and creditors of the company.

Cite as Ga. Comp. R. & Regs. R. 120-2-35-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-3-8, 33-3-9, 33-3-10, 33-11-10, 33-12-4, 33-12-5, 33-14-13.
History. Original Rule entitled "Investments" was filed on March 31, 1983; effective May 1, 1983, as specified by the Agency.
Repealed New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule entitled "The Right of the Commissioner of Insurance to Receive and Hold Interest" adopted. F. Jul. 19, 1996; eff Aug. 8, 1996.

Rule 120-2-35-.06. Conversion to Custodian Bank's Management Account.

The custodian bank may process and release securities that are matured without written request from the company and where adequate replacement has been made. Bonds or notes eligible for book-entry or DTC will be converted to shares of the cash management account on the day of maturity. The custodian bank is authorized to use the Biltmore U.S. Treasury Money Market Fund as a transitional account. Such Fund is an acceptable asset for purposes of O.C.G.A. § 33-11-1*et seq.*

Cite as Ga. Comp. R. & Regs. R. 120-2-35-.06
Authority: O.C.G.A. Sections 33-2-9, 33-11-10, 33-12-4, 33-14-13.
History. Original Rule entitled "Assets" was filed on March 31, 1983; effective May 1, 1983, as specified by the Agency.
Amended: Rule amended by deleting the word "not" in second line of Part 1. (f) of Exhibit B. Filed October 28, 1983, effective December 1, 1983, as specified by the Agency.

Repealed New Rule of same title adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule entitled "Conversion to Custodian Bank's Management Account" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-35-.07. Total Release of Securities on Deposit.

(1) Any company that has previously deposited securities may have its deposit returned provided that all of the following conditions have been met:

(a) The company makes a written request to the custodian bank asking that its deposit be returned; and

(b) The company submits certified copies of the assumption reinsurance agreement, evidence of merger, or other contract or release of all liabilities and obligations indicating that all of its business has been assumed by or merged into a solvent company licensed to do business in Georgia and approved by the Commissioner of Insurance; and

(c) The company submits a certified affidavit from a company officer indicating that there are no outstanding suits, judgments, or claims against the company or that if any such suits, judgments, or claims exist that they are the legal responsibility of the assuming company or survivor of the merger; and

(d) The Commissioner of Insurance or his or her designee gives final authorization to release the security deposit.

(2) No consideration will be given to the return of deposits if a withdrawing company has its Georgia business assumed by an unlicensed company until the Commissioner of Insurance has determined to his or her satisfaction that its liabilities, whether fixed or contingent upon its contracts to persons residing in this state or having policies upon property situated in this state, have been satisfied or terminated.

Cite as Ga. Comp. R. & Regs. R. 120-2-35-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-3-9, 33-12-4, 33-12-8, 33-12-17.
History. Original Rule entitled "Book-Entry Securities as Deposits" adopted. F. Sept. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Repealed: New Rule entitled "Total Release of Securities and Deposit" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-35-.08. Partial Release of Excess Securities on Deposit.

Any company that has previously deposited securities may have its deposit partially released provided that all of the following conditions have been met:

(a) The company makes a written request to the custodian bank asking that its deposit be returned; and

(b) The Commissioner of Insurance and the custodian bank must verify that the amount of excess deposit requested to be released will not cause the company's deposit to fall below the minimum amount of deposit required by law; and

(c) The Commissioner of Insurance determines the remaining security deposits appropriate in relation to the insurer's risks and financial stability; and

(d) The Commissioner of Insurance or his or her designee gives final authorization to the partial release of the security deposit.

Cite as Ga. Comp. R. & Regs. R. 120-2-35-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-12-4, 33-12-8, 33-12-17.
History. Original Rule entitled "Partial Release of Excess Securities on Deposit" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-35-.09. Substitution of Securities on Deposit.

Any company which has an existing deposit of securities with the Commissioner of Insurance or the custodian bank may make a substitution of all or part of its deposit, provided that all of the following conditions have been met:

(a) The company desiring to replace securities shall make a written request for replacement to the custodian bank or the Commissioner of Insurance; and

(b) The replacement deposit shall be of an equal or a greater market value to the securities being replaced; and

(c) The company must submit the official receipt or other appropriate documentation for the securities it desires to be replaced.

Cite as Ga. Comp. R. & Regs. R. 120-2-35-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-12-4, 33-12-5, 33-12-8.
History. Original Rule entitled "Substitution of Securities on Deposit" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-35-.10. Deposits of Securities for Merging Companies.

Deposits of securities of a licensed company which is merged into another company will be transferred to the account of the surviving company by the amount of the deposit of the merged company. The custodian bank shall combine deposits in this manner only when instructed to do so in writing by the Commissioner of Insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-35-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-12-4, 33-12-8.
History. Original Rule entitled "Deposits of Securities for Merging Companies" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-35-.11. Sale of Securities by the Insurance Company Prohibited.

Insurance companies are prohibited from selling securities which are on deposit with the Commissioner of Insurance or the custodian bank without the express written consent of the Commissioner prior to the sale and only after arrangements for replacements of equal value have been finalized.

Cite as Ga. Comp. R. & Regs. R. 120-2-35-.11
Authority: O.C.G.A. Secs. 33-2-9, 33-12-4, 33-12-5(2).
History. Original Rule entitled "Sale of Securities by the Insurance Company Prohibited" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-35-.12. Establishment of Book-Entry Securities System.

The Commissioner of Insurance and a designated custodian bank may enter into a contract detailing the services to be performed by the custodian bank. The Commissioner of Insurance and the custodian bank will jointly develop procedures and instructions detailing the rights and responsibilities of both parties.

Cite as Ga. Comp. R. & Regs. R. 120-2-35-.12
Authority: O.C.G.A. Secs. 33-2-9, 33-12-4.
History. Original Rule entitled "Establishment of Book-Entry Securities System" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-35-.13. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-35-.13
Authority: O.C.G.A. Secs. 33-2-9.
History. Original Rule entitled "Severability" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Subject 120-2-36. WORKERS' COMPENSATION INSURANCE STATISTICAL AGENT - FORMS AND RATING PLANS.

Rule 120-2-36-.01. Statutory Authority.

Cite as Ga. Comp. R. & Regs. R. 120-2-36-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21.
History. Original Rule entitled "Statutory Authority" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with O.C.G.A., Sec. 50-13-21, the content of this Rule is not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. This Regulation is on file in the Office of the Comptroller General and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**

Rule 120-2-36-.02. Purpose.

Cite as Ga. Comp. R. & Regs. R. 120-2-36-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21.
History. Original Rule entitled "Purpose" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with O.C.G.A., Sec. 50-13-21, the content of this Rule is not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. This Regulation is on file in the Office of the Comptroller General and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**

Rule 120-2-36-.03. Applicability.

Cite as Ga. Comp. R. & Regs. R. 120-2-36-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21.
History. Original Rule entitled "Applicability" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with O.C.G.A., Sec. 50-13-21, the content of this Rule is not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. This Regulation is on file in the Office of the Comptroller General and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**

Rule 120-2-36-.04. Definitions.

Cite as Ga. Comp. R. & Regs. R. 120-2-36-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21.
History. Original Rule entitled "Definitions" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with O.C.G.A., Sec. 50-13-21, the content of this Rule is not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. This Regulation is on file in the Office of the Comptroller General and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**

Rule 120-2-36-.05. Statistical Agent - Designation and Duties.

Cite as Ga. Comp. R. & Regs. R. 120-2-36-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21.
History. Original Rule entitled "Statistical Agent - Designation and Duties" was filed on December 1, 1983;

effective January 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with O.C.G.A., Sec. 50-13-21, the content of this Rule is not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. This Regulation is on file in the Office of the Comptroller General and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Editor's Note: *In accordance with O.C.G.A., Sec. 50-13-21, the content of this Rule is not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. This Regulation is on file in the Office of the Comptroller General and is open for public examination and copying.* ***(See Editor's Note, p. 88.03.)***

Rule 120-2-36-.06. Insurers Required to Provide Statistics, Data and Information to Statistical Agent and Insured.

(1) As a condition to continuing to transact insurance in the State of Georgia, every Insurer authorized to transact Worker's Compensation insurance shall provide to the authorized statistical agent worker's compensation data, statistics including loss ratios and all other relevant information. The foregoing shall be submitted in such a manner (including statistical plan and data collection procedures) as is required by the current statistical plan filed with and approved by the Commissioner by that authorized statistical agent.

(2) The Insurer shall verify with the Insured, the data to be submitted to the Statistical Agent who shall determine the experience modification factor. Verification of such data shall be accomplished in accordance with this regulation:

(a) The Insurer shall provide the Insured with a copy of the statistical data being submitted to the Statistical Agent. The statistical data shall be presented in a legible and understandable format. Technical terms shall be avoided wherever possible. It shall be permissible for the insurer to provide the unit statistical report, by whatever name called, in lieu of an independently created form, provided the unit statistical report is accompanied by a legible and understandable explanation of its format.

(b) The disclosure statement contained in Form GID-63 attached hereto and incorporated herein, or one substantially the same, shall be attached to the statistical data provided to the Insured.

1. The disclosure shall provide a statement in bold face type, to be signed by an authorized representative of the Insured, that the statistical data has been reviewed and is accurate, and a representative of the Insurer has explained to the Insured's representative that the statistical data may affect the Insured's premium for Georgia Workers' Compensation insurance.

2. The disclosure shall indicate that the statistical data will be deemed accurate if the disclosure is not returned to the address provided by the Insurer within 30 days from the date mailed.

(i) The Insurer shall deliver the statistical data and disclosure in person or by depositing the information in the United States mail to be dispatched by at least first-class mail to the last address of record of the Insured, and receiving the receipt provided by the United States Postal Service or such other evidence of mailing as prescribed or accepted by the United States Postal Service.

(ii) Statistical data that is deemed to be accurate will not in any way affect the right of the Insured to appeal to the Georgia Worker's Compensation Appeals Board.

3. The disclosure shall also provide a statement for an authorized representative of the Insured to dispute the accuracy of the data. The statement shall direct the Insured to clearly identify any discrepancies. The disputed data shall be furnished to the Insurer by the return date indicated on the disclosure statement.

(i) If the Insurer confirms the accuracy of the information provided by the Insured, the Insurer shall correct their records and proceed to furnish the amended data to the Statistical Agent.

(ii) If the Insurer does not agree with the data provided by the Insured, the Insurer shall submit the Insurer's data to the Statistical Agent.

(I) The Insurer shall notify the risk within 60 days of the original mail date that the experience modification factor will be promulgated from the information provided by the Insurer.

(II) The Insured shall be instructed, in detail, of their right to appeal to the Georgia Workers' Compensation Appeals Board.

(III) The Insurer's failure to respond to the Insured in the time prescribed shall be deemed an acknowledgement that the insured's records are accurate, and amendments are to be made before reporting the statistical data to the Statistical Agent.

(c) Verification of data shall not be mandatory for insured who are not eligible for experience rating, however, the data and explanation shall be furnished to insureds upon request.

Cite as Ga. Comp. R. & Regs. R. 120-2-36-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21, 34-9-133, 33-24-47, 34-9-136.
History. Original Rule entitled "Insurers Required to Provide Statistics, Data and Information to Statistical Agent"

was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Repealed: New Rule entitled "Insurers Required to Provide Statistics, Data and Information to Statistical Agent and Insured" adopted. F. Aug. 10, 1993; eff. Aug. 30, 1993.
Editor's Note:
In accordance with O.C.G.A., Sec. 50-13-21, the content of this Rule is not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. This Regulation is on file in the Office of the Comptroller General and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**

Rule 120-2-36-.07. Maintenance of Records by Authorized Statistical Agent(s).

Cite as Ga. Comp. R. & Regs. R. 120-2-36-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21.
History. Original Rule entitled "Maintenance of Records by Authorized Statistical Agent(s)" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with O.C.G.A., Sec. 50-13-21, the content of this Rule is not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. This Regulation is on file in the Office of the Comptroller General and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**

Rule 120-2-36-.08. Filing of Rating Plans, Rating Systems and Underwriting Rules.

Cite as Ga. Comp. R. & Regs. R. 120-2-36-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21.
History. Original Rule entitled "Filing of Rating Plans, Rating Systems and Underwriting Rules" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with O.C.G.A., Sec. 50-13-21, the content of this Rule is not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. This Regulation is on file in the Office of the Comptroller General and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**

Rule 120-2-36-.09. Standard Workers' Compensation Insurance Policy.

Cite as Ga. Comp. R. & Regs. R. 120-2-36-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21.
History. Original Rule entitled "Standard Workers' Compensation Insurance Policy" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with O.C.G.A., Sec. 50-13-21, the content of this Rule is not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. This Regulation is on file in the Office of the Comptroller General and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**

Rule 120-2-36-.10. Filing of Standard Workers' Compensation Insurance Policy and Other Forms.

Cite as Ga. Comp. R. & Regs. R. 120-2-36-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21.

History. Original Rule entitled "Filing of Standard Workers' Compensation Insurance Policy and Other Forms" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Editor's Note:
In accordance with O.C.G.A., Sec. 50-13-21, the content of this Rule is not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. This Regulation is on file in the Office of the Comptroller General and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**

Rule 120-2-36-.11. Filing of Annual Statistical Data.

(1) As a condition to continuing to transact insurance in the State of Georgia, every insurer authorized to transact workers' compensation insurance shall file with the Insurance Commissioner, before March 1, of each year, an exhibit of its premium losses, expenses and investment income as of December 31 of the previous calendar year. Each insurer shall provide all information and data necessary to factually complete each blank space in such exhibit unless it is unequivocally clear that such blank has no application to the insurer. Each insurer shall supply true and correct answers to any and all interrogatories on the exhibit and shall supply, insert or attach to such exhibit all data, information and answers required or suggested by any note, footnote or lack of space in such forms. After supplying all answers, information or data necessary or proper to complete such form in every detail, each insurer shall cause its officers or employees specified in such exhibit to certify that the information is true and accurate in every detail.

(2) Any "designated carrier" for the workers' compensation insurance plan shall provide a separate report for their involuntary business.

Cite as Ga. Comp. R. & Regs. R. 120-2-36-.11
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21, 34-9-133, 34-9-135.
History. Original Rule entitled "Severability" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Repealed: New Rule entitled "Filing of Annual Statistical Data" adopted. F. Aug. 10, 1993; eff. Aug. 30, 1993.

Rule 120-2-36-.12. 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 provisions to other persons or circumstances shall not be affected.

IMPORTANT

DISCLOSURE STATEMENT

_____

Date of Mailing

TO: Policy Holder Carrier's Return Address

Attached, as required by Georgia Law, is a copy of the loss experience to be used in experience rating your workers compensation policy. The experience rating can cause your premiums to increase or decrease depending on the frequency end severity of losses.

In accordance with the O.C.G.A. Section 34-9-136, please review the attached statement, sign below and return this form to our office. If you do not sign and return this form within 30 days from the mailing date, the date will be deemed correct for the purpose of calculating your experience rating modification factor end final premium. Your failure to respond shall not affect nor waive any of your rights to a future appeal.

If you find an error in the attached material, please contact our office immediately at the indicated address:

SIGN THE APPLICABLE STATEMENT BELOW

AND RETURN REQUIRED STATEMENT

I have reviewed the attached payroll and claims information and find it to be accurate. An insurance company representative has explained that this information may affect the premium charged for Workers' Compensation Insurance Coverage for my business.

_____

SIGNATURE & TITLE

(Authorized Representative of the Employer)

I have reviewed the attached payroll and claims information. According to my records, the information is inaccurate. I have attached a copy of my records which I believe to be correct and a statement explaining the differences. I understand that if you, the insurance company, do not respond to me within 60 days of the date on your statement, you are agreeing with me that my records are correct and you will change your records accordingly.

_____

SIGNATURE & TITLE

(Authorized Representative of the Employer)

(NOTE: Return by _____)

Date

IF YOU ARE AN INDIVIDUAL WITH A DISABILITY AND WISH TO ACQUIRE THIS PUBLICATION IN AN ALTERNATIVE FORMAT, PLEASE CONTACT THE ADA COORDINATOR, PROPERTY & CASUALTY DIVISION, OFFICE OF COMMISSIONER OF INSURANCE, NO 2 MARTIN LUTHER KING, JR. DRIVE, ATLANTA, GEORGIA 30334 (404) 656-2056, TDD # (404) 656-4031

Cite as Ga. Comp. R. & Regs. R. 120-2-36-.12
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21, 34-9-133, 34-9-135.
History. Original Rule entitled "Effective Date" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Repealed: New Rule entitled "Severability" adopted. F. Aug. 10, 1993; eff. Aug. 30, 1993.

Subject 120-2-37. GEORGIA WORKER'S COMPENSATION INSURANCE RATE FILINGS.

Rule 120-2-37-.01. Authority.

This Regulation is made and promulgated by the Insurance Commissioner pursuant to the authority set forth in O.C.G.A. Sections 33-2-9 and 33-9-21.

Cite as Ga. Comp. R. & Regs. R. 120-2-37-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21, 34-9-133.
History. Original Rule entitled "Authority" adopted. F. Dec. 1, 1983; eff. Jan. 1, 1984, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-37-.02. Purpose.

The purpose of this Regulation is to require individual rate filings for the voluntary market by workers' compensation insurers, thus establishing competitive rates for purchasers of workers' compensation insurance in the State of Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-37-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21, 34-9-133.
History. Original Rule entitled "Purpose" adopted. F. Dec. 1, 1983; eff. Jan. 1, 1984, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-37-.03. Applicability.

This Regulation shall apply to all insurers authorized to transact workers' compensation insurance in the State of Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-37-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21, 34-9-133.
History. Original Rule entitled "Applicability" adopted. F. Dec. 1, 1983; eff. Jan. 1, 1984, as specified by the Agency.

Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-37-.04. Definitions.

(1) "Authorized rating organization" means a rating organization licensed in accordance with O.C.G.A. Chapter 33-9.

(2) "Authorized statistical agent" means the statistical agent authorized in Rule 120-2-36-.05 of the Rules and Regulations of the Georgia Insurance Department.

(3) "Commissioner" means the Commissioner of Insurance of the State of Georgia.

(4) "Department" means the Georgia Insurance Department.

Cite as Ga. Comp. R. & Regs. R. 120-2-37-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21, 34-9-133.
History. Original Rule entitled "Definitions" adopted. F. Dec. 1, 1983; eff. Jan. 1, 1984, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-37-.05. Individual Rate Filings.

(1) After the effective date of this Regulation and except as otherwise otherwise in Rule 120-2-36-.08 of the Rules and Regulations of the Department, every insurer desiring to revise the premium rates it charges for workers' compensation insurance coverage in this State shall file such insurer's own individual rate filing with the Commissioner. Such insurer shall simultaneously file a copy of such filing with the authorized rating organization of which the insurer is a member or subscriber.

(2) Premium rate for each individual rate filing shall be developed and established based upon each individual insurer's experience in the State of Georgia to the extent such experience is actuarially credible. Where the experience of an insurer is less than fully credible, such experience may be credibility-weighted against the latest corresponding experience as filed with the Department by an authorized rating organization. The Commissioner may make the determination as to the credibility of the material contained in such a filing or filings.

(3) With each individual rate filing, the individual insurer shall include the loss ratios, reserves, reserve development information, expenses including commissions paid and dividends paid, investment income, pure premium data adjusted for loss development and loss trending, profits and all other data and information used by that insurer for formulating its workers' compensation premium rates contained in the individual rate filing.

Cite as Ga. Comp. R. & Regs. R. 120-2-37-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21, 34-9-133.
History. Original Rule entitled "Individual Rate Filings" adopted. F. Dec. 1, 1983; eff. Jan. 1, 1984, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-37-.06. Classification Plan.

The Classification Plan, including codes of an authorized rating organization which is the current and latest Classification Plan on file with the Commissioner, shall be followed by all insurers when transacting workers' compensation insurance in the State of Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-37-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21, 34-9-133.
History. Original Rule entitled "Classification Plan" adopted. F. Dec. 1, 1983; eff. Jan. 1, 1984, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-37-.07. Reference Filings.

An individual insurer may adopt, by reference, in its own individual rate filing, Experience Rating Plans, Retrospective Rating Plans, Rating Factors and Premium Discount Plans filed with the Commissioner by an authorized rating organization.

Cite as Ga. Comp. R. & Regs. R. 120-2-37-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21, 34-9-133.
History. Original Rule entitled "Reference Filings" adopted. F. Dec. 1, 1983; eff. Jan. 1, 1984, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-37-.08. 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.

Cite as Ga. Comp. R. & Regs. R. 120-2-37-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21, 34-9-133.
History. Original Rule entitled "Severability" adopted. F. Dec. 1, 1983; eff. Jan. 1, 1984, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-37-.09. Effective Date.

This Regulation shall become effective January 1, 1984.

Cite as Ga. Comp. R. & Regs. R. 120-2-37-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21, 34-9-133.
History. Original Rule entitled "Effective Date" adopted. F. Dec. 1, 1983; eff. Jan. 1, 1984, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Subject 120-2-38. GEORGIA WORKERS' COMPENSATION ASSIGNED RISK INSURANCE PLAN.

Rule 120-2-38-.01. Authority.

This Regulation is made and promulgated by the Insurance Commissioner pursuant to the authority set forth in O.C.G.A. Section 34-9-133.

Cite as Ga. Comp. R. & Regs. R. 120-2-38-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21, 34-9-133.
History. Original Rule entitled "Authority" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 10, 1993; off. Aug. 30, 1993.
Repealed: New Rule of same title adopted. F. Sept. 12, 1996; eff. Oct. 2, 1996.

Rule 120-2-38-.02. Purpose.

The purpose of this Regulation is:

(a) to approve a workers' Compensation insurance plan which will provide a method for the apportionment on a pro rata basis, among all Insurers writing insurance providing workers' compensation benefits, of any rejected workers' compensation application, including vendors who provide logging services to a named insured or covering an association of such vendors;

(b) to establish separate categories of risk rejected for: insufficient prior workers' compensation experience, factors other than workers' compensation loss experience, and poor workers' compensation experience;

(c) to provide for operating procedures to implement the Plan; and

(d) to authorize an Administrator to administer the workers compensation insurance plan approved in this Regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-38-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21, 34-9-133.
History. Original Rule entitled "Purpose" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 10, 1993; eff. Aug. 30, 1993.

Repealed: New Rule of same title adopted. F. Sept. 12, 1996; eff. Oct. 2, 1996.

Rule 120-2-38-.03. Applicability and Effective Date.

Upon its effective date, this Regulation shall apply to all Insurers authorized to write insurance providing workers' compensation benefits in the State of Georgia, except those statutorily exempted in Titles 33 or 34 of the Official Code of Georgia Annotated.

Cite as Ga. Comp. R. & Regs. R. 120-2-38-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21, 34-9-133.
History. Original Rule entitled "Applicability" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 10, 1993; eff. Aug. 30, 1993.
Repealed: New Rule entitled "Applicability and Effective Date" adopted. F. Sept. 12, 1996; eff. Oct. 2, 1996.

Rule 120-2-38-.04. Definitions.

(1) "Administrator" means the Plan Administrator for the State of Georgia.

(2) "Commissioner" means the Commissioner of Insurance of the State of Georgia.

(3) "Carrier" or "Insurer" means any insurance Company authorized to write workers' compensation benefits in the State of Georgia.

(4) "Assigned Carrier" means a carrier to whom a workers' compensation insurance application made under the provisions of this Regulation has been assigned.

(5) "Servicing Carrier" means a carrier, other than a Direct Assignment Carrier, which is charged with issuing and servicing the workers' compensation insurance policy for Risks assigned under the provisions of this Regulation.

(6) "Direct Carrier" or Direct Assignment Carrier" means a carrier, other than a Servicing Carrier, that has elected and been authorized to receive, through direct assignment, without participation in the Pool, workers' compensation insurance policies assigned under the provisions of this Regulation.

(7) "Pool" means the National Workers' Compensation Reinsurance Pool.

(8) "Licensed Producer" means a person properly licensed to negotiate or sell workers' compensation insurance in the State of Georgia.

(9) "Plan" means the Georgia Workers' Compensation Assigned Risk Insurance Plan.

(10) "Rejections" or "Declinations" means written refusals from four Insurers duly authorized to write workers' compensation insurance in State of Georgia, or where the Licensed

Producer for the Applicant confirms, in writing, to the four Insurers a refusal to insure the applicant.

(11) "Risk" means an insured to which the Plan applies.

(12) "Group 1" means Risks which have insufficient prior workers' compensation experience to be experience rated.

(13) "Group 2" means Risks which are not Group 1 or Group 3 Risks.

(14) "Group 3" mens Risks which have an experience rating modification greater than 1.0.

(15) "Involuntary Rates" means Plan rates.

Cite as Ga. Comp. R. & Regs. R. 120-2-38-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21, 34-9-133.
History. Original Rule entitled "Definitions" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 10, 1993; eff. Aug. 30, 1993.
Repealed: New Rule of same title adopted. F. sept. 12, 1996; eff. Oct. 2, 1996.

Rule 120-2-38-.05. Approved by Insurance Commissioner.

(1) The Plan which is set forth in this Regulation is approved as the method used in the State of Georgia to apportion on a pro rata basis any workers' compensation Risk which has been rejected.

(2) The Commissioner shall be the final authority in all matters relating to the interpretation and enforcement of this Chapter, except insofar as his orders may be reversed or modified by the courts.

(3) If within thirty (30) days of a request or order the Administrator fails to submit an acceptable plan or if at any time fails to submit necessary or suitable amendments thereto, the Commissioner shall promulgate such plan consistent with the Regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-38-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-9-8, 33-9-20, 33-9-21, 34-9-133.
History. Original Rule entitled "Approval by Insurance Commissioner" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 10, 1993; eff. Aug. 30, 1993.
Repealed: New Rule of same title adopted. F. Sept. 12, 1998; eff. Oct. 2, 1996.

Rule 120-2-38-.06. Administration of Plan.

(1) The Administrator of the Plan shall be appointed by the Commissioner of Insurance of the State of Georgia and shall be removable at the discretion of the Commissioner.

(2) The Administrator shall file, in such form as is acceptable to the Commissioner, operating rules, procedures and guidelines for the operation of the Plan. The Commissioner shall approve such reasonable operating rules, procedures and guidelines as are necessary or advisable to effectuate the provisions of this Regulation.

(3) The operating rules, procedures or guidelines for the operation of the Plan may include a provision for one or more Carriers to assume the duties of issuing and servicing workers' compensation insurance policies written in accordance with this Plan. Such provision, however, shall not relieve any Carrier of its obligations under this Plan nor affect any allotment of assignments made hereunder.

(4) The Administrator shall file with the Commissioner for prior approval all administrative fees it intends to collect for administering and servicing Plan business. This shall be submitted by October 1st for the upcoming year. For purposes of this subsection, administrative fees are defined as any revenue collected by the Administrator involving Plan business including, but not limited to, company assessments, service fees, interest, inspection reports fees, experience rating worksheets fees, survey fees, agency based fees, computer service fees, and amounts collected from the sale of reports, filings or publications using Georgia Workers' Compensation Assigned Risk data.

On or before April 1 of each year, the Administrator shall submit a report to the Commissioner for the prior calendar year detailing all administrative fees actually collected.

(5) The Administrator shall establish eligibility criteria and written performance standards for Assigned Carriers, subject to the Commissioner's approval. The Commissioner may designate the Administrator to conduct a Servicing Carrier bid process or other method of selecting Servicing Carriers and establishing the Servicing Carrier allowance at his discretion. Any contract issued between the Administrator and the Servicing Carrier shall not contain any language that could circumvent or limit the Commissioner's authority in terminating Servicing Carriers for cause.

(6) Any Carrier interested in becoming a Direct Assignment Carrier shall submit an application annually to the Commissioner for approval. The Commissioner may establish eligibility criteria for Carriers applying to qualify for Direct Assignment status. Direct Assignment Carrier will be required to adhere to the same performance standards and rules established by the Plan. Any Direct Assignment Carrier not complying with Plan performance standards or rules may be terminated by the Commissioner with thirty (30) days notice. The Administrator, at least every three years, or more often if warranted, shall perform a performance audit to ensure compliance with the above conditions.

(7) The Administrator shall submit to the Commissioner on a quarterly basis or annual basis depending on the nature of the report, true and correct copies of any performance audits conducted by or on behalf of the Administrator on Assigned Carriers.

(8) The Administrator shall file, on a quarterly basis, a list of all assignments made. Such list shall include the Carrier's name and indicate whether servicing or direct, the name and address of the assigned Risk, original effective date of coverage, expiration date, experience modification factor, governing class, state premium and the Risk identification number.

(9) Any and all information collected by the Administrator, including but not limited to policyholder information, workers' compensation insurance data, statistical data, and information resulting from the use of such data, in manual and automated form, shall be provided to the Commissioner upon request in a format prescribed by the Commissioner and shall be and remain the property of the State of Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-38-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-9-8, 33-9-20, 33-9-21, 34-9-133.
History. Original Rule entitled "Administration of Plan" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Amended: F. May 29, 1992; eff. Jun. 18, 1992.
Repealed: New Rule of same title adopted. F. Aug. 10, 1993; eff. Aug. 30, 1993.
Repealed: New Rule of same title adopted. F. Sept. 12, 1996; eff. Oct. 2, 1996.

Rule 120-2-38-.07. Participation in Plan.

(1) Every Carrier authorized to write insurance providing workers' compensation benefits in the State of Georgia, which has not been statutorily exempted in Titles 33 or 34 of the Official Code of Georgia Annotated, shall fully participate in the Plan and comply with all rules, procedures and guidelines of the Administrator as a condition of the Carrier's authority to transact insurance in the State of Georgia. This shall include any employers' liability insurance written in connection with worker's compensation benefits.

(2) All assignments under this plan are to be made on an intrastate basis. Distribution of assignments among the Carriers in the State of Georgia shall be made in proportion to each Carrier's share of the total net direct workers' compensation and employers' liability premium in such state, so far as practicable.

Cite as Ga. Comp. R. & Regs. R. 120-2-38-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21, 34-9-133.
History. Original Rule entitled "Participation in the Plan" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 10, 1993; eff. Aug. 30, 1993.
Repealed: New Rule entitled "Participation in Plan" adopted. F. Sept. 12, 1996; eff. Oct. 2, 1996.

Rule 120-2-38-.08. Rates, Rating Plans, Rating Systems, Underwriting Rules and Policy Forms for Plan.

(1) The rates, rating plans, rating systems, underwriting rules and policy forms used in connection with the Plan shall be the rates, rating plans, rating systems, underwriting rules and policy forms filed by the Administrator and approved by the Commissioner.

(2) The Administrator shall maintain necessary ratemaking data in order to permit the actuarial determination of rates and rating plans appropriate for the business insured through the Plan, shall monitor both rate adequacy and Plan results, and shall notify the Commissioner if excessive losses are indicated to enable the Commissioner to take corrective action.

(3) The intended purpose of this section is to provide rates in the Plan that are adequate, not excessive and not unfairly discriminatory and which will allow the Plan to operate as a self-funded mechanism.

(4) For Plan policies with effective dates on or after January 1, 1996, the Commissioner shall approve and implement a plan which establishes rates adequate to eliminate any Plan operating deficit by January 1, 1999. In this Plan, the Commissioner shall also consider expense saving items which may improve the operating results of the Plan.

(5) Any Plan operating deficit generated from Plan policy years prior to January 1, 1996 shall not be passed along to current or future Plan policy holder. Any such deficit shall be fulfilled pursuant to the plan of operation in effect at that time.

(6) The Administrator shall include necessary ratemaking data in each rate filing with the Commissioner to sufficiently support such filing. This shall include information concerning loss development and trend, expenses, and investment income. The Administrator shall also, upon request, provide any other information needed to assist the Commissioner in his review of each rate filing.

(7) The following system of credits shall be granted by the Administrator against assessment or participation of Insurers in the Plan for the voluntary writing of a Risk whose immediate prior Insusrer for a period of at least one year was the Plan. The system of credits shall apply for a period of time specified in the Administrator's filing and approved by the Commissioner:

   (a) For policies with an annual premium of $7,500 or less, a credit of four times the amount of such annual premium;

   (b) For policies with an annual premium of at least $7,501, but not exceeding $15,000, a credit of three times the amount of such annual premium;

   (c) For policies with an annual premium of at least $15,001, but not exceeding $25,000, a credit of two times the amount of such annual premium;

(d) For policies with an annual premium of at least $25,001, but not exceeding $200,000, a credit of one and one-half times the amount of such annual premium; and

(e) For policies with an annual premium of $200,001 or greater, a credit of the amount of such annual premium.

(8) The Commissioner shall annually submit a report to the General Assembly. To assist the Commissioner in this responsibility, the Administrator shall provide, by September 1 of each year, estimated Plan operating surpluses or deficits, Plan premium and size distributions, results of the three tier rating program, effect of the Servicing Carrier remedial program, results of Servicing Carrier incentives and disincentives, and any other information that the Commissioner deems necessary to evaluate the Plan.

Cite as Ga. Comp. R. & Regs. R. 120-2-38-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-9-8, 33-9-20, 33-9-21, 34-9-133.
History. Original Rule entitled "Rates, Rating Plans, Rating Systems, Underwriting Rules and Policy forms for Plan" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 10, 1993; eff. Aug. 30, 1993.
Repealed: New Rule entitled "Rates, Rating Plans, Rating Systems, Underwriting Rules and Policy Forms for Plan" adopted. F. Sept. 12, 1996; eff. Oct. 2, 1996.

Rule 120-2-38-.09. Georgia Workers' Compensation Assigned Risk Insurance Plan.

(1) An employer, including a vendor who provides logging services to a named entity or an association of such entities, or a self-insurer who is in good faith entitled to insurance as defined in subparagraph (1)(b) below, required under workers' compensation laws, state and federal, and who has been unable to secure such insurance (and has four Rejections and/or Declinations as defined in 120-2-38-.04) may make an application to the Plan.

(a) An application for insurance shall be made with the Administrator by the employer or his representative, in a format provided by the Administrator and approved by the Commissioner. Within seventy-five (75) days preceding the date of application, the applicant must have applied for workers' compensation insurance and been rejected as defined in 120-2-38-.04. The employer or its representative shall maintain on record for this policy period the Insurer name, contact person, address, phone number and date of contact and make such information available to the Administrator or Assigned Carrier upon request.

(b) Good Faith will be presumed in the absence of evidence to the contrary. An employer is not in good faith entitled to insurance if any of the following circumstances exist at the time of application or thereafter, or other evidence exists that such employer is not in good faith entitled to insurance:

1. At the time of application, a self-insured employer is aware of pending bankruptcy proceedings, insolvency, cessation of operations or conditions that would probably result in occupational disease or cumulative injury claims from exposures incurred while the employer was self-insured.

2. The employer, while insurance is in force, knowingly refuses to meet reasonable health, safety, or loss control requirements; does not allow reasonable access to the Insurer for audit or inspection under the policy; or does not comply with any other policy obligations.

3. The employer has an outstanding workers' compensation insurance premium obligation to an Assigned Carrier that is not subject to a bona fide dispute.

4. The employer, its representative, or the Licensed Producer knowingly fails to comply with Plan rules or procedures; or knowingly makes a material misrepresentation on the application by omission or otherwise.

(2) Upon receipt of the completed application, the Administrator shall assign the Risk to an Assigned Carrier, furnishing such Assigned Carrier with the application and any classification and rating data which may be available.

(3) Coverage may be bound under the Plan consistent with the Plan rules in accordance with the following procedures:

(a) At least annually, the Commissioner shall evaluate procedures for binding coverage, as described hereunder, to determine if each of the methods of binding described herein is viable;

(b) Issues to be considered shall include the comparative usage among the methods, the cost of maintaining any one method, and the effect of discontinuance of a method on employers;

(c) If the Commissioner deems any one method not to continue to be viable, the Commissioner shall have the authority to delete any such method as an authorized method of binding coverage.

Except as indicated on the binder/verification page, all assignments under this Plan are to be made on an intrastate basis. However, any employer desiring insurance for operations in states other than those covered by its Assigned Carrier may request its Assigned Carrier to furnish insurance in the additional states, subject to the rules of the Plan, including the operating rules and procedures.

(4) A requested effective date may be secured consistent with Plan rules in accordance with the following procedures:

(a) The employer or its representative shall forward an application to be Administrator using one of the submission methods established by the Administrator. The employer or its representative may request an effective date not later than seventy-five (75) days from the date of application; however, such requested effective date shall be the later of the following options:

1. 12:01 a.m. on the date following receipt by the Administrator of a complete and eligible application,

2. the date of expiration of existing coverage, or

3. a date the employer requested.

   If the Licensed Producer forwards via U.S. mail a signed application to the Administrator with a check payable to the Administrator for the estimated annual or initial deposit premium, coverage will be bound at 12:01 a.m. on the day following the postmark time and date on the envelope in which the application is mailed, including the estimated annual or deposit premium, or the expiration of existing coverage. If U.S. mail is used and/or there is no postmark, or if the application does not contain the required information as described in the Plan rules, provisions for securing a requested effective date as stated above and rules for binding coverage as stated in paragraph (5) below shall apply. The Administrator shall apply all rules in securing an effective date of coverage equally, no matter what method of submission the employer or its representative chooses.

(b) Subject to the review by the Assigned Carrier, employers who were formerly self-insured shall secure a requested effective date no later than 12:01 a.m. ninety (90) days following receipt by the Administrator of a complete and eligible application.

(c) Upon receipt of the application, the Administrator shall review said application for eligibility and completeness. The Administrator may request additional information at his/her discretion to establish eligibility. The employer and/or its representative shall provide such information/documentation, or provide an acceptable explanation for failure to provide the requested items within the time frame established by the Administrator. Incomplete applications received by the Administrator may, at the discretion of the employer or its representative, be retained by the Administrator pending receipt of further information. Failure to comply in a timely manner with a request from the Administrator may result in the rejection of the application.

(d) After the application has been reviewed and eligibility has been determined, the Administrator shall calculate the total and deposit premium and inform the employer, its representative, or the Licensed Producer of the applicable premium, using the submission options identified by the Administrator.

(5) Coverage may be bound under the Plan consistent with Plan rules in accordance with the following procedures:

(a) The Licensed Producer or employer must submit the total required deposit premium to the Administrator using one of the submission methods established by the Administrator. The required deposit premium must be received within the time frame established by the Administrator in order for coverage to be bound on the requested effective date.

(b) The effective date on the binder will be the secured effective date as secured under paragraph (4) above, only if all of the following occur:

1. the Administrator is in receipt of a complete signed application within the established time frame,

2. the applicant is deemed eligible, and

3. the total deposit premium has been received by the Administrator within an established time frame.

(c) Coverage will not be bound by the Administrator without a complete signed application and receipt of the appropriate deposit premium. The binder/verification page shall be sent to the appropriate parties as required and shall remain in effect until canceled or a policy has been issued. In accordance with Plan procedures, coverage shall not exist if a binder was not issued.

(6) If, after the issuance of a policy, the Assigned Carrier determines that an employer is not entitled to insurance, has failed to comply with reasonable health, safety, and loss control requirements, or has violated any of the terms and conditions under which the insurance was issued, and after providing opportunity for cure, the Assigned Carrier shall initiate cancellation and inform the Administrator and appropriate state organization of the reason for such cancellation. Any insured employer so cancelled must reestablish eligibility or must demonstrate entitlement to the Administrator before any further assignment can be made under this Plan.

(7) All Risks to which this Plan applies shall be written utilizing the classifications, forms, rates and rating plans, and data filed by the Administrator and approved by the Commissioner.

(8) Any Risk or Carrier may appeal to the Georgia Workers Compensation Appeals Board if it does not agree with the established classification, rates, rules, rating data, or rating plans. The decision of the Board may be appealed to the Commissioner.

(9) At least forty-five (45) days prior to the expiration date of insurance, the Assigned Carrier shall send a renewal proposal to the insured, Licensed Producer and the Administrator. The renewal proposal shall include the dollar amount of any premium increase in excess of 15% which results from a change in rates in compliance with O.C.G.A. 33-24-47.

Upon receipt of the required premium, the policy shall be issued in the normal manner and a copy of such poliy and all endorsement properly stamped "Georgia Workers' Compensation Assigned Risk Insurance Plan", furnished to the Administrator. The Carrier shall be credited with the premium for such renewal insurance.

(10) Any Assigned Carrier terminating, either by non-renewal or by cancellation, a Risk assigned to it shall notify the Risk and the Administrator in accordance with the provisions of O.C.G.A. 33-24-47.

(11) If any Risk is dissatisfied with its Assigned Carrier, the Risk may request reassignment upon expiration date.

(12) Any Carrier who wishes to insure a Risk as direct business may do so at any time provided that the Assigned Carrier shall not directly or indirectly request, encourage, or solict employers it insures under the Plan to utilize the services of any specific insurance agent, agency, broker or Insurer for purposes of providing voluntary workers' compensation insurance or other lines of insurance to such employer. If the Risk is taken out of the Plan, it shall be canceled on a pro-rata basis. The replacement Carrier shall receive the take-out credits provided for in this regulation.

(13) The commission paid to a Licensed Producer shall be based on the following percentages of the total premium charged and collected: eight (8%) percent for the first $1,000 in premium, five (5%) percent for the next $4,000, three (3%) percent for the next $95,000 and two (2%) percent for that portion of the premium over $100,000. However, if the employer designates a representative other than a Licensed Producer, the representative shall be deemed the Licensed Producer of record for all policy matters other than for payment of producer fee.

(a) The employer may designate a Licensed Producer, and with respect to any renewal of the assigned insurance, may change the designated Licensed Producer by notice to the Assigned Carrier.

(14) The Assigned Carrier shall complete a final audit and bill for any additional premium or refund excess premiums paid during the policy year within 90 (ninety) calendar days of policy expiration or cancellation.

(a) 120-2-38.09(1) shall not apply when the Carrier can demonstrate to the satisfaction of the Commissioner that attempts were made in good faith to secure the relevant information from the Risk. In order for the Commissioner to allow an extension of the audit period, the Assigned Carrier must demonstrate to the Commissioner that the insured is not cooperative or that an extension is the result of a mutual agreement between the Carrier and the insured.

1. An Assigned Carrier may request an extension of the audit period by making application to the Commissioner. In order for the Commissioner to consider a request for extension, the application must be received by the Commissioner within 95 calendar days of the expiration or cancellation of

the policy. The application must contain documentation of all attempts made by the Assigned Carrier to secure the relevant information. The application must also contain evidence that the employer has not been cooperative.

2. Receipt of an application for an audit extension by the Commissioner within 95 days will preserve the Assigned Carrier's right to any additional premium due as the result of the final audit, if the application is not subsequently disapproved by the Commissioner.

3. No application is required if an extension of the audit period is the result of a mutual agreement between the Carrier and the insured. The Carrier shall properly document their records with evidence that the extension was mutually agreed upon.

(b) Neither the Assigned Carrier nor the Administrator shall demand an additional premium resulting from an audit if the audit was not conducted in accordance with this regulation.

(c) The Administrator shall submit procedures including a standard application for audit extensions or a plan of operation to ensure compliance, and provide procedures to apportion write-offs for audits not conducted in accordance with this Regulation.

(d) Failure of the Assigned Carrier to conduct the audit within ninety (90) days or within an extended period approved by the Commissioner shall not relieve the Carrier from the duty to refund an excess premium.

(e) The Administrator shall file a policy or endorsement(s) which conforms with subparagraph (14) above.

(15) Proper classification of Risk and proper allocation of payroll shall be the duty of the Administrator or the Assigned Carrier.

(16) The Administrator or the Assigned Carrier shall categorize Risks written in accordance with this regulation.

(a) Manual rates for Groups 1, 2 & 3 shall be determined by applying a deviation factor for each group to Involuntary Rates.

(b) All Risks written with an effective date prior to the effective date of this regulation shall be properly categorized upon the first renewal following the effective date of this regulation.

(c) The Administrator shall file the deviation factors and applicable rules mandated by this regulation upon its effective date.

(17) The Assigned Carrier shall verify with the Risk the data to be submitted to the Administrator who shall determine the experience modification factor. Verification of such data shall be accomplished in accordance with this regulation:

(a) The Assigned Carrier shall provide the Risk with a copy of the statistical data being submitted to the Administrator. The statistical data shall be presented in a legible and understandable format. Technical terms shall be avoided wherever possible. It shall be permissible for the Insurer to provide the unit statistical report, by whatever name called, in lieu of an independently created form, provided the unit statistical report is accompanied by a legible and understandable explanation of the format of the unit statistical report.

(b) The disclosure statement contained in Form GID-63 attached hereto and incorporated herein, or one substantially the same, shall be attached to the statistical data provided to the Risk.

1. The disclosure shall provide a statement in bold face type, to be signed by an authorized representative of the Risk, that the statistical data has been reviewed and is accurate, and a representative of the Assigned Carrier has explained to the Risk's representative that the statistical data may affect the Risk's premium for the Plan.

2. The disclosure shall indicate that the statistical data will be deemed accurate if the disclosure is not returned to the address provided by the Assigned Carrier within 30 days from the date mailed.

(i) The Assigned Carrier shall deliver the statistical data and disclosure in person or by depositing the information in the United States mail to be dispatched by at least first-class mail to the last address of record of the Risk, and receiving the receipt provided by the United States Postal Service or such other evidence of mailing as prescribed or accepted by the United States Postal Service.

(ii) Statistical data that is deemed to be accurate will not in any way affect the right of the Risk to appeal to the Georgia Workers' Compensation Appeals Board.

3. The disclosure shall also provide a statement for an authorized representative of the Risk to dispute the accuracy of the data. The statement shall direct the Risk to clearly identify any discrepancies. The disputed data shall be furnished to the Assigned Carrier by the return date indicated on the disclosure statement.

(i) If the Assigned Carrier confirms the accuracy of the information provided by the Risk, the designated Carrier shall correct their records and proceed to furnish the amended data to the Administrator.

(ii) If the Assigned Carrier does not agree with the data provided by the Risk, the designated carrier shall submit the Carrier's date to the Administrator,

(I) The Assigned Carrier shall notify the Risk within 60 days of the original mail date that the experience modification factor will be promulgated from the information provided by the Assigned Carrier.

(II) The Risk shall be instructed, in detail, of its right to appeal to the Georgia Workers' Compensation Appeals Board.

(III) Failure to respond to the Risk in the time prescribed shall be deemed an acknowledgement that the insured's records are accurate, and amendments are to be made before reporting the statistical data to the Assigned Carrier.

(c) Verification of data shall not be mandatory for insureds who are not eligible for experience rating; however, the data and explanation shall be furnished to insureds upon request.

(18) Assigned Carriers shall provide the same type or level of services to Plan policyholders that it would to its voluntary business.

(19) Assigned Carriers shall provide cooperation to Plan policyholders wanting to implement safety programs. No Plan policyholders shall be denied a safety program or loss control program if so requested; provided, however, the Assigned Carrier shall only be obligated to provide such services that are reasonably commensurate with the exposures, hazards, loss experience and size of the policyholder's operations.

Cite as Ga. Comp. R. & Regs. R. 120-2-38-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21, 34-9-133, 33-24-47, 34-9-136.
History. Original Rule entitled "Georgia Worker's Compensation Insurance Plan" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 10, 1993; eff. Aug. 30, 1993.
Repealed: New Rule entitled "Georgia Workers' Compensation Assigned Risk Insurance Plan" adopted. F. Sept. 12, 1996; eff. Oct. 2, 1996.

Rule 120-2-38-.10. Penalties.

Any Carrier or Administrator failing to comply with the requirements of this Regulation shall be subject to such penalties as prescribed in O.C.G.A. Chapters 33-2 and 33-3.

Cite as Ga. Comp. R. & Regs. R. 120-2-38-.10
Authority: O.C.G.A. Secs. 38-2-9, 33-9-20, 33-9-21, 33-24-47, 34-9-133, 34-9-136.
History. Original Rule entitled "Severability" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 10, 1993; eff. Aug. 30, 1993.
Repealed: New Rule entitled "Penalties" adopted. F. Sept. 12, 1996; eff. Oct. 2, 1996.

Rule 120-2-38-.11. 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 thereby.

Cite as Ga. Comp. R. & Regs. R. 120-2-38-.11
Authority: O.C.G.A. Secs. 33-2-9, 33-9-20, 33-9-21, 34-9-133.
History. Original Rule entitled "Effective Date" was filed on December 1, 1983; effective January 1, 1984, as specified by the Agency.
Repealed: F. Aug. 10, 1993; eff. Aug. 30, 1993.
Repealed: New Rule entitled "Severability" adopted. F. Sept. 12, 1996; eff. Oct. 2, 1996.

Subject 120-2-39. LIFE AND ANNUITY TABLES.

Rule 120-2-39-.01. Authority and Purpose.

This rule is promulgated by the Commissioner of Insurance pursuant to authority set forth in O.C.G.A. Sections 33-2-9 and 33-10-13. The purpose of this Regulatory Chapter is to recognize the following mortality tables for use in determining the minimum standard of valuation for annuity and pure endowment contracts: the 1983 Table "a," the 1983 Group Annuity Mortality (1983 GAM) Table, the Annuity 2000 Mortality Table, the 2012 Individual Annuity Reserving (2012 IAR) Table, and the 1994 Group Annuity Reserving (1994 GAR) Table and the Unisex Life Mortality Tables.

Cite as Ga. Comp. R. & Regs. R. 120-2-39-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13.
History. Original Rule entitled "Authority" adopted. F. Dec. 7, 1984; eff. Jan. 1, 1985, as specified by the Agency.
Repealed: New Rule entitled "Annuity Mortality Tables" adopted. F. Jan. 14, 1987; eff. Feb. 15, 1987, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.
Repealed: New Rule entitled "Authority and Purpose" adopted. F. Oct. 8, 2014; eff. Jan. 1, 2015, as specified by the Agency.

Rule 120-2-39-.02. Unisex Life Mortality Tables.

(1) Authority. This Rule is made and promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. Sections 33-10-13 and 33-25-4.

(2) Purpose. The purpose of the Rule is to permit individual life insurance policies to provide the same cash values and paid-up nonforfeiture benefits for both men and women. No change in minimum valuation standards is implied by this Rule.

(3) Definitions.

(a) As used in this Rule, '1980 CSO Table, with or without Ten-Year Select Mortality Factors' means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the Society of Actuaries Committee to Recommend New Mortality Tables for Valuation of Standard Individual Ordinary Life Insurance, incorporated in the 1980 NAIC amendments to the Model Standard Valuation Law and Standard Nonforfeiture Law for Life Insurance, and referred to in those models as the Commissioners 1980 Standard Ordinary Mortality models as the Commissioners 1980 Standard Ordinary Mortality Table, with or without Ten-Year Select Mortality Factors.

(b) As used in this Rule, '1980 CSO Table (M), with or without Ten-Year Select Mortality Factors' means that mortality table consisting of the rates of mortality for male lives from the 1980 CSO Table, with or without Ten-Year Select Mortality Factors.

(c) As used in this Rule, '1980 CSO Table (F), with or without Ten-Year Select Mortality Factors' means that mortality table consisting of the rates of mortality for female lives from the 1980 CSO Table, with or without Ten-Year Select Mortality Factors.

(d) As used in this Rule, '1980 CET Table' means that mortality table consisting of separate rates of mortality for male and female lives, developed by the Society of Actuaries Committee to Recommend New Mortality Tables for Valuation of Standard Individual Ordinary Life Insurance, incorporated in the 1980 NAIC Amendments to the Model Standard Valuation Law and Standard Nonforfeiture Law for Life Insurance, and referred to in those models as the Commissioners 1980 Extended Term Insurance table.

(e) As used in this Rule, '1980 CET Table (M)' means that mortality table consisting of the rates of mortality for male lives from the 1980 CET Table.

(f) As used in this Rule, '1980 CET Table (F)' means that mortality table consisting of the rates of mortality for female lives from the 1980 CET Table.

(4) The minimum standard for cash surrender values and amounts of paid-up nonforfeiture benefits for any policy of insurance on the life of either a male or a female insured delivered or issued for delivery in this state after the operative date of O.C.G.A. Section 33-25-4(e)(11) for that policy form may, at the option of the company, be based on:

(a) a mortality table which is a blend of the 1980 CSO Table (M) and the 1980 CSO Table (F) with or without Ten-Year Select Mortality Factors; and

(b) a mortality table which is of the same blend as used in (a) but applied to form a blend of the 1980 CET Table (M) and the 1980 CET Table (F).

(c) The following will be considered as the basis for acceptable mortality tables:

1. Tables A - 100% Male 0% Female for tables to be designated as the ' 1980 CSO-A' and '1980 CET-A' tables.

2. Tables B - 80% Male 20% Female for tables to be designated as the ' 1980 CSO-B' and '1980 CET-B' tables.

3. Tables C - 60% Male 40% Female for tables to be designated as the '1980 CSO-C' and '1980 CET-C' tables.

4. Tables D - C 50% Male 50% Female for tables to be designated as the '1980 CSO-D' and '1980 CET-D' tables.

5. Tables E - 40% Male 60% Female for tables to be designated as the '1980 CSO-E' and '1980 CET-E' tables.

6. Tables F - 20% Male 80% Female for tables to be designated as the '1980 CSO-F' and '1980 CET-F' tables.

7. Tables G - 0% Male 100% Female for tables to be designated as the '1980 CSO-G' and '1980 CET-G' tables.

(d) Tables A and G referred to in subparagraphs (c)1. and 7. above are not to be used with respect to policies issued on or after January 1, 1986, except where the proportion of persons insured is anticipated to be 90% or more of one sex or the other or except for certain policies converted from group insurance. Such group conversions issued on or after January 1, 1986, must use Mortality Tables based on the blend of lives by sex expected for such policies.

(5) Effective Date. This Rule shall become effective February 15, 1987.

Cite as Ga. Comp. R. & Regs. R. 120-2-39-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-3-21.1, 33-10-13, 33-25-4.
History. Original Rule entitled "Purpose" adopted. F. Dec. 7, 1984; eff. Jan. 1, 1985, as specified by the Agency.
Repealed: New Rule entitled "Unisex Life Mortality Tables" adopted. F. Jan. 14, 1987; eff. Feb. 15, 1987, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-39-.03. Separability Article.

If any provision of this Regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the Regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-2-39-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-3-21.1, 33-10-13, 33-25-4.
History. Original Rule entitled "Definitions" adopted. F. Dec. 7, 1984; eff. Jan. 1, 1985, as specified by the Agency.
Repealed: New Rule entitled "Separability Article" adopted. F. Jan. 14, 1987; eff. Feb. 15, 1987, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-39-.04. Definitions.

A. As used in this rule "1983 Table 'a'" means that mortality table developed by the Society of Actuaries Committee to Recommend a New Mortality Basis for Individual Annuity Valuation and adopted as a recognized mortality table for annuities in June 1982 by the National Association of Insurance Commissioners.

B. As used in this rule "1983 GAM Table" means that mortality table developed by the Society of Actuaries Committee on Annuities and adopted as a recognized mortality table for annuities in December 1983 by the National Association of Insurance Commissioners.

C. As used in this rule "1994 GAR Table" means that mortality table developed by the Society of Actuaries Group Annuity Valuation Table Task Force and shown on pages 866-867 of Volume XLVII of the *Transactions of the Society of Actuaries* (1995).

D. As used in this rule "Annuity 2000 Mortality Table" means that mortality table developed by the Society of Actuaries Committee on Life Insurance Research and shown on page 240 of Volume XLVII of the *Transactions of the Society of Actuaries* (1995).

E. As used in this rule, "Period table" means a table of mortality rates applicable to a given calendar year (the Period).

F. As used in this rule, "Generational mortality table" means a mortality table containing a set of mortality rates that decrease for a given age from one year to the next based on a combination of a Period table and a projection scale containing rates of mortality improvement.

G. As used in this rule "2012 IAR Table" means that Generational mortality table developed by the Society of Actuaries Committee on Life Insurance Research and containing rates, q_x^{2012+n}, derived from a combination of the 2012 IAM Period Table and Projection Scale G2, using the methodology stated in Section 5.

H. As used in this rule, "2012 Individual Annuity Mortality Period Life (2012 IAM Period) Table" means the Period table containing loaded mortality rates for calendar year 2012.

This table contains rates, q_x^{2012}, developed by the Society of Actuaries Committee on Life Insurance Research and is shown in Appendices 1-2.

I. As used in this rule, "Projection Scale G2 (Scale G2)" is a table of annual rates, $G2_x$, of mortality improvement by age for projecting future mortality rates beyond calendar year 2012. This table was developed by the Society of Actuaries Committee on Life Insurance Research and is shown in Appendices 3-4.

Cite as Ga. Comp. R. & Regs. R. 120-2-39-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13.
History. Original Rule entitled "Individual Annuity or Pure Endowment Contracts" adopted. F. Dec. 7, 1984; eff. Jan. 1, 1985, as specified by the Agency.
Repealed: F. Jan. 14, 1987; eff. Feb. 15, 1987, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.
Adopted: New rule entitled "Definitions." F. Oct. 8, 2014; eff. Jan. 1, 2015, as specified by the Agency.

Rule 120-2-39-.05. Individual Annuity or Pure Endowment Contracts.

A. Except as provided in Subsections B and C of this section, the 1983 Table "a" is recognized and approved as an individual annuity mortality table for valuation and, at the option of the company, may be used for purposes of determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after April 24, 1979.

B. Except as provided in Subsection C of this section, either the 1983 Table "a" or the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1985.

C. Except as provided in Subsection D of this section, the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2015.

D. Except as provided in Subsection E of this section, the 2012 IAR Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2015.

E. The 1983 Table "a" without projection is to be used for determining the minimum standards of valuation for an individual annuity or pure endowment contract issued on or after January 1, 2014, solely when the contract is based on life contingencies and is issued to fund periodic benefits arising from:

(1) Settlements of various forms of claims pertaining to court settlements or out of court settlements from tort actions;

(2) Settlements involving similar actions such as worker's compensation claims; or

(3) Settlements of long term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments.

Cite as Ga. Comp. R. & Regs. R. 120-2-39-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13.
History. Original Rule entitled "Group Annuity Plan or Pure Endowment Contracts" adopted. F. Dec. 7, 1984; eff. Jan. 1, 1985, as specified by the Agency.
Repealed: F. Jan. 14, 1987; eff. Feb. 15, 1987, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.
Adopted: New rule entitled "Individual Annuity or Pure Endowment Contracts." F. Oct. 8, 2014; eff. Jan. 1, 2015, as specified by the Agency.

Rule 120-2-39-.06. Application of the 2012 IAR Mortality Table.

In using the 2012 IAR Mortality Table, the mortality rate for a person age x in year (2012 + n) is calculated as follows:

$$q_x^{2012+n} = q_x^{2012}(1 - G2_x)^n$$

The resulting q_x^{2012+n} shall be rounded to three decimal places per 1,000, e.g., 0.741 deaths per 1,000. Also, the rounding shall occur according to the formula above, starting at the 2012 period table rate.

For example, for a male age 30, q_x^{2012}= 0.741.

q_x^{2013}= 0.741 * (1 - 0.010) ^ 1 = 0.73359, which is rounded to 0.734.

q_x^{2014}= 0.741 * (1 - 0.010) ^ 2 = 0.7262541, which is rounded to 0.726.

A method leading to incorrect rounding would be to calculate q_x^{2014} as q_x^{2013} * (1 - 0.010), or 0.734 * 0.99 = 0.727. It is incorrect to use the already rounded q_x^{2013} to calculate q_x^{2014}.

Cite as Ga. Comp. R. & Regs. R. 120-2-39-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13.
History. Original Rule entitled "Separability Article" adopted. F. Dec. 7, 1984; eff. Jan. 1, 1985, as specified by the Agency.
Repealed: F. Jan. 14, 1987; eff. Feb. 15, 1987, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.
Adopted: New rule entitled "Application of the 2012 IAR Mortality Table." F. Oct. 8, 2014; eff. Jan. 1, 2015, as specified by the Agency.

Rule 120-2-39-.07. Group Annuity or Pure Endowment Contracts.

A. Except as provided in Subsections B and C of this section, the 1983 GAM Table, the 1983 Table "a" and the 1994 GAR Table are recognized and approved as group annuity mortality tables for valuation and, at the option of the company, any one of these tables may be used for purposes of valuation for an annuity or pure endowment purchased on or after April 24, 1979, under a group annuity or pure endowment contract.

B. Except as provided in Subsection C of this section, either the 1983 GAM Table or the 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 1985 under a group annuity or pure endowment contract.

C. The 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 2015, under a group annuity or pure endowment contract.

Cite as Ga. Comp. R. & Regs. R. 120-2-39-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13.
History. Original Rule entitled "Effective Date" adopted. F. Dec. 7, 1984; eff. Jan. 1, 1985, as specified by the Agency.
Repealed: F. Jan. 14, 1987; eff. Feb. 15, 1987, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.
Adopted: New rule entitled "Group Annuity or Pure Endowment Contracts." F. Oct. 8, 2014; eff. Jan. 1, 2015, as specified by the Agency.

Rule 120-2-39-.08. Application of the 1994 GAR Table.

In using the 1994 GAR Table, the mortality rate for a person age x in year (1994 + n) is calculated as follows:

$$q_x^{1994+n} = q_x^{1994}(1 - AA_x)^n$$

where the q_x^{1994} and AA_x are as specified in the 1994 GAR Table.

Cite as Ga. Comp. R. & Regs. R. 120-2-39-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13.
History. Original Rule entitled "Application of the 1994 GAR Table" adopted. F. Oct. 8, 2014; eff. Jan. 1, 2015, as specified by the Agency.

Rule 120-2-39-.09. Effective Date.

The effective date of this regulation is January 1, 2015.

Cite as Ga. Comp. R. & Regs. R. 120-2-39-.09
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Effective Date" adopted. F. Oct. 8, 2014; eff. Jan. 1, 2015, as specified by the

Agency.

Appendix (120-2-39) I. .

2012 IAM Period Table

Female, Age Nearest Birthday

AGE	1000 . q_x^{2012}	AGE	1000 . q_x^{2012}	AGE	1000 . q_x^{2012}	AGE	1000 . q_x^{2012}
0	**1.621**	30	**0.300**	60	**3.460**	90	**88.377**
1	**0.405**	31	**0.321**	61	**3.916**	91	**97.491**
2	**0.259**	32	**0.338**	62	**4.409**	92	**107.269**
3	**0.179**	33	**0.351**	63	**4.933**	93	**118.201**
4	**0.137**	34	**0.365**	64	**5.507**	94	**130.969**
5	**0.125**	35	**0.381**	65	**6.146**	95	**146.449**
6	**0.117**	36	**0.402**	66	**6.551**	96	**163.908**
7	**0.110**	37	**0.429**	67	**7.039**	97	**179.695**
8	**0.095**	38	**0.463**	68	**7.628**	98	**196.151**
9	**0.088**	39	**0.504**	69	**8.311**	99	**213.150**
10	**0.085**	40	**0.552**	70	**9.074**	100	**230.722**
11	**0.086**	41	**0.600**	71	**9.910**	101	**251.505**
12	**0.094**	42	**0.650**	72	**10.827**	102	**273.007**
13	**0.108**	43	**0.697**	73	**11.839**	103	**295.086**
14	**0.131**	44	**0.740**	74	**12.974**	104	**317.591**
15	**0.156**	45	**0.780**	75	**14.282**	105	**340.362**
16	**0.179**	46	**0.825**	76	**15.799**	106	**362.371**
17	**0.198**	47	**0.885**	77	**17.550**	107	**384.113**
18	**0.211**	48	**0.964**	78	**19.582**	108	**400.000**
19	**0.221**	49	**1.051**	79	**21.970**	109	**400.000**
20	**0.228**	50	**1.161**	80	**24.821**	110	**400.000**
21	**0.234**	51	**1.308**	81	**28.351**	111	**400.000**
22	**0.240**	52	**1.460**	82	**32.509**	112	**400.000**
23	**0.245**	53	**1.613**	83	**37.329**	113	**400.000**
24	**0.247**	54	**1.774**	84	**42.830**	114	**400.000**
25	**0.250**	55	**1.950**	85	**48.997**	115	**400.000**
26	**0.256**	56	**2.154**	86	**55.774**	116	**400.000**
27	**0.261**	57	**2.399**	87	**63.140**	117	**400.000**
28	**0.270**	58	**2.700**	88	**71.066**	118	**400.000**
29	**0.281**	59	**3.054**	89	**79.502**	119	**400.000**

120	**1000.000**

Cite as Ga. Comp. R. & Regs. R. 120-2-39 app (120-2-39) I

Appendix (120-2-39) II. .

2012 IAM Period Table

Male, Age Nearest Birthday

AGE	1000 . q_x^{2012}	AGE	1000 . q_x^{2012}	AGE	1000 . q_x^{2012}	AGE	1000 . q_x^{2012}
0	**1.605**	30	**0.741**	60	**5.096**	90	**109.993**
1	**0.401**	31	**0.751**	61	**5.614**	91	**123.119**
2	**0.275**	32	**0.754**	62	**6.169**	92	**137.168**
3	**0.229**	33	**0.756**	63	**6.759**	93	**152.171**
4	**0.174**	34	**0.756**	64	**7.398**	94	**168.194**
5	**0.168**	35	**0.756**	65	**8.106**	95	**185.260**
6	**0.165**	36	**0.756**	66	**8.548**	96	**197.322**
7	**0.159**	37	**0.756**	67	**9.076**	97	**214.751**
8	**0.143**	38	**0.756**	68	**9.708**	98	**232.507**
9	**0.129**	39	**0.800**	69	**10.463**	99	**250.397**
10	**0.113**	40	**0.859**	70	**11.357**	100	**268.607**
11	**0.111**	41	**0.926**	71	**12.418**	101	**290.016**
12	**0.132**	42	**0.999**	72	**13.675**	102	**311.849**
13	**0.169**	43	**1.069**	73	**15.150**	103	**333.962**
14	**0.213**	44	**1.142**	74	**16.860**	104	**356.207**
15	**0.254**	45	**1.219**	75	**18.815**	105	**380.000**
16	**0.293**	46	**1.318**	76	**21.031**	106	**400.000**
17	**0.328**	47	**1.454**	77	**23.540**	107	**400.000**
18	**0.359**	48	**1.627**	78	**26.375**	108	**400.000**
19	**0.387**	49	**1.829**	79	**29.572**	109	**400.000**
20	**0.414**	50	**2.057**	80	**33.234**	110	**400.000**
21	**0.443**	51	**2.302**	81	**37.533**	111	**400.000**
22	**0.473**	52	**2.545**	82	**42.261**	112	**400.000**
23	**0.513**	53	**2.779**	83	**47.441**	113	**400.000**
24	**0.554**	54	**3.011**	84	**53.233**	114	**400.000**
25	**0.602**	55	**3.254**	85	**59.855**	115	**400.000**
26	**0.655**	56	**3.529**	86	**67.514**	116	**400.000**
27	**0.688**	57	**3.845**	87	**76.340**	117	**400.000**

28	**0.710**	58	**4.213**	88	**86.388**	118	**400.000**
29	**0.727**	59	**4.631**	89	**97.634**	119	**400.000**
						120	**1000.000**

Cite as Ga. Comp. R. & Regs. R. 120-2-39 app (120-2-39) II

Appendix (120-2-39) III. .

Projection Scale G2

Female, Age Nearest Birthday

AGE	$G2_x$	AGE	$G2_x$	AGE	$G2_x$	AGE	$G2_x$
0	**0.010**	30	**0.010**	60	**0.013**	90	**0.006**
1	**0.010**	31	**0.010**	61	**0.013**	91	**0.006**
2	**0.010**	32	**0.010**	62	**0.013**	92	**0.005**
3	**0.010**	33	**0.010**	63	**0.013**	93	**0.005**
4	**0.010**	34	**0.010**	64	**0.013**	94	**0.004**
5	**0.010**	35	**0.010**	65	**0.013**	95	**0.004**
6	**0.010**	36	**0.010**	66	**0.013**	96	**0.004**
7	**0.010**	37	**0.010**	67	**0.013**	97	**0.003**
8	**0.010**	38	**0.010**	68	**0.013**	98	**0.003**
9	**0.010**	39	**0.010**	69	**0.013**	99	**0.002**
10	**0.010**	40	**0.010**	70	**0.013**	100	**0.002**
11	**0.010**	41	**0.010**	71	**0.013**	101	**0.002**
12	**0.010**	42	**0.010**	72	**0.013**	102	**0.001**
13	**0.010**	43	**0.010**	73	**0.013**	103	**0.001**
14	**0.010**	44	**0.010**	74	**0.013**	104	**0.000**
15	**0.010**	45	**0.010**	75	**0.013**	105	**0.000**
16	**0.010**	46	**0.010**	76	**0.013**	106	**0.000**
17	**0.010**	47	**0.010**	77	**0.013**	107	**0.000**
18	**0.010**	48	**0.010**	78	**0.013**	108	**0.000**
19	**0.010**	49	**0.010**	79	**0.013**	109	**0.000**
20	**0.010**	50	**0.010**	80	**0.013**	110	**0.000**
21	**0.010**	51	**0.010**	81	**0.012**	111	**0.000**
22	**0.010**	52	**0.011**	82	**0.012**	112	**0.000**
23	**0.010**	53	**0.011**	83	**0.011**	113	**0.000**
24	**0.010**	54	**0.011**	84	**0.010**	114	**0.000**
25	**0.010**	55	**0.012**	85	**0.010**	115	**0.000**

26	**0.010**	56	**0.012**	86	**0.009**	116	**0.000**
27	**0.010**	57	**0.012**	87	**0.008**	117	**0.000**
28	**0.010**	58	**0.012**	88	**0.007**	118	**0.000**
29	**0.010**	59	**0.013**	89	**0.007**	119	**0.000**
						120	**0.000**

Cite as Ga. Comp. R. & Regs. R. 120-2-39 app (120-2-39) III

Appendix (120-2-39) IV. .

Projection Scale G2

Male, Age Nearest Birthday

AGE	$G2_x$	AGE	$G2_x$	AGE	$G2_x$	AGE	$G2_x$
0	**0.010**	30	**0.010**	60	**0.015**	90	**0.007**
1	**0.010**	31	**0.010**	61	**0.015**	91	**0.007**
2	**0.010**	32	**0.010**	62	**0.015**	92	**0.006**
3	**0.010**	33	**0.010**	63	**0.015**	93	**0.005**
4	**0.010**	34	**0.010**	64	**0.015**	94	**0.005**
5	**0.010**	35	**0.010**	65	**0.015**	95	**0.004**
6	**0.010**	36	**0.010**	66	**0.015**	96	**0.004**
7	**0.010**	37	**0.010**	67	**0.015**	97	**0.003**
8	**0.010**	38	**0.010**	68	**0.015**	98	**0.003**
9	**0.010**	39	**0.010**	69	**0.015**	99	**0.002**
10	**0.010**	40	**0.010**	70	**0.015**	100	**0.002**
11	**0.010**	41	**0.010**	71	**0.015**	101	**0.002**
12	**0.010**	42	**0.010**	72	**0.015**	102	**0.001**
13	**0.010**	43	**0.010**	73	**0.015**	103	**0.001**
14	**0.010**	44	**0.010**	74	**0.015**	104	**0.000**
15	**0.010**	45	**0.010**	75	**0.015**	105	**0.000**
16	**0.010**	46	**0.010**	76	**0.015**	106	**0.000**
17	**0.010**	47	**0.010**	77	**0.015**	107	**0.000**
18	**0.010**	48	**0.010**	78	**0.015**	108	**0.000**
19	**0.010**	49	**0.010**	79	**0.015**	109	**0.000**
20	**0.010**	50	**0.010**	80	**0.015**	110	**0.000**
21	**0.010**	51	**0.011**	81	**0.014**	111	**0.000**
22	**0.010**	52	**0.011**	82	**0.013**	112	**0.000**
23	**0.010**	53	**0.012**	83	**0.013**	113	**0.000**

24	**0.010**	54	**0.012**	84	**0.012**	114	**0.000**
25	**0.010**	55	**0.013**	85	**0.011**	115	**0.000**
26	**0.010**	56	**0.013**	86	**0.010**	116	**0.000**
27	**0.010**	57	**0.014**	87	**0.009**	117	**0.000**
28	**0.010**	58	**0.014**	88	**0.009**	118	**0.000**
29	**0.010**	59	**0.015**	89	**0.008**	119	**0.000**
						120	**0.000**

Cite as Ga. Comp. R. & Regs. R. 120-2-39 app (120-2-39) IV

Subject 120-2-40. PUBLIC SELF-INSURANCE FUNDS.

Rule 120-2-40-.01. Statutory Authority.

Cite as Ga. Comp. R. & Regs. R. 120-2-40-.01
Authority: O.C.G.A. Secs. 20-2-2019, 33-2-9 and 36-85-16.
History. Original Rule entitled "Statutory Authority" was filed on April 10, 1987; effective April 30, 1987.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-40-.02. Purpose.

Cite as Ga. Comp. R. & Regs. R. 120-2-40-.02
Authority: O.C.G.A. Secs. 20-2-2019, 33-2-9 and 36-85-16.
History. Original Rule entitled "Purpose" was filed on April 10, 1987; effective April 30, 1987.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-40-.03. Definitions.

Cite as Ga. Comp. R. & Regs. R. 120-2-40-.03
Authority: O.C.G.A. Secs. 20-2-2019, 33-2-9 and 36-85-16.
History. Original Rule entitled "Definitions" was filed on April 10, 1987; effective April 30, 1987.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-40-.04. Application for Certificate of Authority; Renewal.

Cite as Ga. Comp. R. & Regs. R. 120-2-40-.04
Authority: O.C.G.A. Secs. 20-2-2019, 33-2-9 and 36-85-16.
History. Original Rule entitled "Application for Certificate of Authority; Renewal" was filed on April 10, 1987; effective April 30, 1987.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-40-.05. Application to Serve as Administrator; Officer Director or Trustee.

Cite as Ga. Comp. R. & Regs. R. 120-2-40-.05
Authority: O.C.G.A. Secs. 20-2-2019, 33-2-9 and 36-85-16.
History. Original Rule entitled "Application to Serve as Administrator; Officer Director or Trustee" was filed on April 10, 1987; effective April 30, 1987.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-40-.06. Request for Additional Information.

Cite as Ga. Comp. R. & Regs. R. 120-2-40-.06
Authority: O.C.G.A. Secs. 20-2-2019, 33-2-9 and 36-85-16.
History. Original Rule entitled "Request for Additional Information" was filed on April 10, 1987; effective April 30, 1987.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-40-.07. Financial Reporting; Annual Statements; Quarterly Statements.

Cite as Ga. Comp. R. & Regs. R. 120-2-40-.07
Authority: O.C.G.A. Secs. 20-2-2019, 33-2-9 and 36-85-16.
History. Original Rule entitled "Financial Reporting; Annual Statements; Quarterly Statements" was filed on April 10, 1987; effective April 30, 1987.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public

examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-40-.08. Books and Records; Examination.

Cite as Ga. Comp. R. & Regs. R. 120-2-40-.08
Authority: O.C.G.A. Secs. 20-2-2019, 33-2-9 and 36-85-16.
History. Original Rule entitled "Books and Records; Examination" was filed on April 10, 1987; effective April 30, 1987.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-40-.09. Membership.

Cite as Ga. Comp. R. & Regs. R. 120-2-40-.09
Authority: O.C.G.A. Secs. 20-2-2019, 33-2-9 and 36-85-16.
History. Original Rule entitled "Membership" was filed on April 10, 1987; effective April 30, 1987.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-40-.10. Specific and Aggregate Excess Insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-40-.10
Authority: O.C.G.A. Secs. 20-2-2019, 33-2-9 and 36-85-16.
History. Original Rule entitled "Specific and Aggregate Excess Insurance" was filed on April 10, 1987; effective April 30, 1987.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-40-.11. Surplus.

Cite as Ga. Comp. R. & Regs. R. 120-2-40-.11
Authority: O.C.G.A. Secs. 20-2-2019, 33-2-9 and 36-85-16.
History. Original Rule entitled "Surplus" was filed on April 10, 1987; effective April 30, 1987.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public

examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-40-.12. Administrator's Bond and Insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-40-.12
Authority: O.C.G.A. Secs. 20-2-2019, 33-2-9 and 36-85-16.
History. Original Rule entitled "Administrator's Bond and Insurance" was filed on April 10, 1987; effective April 30, 1987.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-40-.13. Compensation of Administrator or Trustee.

Cite as Ga. Comp. R. & Regs. R. 120-2-40-.13
Authority: O.C.G.A. Secs. 20-2-2019, 33-2-9 and 36-85-16.
History. Original Rule entitled "Compensation of Administrator or Trustee" was filed on April 10, 1987; effective April 30, 1987.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-40-.14. Premiums.

Cite as Ga. Comp. R. & Regs. R. 120-2-40-.14
Authority: O.C.G.A. Secs. 20-2-2019, 33-2-9 and 36-85-16.
History. Original Rule entitled "Premiums" was filed on April 10, 1987; effective April 30, 1987.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-40-.15. Reserves.

Cite as Ga. Comp. R. & Regs. R. 120-2-40-.15
Authority: O.C.G.A. Secs. 20-2-2019, 33-2-9 and 36-85-16.
History. Original Rule entitled "Reserves" was filed on April 10, 1987; effective April 30, 1987.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public

examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-40-.16. Rate Filings.

Cite as Ga. Comp. R. & Regs. R. 120-2-40-.16
Authority: O.C.G.A. Secs. 20-2-2019, 33-2-9 and 36-85-16.
History. Original Rule entitled "Rate Filings" was filed on April 10, 1987; effective April 30, 1987.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-40-.17-.19. Reserved for Future Use.

Cite as Ga. Comp. R. & Regs. R. 120-2-40-.17-.19
Authority: O.C.G.A. Secs. 20-2-2019, 33-2-9 and 36-85-16.

Rule 120-2-40-.20. Penalties.

Cite as Ga. Comp. R. & Regs. R. 120-2-40-.20
Authority: O.C.G.A. Secs. 20-2-2019, 33-2-9 and 36-85-16.
History. Original Rule entitled "Penalties" was filed on April 10, 1987; effective April 30, 1987.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Rule 120-2-40-.21. Severability.

Cite as Ga. Comp. R. & Regs. R. 120-2-40-.21
Authority: O.C.G.A. Secs. 20-2-2019, 33-2-9 and 36-85-16.
History. Original Rule entitled "Severability" was filed on April 10, 1987; effective April 30, 1987.
Editor's Note:
In accordance with Ga. Laws 1967, p. 618, (Ga. Code Ann., Section 3A-124), the contents of the following Rules are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the office of the Comptroller General and are open for public examination and copying. (See **Editor's Note**, p. 88.03.)

Subject 120-2-41. MODIFICATIONS TO CLASSIFICATIONS OF RISKS.

Rule 120-2-41-.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. Section 33-2-9 and Act 669, Ga. L. 1987, p. 911.

Cite as Ga. Comp. R. & Regs. R. 120-2-41-.01
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Statutory Authority" adopted. F. Nov. 10, 1987; eff. Jan. 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-41-.02. Purpose.

The purpose of this Regulation is to establish guidelines and limitations for premium modification rating plans.

Cite as Ga. Comp. R. & Regs. R. 120-2-41-.02
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Purpose" adopted. F. Nov. 10, 1987; eff. Jan. 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-41-.03. Definitions.

(1) "Commissioner" shall mean the Commissioner of Insurance of the State of Georgia.

(2) "Line of coverage" shall mean each separate line from the annual statement "Exhibit of Premiums and Losses" required to be filed by Rule 120-2-18-.04 of the Rules and Regulations of the Georgia Insurance Department.

(3) "Plans" or "Rating Plans" shall mean rating plans which modify classification rates to produce rates for individual risks.

(4) "Regulation" shall mean Chapter 120-2-41 of the Rules and Regulations of the Georgia Insurance Department.

Cite as Ga. Comp. R. & Regs. R. 120-2-41-.03
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Definitions" adopted. F. Nov. 10, 1987; eff. Jan. 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-41-.04. Standards for Rating Plans.

(1) The standards and limitations of this Rule apply to rating plans which establish standards to modify classification rates to produce rates for individual risks.

(2) For plans based on the past loss experience of the individual risk, the insured must furnish proof of the loss record from the previous insurer or insurers for the lesser of:

(a) the experience period; or

(b) the length of time the risk has been insured.

(3) The requirements of paragraph (2) of this Rule do not apply to an experience rating modifier published by the National Council on Compensation Insurance or by the Surety Association of America and otherwise may be waived if the loss record is not available due to:

(a) insolvency or liquidation of the previous insurer; or

(b) the previous insurer not being subject to the jurisdiction of the Georgia Insurance Department.

(4) It shall be permissible for an insurer to quote, bind coverage, and issue a policy based on the insured's statement of the previous loss record. However, the policy must be endorsed to eliminate the experience rating modification if proper proof of the loss record is not furnished within sixty (60) days of the effective date of the policy.

(5) Except as provided in Rule 120-2-41-.05, for plans based on factors other than past loss experience, the maximum debit shall be fifteen percent (15%) and the maximum credit shall be fifteen percent (15%).

Cite as Ga. Comp. R. & Regs. R. 120-2-41-.04
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Standards for Rating Plans" adopted. F. Nov. 10, 1987; eff. Jan. 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-41-.05. Exceptions to Standards.

(1) Notwithstanding paragraph (5) of Rule 120-2-41-.04, plans based on factors other than past loss experience to which this Regulation applies may utilize a maximum debit of forty percent (40%) and a maximum credit of fifty percent (50%) if the insurer shows to the satisfaction of the Commissioner that the amount collected on an annualized basis from all insureds under the line of coverage of the rating plan of the insurer is not less than ninety-five percent (95%) but not more than one hundred five percent (105%) of an amount represented by the product of the filed rate amount on the line of coverage of the rating plan multiplied by the annualized number of insureds.

(2) For purposes of implementation of this Regulation, an insurer is deemed to be in compliance, as of January 1, 1988, with paragraph (1) of this Rule.

(3) Reporting of compliance for continued usage of the debit and credit percentages under paragraph (1) of this Rule shall be on an annual basis which shall coincide with the expiration date of policies, if such policies issued have a uniform annual expiration date. Otherwise, reporting shall be made as of December 31 of each year. Reports shall be due in the Office of the Commissioner on the reporting date of the annual statement as provided by law.

(4) If a report shows a failure to comply with paragraph (1) of this Rule regarding collected amounts, the insurer shall use the percentages specified under paragraph (5) of Rule 120-2-41-.04 for one (1) year following the reporting date specified in paragraph (3) of this Rule upon all policies issued or renewed under such rating plan, unless the insurer files new rates for such rating plan which, under such submission, will achieve compliance. Additionally, a failure to file new rates shall be analyzed for a failure to comply with paragraphs (1) through (6) of O.C.G.A. Section 33-9-4.

Cite as Ga. Comp. R. & Regs. R. 120-2-41-.05
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Exceptions to Standards" adopted. F. Nov. 10, 1987; eff. Jan. 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-41-.06. Regulation Not Applicable.

This Regulation shall not apply to:

(a) automobile insurance rating plans based on the driving record of insured drivers;

(b) retrospective rating plans; or

(c) individual risk filings.

Cite as Ga. Comp. R. & Regs. R. 120-2-41-.06
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Regulation Not Applicable" adopted. F. Nov. 10, 1987; eff. Jan. 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-41-.07. Limitations on Exempted Plans and Modifications.

Plans and modifications not subject to this Regulation or exempted from this Regulation under paragraph (3) of Rule 120-2-41-.04 or Rule 120-2-41-.06 shall be subject to such limitations as are contained in the rate filing accepted by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-41-.07
Authority: O.C.G.A. Sec. 33-2-9.

History. Original Rule entitled "Limitations on Exempted Plans and Modifications" adopted. F. Nov. 10, 1987; eff. Jan. 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-41-.08. Plans Considered Withdrawn.

All plans on file with the Commissioner not in compliance with this Regulation will be considered withdrawn as of the effective date of this Regulation. New filings of such plans will be subject to prior approval.

Cite as Ga. Comp. R. & Regs. R. 120-2-41-.08
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Plans Considered Withdrawn" adopted. F. Nov. 10, 1987; eff. Jan. 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-41-.09. Penalties.

Any insurer, agent, representative, officer or employee of such insurer failing to comply with the requirements of this Regulation shall be subject to such penalties as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-41-.09
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Penalties" adopted. F. Nov. 10, 1987; eff. Jan. 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-41-.10. 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 the persons or circumstances shall not be affected.

Cite as Ga. Comp. R. & Regs. R. 120-2-41-.10
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Severability" adopted. F. Nov. 10, 1987; eff. Jan. 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-41-.11. Effective Date.

This Regulation shall become effective January 1, 1988.

Cite as Ga. Comp. R. & Regs. R. 120-2-41-.11
Authority: O.C.G.A. Sec. 33-2-9.

History. Original Rule entitled "Effective Date" adopted. F. Nov. 10, 1987; eff. Jan. 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Subject 120-2-42. READABILITY STANDARDS FOR PERSONAL LINES POLICIES.

Rule 120-2-42-.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 33-2-9 and 33-3-25.

Cite as Ga. Comp. R. & Regs. R. 120-2-42-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-3-25.
History. Original Rule entitled "Statutory Authority" adopted. F. May 20, 1988; eff. July 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-42-.02. Purpose.

The purpose of this Regulation is to establish minimum standards of readability for homeowners insurance policies, tenant homeowners insurance policies, and personal automobile insurance policies.

Cite as Ga. Comp. R. & Regs. R. 120-2-42-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-3-25.
History. Original Rule entitled "Purpose" adopted. F. May 20, 1988; eff. July 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-42-.03. Definitions.

(1) "Commissioner" means the Commissioner of Insurance of this State.

(2) "Form" means a separately titled or numbered form which forms a part of a policy.

(3) "Insurer" means any property or casualty insurer licensed to do business in this State.

(4) "Policy" means an insurance contract of homeowners, tenant homeowners, or personal automobile insurance delivered or issued for delivery in this State.

(5) "Regulation" shall mean Chapter 120-2-42 of the Rules and Regulations of the Georgia Insurance Department.

Cite as Ga. Comp. R. & Regs. R. 120-2-42-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-3-25.
History. Original Rule entitled "Definitions" adopted. F. May 20, 1988; eff. July 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-42-.04. Standards.

Policies and forms subject to this Regulation shall meet the following standards:

(a) The policy shall include a table of contents of important provisions.

(b) Each section shall be self-contained and independent. However, general provisions applicable to more than one section may be included in a common section.

(c) The policy, except for declarations pages, schedules, and tables, shall be printed in not less than ten-point type, one-point leaded.

(d) The policy shall be printed in a legible type-style with adequate contrast between ink and paper. Captions, headings, and spacing shall be used to increase overall legibility.

(e) The policy shall be written in everyday conversational language consistent with its standing as a contract. Short sentences and a personal style shall be used wherever possible.

(f) Technical terms and words with special meaning shall be avoided wherever possible.

(g) The policy text shall achieve a minimum score of forty (40) on the Flesch Reading Ease Test or an equivalent score on any other comparable test or a lower score on either if the Commissioner finds the policy reasonably easy to read. For purposes of this Regulation, a Flesch Reading Ease Test shall be scored by the following methods:

1. For a policy containing 10,000 words or less of text, the entire policy shall be analyzed. For a policy containing more than 10,000 words, the readability of two 100-word samples per page may be analyzed instead. The samples shall be separated by at least twenty (20) printed lines.

2. The total number of words in the text or sample shall be divided by the total number of sentences. The figure obtained shall be multiplied by 1.015.

3. The total number of syllables in the text or sample shall be divided by the total number of words. The figure obtained shall be multiplied by 84.6.

4. The sum of the figures computed under subparagraphs 2. and 3. subtracted from 206.835 equals the Flesch Reading Ease Test score.

5. For purposes of this Regulation, the following procedures shall be used:

(i) A contraction, hyphenated word, number, or letter, when separated by spaces, shall be counted as one word;

(ii) A unit of text ending with a period, semicolon, or colon shall be counted as a sentence;

(iii) A syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. Where the dictionary shows two or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used; and

(iv) At the option of the insurer, any form made a part of the policy may be scored separately or as part of the policy.

6. The term "text" as used in this Regulation includes all printed matter except the name and address of the insurer; the name, number or title of the policy or form; the table of contents or index; headings and captions; and declarations pages, schedules, or tables.

7. The Commissioner may authorize a lower score than the Flesch reading score required in subparagraph (g) of Rule 120-2-42-.04 if such lower score is caused by certain language which is drafted to conform to the requirements of any state or federal law, regulation or agency interpretation.

Cite as Ga. Comp. R. & Regs. R. 120-2-42-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-3-25.
History. Original Rule entitled "Standards" adopted. F. May 20, 1988; eff. July 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-42-.05. Applicability.

This Regulation shall be applicable to all policies delivered or issued for delivery in this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-42-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-3-25.
History. Original Rule entitled "Applicability" adopted. F. May 20, 1988; eff. July 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-42-.06. Filings.

Filings subject to this Regulation shall be accompanied by a certificate signed by an officer of the insurer stating that it meets the minimum reading ease score on the test used or stating that

the score is lower than the minimum required but should be approved in accordance with subparagraph (g) of Rule 120-2-42-.04. To confirm the accuracy of any certification, the Commissioner may require the submission of further information to verify the certification in question.

Cite as Ga. Comp. R. & Regs. R. 120-2-42-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-3-25.
History. Original Rule entitled "Filings" adopted. F. May 20, 1988; eff. July 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-42-.07. Implementation Dates.

All new and renewal policies with effective dates on or after July 1, 1988, shall comply with this Regulation. For purposes of this Regulation, continuous policies shall be deemed to be renewed at the six-month anniversary date next following this implementation date.

Cite as Ga. Comp. R. & Regs. R. 120-2-42-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-3-25.
History. Original Rule entitled "Implementation Dates" adopted. F. May 20, 1988; eff. July 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-42-.08. Penalties.

Any insurer, agent, representative, officer, or employee of such insurer, failing to comply with the requirements of this Regulation shall be subject to such penalties as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-42-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-3-25.
History. Original Rule entitled "Penalties" adopted. F. May 20, 1988; eff. July 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-42-.09. 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.

Cite as Ga. Comp. R. & Regs. R. 120-2-42-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-3-25.
History. Original Rule entitled "Severability" adopted. F. May 20, 1988; eff. July 1, 1988, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Subject 120-2-43. MEDICAL OR LIFE-STYLE QUESTIONS ON APPLICATIONS AND UNDERWRITING GUIDELINES AFFECTING AIDS AND ARC.

Rule 120-2-43-.01. Purpose.

The purpose of this Rule is to establish standards pursuant to O.C.G.A. Sections 33-2-9 and 31-22-9.2 to assist insurers to formulate and design medical or life-style questions in applications and underwriting standards affecting health and life insurance coverages.

Cite as Ga. Comp. R. & Regs. R. 120-2-43-.01
Authority: O.C.G.A. Secs. 31-22-9.2, 33-2-9.
History. Original Rule entitled "Purpose" adopted. F. Jan. 17, 1989; eff. Feb. 15, 1989, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-43-.02. Questions on Applications.

(1) Questions relating to medical and other factual material intended to reveal the possible existence of a medical condition are permissible if they are not used as a proxy to establish the sexual orientation of the applicant, and the applicant has been given an opportunity to provide an explanation for any affirmative answers given in the application. No question may be asked if the purpose of such question is to establish the sexual orientation of an applicant.

For example: "Have you had chronic cough, significant weight loss, chronic fatigue, diarrhea, enlarged glands, . . ." These types of questions should be related to a finite period of time, not more than ten years, preceding completion of the application and should be specific. All of the questions above should provide the applicant the opportunity to give a detailed explanation.

(2) Questions relating to the applicant having been diagnosed as having or having been advised by a member of the medical profession to seek treatment for a sexually transmitted disease are permissible.

(3) Neither the marital status, the "living arrangements," the occupation, the gender, the medical history, the beneficiary designation, nor the zip code or other territorial classification of an applicant may be used to establish, or aid in establishing the applicant's sexual orientation.

(4) For purposes of rating an applicant for health and life insurance, an insurer may impose territorial rates, but only if the rates are based on sound actuarial principles or are related to actual or reasonably anticipated experience.

Cite as Ga. Comp. R. & Regs. R. 120-2-43-.02
Authority: O.C.G.A. Secs. 31-22-9.2, 33-2-9.

History. Original Rule entitled "Questions on Applications" adopted. F. Jan. 17, 1989; eff. Feb. 15, 1989, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-43-.03. Counseling; Prohibition of Adverse Decisions.

No adverse underwriting decision shall be made because medical records or a report from an insurance support organization shows that the applicant has demonstrated AIDS-related concerns by seeking counseling from health care professionals. This paragraph does not apply to an applicant seeking treatment or diagnosis.

Cite as Ga. Comp. R. & Regs. R. 120-2-43-.03
Authority: O.C.G.A. Secs. 31-22-9.2, 33-2-9.
History. Original Rule entitled "Counseling; Prohibition of Adverse Decisions" adopted. F. Jan. 17, 1989; eff. Feb. 15, 1989, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-43-.04. Phrasing of Questions.

All underwriting questions must be phrased in such a manner as to elicit a factual response.

For example: A question such as: "Do you have any immunodeficiency disorders?" is too broad and would not be readily understood by an applicant and is not designed to elicit a factual answer. An insurer can ask for specific immunodeficiency disorders.

Questions such as: "Have you ever been diagnosed as having AIDS or ARC?" or "Have you tested positive on an AIDS-related blood test?" are also acceptable. An applicant may not be turned down due to a single positive test which is not a complete established test protocol unless the applicant fails to give his written consent to further testing.

Questions such as: "Have you ever been exposed to AIDS or ARC?" or "Have you ever had or been told you had AIDS Related Conditions?" are not acceptable due to the vagueness of the words "exposed" and "conditions."

Cite as Ga. Comp. R. & Regs. R. 120-2-43-.04
Authority: O.C.G.A. Secs. 31-22-9.2, 33-2-9.
History. Original Rule entitled "Phrasing of Questions" adopted. F. Jan. 17, 1989; eff. Feb. 15, 1989, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-43-.05. Prohibition of Benefits Reduction.

(1) No health insurance policy, individual or group, may contain a provision which excludes expenses due to AIDS or ARC or places lower limits on the benefits available if the

insured is being treated for AIDS or ARC under the policy. "Limits" would include, but not be limited to, reduced lifetime benefit caps, lower coinsurance percentages and shorter benefit periods.

(2) Reduction riders excluding or limiting coverage for AIDS or ARC must be restricted to a preexisting condition only of a specified insured.

Cite as Ga. Comp. R. & Regs. R. 120-2-43-.05
Authority: O.C.G.A. Secs. 31-22-9.2, 33-2-9.
History. Original Rule entitled "Prohibition of Benefits Reduction" adopted. F. Jan. 17, 1989; eff. Feb. 15, 1989, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-43-.06. Notice and Consent to Blood Testing.

Whenever an applicant is requested to take an AIDS-related test in connection with an application for insurance, the use of such a test must be revealed to the applicant and his or her written consent obtained. No adverse underwriting decision shall be made on the basis of a positive AIDS-related test unless an established test protocol has been followed. At a minimum, an established test protocol requires two positive ELISA tests and one positive Western blot. If new and more effective AIDS-related tests are developed, they may be used as a substitute for the aforementioned test.

Shown below is an acceptable "Notice and Consent for Blood Testing" form. The form should contain an appropriate form number and be filed with the Georgia Insurance Department for approval.

EXAMINER _____	INSURER _____
ADDRESS _____	ADDRESS _____
_____	_____
_____	_____

NOTICE AND CONSENT FOR BLOOD TESTING WHICH MAY INCLUDE AIDS VIRUS (HIV) ANTIBODY/ANTIGEN TESTING

To determine your insurability, the insurer named above ("the insurer") has requested that you provide a sample of your blood for testing and analysis. All tests will be performed by a licensed laboratory.

Tests may be performed to determine the presence of antibodies or antigens to the Human Immunodeficiency Virus (HIV), also known as the AIDS virus. The HIV antibody test is actually a series of tests done by a medically accepted procedure. The HIV antigen test directly identifies AIDS viral particles. These tests are extremely reliable. Other tests which may be performed include determinations of blood cholesterol and related lipids (fats) and screening for liver or kidney disorders, diabetes, and immune disorders.

All tests results will be treated confidentially. They will be reported by the laboratory to the insurer. When necessary for business reasons in connection with insurance you have or have applied for with the insurer, the insurer may disclose test results to others such as its affiliates, reinsurers, independent contractors, and its employees to whom disclosure is reasonably necessary in the ordinary course of business to carry out the purposes for which that disclosure is authorized or required. If the insurer is a member of the Medical Information Bureau ("MIB, Inc."), and if the test results for HIV antibodies/antigens are other than normal, the insurer will report to the MIB, Inc., a generic code which signifies only a nonspecific blood test abnormality. The test results may also be disclosed to any member company that receives an application for health or life insurance on your life. If your HIV test is normal, no report will be made about it to the MIB, Inc. Other test results may be reported to the MIB, Inc., in a more specific manner. The organizations described in this paragraph may maintain the test results in a file or data bank. There will be no other disclosure of test results or even that the tests have been done except as may be required or permitted by law or as authorized by you.

If your HIV test results are normal, no routine notification will be sent to you. If the HIV test results are other than normal, the insurer will contact you. The insurer may also contact you if there are other abnormal test results which, in the insurer's opinion, are significant. The insurer may ask you for the name of a physician or other health care provider to whom you may authorize disclosure and with whom you may wish to discuss the results.

Positive HIV antibody/antigen test results do not mean that you have AIDS, but that you are at significantly increased risk of developing AIDS or AIDS-related conditions. Federal authorities say that persons who are HIV antibody/antigen positive should be considered infected with the AIDS virus and capable of infecting others.

Positive HIV antibody or antigen test results or other significant blood abnormalities will adversely affect your application for insurance. This means that your application may be declined, that an increased premium may be charged, or that other policy changes may be necessary.

I have read and I understand this Notice and Consent for Blood Testing Which May Include HIV Antibody/Antigen Testing. I voluntarily consent to the withdrawal of blood from me by needle, the testing of blood, and the disclosure of the test results as described above. I understand that this consent shall be valid for thirty (30) months following the date shown below.

I understand that I have the right to request and receive a copy of this authorization. A photocopy or transmitted facsimile of this form will be as valid as the original. I also have the right, upon written request, to an insurance institution (insurers), agent, or insurance support organization for access to recorded personal information and a copy of same within thirty (30) business days from the date such request is received. I have the right to request, in writing, that any recorded personal information be corrected, amended, or deleted within thirty (30) business days from the date of receipt of my written request by an insurance institution, agent, or insurance support organization. If my request is not honored, I have the right to file a concise statement of the correct, relevant or fair information; and the reasons why I disagree with such refusal to correct, amend, or delete recorded personal information.

Proposed Insured		Date of Birth
Signature of Proposed Insured or Parent/ Guardian	Date	State of Residence

Cite as Ga. Comp. R. & Regs. R. 120-2-43-.06
Authority: O.C.G.A. Secs. 31-22-9.2, 33-2-9.
History. Original Rule entitled "Notice and Consent to Blood Testing" adopted. F. Jan. 17, 1989; eff. Feb. 15, 1989, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Subject 120-2-44. PREFERRED PROVIDER ARRANGEMENTS.

Rule 120-2-44-.01. Authority.

This Chapter is promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A §§ 33-30-27, 33-29-3.2, 33-29-3.4 and 33-2-9.

Cite as Ga. Comp. R. & Regs. R. 120-2-44-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-30-27.
History. Original Rule entitled "Authority" f. Feb. 9, 1989; eff Mar. 1, 1989, as specified by the Agency.
Repealed: New Rule, same title, adopted. F. Jan. 21, 1997; eff. Feb. 10, 1997.

Rule 120-2-44-.02. Purpose.

The purposes of this Chapter are:

(a) To regulate individual and group accident and sickness insurance plans, providing for differentials in benefit levels payable for preferred and non-preferred providers.

(b) To protect the interests of the enrolled public.

(c) To provide for disclosure of certain restrictions under individual and group insurance plans utilizing preferred provider arrangements.

(d) To define certain types of managed care principles and practices as they relate to current Preferred Provider Arrangements and individual or group accident and sickness contracts.

Cite as Ga. Comp. R. & Regs. R. 120-2-44-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-30-27.
History. Original Rule entitled "Purpose" f. Feb. 9, 1989; eff Mar. 1, 1989, as specified by the Agency.
Repealed: New Rule, same title, adopted. F. Jan. 21, 1997; eff. Feb. 10, 1997.

Rule 120-2-44-.03. Definitions.

(1) "Co-pay" means a discrete, specified dollar amount an insured must pay for specified covered services at the time of service.

(2) "Preferred Benefits" means services and/or benefits due or payable when the insured seeks covered health care services from a Preferred Provider in accordance with policy provisions.

(3) "Preferred Provider Insurance Policy" means an individual accident and sickness insurance policy, group accident and sickness insurance master policy or certificate, by whatever name called, other than:

(a) disability income;

(b) specified disease;

(c) health insurance policy written as part of Workers' Compensation equivalent coverage; or

(d) a credit accident and sickness insurance policy which provides for differentials in the level of benefits because of preferred provider arrangements, or participation contracts between the insurer and health care providers through which insurers attempt to effect cost savings by employing financial and/or managed care principles in a health insurance policy or certificate.

(4) "Gatekeeper" means a primary care physician or other appropriate health care provider who is a preferred provider, as described in the preferred provider insurance policy or certificate, and who acts as a required initial point of contact for the insured and through whom covered health benefits may be required to be accessed or permission to seek covered care may be required by the insurer in order to receive preferred benefits.

(5) "Non-Preferred Benefits" means benefits payable on an indemnity basis when the insured seeks covered health care services from a non-preferred provider in accordance with policy provisions.

(6) Other terms used in this Chapter shall be defined to have the same meaning as the meaning ascribed to the particular terms by O.C.G.A. § 33-30-22 or by O.C.G.A. Title 33, whichever is applicable.

Cite as Ga. Comp. R. & Regs. R. 120-2-44-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-30-27.
History. Original Rule entitled "Definitions" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Repealed: New Rule, same title, adopted. F. Jan. 21, 1997; eff. Feb. 10, 1997.

Rule 120-2-44-.04. Required Policy Provisions.

(1) Preferred provider arrangements shall contain provisions for the continuous review of the utilization of services and facilities, and costs.

(2) Each individual policy or group preferred provider insurance policy shall contain a provision that the policyholder is entitled to a grace period of not less than thirty-one (31) days for the payment of any premium due except the first, during which grace period the coverage shall continue in force, unless the group or individual policyholder shall have given the health care insurer notice of discontinuance thirty (30) days in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the group or individual policyholder may be liable to the health care insurer for payment of a pro rata premium for the time the coverage was in force during such grace period.

(3) Any contract between a health care insurer and the various health care providers shall state that an insured shall be held harmless for provider utilization review decisions over which he has no control. In the absence of such hold harmless agreement, the agreement shall be deemed to be included therein.

(4) If the preferred provider insurance policy or health benefit plan defines a specific service area, the insurer shall not terminate the members coverage because an individual policyholder or group member moves out of the service area.

(5) Differentials in coinsurance percentages which are applicable to benefit levels for services provided by preferred and nonpreferred providers may not exceed thirty percentage points. The coinsurance percentage applicable to benefit levels for services provided by non-preferred providers may not be greater than forty percent (40) of the benefit levels under the policy for such services. Examples of acceptable coinsurance percentages payable by an insured for preferred and nonpreferred providers, respectively, are 0, 30; 5, 35; 10, 40; 20, 40; 30, 40.

(6) Individual preferred provider insurance policies, outlines of coverage or preferred provider insurance certificates shall contain a brief and prominent notice in boldface type reflecting the limitations of the preferred provider policy or health plan benefit. Such warning shall be placed on the face page of the policy, outline of coverage or certificate and refer to the differentials in coinsurance percentages payable by the insureds for preferred and nonpreferred provider services, service area requirements, and emergency care services.

(7) Preferred Provider Insurance policies or certificates shall fully disclose the limitations, differentials, penalties, incentives or other arrangements by which the insurer provides for a primary care physician or other health care provider, as defined by the insurance policy or certificate, to act as a gatekeeper, if any. A gatekeeper shall not be used to restrict access to services or non-preferred providers under the individual preferred provider policy or group preferred provider certificate.

(8) Preferred Provider Insurance policies or certificates shall fully disclose the use of discrete dollar copayments which apply to any covered health care benefits under the policy or

certificate. Discrete dollar copayments may be imposed by an insurer in a Preferred Provider Insurance policy or certificate and need not be considered in the determination of percentage differential limitations described in O.C.G.A. Section 33-30-23. Such copayments, if applicable, shall be reasonable in relation to the covered benefits to which they apply, shall serve as an incentive rather than a barrier to access of appropriate care and shall not work so as to unfairly deny necessary health care services.

Cite as Ga. Comp. R. & Regs. R. 120-2-44-.04
Authority: O.C.G.A. Secs. 33-2-9, 30-23-30, 33-30-27.
History. Original Rule entitled "Required Policy Provisions" f. Feb. 9, 1989; eff Mar. 1, 1989, as specified by the Agency.
Amended: F. Aug. 26, 1992; eff. Sept. 17, 1992.
Repealed: New Rule, same title, adopted. F. Jan. 21, 1997; eff Feb. 10, 1997.

Rule 120-2-44-.05. Prohibited Policy Provision.

(1) In no event may a health care insurer deny at least non-preferred level of covered benefit reimbursement to an insured for services provided by a nonpreferred provider on the grounds that the insured was not referred to a preferred provider by a person acting on behalf of or under an agreement with the health care insurer.

(2) Preferred Provider Arrangements or Preferred provider insurance policies or certificates may not contain terms or conditions that would operate unreasonably to restrict the accessibility and availability of health care services for the insured.

(3) A health care insurer may not issue policies in this State containing preferred provider arrangements that provide no reimbursement for expenses of health care services rendered by a non-preferred provider.

(4) No health care plan utilizing a preferred provider arrangement shall be issued if the defined service area does not contain sufficient numbers of preferred providers to afford reasonable access to health care services by those persons covered under such plan.

Cite as Ga. Comp. R. & Regs. R. 120-2-44-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-30-27.
History. Original Rule entitled "Prohibited Policy Provision" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Repealed: New Rule, same title, adopted. F. Jan. 21, 1997; eff. Feb. 10, 1997.

Rule 120-2-44-.06. Rates and Forms.

(1) In accordance with the Rules and Regulations of the Office of Commissioner of Insurance § 120-2-25-.06(1)(g), every group policy or contract, certificate, rider, endorsement, and application to be issued, delivered, or issued for delivery in this State in connection with a

health plan having a preferred provider arrangement must be submitted for approval prior to use in this State. Following an initial approval of these forms for each insurer, subsequent, substantially similar group certificates and associated forms may be treated as exempt forms pursuant to the Rules and Regulations of the Office of Commissioner of Insurance § 120-2-25-.05(3), provided the insurer files a notice and schedule of benefit changes with the Commissioner of Insurance for informational purposes at least 30 days prior to the use of such forms.

(2) Basic rates and charges shall not be excessive, inadequate, or unfairly discriminatory. A certification by a qualified actuary to the appropriateness of the basic rates, based on reasonable assumptions as to expected medical expenses, administrative expenses, and margins for contingencies, shall accompany the filing along with supporting information.

Cite as Ga. Comp. R. & Regs. R. 120-2-44-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-30-27.
History. Original Rule entitled "Rates and Forms" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Repealed: New Rule, same title, adopted. F. Jan. 21, 1997; eff. Feb. 10, 1997.

Rule 120-2-44-.07. Allowable Arrangements.

Only preferred provider arrangements and preferred provider insurance policies which contain payment plans for preferred providers and nonpreferred providers and insurance policy provisions conforming to the provisions of Article 2 of Chapter 30 of Title 33 or other applicable sections of Title 33 relative to individual preferred provider insurance plans of accident and sickness insurance within the Official Code of Georgia Annotated shall be permitted.

Cite as Ga. Comp. R. & Regs. R. 120-2-44-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-30-27.
History. Original Rule entitled "Allowable Arrangements" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Repealed: New Rule, same title, adopted. F. Jan. 21, 1997; eff. Feb. 10, 1997.

Rule 120-2-44-.08. Disclosure and Advertising Materials.

(1) The health care insurer shall provide each insured individual or group member with a current preferred provider roster or directory of health care providers under contract to provide services at alternative rates under the health care benefit plan. The roster shall be updated annually, but may be updated more frequently at the insurer's option.

(a) Each preferred provider roster or directory shall contain tollfree telephone numbers so that individuals or groups may confirm current preferred provider status information.

(2) All advertising material used in the solicitation and sale of health benefit plans having preferred provider arrangements shall comply with the requirements of O.C.G.A. Title 33, Chapter 6, entitled "Unfair Trade Practices," and the Rules and Regulations of the Office of Commissioner of Insurance Chapter 120-2-12, entitled "Advertising Accident and Sickness Insurance."

(3) Publications or advertisements of health benefit plans having preferred provider arrangements shall not refer to the quality or efficiency of the services of nonparticipating providers.

Cite as Ga. Comp. R. & Regs. R. 120-2-44-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-30-27.
History. Original Rule entitled "Disclosure and Advertising" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Repealed: New Rule entitled "Disclosure and Advertising Materials" adopted. F. Jan. 21, 1997; eff. Feb. 10, 1997.

Rule 120-2-44-.09. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-44-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-30-27.
History. Original Rule entitled "Severability Provision" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Repealed: New Rule entitled "Severability" adopted. F. Jan. 21, 1997; eff. Feb. 10, 1997.

Rule 120-2-44-.10. Failure to comply; Penalties.

Any insurer, or any agent, counselor, representative, officer, of employee of such insurer failing to comply with the requirements of this Regulation Chapter shall be subject to such penalties as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-44-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-30-27.
History. Original Rule entitled "Failure to Comply; Penalties" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Repealed: New Rule, same title, adopted. F. Jan. 21, 1997; eff. Feb. 10, 1997.

Rule 120-2-44-.11. Rental Preferred Provider Network Registration.

(1) Any person required to register as a rental preferred provider network must submit the requisite forms in accordance with the instructions on the Commissioner's website.

(2) All registrations must be renewed on an annual basis by July 1st of each year per the instructions on the Commissioner's website.

(3) All registered persons must report any material changes to the information submitted on the registration documents within 30 days of such changes.

Cite as Ga. Comp. R. & Regs. R. 120-2-44-.11
Authority: O.C.G.A. §§ 33-2-9, 33-20D-1 et seq.
History. Original Rule entitled "Rental Preferred Provider Network Registration" adopted. F. Mar. 9, 2017; eff. Mar. 29, 2017.

Subject 120-2-45. CAPTIVE INSURANCE COMPANIES.

Rule 120-2-45-.01. Statutory Authority.

This Chapter is promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. § 33-41-23.

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.01
Authority: O.C.G.A. § 33-41-23.
History. Original Rule entitled "Statutory" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Editor's Note: In accordance with O.C.G.A. Section 50-13-21, the contents of this Rule is not filed with or published by the Secretary of State; only names and designations are filed, printed and distributed. This Regulation is on file in the Office of Commissioner of Insurance and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Note: "Editor's Note" rescinded. Eff. Oct. 11, 2015.
Repealed: New Rule entitled "Statutory Authority" adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rule 120-2-45-.02. Purpose.

The purpose of this Chapter is to provide for the establishment and regulation of captive insurance companies.

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.02
Authority: O.C.G.A. § 33-41-23.
History. Original Rule entitled "Purpose" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Editor's Note: In accordance with O.C.G.A. Section 50-13-21, the contents of this Rule is not filed with or published by the Secretary of State; only names and designations are filed, printed and distributed. This Regulation is on file in the Office of Commissioner of Insurance and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Note: "Editor's Note" rescinded. Eff. Oct. 11, 2015.
Repealed: New Rule of same title adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rule 120-2-45-.03. Definitions.

(1) "Commissioner" means the Commissioner of Insurance of the State of Georgia.

(2) "Captive manager" means a third party person that is designated to manage a captive insurance company and to correspond with the Commissioner regarding the business of such company.

(3) "Captive insurance company" or "company" means a captive insurance company as defined in O.C.G.A. § 33-41-2(4).

(4) "Employee captive manager" means an employee of the company who is designated to manage the company and to correspond with the Commissioner regarding the business of such company.

(5) "Person" means an individual, corporation, limited liability company, partnership, association, joint-stock company, trust, unincorporated organization, any similar entity, or any combination of the foregoing acting in concert.

(6) "Service provider" means a captive manager, producer, third party administrator, managing general agent, or an insurance intermediary for a company.

(7) All other terms as defined in O.C.G.A. § 33-41-1*et seq.* or, as appropriate, Title 33 of the Official Code of Georgia Annotated, which are used in this Regulation shall have the same meaning as in such references.

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.03
Authority: O.C.G.A. § 33-41-23.
History. Original Rule entitled "Definitions" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Editor's Note: In accordance with O.C.G.A. Section 50-13-21, the contents of this Rule is not filed with or published by the Secretary of State; only names and designations are filed, printed and distributed. This Regulation is on file in the Office of Commissioner of Insurance and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Note: "Editor's Note" rescinded. Eff. Oct. 11, 2015.
Repealed: New Rule of same title adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rule 120-2-45-.04. Application for Certificate of Authority; Renewal.

(1) Each application for a certificate of authority shall be made on the appropriate form prescribed by the Commissioner and found on the Commissioner's website. It shall be accompanied by all required documents. The application and related documents are subject to review and written approval by the Commissioner.

(2) A company holding an active certificate of authority shall renew its certificate of authority by paying the required fee.

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.04
Authority: O.C.G.A. § 33-41-23.
History. Original Rule entitled "Application for Certificate of Authority; Renewal" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Editor's Note: In accordance with O.C.G.A. Section 50-13-21, the contents of this Rule is not filed with or published by the Secretary of State; only names and designations are filed, printed and distributed. This Regulation is on file in the Office of Commissioner of Insurance and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Note: "Editor's Note" rescinded. Eff. Oct. 11, 2015.
Note: Correction of non-substantive typographical, original Rule title in History changed from "Definitions" to "Application for Certificate of Authority; Renewal." Eff. Oct. 11, 2015.
Repealed: New Rule of same title adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rule 120-2-45-.05. Captive Insurance Company Managers.

(1) Authorization Required.

No person shall, in or from within this state, act as a service provider without the authorization of the Commissioner. Application for such authorization must be made by completing the appropriate application form, which can be found on the Commissioner's website. The application shall be accompanied by all required documents. The application and related documents shall be filed with the application for certificate of authority and are subject to review and approval by the Commissioner.

(2) Service Provider Agreements.

(a) The agreement between any service provider and a company must be in writing. The written agreement with a service provider, and any amendment thereto, shall be filed with the Commissioner at least thirty (30) days prior to the effective date of the agreement unless such initial agreement(s) is filed with the company's Application for Certificate of Authority for a Captive Insurance Company, or any amendment to an agreement.

(b) If the captive manager performs the duties of an insurance managing general agent, reinsurance intermediary, third party administrator, broker or agent, the captive manager must also be specifically authorized by the Commissioner to perform any or all of these functions.

(c) Any agreement filed pursuant to this Rule 120-2-45-.05(2) shall be held as confidential as required by O.C.G.A. § 33-41-16(c).

(3) Designation of a Captive Manager.

Unless a company's plan of operation, as approved by the Commissioner, provides for an employee captive manager, company shall report to the Commissioner in writing, the name and address of the person designated as captive manager and retained to manage the

company. The captive manager shall apply, on a form adopted by the Commissioner, for approval by the Commissioner. The form is available on the Commissioner's website.

(4) Designation of Third Party Administrator.

Each company shall report to the Commissioner in writing, the name and address of the person designated as the third party administrator performing the claims administration and loss reserve functions for the company. The third party administrator shall register on a form adopted by the Commissioner, for approval by the Commissioner or the Georgia Department of Insurance. If the person acting as the third party administrator is the captive manager, then this form is not required. The form is available on the Commissioner's website.

(5) Affirmative Duty of Captive Manager.

The designated captive manager shall have an affirmative fiduciary duty to report and disclose to the Commissioner any violation of the laws of this state or these regulations by the company or any conduct by the officers and directors of the company that threatens the solvency of the company. Failure to report or disclose any violation to the Commissioner may result in the termination of the approval of such captive manager as an authorized service provider to companies in this state. Any report or disclosure by a captive manger submitted to the Commissioner shall be held as confidential pursuant to O.C.G.A. Section 33-41-16(c).

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.05
Authority: O.C.G.A. § 33-41-23.
History. Original Rule entitled "Captive Administrator" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Editor's Note: In accordance with O.C.G.A. Section 50-13-21, the contents of this Rule is not filed with or published by the Secretary of State; only names and designations are filed, printed and distributed. This Regulation is on file in the Office of Commissioner of Insurance and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Note: "Editor's Note" rescinded. Eff. Oct. 11, 2015.
Repealed: New Rule entitled "Captive Insurance Company Managers" adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rule 120-2-45-.06. Biographical questionnaire.

(1) General Requirement - Direct or Indirect Control.

Each officer, director, and each owner of more than ten percent (10%) of the outstanding shares of stock of a company with management rights and duties, including, but not limited to the right to vote upon and appoint members to the board of directors of the company (the "voting stock"), either directly or indirectly through ownership of other persons, shall submit the appropriate biographical form prescribed by the Commissioner and found on the Commissioner's website.

(2) Trusts, Partnership, and Other Limited Control Arrangements - Non-Owner Control.

Where the power to direct or cause the direction of the management and policies of the company on behalf of the owners of the company is held by one or more individuals then the following individual(s), by entity type, will provide the biographical form required in this Regulation 120-2-45-.06(1) as the controlling owner:

(a) Trust - The trustee(s) of the trust or trusts that own, directly or indirectly, more than ten percent (10%) of the outstanding shares of stock of the captive insurance company; or

(b) Partnership/Limited Liability Company/Other like entities ("conduit entity(ies)") - The general partner(s), manager(s), or managing-member(s) of conduit entity(ies) that own, directly or indirectly, more than ten percent (10%) of the outstanding shares of voting stock of the company.

If this Regulation 120-2-45-.06(2) is applicable to a company and the controlling owner files the biographical form required by Regulation 120-2-45-.06(1), then all other owners are exempt from the requirements of Regulation 120-2-45-.06(1).

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.06
Authority: O.C.G.A. § 33-41-23.
History. Original Rule entitled "Biographical Questionnaire" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Editor's Note: In accordance with O.C.G.A. Section 50-13-21, the contents of this Rule is not filed with or published by the Secretary of State; only names and designations are filed, printed and distributed. This Regulation is on file in the Office of Commissioner of Insurance and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Note: "Editor's Note" rescinded. Eff. Oct. 11, 2015.
Repealed: New Rule of same title adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rule 120-2-45-.07. Financial Reporting; Annual Statement; Quarterly Statements.

(1) Annual Reports Requirement for Pure Captives. On or before March 1, all companies doing business in this state shall annually submit to the Commissioner a report of its financial condition as of December 31 of the calendar year preceding then verified by oath by an executive officer. The company shall utilize the appropriate form prescribed by the Commissioner for the annual report. The form is available on the Commissioner's website.

(2) Financial Statements Generally.

Financial Statements shall include:

(a) Balance sheet reporting assets, liabilities, capital and surplus/retained earnings;

(b) Statement of gain or loss from operations;

(c) Statement of changes in capital and surplus/retained earnings;

(d) Statement of changes in capital paid up, gross paid in and contributed surplus/capital and unassigned funds (surplus/retained earnings); and

(e) The notes to financial statements shall be those required by the applicable accounting principles.

(3) Annual Reports for Industrial Insured and Association Captive Insurance Companies and Risk Retention Groups.

(a) Each industrial insured or association captive insurance company and all risk retention groups shall file on or before March 1 of each year a financial report of its business and affairs as of December 31 of the calendar year then preceding. Such report shall be filed on the Property and Casualty "Blank" as adopted for use by the National Association of Insurance Commissioners ("NAIC"). Such companies shall compile and report all information or data necessary to truthfully and fully complete the "Blank" listed above.

(4) Additional Reports.

(a) The Commissioner may by order obtain monthly financial reports from a company. Such financial information shall be truthfully and completely reported in such form as adopted for use by the NAIC or such other form as may be approved by the Commissioner and shall comply with such guidelines and conditions as the Commissioner may require for the proper supervision and monitoring of the financial condition of the company.

(b) Each industrial insured or association captive insurance company directly writing workers' compensation risks and all risk retention groups shall file quarterly report utilizing the NAIC prescribed blank. Such reports of its business and affairs shall be as of March 31, June 30 and September 30 and shall be due May 15, August 15 and November 15 respectively.

(5) Accounting Principles.

(a) Pure Captives must elect either generally accepted accounting principles ("GAAP") or statutory accounting principles which are set forth in the NAIC

accounting practices and procedures manual ("SAP") in the preparation of financial statements.

(b) Industrial and association captives must utilize SAP.

(c) Any change to the accounting principles must be filed and approved by the Commissioner in accordance with Regulation 120-2-45-.11(2).

(6) Compliance Required for Renewal.

Compliance with this Regulation shall be a condition of the renewal of a certificate of authority under O.C.G.A. § 33-41-10.

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.07
Authority: O.C.G.A. § 33-41-23.
History. Original Rule entitled "Financial Reporting; Annual Statement; Quarterly Statements" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Editor's Note: In accordance with O.C.G.A. Section 50-13-21, the contents of this Rule is not filed with or published by the Secretary of State; only names and designations are filed, printed and distributed. This Regulation is on file in the Office of Commissioner of Insurance and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Note: "Editor's Note" rescinded. Eff. Oct. 11, 2015.
Repealed: New Rule of same title adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rule 120-2-45-.08. Examinations and the Organizational Examination.

(1) Examinations Generally.

The Commissioner or his or her representative may examine a company at any time the Commissioner deems appropriate, but no less frequently than once every five (5) years unless the Commissioner makes a written finding that a longer period is warranted for a company.

(2) Organizational Examination.

In addition to processing the application, an organizational examination may be performed before company is licensed. Such examination shall consist of a general survey of the company's corporate records, including charter, bylaws and minute books; verification of capital and surplus; verification of principal place of business; determination of assets and liabilities; and a review of such other factors as the Commissioner deems necessary.

(3) Organizational Examination Fees.

If an organizational examination is required by the Commissioner, the company shall pay $3,000 to the Commissioner's appointed examiner to cover the expenses of the organizational examination. The Commissioner may require, in writing, the captive insurance company to pay a higher amount based upon his or her finding that the complexity of the proposed plan of operation or the risk to the insured(s) or reinsured(s) requires additional initial review by the Commissioner's appointed examiner.

(4) Confidentiality.

Any examination undertaken under this Regulation 120-2-45-.08 shall be confidential in accordance with O.C.G.A. § 33-41-16.

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.08
Authority: O.C.G.A. § 33-41-23.
History. Original Rule entitled "Books and Records" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Editor's Note: In accordance with O.C.G.A. Section 50-13-21, the contents of this Rule is not filed with or published by the Secretary of State; only names and designations are filed, printed and distributed. This Regulation is on file in the Office of Commissioner of Insurance and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Note: "Editor's Note" rescinded. Eff. Oct. 11, 2015.
Repealed: New Rule entitled "Examinations and the Organizational Examination" adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rule 120-2-45-.09. Captive Insurance Company Audits.

(1) Audit Requirement. Each captive insurance company shall engage an independent certified public accountant authorized by the Commissioner to conduct a comprehensive audit and shall file such audited financial report with the Commissioner on or before June 30th of each year. The annual audit report shall be considered part of the company's annual report of financial condition.

(2) Designation of Independent Certified Public Accountant.

Within ninety (90) days of being licensed in Georgia, a company shall report to the Commissioner the name of the audit partner and certified public accountant that it retained to perform its annual audit.

(3) Standards Applicable to Designated Independent Certified Public Accountant.

The Commissioner will accept an audit from the independent certified public accountant subject to the conditions set forth in Regulation 120-2-60-.07(6).

(4) Notification of Adverse Financial Condition.

A company shall require the certified public accountant to immediately notify in writing an officer and all members of the Board of Directors of the company of any determination by the independent certified public accountant that the company has materially misstated its financial condition in its report to the Commissioner. The certified public accountant shall furnish such notification to the Commissioner within five (5) business days of the delivery of the written notice to Board of Directors.

(5) Availability and Maintenance of Working Papers of the Independent Certified Public Accountant.

(a) Each company shall require the independent certified public accountant to make available for review by the Commissioner or his or her appointed agent the work papers prepared in the conduct of the audit of the company. The company shall require that the independent certified public accountant retain the audit work papers for a period of seven (7) years or the period of time covering one (1) year prior to the last examination, or from the date of the organizational examination if no subsequent examination has been completed, whichever period is longer.

(b) The aforementioned review by the Commissioner shall be considered examination work papers and shall be confidential in accordance with O.C.G.A. § 33-41-16(b). The company shall require that the independent certified public accountant provide photocopies or equivalent copy of any of the working papers which the Commissioner considers relevant. Such working papers may be retained by the Commissioner.

(c) "Work Papers" or "Working Papers" as referred to in this rule include, but are not limited to, schedules, analyses, reconciliations, abstracts, memoranda, narratives, flow charts, copies of company records or other documents prepared or obtained by the independent certified public accountant and the employees of such in the conduct of their examination of the company.

(d) The lead (or coordinating) audit partner (having primary responsibility for the audit) may not act in that capacity for more than five (5) consecutive years. The person shall be disqualified from acting in that or similar capacity for the same company or its insurance subsidiaries or affiliates for a period of five (5) consecutive years. An insurer may make application to the Commissioner for relief from the above rotation requirement on the basis of unusual circumstances. This application should be made at least thirty (30) days before the end of the calendar year. The Commissioner may consider the following factors in determining if the relief should be granted:

1. Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;

2. Premium volume of the company;

3. Number of jurisdictions in which the company transacts business;

4. Types of risks directly written;

5. Complexity of the company's operations; and

6. Whether the company is organized as a pure captive.

(6) Annual Audit Requirements

(a) Opinion of Independent Certified Public Accountant

Financial statements furnished pursuant to this Regulation shall be examined by independent certified public accountants in accordance with generally accepted auditing standards as determined by the American Institute of Certified Public Accountants in effect for the period covered by the report. The opinion of the independent certified public accountant shall cover all years presented. The opinion shall be addressed to the company on stationery of the certified public accountant showing the address of issuance, signatures of opining accountants, and shall be dated.

(b) Report of Evaluation of Internal Controls

1. Every company shall include an evaluation of the internal controls of the company relating to the methods and procedures used in the securing of assets and the reliability of the financial records, including but not limited to such controls as the system of authorization and approval and the separation of duties. The review shall be conducted in accordance with generally accepted auditing standards and the report shall be filed with the Commissioner annually along with the audited financial report required by Regulation 120-2-45-.09(1).

2. An exemption from this evaluation may be granted on a case by case basis upon written request to the Commissioner.

(c) Accountant's Letter

The certified public accountant shall furnish the company, for inclusion in the filing of the audited annual report, a letter stating:

1. That the certified public accountant is independent with respect to the company and conforms to the standards of the certified public accountant's profession as contained in the Code of Professional Ethics and

pronouncements of the American Institute of Certified Public Accountants and pronouncements of the Financial Accounting Standards Board.

2. The general background and experience of the staff engaged in audit including the experience in auditing captive insurance companies or other insurance companies.

3. That the certified public accountant understands that the audited annual report and the certified public accountant's opinions thereon will be filed with the Commissioner.

4. That the certified accountant consents to the requirements of Regulation 120-2-45-.09(5) and that the certified public accountant consents and agrees to make available for review by the Commissioner, the Commissioner's designee or the Commissioner's appointed agent, the work papers as defined therein.

5. That the certified public accountant is properly licensed by an appropriate state licensing authority.

(d) Financial Statements.

Financial statements as required under Regulation 120-2-45-.07.

(e) Certification of Loss Reserves and Loss Expense Reserves

The annual audit shall include an opinion as to the adequacy of the company's loss reserves and loss expense reserves. The individual who certifies as to the adequacy of reserves shall apply, on a form adopted by the Commissioner, for approval by the Commissioner, and shall be a Fellow of the Casualty Actuarial Society, a member in good standing of the American Academy of Actuaries, or an individual who has demonstrated his or her competence in loss reserve evaluation to the Commissioner. The certificate of reserves shall be in such form as the Commissioner deems appropriate.

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.09
Authority: O.C.G.A. § 33-41-23.
History. Original Rule entitled "Security Deposit" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Editor's Note: In accordance with O.C.G.A. Section 50-13-21, the contents of this Rule is not filed with or published by the Secretary of State; only names and designations are filed, printed and distributed. This Regulation is on file in the Office of Commissioner of Insurance and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Note: "Editor's Note" rescinded. Eff. Oct. 11, 2015.
Repealed: New Rule entitled "Captive Insurance Company Audits" adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rule 120-2-45-.10. Letters of credit - Capital and Surplus.

(1) Compliance Generally.

Letters of credit must comply with this Regulation.

(2) Defined Terms.

As used in this Rule, the terms below shall have the following meaning:

(a) "Applicant" means the party who applies for and causes the bank to issue the letter of credit.

(b) "Beneficiary" means the Commissioner.

(c) "Clean and unconditional letter of credit" or "clean and unconditional confirmation" means a letter of credit or confirmation which makes no reference to any other agreement, document, or entity, and provides that a beneficiary need only draw a sight draft under the letter of credit or confirmation and present it to promptly obtain funds and that no other document need be presented.

(d) "Evergreen clause" means a provision in a letter of credit or its confirmation which prevents the expiration of the letter of credit or its confirmation without due written notice to the beneficiary and the Commissioner from the issuing or confirming bank.

(e) "Qualified United States financial institution" or "qualified bank" has the same meaning as set forth in O.C.G.A. § 33-7-14(c)(1).

(3) Specific Requirements.

For a letter of credit to be acceptable, it must:

(a) Be irrevocable;

(b) Be clean and unconditional;

(c) Be issued, presentable, and payable at an office of the qualified bank in the State of Georgia;

(d) Contain a statement that identifies the beneficiary and includes the definition set forth in Regulation 120-2-45-.10(2)(b);

(e) Contain a statement that is not subject to any agreement, condition, or qualification outside of the letter of credit;

(f) Contain a statement that authorizes only the Commissioner to draw the letter of credit;

(g) Contain a statement to the effect that the obligation of the issuing bank under the letter of credit is an individual obligation of such bank and is in no way contingent upon reimbursement with respect thereto;

(h) Contain an issue date and a date of expiration;

(i) Have a term of at least one year and contain an evergreen clause which provides at least sixty (60) days written notice to the beneficiary and the Commissioner prior to expiry date for nonrenewal;

(j) Shall state whether it is subject to and governed by the laws of the State of Georgia and the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600 (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP 98), or any successor publication, and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution..

(k) Be issued by a qualified bank. The aggregate of all letters of credit issued or confirmed to one beneficiary by any one qualified bank on behalf of any one applicant must not exceed five percent (5%) of such bank's consolidated capital and surplus as shown in its annual report as of the end of its preceding fiscal year, as filed with the federal or state regulatory authority having jurisdiction over such bank; and

(l) The heading of the letter of credit may include a boxed section identifying the applicant and containing other appropriate notations as a reference for such letter of credit. The boxed section must be clearly marked to indicate that such information is "For Internal Identification Purposes Only" and does not affect the terms of the letter of credit or the bank's obligations thereunder.

(4) Example Provided. An example of an acceptable letter of credit and confirmation letter can be found on the Commissioner's website.

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.10
Authority: O.C.G.A. § 33-41-23.
History. Original Rule entitled "Letters of Credit" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Editor's Note: In accordance with O.C.G.A. Section 50-13-21, the contents of this Rule is not filed with or published by the Secretary of State; only names and designations are filed, printed and distributed. This Regulation is on file in the Office of Commissioner of Insurance and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Note: "Editor's Note" rescinded. Eff. Oct. 11, 2015.
Repealed: New Rule entitled "Letters of credit - Capital and Surplus" adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rule 120-2-45-.11. Plan of Operation; Notice of Change.

(1) Original Plan of Operation.

The plan of operation shall be submitted in accordance with the Commissioner's instructions which are available on the Commissioner's website.

(2) Changes to Plan of Operation.

Any material change to the company's management or operations, including without limitation any material change to the plan of operation required by O.C.G.A. § 33-41-10 and Regulation 120-2-45-.11(1) must be filed with the Commissioner at least thirty (30) days prior to the proposed effective date of the proposed amendment.

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.11
Authority: O.C.G.A. § 33-41-23.
History. Original Rule entitled "Plan of Operation" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Editor's Note: In accordance with O.C.G.A. Section 50-13-21, the contents of this Rule is not filed with or published by the Secretary of State; only names and designations are filed, printed and distributed. This Regulation is on file in the Office of Commissioner of Insurance and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Note: "Editor's Note" rescinded. Eff. Oct. 11, 2015.
Repealed: New Rule entitled "Plan of Operation; Notice of Change" adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rule 120-2-45-.12. License and Renewal Fees.

(1) License Fee.

A license fee of $600 shall be paid at the time of the filing of an Application for Certificate of Authority, for a Captive Insurance Company.

(2) Renewal Fee.

A renewal fee of $500 shall be due for each year after initial licensure of a company.

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.12
Authority: O.C.G.A. §§ 33-8-1, 33-41-16, 33-41-23.
History. Original Rule entitled "License Fees" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Editor's Note: In accordance with O.C.G.A. Section 50-13-21, the contents of this Rule is not filed with or published by the Secretary of State; only names and designations are filed, printed and distributed. This Regulation is on file in the Office of Commissioner of Insurance and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Note: "Editor's Note" rescinded. Eff. Oct. 11, 2015.
Repealed: New Rule entitled "License and Renewal Fees" adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rule 120-2-45-.13. Premium Taxes.

(1) Premiums Collected Prior to July 1, 2015.

Companies shall file a premium tax return and pay premium taxes in accordance with Chapter 8 of Title 33 for all direct premiums collected prior to July 1, 2015.

(2) Premium Collected On or After July 1, 2015.

Companies shall file a premium tax return and pay premium taxes in accordance with O.C.G.A. § 33-41-22 utilizing the forms available on the Commissioner's website, for direct and assumed premium received July 1, 2015 to December 31, 2015. The annual premium tax return and tax shall be due on or before March 1, 2016.

On or after January 1, 2016, the annual premium tax return shall be filed in accordance with O.C.G.A. Section 33-41-22 utilizing the forms available on the Commissioner's website, for direct and assumed premium received from January 1 to December 31. The annual premium taxes required under this chapter shall be paid with the filing of the annual premium tax return due March 1 following the close of the preceding year.

Any insurance company that fails to report and pay the required tax with the annual premium tax return when due shall be subject to a monetary penalty of $5,000.00.

The Commissioner for good cause shown may extend for no more than 30 days the time for filing a tax return or paying any amount required to be paid with any return. The extension may be granted at any time, provided that a request therefor is filed with the Commissioner within or prior to the period for which the extension may be granted. Any taxpayer to whom an extension is granted shall pay, in addition to the tax, interest at the rate of 1 percent per month or fraction thereof until the date of payment.

(3) Risk Retention Group Premium Tax.

Companies that operate as a risk retention group shall file and pay premium taxes in accordance with O.C.G.A. § 33-40-5.

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.13
Authority: O.C.G.A. §§ 33-2-24, 33-2-31, 33-40-5, 33-41-22, 33-41-23.
History. Original Rule entitled "Reserves" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Editor's Note: In accordance with O.C.G.A. Section 50-13-21, the contents of this Rule is not filed with or published by the Secretary of State; only names and designations are filed, printed and distributed. This Regulation is on file in the Office of Commissioner of Insurance and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Note: "Editor's Note" rescinded. Eff. Oct. 11, 2015.
Repealed: New Rule entitled "Premium Taxes" adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rule 120-2-45-.14. Conflict of Interest Statement.

(1) General Requirements.

Each company is required to adopt a conflict of interest policy statement for its officers, directors, and key employees. There shall be filed one informational copy filed with the Commissioner with the company's Application for Certificate of Authority for a Captive Insurance Company. Such policy statement shall require such officers, directors and key employees to disclose all positions, whether financial, personal or professional, direct or indirect, that may cause or be perceived to cause a conflict of interest for such person to act in such capacity or that the individual has no outside commitments, personal or otherwise, that would divert him or her from their duty to further the interests of the company he or she represents but this shall not preclude such person from being a director or officer in more than one (1) company. Each officer, director, and key employee shall file such disclosure with the board of directors yearly.

(2) Prohibited Remuneration.

No director, officer, or employee of a company shall, except on behalf of the company, accept, or be the beneficiary of, any fee, brokerage, gift, or other emolument because of any investment, loan, deposit, purchase, sale, payment, or exchange made by or for the company but such person may receive reasonable compensation for necessary services rendered to the captive insurance company in his or her usual private, professional, or business capacity.

(3) Recoverable Profits.

Any profit or gain received by or on behalf of any person in violation of this Regulation shall inure to and be recoverable by the company.

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.14
Authority: O.C.G.A. § 33-41-23.
History. Original Rule entitled "Conflict of Interest Statement" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Editor's Note: In accordance with O.C.G.A. Section 50-13-21, the contents of this Rule is not filed with or published by the Secretary of State; only names and designations are filed, printed and distributed. This Regulation is on file in the Office of Commissioner of Insurance and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Note: "Editor's Note" rescinded. Eff. Oct. 11, 2015.
Repealed: New Rule of same title adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rule 120-2-45-.15. Dividends to Stockholders.

(1) Dividends Generally.

All shareholder dividends or distributions shall be filed with the Commissioner for approval using the form provided by the Commissioner at least thirty (30) days prior to

the proposed payment or distribution date. No dividend payment or distribution can be made unless the Commissioner approved the payment or the Commissioner does not object to the payment or distribution prior to the lapse of the thirty (30) days' notice period.

(2) Extraordinary Dividends.

(a) For purposes of this Rule, an "extraordinary dividend" means any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve (12) months exceeds the lesser of ten percent (10%) of such company's surplus or retained earnings with regard to policyholders as of December 31 next preceding, or the net income, not including realized capital gains, for the twelve (12) month period ending December 31 next preceding. Extraordinary dividend shall not include pro rata distributions of any class of the company's own securities.

(b) No company shall pay or distribute any extraordinary dividend until the Commissioner approves the proposed extraordinary dividend in writing.

(3) Rejection Due To Hazardous Financial Condition.

The Commissioner may reject any proposed dividend if he or she finds that the dividend or distribution would create a hazardous financial condition. For the purposes of this Regulation the standards set forth in Regulation 120-2-54-.03 to determine the existence of a hazardous condition may be relied upon by the Commissioner to determine if, after giving effect to the propose dividend or distribution, the company would create a hazardous financial condition.

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.15
Authority: O.C.G.A. § 33-41-23.
History. Original Rule entitled "Dividends to Stockholders" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Editor's Note: In accordance with O.C.G.A. Section 50-13-21, the contents of this Rule is not filed with or published by the Secretary of State; only names and designations are filed, printed and distributed. This Regulation is on file in the Office of Commissioner of Insurance and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Note: "Editor's Note" rescinded. Eff. Oct. 11, 2015.
Repealed: New Rule of same title adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rule 120-2-45-.16. Acquisition of Control of or Merger with Domestic Captive Insurance Company.

No tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire, or acquire in the open market or otherwise, any voting security of a captive insurance company shall be effective without the prior written approval of the Commissioner. The repurchase of securities from shareholders shall be treated as a

distribution and is governed by Regulation 120-2-45-.15. In considering any application for acquisition of control or merger with a domestic captive insurance company, the Commissioner shall consider all of the facts and circumstances surrounding the application as well as the criteria for establishment of a captive insurance company set out in this Chapter.

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.16
Authority: O.C.G.A. § 33-41-23.
History. Original Rule entitled "Penalties" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Editor's Note: In accordance with O.C.G.A. Section 50-13-21, the contents of this Rule is not filed with or published by the Secretary of State; only names and designations are filed, printed and distributed. This Regulation is on file in the Office of Commissioner of Insurance and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Note: "Editor's Note" rescinded. Eff. Oct. 11, 2015.
Repealed: New Rule entitled "Acquisition of Control of or Merger with Domestic Captive Insurance Company" adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rule 120-2-45-.17. Redomestication of a Foreign or Alien Captive Insurance Company.

(1) Authorized Redomestication Procedures.

A foreign or alien captive insurance company, upon approval of the Commissioner, may become a captive insurance company authorized to transact business in this state by complying with all of the requirements of the Georgia law relative to the organization and licensing of a captive insurance company in this state of the same or equivalent type in this state. The redomestication of a foreign or alien captive insurance company may be accomplished utilizing one of the following procedures:

(a) Filing of the foreign or alien captive insurance company's articles of association, articles of incorporation, charter, or other organizational document, together with appropriate amendments to them adopted in accordance with the laws of this state with the Commissioner;

(b) Filing of articles of merger or similar documents with the Commissioner merging the foreign or alien captive insurance company with a domestic corporation;

(c) Filing articles of incorporation for a domestic captive insurance company along with a plan of reorganization, plan of liquidation or similar reorganizational documents (including novation or transfer and assumption agreements) for any type of foreign or alien captive insurance company with the Commissioner; or

(d) Filing a plan of redomestication not otherwise addressed in this Rule with the Commissioner, which has received the approval of the current regulator of the foreign or alien captive insurance company if such approval is require.

Notice of the redomestication should be filed with the Commissioner utilizing forms prescribed by the Commissioner, which are available on the Commissioner's website.

(2) Redomestication Review Process.

The Commissioner shall approve or disapprove all applications filed in accordance with Regulation 120-2-45-.17(1) within forty-five (45) days of the date the application is received. The Commissioner shall examine the application to determine whether the company is compliant with the applicable insurance laws of this state. If the application is approved, then the Commissioner shall issue under his or her hand and official seal a certificate approving the granting of the charter for such captive insurance company and shall transmit a copy of the certificate of approval to the Secretary of State.

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.17
Authority: O.C.G.A. § 33-41-23.
History. Original Rule entitled "Severability" f. Feb. 9, 1989; eff. Mar. 1, 1989, as specified by the Agency.
Editor's Note: In accordance with O.C.G.A. Section 50-13-21, the contents of this Rule is not filed with or published by the Secretary of State; only names and designations are filed, printed and distributed. This Regulation is on file in the Office of Commissioner of Insurance and is open for public examination and copying. **(See Editor's Note, p. 88.03.)**
Note: "Editor's Note" rescinded. Eff. Oct. 11, 2015.
Repealed: New Rule entitled "Redomestication of a Foreign or Alien Captive Insurance Company" adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rule 120-2-45-.18. Loans.

(1) Required Notice.

No company may make a loan to or an investment in its parent company or affiliates unless the company has notified the Commissioner in writing of its intention to enter into such transaction at least thirty (30) days prior thereto, or such shorter period as the Commissioner may permit, and the Commissioner has not disapproved it within such period.

(2) Standards of Review.

The standards set forth in O.C.G.A. § 33-13-5(a)(1) shall apply to any loan or investment under this Regulation 120-2-45-.18

(3) Prohibited Transactions.

Loans of minimum capital and surplus funds required by O.C.G.A. § 33-41-8 are prohibited. In addition, any loan or investment that would create a hazardous financial

condition is prohibited. For the purposes of this Regulation the standards set forth in Regulation 120-2-54-.03 to determine the existence of a hazardous condition may be relied upon by the Commissioner to determine if, after giving effect to the propose dividend or distribution, the company would create a hazardous financial condition.

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.18
Authority: O.C.G.A. § 33-41-23.
History. Original Rule entitled "Loans" adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rule 120-2-45-.19. Illegal Captive Insurance Company Operations.

A person is prohibited from transacting insurance in this state without first obtaining a certificate of authority to operate as a captive insurance company or registering as a risk retention group. Failure to obtain a certificate of authority or make the required registration is a violation of Georgia law and the procurement of insurance from any person that has not obtained a certificate of authority or has not registered with the Commissioner shall subject such person to procurement taxes imposed by the Georgia law.

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.19
Authority: O.C.G.A. §§ 33-40-4, 33-41-4, 33-41-23.
History. Original Rule entitled "Illegal Captive Insurance Company Operations" adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Rule 120-2-45-.20. 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.

Cite as Ga. Comp. R. & Regs. R. 120-2-45-.20
Authority: O.C.G.A. § 33-41-23.
History. Original Rule entitled "Severability" adopted. F. Sep. 21, 2015; eff. Oct. 11, 2015.

Subject 120-2-46. AUTOMOBILE SELF-INSURANCE REGULATION.

Rule 120-2-46-.01. Authority.

The purpose of this Chapter is promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. Sections 33-2-9 and 40-9-101.

Cite as Ga. Comp. R. & Regs. R. 120-2-46-.01
Authority: O.C.G.A. Secs. 33-2-9, 40-9-101.
History. Original Rule entitled "Authority" adopted. F. May 26, 1989; eff. June 30, 1989, as specified by the Agency.

Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-46-.02. Purpose.

To implement O.C.G.A. Section 40-9-101 and to provide for the regulation of automobile self-insurers by the Commissioner of Insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-46-.02
Authority: O.C.G.A. Secs. 33-2-9, 40-9-101.
History. Original Rule entitled "Purpose" adopted. F. May 26, 1989; eff. June 30, 1989, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-46-.03. Application for Self-Insurance.

(1) An application for self-insurance shall be made on an approved form to the Commissioner of Insurance. The application shall contain:

(a) A list of all vehicles registered in the name of the applicant including the make, model, year, manufacturer's identification number, title certificate number or other proof of ownership, and license plate number (if issued). Lists compiled by magnetic tape, floppy disk, or by other electronic data systems shall be permitted if acceptable to the Commissioner;

(b) A complete audited financial statement of assets, liabilities, including the projected impact of open and pending claims, and net worth for the latest financial year of the applicant in sufficient detail to show that the applicant possesses and will continue to possess the ability to pay judgments or valid claims. All audited financial statements shall be prepared by and certified as to the correctness by an independent certified public accountant; and

(c) A blank copy of the self-insurance identification card to be utilized by the applicant as provided in paragraph (2) of this Rule.

(2) Each applicant shall furnish an agreement to:

(a) Provide efficient claims handling procedures substantially equivalent to those afforded by a policy of automobile liability insurance in compliance with O.C.G.A. Chapter 33-34, the "Georgia Motor Vehicle Accident Reparations Act." The applicant shall attach a complete copy of the procedures which the applicant will use in investigating and adjusting claims, including amounts of coverages, benefits, and payment procedures;

(b) Provide the coverages and benefits required under O.C.G.A. Chapter 33-34, the "Georgia Motor Vehicle Reparations Act," and O.C.G.A. Chapter 40-9, the "Motor Vehicle Safety Responsibility Act," except that uninsured motorist

coverages as provided in O.C.G.A. Section 33-7-11 and optional personal injury protection coverages as provided in O.C.G.A. Section 33-34-5 shall not be required;

(c) Issue a self-insurance identification card for each vehicle to be carried in each vehicle, showing:

1. The self-insurer's certificate number, issue date, expiration date, vehicle, year, make, model, and vehicle identification number; or

2. The self-insurer's certificate number, issue date, and expiration date, with an individual number assigned to each such card. The cards permitted under this subparagraph shall be serialized and an inventory kept of the number of such cards issued and the vehicle to which each numbered card is assigned; and

(d) Allow the Commissioner of Insurance or his representative to examine and verify at any time pertinent information contained in the application for self-insurance or any financial statement. Examinations may consist of, but are not limited to, on-site inspection of vehicles, premises, claims files and accounting records. Costs associated with any examination as ordered by the Commissioner shall be borne by the self-insurer.

(3) Information listing accidents in which applicants' vehicles were involved during the preceding three years shall be furnished, subject to requests for further information by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-46-.03
Authority: O.C.G.A. Secs. 33-2-9, 40-9-101.
History. Original Rule entitled "Application for Self-Insurance" adopted. F. May 26, 1989; eff. June 30, 1989, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-46-.04. Financial Conditions.

(1) Upon approval of the application by the Commissioner of Insurance, a certificate of self-insurance may be issued. Approval shall be conditioned upon a showing of sufficient net worth, sufficient claims handling procedures, and a guarantee of compliance with the "Georgia Motor Vehicle Reparations Act" and the "Motor Vehicle Safety Responsibility Act" in the form of a surety bond executed by an authorized surety insurer in the favor of and approved by the Commissioner of Insurance or approved securities deposited in trust with the Commissioner of Insurance.

(2) For the purpose of issuance of a certificate of self-insurance, sufficient net worth and the minimum surety bond or security deposit amounts shall be based as follows on the number of vehicles registered in the applicant's name:

Number of Vehicles	Sufficient Net Worth	Surety Bond or Security Deposit
1–50	$100,000	$50,000
51–100	$150,000	$50,000
100–150	$200,000	$100,000
151–200	$250,000	$100,000
201–250	$300,000	$100,000
251–350	$400,000	$100,000
351–Above	$500,000	$100,000

(3) For purposes of reporting net worth, the amount of a security deposit posted with the Commissioner of Insurance may be recorded as an asset.

Cite as Ga. Comp. R. & Regs. R. 120-2-46-.04
Authority: O.C.G.A. Secs. 33-2-9, 40-9-101.
History. Original Rule entitled "Financial Conditions" adopted. F. May 26, 1989; eff. June 30, 1989, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-46-.05. Reports.

(1) A self-insurer shall be required to submit quarterly reports showing the vehicles covered under the certificate of self-insurance. Such reports shall be due on January 1, April 1, July 1, and October 1 of each year.

(2) Quarterly reports of vehicles shall specify additions to and deletions from the report of the preceding quarter. The self-insurer shall keep a daily record of additions to and deletions from the list of covered vehicles, which record shall be available to the Commissioner upon request. Deviations between dates contained on the certificate of title of a vehicle and corresponding effective dates of coverages shall be explained in the daily record.

(3) A self-insurer shall notify the Commissioner of Insurance within thirty (30) days of any accident reported to the self-insurer resulting in bodily injury or property damage and all accidents involving more than one vehicle.

(4) A self-insurer shall provide any information requested by the Commissioner of Insurance concerning open, pending, or closed claims.

Cite as Ga. Comp. R. & Regs. R. 120-2-46-.05
Authority: O.C.G.A. Secs. 33-2-9, 40-9-101.
History. Original Rule entitled "Reports" adopted. F. May 26, 1989; eff. June 30, 1989, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-46-.06. Annual Renewals.

All certificates issued or renewed by the Commissioner of Insurance on or after July 1, 1989, shall conform to the rules contained in this Chapter. All certificates of self-insurance shall expire one year from the date of issuance. In order to be issued a new certificate on such anniversary date, each self-insurer shall reapply no later than thirty (30) days prior to expiration of the certificate.

Cite as Ga. Comp. R. & Regs. R. 120-2-46-.06
Authority: O.C.G.A. Secs. 33-2-9, 40-9-101.
History. Original Rule entitled "Annual Renewals" adopted. F. May 26, 1989; eff. June 30, 1989, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-46-.07. Revocations.

A certificate of self-insurance may be revoked by the Commissioner of Insurance upon the following grounds:

(a) The self-insurer has failed to satisfy any judgment within thirty (30) days after such judgment has become final;

(b) The self-insurer has failed to pay any claim for which there is no reasonably disputed issue of fact or law within (30) days of its submission;

(c) A payment is made by the authorized surety insurer or a claim is made against securities held in trust by the Commissioner of Insurance as a result of the self-insurer's failure to satisfy any judgment or pay any claim for which there is no reasonably disputed issue of fact or law;

(d) Failure to maintain efficient claim handling procedures substantially equivalent to those afforded by a policy of automobile liability insurance in compliance with O.C.G.A. Chapter 33-34, the "Georgia Motor Vehicle Reparations Act";

(e) Failure to provide benefits and coverages under O.C.G.A. Chapter 33-34, the "Georgia Motor Vehicle Accident Reparations Act." Benefits required to be paid without regard to fault shall be payable monthly as loss accrues. Such benefits are overdue if not paid within thirty (30) days after the self-insurer receives reasonable proof of the fact and the amount of loss sustained;

(f) Failure to timely file with the Commissioner of Insurance the quarterly reports required under this Chapter;

(g) Cancellation or expiration of the surety bond by the surety insurer or the self-insurer, unless proof is provided that the bond has been replaced or securities filed as required under this Chapter; or

(h) Any other violation of this Chapter or the orders of the Commissioner of Insurance under this Chapter.

Cite as Ga. Comp. R. & Regs. R. 120-2-46-.07
Authority: O.C.G.A. Secs. 33-2-9, 40-9-101.
History. Original Rule entitled "Revocations" adopted. F. May 26, 1989; eff. June 30, 1989, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-46-.08. Duties of Commissioner of Insurance.

The Commissioner of Insurance shall:

(a) Notify the Department of Public Safety of any self-insurance certificate which is revoked pursuant to this Chapter;

(b) Notify the Department of Public Safety of the name of any self-insurer who does not reapply for a certificate of self-insurance;

(c) Provide a copy of quarterly reports as required to be filed under this Chapter to the Department of Public Safety; and

(d) Provide any information concerning self-insurers as requested by the Department of Public Safety for enforcement of the "Georgia Motor Vehicle Reparations Act" or the "Motor Vehicle Safety Responsibility Act."

Cite as Ga. Comp. R. & Regs. R. 120-2-46-.08
Authority: O.C.G.A. Secs. 33-2-9, 40-9-101.
History. Original Rule entitled "Duties of Commissioner of Insurance" adopted. F. May 26, 1989; eff. June 30, 1989, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Rule 120-2-46-.09. Hearings.

All hearings and administrative proceedings involving self-insurers under this Chapter or under applicable laws pertaining to self-insurers shall be under such procedures as are set forth in O.C.G.A. Title 33 and the Rules and Regulations of the Georgia Insurance Department.

Cite as Ga. Comp. R. & Regs. R. 120-2-46-.09
Authority: O.C.G.A. Secs. 33-2-9, 40-9-101.
History. Original Rule entitled "Hearings" adopted. F. May 26, 1989; eff. June 30, 1989, as specified by the Agency.
Submitted for Publishing: Mar. 15, 2007.

Subject 120-2-47. RULES AND REGULATIONS FOR VEHICLE AND AUTOMOBILE CLUB SERVICE CONTRACTS.

Rule 120-2-47-.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. Section 33-7-6.

Cite as Ga. Comp. R. & Regs. R. 120-2-47-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-7-6.
History. Original Rule entitled "Statutory Authority" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Amended: ER. 120-2-47-0.17-.01 adopted. F. and eff. Sept. 16, 2005, the date of adoption.
Amended: Permanent Rule adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-47-.02. Purpose.

The purpose of this Regulation is to provide for the regulation of vehicle service agreements and extended warranty agreements.

Cite as Ga. Comp. R. & Regs. R. 120-2-47-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-7-6.
History. Original Rule entitled "Purpose" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Amended: ER. 120-2-47-0.17-.02 adopted. F. and eff. Sept. 16, 2005, the date of adoption.
Amended: Permanent Rule adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.
Amended: F. Nov. 1, 2012; eff. Nov. 21, 2012.

Rule 120-2-47-.03. Definitions.

(1) "Commissioner" means the Commissioner of Insurance.

(2) "Extended warranty agreement" means a vehicle service contract.

(3) "Service contract holder" means a person who purchases or otherwise obtains a service contract.

(4) "Vehicle service contract" or "VSC" means a contract or agreement that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear.

(5) "Vehicle service contract provider" or "VSC provider" means a person who issues, makes, provides, sells, or offers to sell a vehicle service contract.

(6) "Vehicle service contract reimbursement insurance policy" or "VSC reimbursement insurance policy" means a policy of insurance providing coverage for all sums which the provider is legally obligated to pay for failure to perform under the terms of vehicle service contracts issued by the provider.

(7) "Service contract" shall mean a vehicle service contract (VSC**).**

(8) "Person" shall mean any person, firm, partnership, association or other entity which transacts vehicle service contract business.

(9) "Provider" shall mean a vehicle service contract (VSC) provider.

(10) "Reimbursement insurance policy" shall mean a vehicle contract service (VSC) reimbursement insurance policy.

(11) "Retail Installment Seller" shall have the same meaning as provided in Code Section 10-1-31.

(12) "Security Deposit" means amount(s) posted with the Commissioner's Office to cover provider's legal obligations under the terms of vehicle service contracts or extended warranty issued by the retail installment service.

(13) "Surety Bond" means a bond providing coverage for all sums which the provider is legally obligated to pay for failure to perform.

Cite as Ga. Comp. R. & Regs. R. 120-2-47-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-7-6.
History. Original Rule entitled "Definitions" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Amended: ER. 120-2-47-0.17-.03 adopted. F. and eff. Sept. 16, 2005, the date of adoption.
Amended: Permanent Rule adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.
Amended: F. Nov. 1, 2012; eff. Nov. 21, 2012.

Rule 120-2-47-.04. Insurance Required.

A service contract shall not be issued, sold, or offered for sale in this State unless the provider of the service contract is a named insured under a service contract reimbursement insurance policy issued by an insurer authorized to do business in this state, or by a surplus lines insurer meeting all of the requirements of O.C.G.A. Section 33-5-21, which has not been rejected by the Commissioner for such purpose, and which is provided by a licensed surplus lines broker pursuant to O.C.G.A. § 33-5-20*et seq.*

Cite as Ga. Comp. R. & Regs. R. 120-2-47-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-7-6.
History. Original Rule entitled "Insurance Required" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Amended: ER. 120-2-47-0.17-.04 adopted. F. and eff. Sept. 16, 2005, the date of adoption.

Amended: Permanent Rule adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-47-.05. Filing Requirements.

(1) In order to issue, sell, or offer for sale a service contract in this state:

(a) The service contract must not be unduly restrictive, ambiguous, inequitable, misleading or unreadable by a person with normal vision;

(b) The service contract must comply with any general or specific filing requirement published by the Commissioner;

(c) The provider's reimbursement insurance policy must be filed with and accepted by the Commissioner; and

(d) The rates for the reimbursement insurance policy must conform to the requirements of O.C.G.A. Title 33 Chapter 9.

(2) In order to issue, sell, or offer for sale a vehicle service contract in this state:

(a) A true and correct copy of the vehicle service contract must be filed and accepted by the Commissioner; and

(b) The rates charged for the vehicle service contract reimbursement insurance policies must be filed with the Commissioner by the insurer issuing vehicle service contract reimbursement insurance policies.

Cite as Ga. Comp. R. & Regs. R. 120-2-47-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-7-6.
History. Original Rule entitled "Filing Requirements" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Amended: ER. 120-2-47-0.17-.05 adopted. F. and eff. Sept. 16, 2005, the date of adoption.
Amended: Permanent Rule adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.
Amended: F. Nov. 1, 2012; eff. Nov. 21, 2012.

Rule 120-2-47-.06. Disclosure to Provider.

A reimbursement insurance policy shall not be issued, sold, or offered for sale in this State unless the reimbursement insurance policy conspicuously states that the issuer of the policy shall pay on behalf of the provider all sums which the provider is legally obligated to pay for failure to perform according to the provider's contractual obligations under the service contracts issued or sold by the provider.

Cite as Ga. Comp. R. & Regs. R. 120-2-47-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-7-6.
History. Original Rule entitled "Disclosure to Provider" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified

by the Agency.
Amended: ER. 120-2-47-0.17-.06 adopted. F. and eff. Sept. 16, 2005, the date of adoption.
Amended: Permanent Rule adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-47-.07. Disclosure to Service Contract Holder.

(1) A service contract shall not be issued, sold or offered for sale in this State unless the contract conspicuously states that the obligations of the provider to the service contract holder are guaranteed under a service contract reimbursement policy, and unless the contract conspicuously states the name and address of the insurer of the reimbursement policy.

(2) Every service contract shall be written in clear, understandable language and shall be printed or typed in easy-to-read type, size, and style, and shall not be issued, sold, or offered for sale in this State unless the contract:

(a) Conspicuously states that the obligations of the provider to the service contract holder are guaranteed under a service contract reimbursement policy;

(b) Conspicuously states the name and address of the issuer of the reimbursement policy;

(c) Conspicuously states the name, address and telephone number of the provider(s);

(d) Conspicuously states the name, address and telephone number of the administrator, if any;

(e) Identifies the provider, the seller and the service contract holder;

(f) Sets forth the total purchase price, if any, and the terms under which it is to be paid;

(g) Sets forth the procedure for making a claim, or request for benefits including a telephone number;

(h) Conspicuously states the existence of a deductible amount, if any;

(i) Specifies the merchandise or services, or both, to be provided and the limitations, exceptions or exclusions;

(j) Sets forth the conditions on which substitution will be allowed;

(k) Conspicuously sets forth all of the obligations and duties of the service contract holder (such as the duty to protect against any further damage to the vehicle, the obligation to notify the provider in advance of any repair, etc.), if any;

(l) Sets forth any terms, restrictions, or conditions governing transferability of the service contract, if any;

(m) Conspicuously sets forth the term or duration of the contract; and

(n) Contains the provisions required under O.C.G.A. § 33-7-6.

Cite as Ga. Comp. R. & Regs. R. 120-2-47-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-7-6.
History. Original Rule entitled "Disclosure to Service Contract Holder" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Amended: ER. 120-2-47-0.17-.07 adopted. F. and eff. Sept. 16, 2005, the date of adoption.
Amended: Permanent Rule adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-47-.08. Prohibited Acts.

(1) Unless licensed as an insurance company, a service contract provider shall not use in its name, contracts, or literature, any of the words "insurance," "casualty," "surety," "mutual," or any other words descriptive of the insurance, casualty, or surety business or deceptively similar to the name or description of any insurance or surety corporation, or any other service contract provider.

(2) A service contract provider shall not, without the written consent of the purchaser, knowingly charge a purchaser for duplication of coverage or duties required by state or federal law, a warranty expressly issued by a manufacturer or seller of a product or any implied warranty enforceable against the lessor, seller, or manufacturer of a product.

(3) A service contract provider shall not make, permit, or cause any false or misleading statements, either oral or written, in connection with the sale, offer to sell, or advertisement of a service contract.

(4) A service contract provider shall not permit or cause the omission of any material statement in connection with the sale, offer to sell, or advertisement of a service contract, which under the circumstances should have been made in order to make the statements that were made not misleading.

(5) A service contract provider shall not make, permit, or cause any false or misleading statements, either oral or written, about the benefits or services available under the service contract.

(6) A service contract provider shall not make, permit, or cause any statement or practice which has the effect of creating or maintaining a fraud.

(7) A service contract provider is prohibited from making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made,

published, disseminated, circulated, or placed before the public in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the service contract industry or with respect to any service contract provider which is untrue, deceptive, or misleading.

(8) A bank, savings and loan association, insurance company, other lending institution, or insurance producer shall not require the purchase of a service contract as a condition of a loan or insurance.

(9) A service contract provider is prohibited from making publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of any person, and which is calculated to injure such person.

(10) A service contract provider is prohibited from entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in the service contract industry.

(11) A service contract provider is prohibited from knowingly filing with any supervisory or other public official, or knowingly making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or knowingly causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false material statement of fact as to the financial condition of a person.

(12) A service contract provider is prohibited from knowingly making any false entry of a material fact in any book, report, or statement of any person or knowingly omitting to make a true entry of any material fact pertaining to the business of such person in any book, report or statement of such person.

(13) A service contract provider shall not invoke any arbitration provision contained in the service contract.

(14) No provider or insurance producer shall finance the consideration due from the sale of a service contract with a premium finance company.

Cite as Ga. Comp. R. & Regs. R. 120-2-47-.08
Authority: O.C.G.A. Secs. 7-3-1*et seq.*, 33-2-9, 33-7-6.
History. Original Rule entitled "Prohibited Acts" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Amended: ER. 120-2-47-0.17-.08 adopted. F. and eff. Sept. 16, 2005, the date of adoption.
Amended: Permanent Rule adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.
Amended: F. Nov. 1, 2012; eff. Nov. 21, 2012.

Rule 120-2-47-.09. Recordkeeping.

(1) All service contract providers shall keep accurate accounts, books, and records concerning transactions regulated under this Chapter.

(2) A service contract provider's accounts, books, and records shall include

(a) Copies of all service contracts;

(b) The name and address of each service contract holder; and

(c) The dates, amounts, and descriptions of all receipts, claims and expenditures.

(3) A service contract provider shall retain all required accounts, books, and records pertaining to each service contract holder for at least two (2) years, unless a longer period is required by statute or regulation, after the specified period of coverage has expired. A provider discontinuing business in this State shall maintain its records until it furnishes the Commissioner satisfactory proof that it has discharged all obligations to contract holders in this State.

(4) Service contract providers shall make all accounts, books, and records concerning transactions regulated under this Regulation available to the Commissioner for the purpose of examination.

Cite as Ga. Comp. R. & Regs. R. 120-2-47-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-7-6.
History. Original Rule entitled "Recordkeeping" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Amended: ER. 120-2-47-0.17-.09 adopted. F. and eff. Sept. 16, 2005, the date of adoption.
Amended: Permanent Rule adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-47-.10. Cancellation of a Reimbursement Insurance Policy.

(1) The issuer of a reimbursement insurance policy or surety bond shall not cancel such policy or bond until a notice of cancellation in accordance with O.C.G.A. Section 33-24-47 has been mailed or delivered to the Commissioner at the following address:

Office of Commissioner of Insurance

604 West Tower, Floyd Building

#2 Martin Luther King, Jr. Drive

Atlanta, Georgia 30334

and to each insured provider, including but not limited to automobile dealers and third party administrators.

(2) The cancellation of a reimbursement insurance policy or surety bond shall not reduce the issuer's responsibility for vehicle service contracts issued by providers prior to the date of cancellation.

Cite as Ga. Comp. R. & Regs. R. 120-2-47-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-7-6.
History. Original Rule entitled "Cancellation of a Reimbursement Insurance Policy" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Amended: ER. 120-2-47-0.17-.10 adopted. F. and eff. Sept. 16, 2005, the date of adoption.
Amended: Permanent Rule adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.
Amended: New title of "Cancellation of a Reimbursement Insurance Policy or Surety Bond." F. Nov. 1, 2012; eff. Nov. 21, 2012.

Rule 120-2-47-.11. Procedures for Public Complaint.

(1) The Commissioner may receive and process each complaint made against any service contract provider which alleges certain acts or practices which may constitute one or more violations of this Chapter. Any member of the public, or any federal, state, or local official, may file a complaint with the Commissioner. Complaints may be received from sources outside the State of Georgia and processed in the same manner as those originating in Georgia.

(2) Complaints may be mailed or delivered to the following address:

Office of Commissioner of Insurance

716 West Tower, Floyd Building

#2 Martin Luther King, Jr. Drive

Atlanta, Georgia 30334

(3) All complaints shall be made in writing and shall fully identify the complainant by name and address. If required by the Commissioner, complaints shall be made on forms prescribed and provided by the Office of Commissioner of Insurance.

(4) Oral or telephone communications may not be considered or processed as complaints. However, any member of the staff of the Office of Commissioner of Insurance may file a complaint based upon information and belief, in reliance upon oral, telephone, or written communications received by the Office of Commissioner of Insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-47-.11
Authority: O.C.G.A. Secs. 33-2-9, 33-7-6.

History. Original Rule entitled "Procedures for Public Complaint" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Amended: ER. 120-2-47-0.17-.11 adopted. F. and eff. Sept. 16, 2005, the date of adoption.
Amended: Permanent Rule adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-47-.12. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-47-.12
Authority: O.C.G.A. Secs. 33-2-9, 33-7-6.
History. Original Rule entitled "Severability" adopted. F. Aug. 24, 1989; eff. Sept. 15, 1989, as specified by the Agency.
Amended: ER. 120-2-47-0.17-.12 entitled "Insurance Services" adopted. F. and eff. Sept. 16, 2005, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.
Repealed: F. Nov. 1, 2012; eff. Nov. 21, 2012.

Rule 120-2-47-.13. Exemptions.

(1) This Regulation is not applicable to vehicle service contracts or extended warranty agreements, if the vehicle service contract or extended warranty is made by the automobile vehicle manufacturer or otherwise excluded from property insurance as defined by O.C.G.A. § 33-7-6(b)(1).

(2) Code Section 33-7-6(b)(1) is not applicable to vehicle service contracts or extended warranty agreements if such contract or agreement has a term not exceeding nine months, has been approved by the Commissioner before its use, and is issued by a retail installment seller in conjunction with the sale of a vehicle. Moreover, such retail installment seller must:

(a) Maintain or have a parent company which maintains a net worth or stockholders' equity of a least $50 million, provided the parent company guarantees the obligations of the retail installment seller arising from vehicle service contracts or extended warranty agreements issued by the retail installment seller.

(b) Comply with the exemption application requirements prescribed by the Commissioner including but not limited to the provision of names, addresses, FEIN numbers, affiliates, and corporate officers.

(c) Files with the Commissioner, a copy of its form 10-K or form 20-F disclosure statements, or if it does not file such statements with the United States Securities and Exchange Commission a copy or its audited financial statement on a GAAP basis. If the retail installment seller's financial statements are consolidated with those of its parent company, then the retail installment seller may comply with this provision by filing the statements of its parent company. The statement shall be filed with the Commissioner 30 days prior to the retail installment sellers initial

offering or delivering of a service contract or extended warranty agreement and thereafter the statement shall be filed with the Commissioner annually; and

(d) Upon the request of the Commissioner posts a security deposit or surety bond guaranteeing the retail installment sellers obligations in accordance with the terms of vehicle service contracts or extended warranty agreements issued by the retail installment seller in an amount not to exceed $250,000.

(3) This Regulation is not applicable to insurance policies issued by an authorized insurer providing service contract benefits to its insured.

Cite as Ga. Comp. R. & Regs. R. 120-2-47-.13
Authority: O.C.G.A. Sec. 33-7-6.
History. Original Rule entitled "Exemptions" adopted as ER. 120-2-47-0.17-.13. F. and eff. Sept. 16, 2005, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.
Amended: F. Nov. 1, 2012; eff. Nov. 21, 2012.

Rule 120-2-47-.14. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-47-.14
Authority: O.C.G.A. Sec. 33-7-6.
History. Original Rule entitled "Severability" adopted as ER. 120-2-47-0.17-.14. F. and eff. Sept. 16, 2005, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Subject 120-2-48. GROUP COORDINATION OF BENEFITS.

Rule 120-2-48-.01. Authority.

This Regulation is adopted and promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. Section 33-2-9.

Cite as Ga. Comp. R. & Regs. R. 120-2-48-.01
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Authority" adopted. F. Sept. 18, 1990; eff. Jan. 1, 1991, as specified by the Agency.

Rule 120-2-48-.02. Purpose and Applicability.

The purpose of this Regulation is to:

(a) Permit, but not require, plans to include a coordination of benefits (COB) provision;

(b) Establish an order in which plans pay their claims;

(c) Provide the authority for the orderly transfer of information needed to pay claims promptly;

(d) Reduce duplication of benefits by permitting a reduction of the benefits paid by a plan when the plan, pursuant to rules established by this Regulation, does not have to pay its benefits first;

(e) Reduce claims payments delays; and

(f) Make all contracts that contain a COB provision consistent with this Regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-48-.02
Authority: O.C.G.A Sec. 33-2-9.
History. Original rule entitled "Purpose and Applicability" adopted. F. Sept. 18, 1990; eff. Jan. 1, 1991, as specified by the Agency.

Rule 120-2-48-.03. Definitions.

The following words and terms, when used in this Regulation, shall have the following meanings unless the context clearly indicates otherwise:

(a) Allowable Expenses.

1. "Allowable Expense" means the necessary, reasonable and customary item of expense for health care when the item of expense is covered at least in part under any of the plans involved, except where a statute requires a different definition.

2. Notwithstanding the above definition, items of expense under coverages such as dental care, vision care, prescription drug or hearing aid programs may be excluded from the definition of Allowable Expense. A plan which provides benefits only for any such item of expense may limit its definition of Allowable Expenses to like items of expense.

3. When a plan provides benefits in the form of service, the reasonable cash value of each service will be considered as both an Allowable Expense and a benefit paid.

4. The difference between the cost of a private hospital room and the cost of a semiprivate hospital room is not considered an Allowable Expense under the above

definition unless the patient's stay in a private hospital room is medically necessary in terms of generally accepted medical practice.

5. When COB is restricted in its use to specific coverage in a contract (for example, major medical or dental), the definition of "Allowable Expense" must include the corresponding expenses or services to which COB applies.

6. When benefits are reduced under a Primary Plan because a covered person does not comply with the plan provisions, the amount of such reduction will not be considered an Allowable Expense. Examples of such provisions are those related to second surgical opinions, precertification of admissions or services, and preferred provider arrangements.

   (i) Only benefit reductions based upon provisions similar to those described above and which are contained in the Primary Plan may be excluded from Allowable Expenses.

   (ii) This provision shall not be used by a Secondary Plan to refuse to pay benefits because an HMO member has elected to have health care services provided by a non-HMO provider and the HMO, pursuant to its contract, is not obligated to pay for providing those services.

   (iii) This subparagraph (6) is not intended to allow a Secondary Plan to exclude expenses that are applied towards the satisfaction of the deductible, copayments or coinsurance amounts required by the Primary Plan, except for the benefit reductions expressly described in this paragraph.

(b) Claim. A request that benefits of a plan be provided or paid is a claim. The benefits claimed may be in the form of:

1. Services (including supplies);

2. Payment for all or a portion of the expenses incurred;

3. A combination of 1. and 2. above; or

4. An indemnification.

(c) Claim Determination Period. This is the period of time, which must not be less than twelve (12) consecutive months, over which Allowable Expenses are compared with total benefits payable in the absence of COB, to determine whether overinsurance exists and how much each plan will pay or provide.

1. The Claim Determination Period is usually a calendar year, but a plan may use some other period of time that fits the coverage of the group contract. A person

may be covered by a plan during a portion of a Claim Determination Period if that person's coverage starts or ends during the Claim Determination Period.

2. As each claim is submitted, each plan is to determine its liability and pay or provide benefits based upon Allowable Expenses incurred to that point in the Claim Determination Period. That determination is subject to adjustment as later Allowable Expenses are incurred in the same Claim Determination Period.

(d) Coordination of Benefits. This is a provision establishing an order in which plans pay their claims.

(e) Hospital Indemnity Benefits. These are benefits not related to expenses incurred. The term does not include reimbursement-type benefits even if they are designed or administered to give the insured the right to elect indemnity-type benefits at the time of claim.

(f) Plan. Plan means a form of coverage with which coordination is allowed. The definition of Plan in the group contract must state the types of coverage which will be considered in applying the COB provision of that contract. The right to include a type of coverage is limited by the rest of this definition.

1. The definition shown in the Model COB Provision, attached to this Regulation as Appendix A, is an example of what may be used. Any definition that satisfies this subparagraph may be used.

2. This Regulation uses the term "plan." However, a group contract may, instead, use "program" or some other term.

3. Plan may include:

(i) Group insurance and group subscriber contracts;

(ii) Uninsured arrangements of group or group-type coverage;

(iii) Group or group-type coverage through HMOs and other prepayment, group practice and individual practice plans;

(iv) Group-type contracts. Group-type contracts which are not available to the general public and can be obtained and maintained only because of membership in or connection with a particular organization or group. Group-type contracts answering this description may be included in the definition of plan, at the option of the insurer or the service provider and the contract client, whether or not uninsured arrangements or individual contract forms are used and regardless of how the group-type coverage is designated (for example, "franchise" or "blanket"). Individually underwritten and issued guaranteed renewable policies would not be

considered "group-type" even though purchased through payroll deduction at a premium savings to the insured since the insured would have the right to maintain or renew the policy independently of continued employment with the employer.

(v) The amount by which group or group-type hospital indemnity benefits exceed $100 per day;

(vi) The medical benefits coverage in group, group-type and individual automobile "no-fault" and traditional automobile "fault" type contracts; and

(vii) Medicare or other governmental benefits, except as provided in subparagraph (g) below. That part of the definition of plan may be limited to the hospital, medical and surgical benefits of the governmental program.

4. Plan shall not include:

(i) Individual or family insurance contracts;

(ii) Individual or family subscriber contracts;

(iii) Individual or family coverage through Health Maintenance Organizations (HMOs);

(iv) Individual or family coverage under other prepayment, group practice and individual practice plans;

(v) Group or group-type hospital indemnity benefits of $100 per day or less;

(vi) School accident-type coverages. These contracts cover grammar, high school and college students for accidents only, including athletic injuries, either on a twenty-four-hour basis or on a "to and from school" basis; and

(vii) A State plan under Medicaid, and shall not include a law or plan when, by law, its benefits are in excess of those of any private insurance plan or other nongovernmental plan.

(g) Primary Plan. A Primary Plan is a plan whose benefits for a person's health care coverage must be determined without taking the existence of any other plan into consideration. A plan is a Primary Plan if either of the following conditions are true:

1. The plan either has no order of benefit determination rules, or it has rules which differ from those permitted by this Regulation. There may be more than one Primary Plan; or

2. All plans which cover the person use the order of benefit determination rules required by this Regulation, and under those rules the plan determines its benefits first.

(h) Secondary Plan. A Secondary Plan is a plan which is not a Primary Plan. If a person is covered by more than one Secondary Plan, the order of benefit determination rules of this Regulation decide the order in which their benefits are determined in relation to each other. The benefits of each Secondary Plan may take into consideration the benefits of the Primary Plan or plans and the benefits of any other plan which, under the rules of this Regulation, has its benefits determined before those of that Secondary Plan.

(i) This Plan. In a COB provision, this term refers to the part of the group contract providing the health care benefits to which the COB provision applies and which may be reduced because of the benefits of other plans. Any other part of the group contract providing health care benefits is separate from This Plan. A group contract may apply one COB provision to certain of its benefits (such as dental benefits), coordinating only with like benefits, and may apply other separate COB provisions to coordinate other benefits.

Cite as Ga. Comp. R. & Regs. R. 120-2-48-.03
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Definitions" adopted. F. Sept. 18, 1990; eff. Jan. 1, 1991, as specified by the Agency.

Rule 120-2-48-.04. Model COB Contract Provision.

(1) General. Appendix A contains a model COB provision for use in group contracts. That use is subject to the provisions of(2) and (3) below and to the provisions of Rule 120-2-48-.05.

(2) Flexibility. A group contract's COB provision does not have to use the words and format shown at Appendix A. Changes may be made to fit the language and style of the rest of the group contract or to reflect the difference among plans which provide services, which pay benefits for expenses incurred, and which indemnify. No other substantive changes are allowed.

(3) Prohibited Coordination and Benefit Design.

(a) A group contract may not reduce benefits on the basis that:

1. Another plan exists;

2. A person is or could have been covered under another plan, except with respect to Part B of Medicare; or

3. A person has elected an option under another plan providing a lower level of benefits than another option which could have been elected.

(b) No contract may contain a provision that its benefits are "excess" or "always secondary" to any plan as defined in this Regulation, except in accord with the rules permitted by this Regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-48-.04
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Model COB Contract Provision" adopted. F. Sept. 18, 1990; eff. Jan. 1, 1991, as specified by the Agency.

Rule 120-2-48-.05. Rules for Coordination of Benefits.

(1) Order of Benefits.

(a) General. The general order of benefits is as follows:

1. The Primary Plan must pay or provide its benefits as if the Secondary Plan or Plans did not exist. A Plan that does not include a coordination of benefits provision may not take the benefits of another Plan as defined in Rule 120-2-48-.03 into account when it determines its benefits. There is one exception: a contract holder's coverage that is designed to supplement a part of a basic package of benefits may provide that the supplementary coverage shall be excess to any other parts of the plan provided by the contract holder.

2. A Secondary Plan may take the benefits of another plan into account only when, under these rules, it is Secondary to that other plan.

3. The benefits of the plan which covers the person as an employee, member or subscriber (that is, other than as a dependent) are determined before those of the plan which covers the person as a dependent.

(b) Dependent Child/Parents Not Separated or Divorced. The rules for the order of benefits for a dependent child when the parents are not separated or divorced are as follows:

1. The benefits of the plan of the parent whose birthday falls earlier in a year are determined before those of the plan of the parent whose birthday falls later in that year;

2. If both parents have the same birthday, the benefits of the plan which covered the parent longer are determined before those of the plan which covered the other parent for a shorter period of time.

3. The word "birthday" refers only to month and day in a calendar year, not the year in which the person was born;

4. A group contract which includes COB and which is issued or renewed, or which has an anniversary date on or after sixty (60) days after the effective date of this Regulation shall include the substance of the provision in subparagraphs (b)1., 2., and 3. above. Until that provision becomes effective, the group contract may instead contain wording such as: "Except as stated in paragraph (3) below, the benefits of a plan which covers a person as a dependent of a male are determined before those of a plan which covers the person as a dependent of a female."

5. If the other plan does not have the rule described in subparagraphs (b)1., 2., and 3. above, but instead has a rule based upon the gender of the parent; and if; as a result, the plans do not agree on the order of benefits, the rule based upon the gender of the parent will determine the order of benefits.

(c) Dependent Child/Separated or Divorced Parents. If two or more plans cover a person as a dependent child of divorced or separated parents, benefits for the child are determined in this order:

1. First, the plan of the parent with custody of the child;

2. Then, the plan of the spouse of the parent with the custody of the child; and

3. Finally, the plan of the parent not having custody of the child.

4. If the specific terms of a court decree state that one of the parents is responsible for the health care expenses of the child, and the entity obligated to pay or provide the benefits of the plan of that parent has actual knowledge of those terms, the benefits of that plan are determined first. The plan of the other parent shall be the Secondary Plan. This paragraph does not apply with respect to any Claim Determination Period or Plan Year during which any benefits are actually paid or provided before the entity has that actual knowledge.

5. If the specific terms of the court decree state that the parents shall share joint custody, without stating that one of the parents is responsible for the health care expenses of the child, the plans covering the child shall follow the order of benefit determination rules outlined in subparagraph (b) above.

(d) Active/Inactive Employee. The benefits of a plan which covers a person as an employee who is neither laid off nor retired (or as that employee's dependent) are determined before those of a plan which covers that person as a laid off or retired employee (or as that employee's dependent). If the other plan does not have this rule; and if, as a result, the plans do not agree on the order of benefits, this rule is ignored.

(e) Longer/Shorter Length of Coverage. If none of the above rules determines the order of benefits, the benefits of the plan which covered an employee, member or subscriber longer are determined before those of the plan which covered that person for the shorter term.

1. To determine the length of time a person has been covered under a plan, two plans shall be treated as one if the claimant was eligible under the second within twenty-four (24) hours after the first ended.

2. The start of a new plan does not include:

   (i) A change in the amount of scope of a plan's benefits;

   (ii) A change in the entity which pays, provides or administers the plan's benefits; or

   (iii) A change from one type of plan to another (such as, from a single employer plan to that of a multiple employer plan).

3. The claimant's length of time covered under a plan is measured from the claimant's first date of coverage under that plan. If that date is not readily available, the date the claimant first became a member of the group shall be used as the date from which to determine the length of time the claimant's coverage under the present plan has been in force.

Cite as Ga. Comp. R. & Regs. R. 120-2-48-.05
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Rules for Coordination of Benefits" adopted. F. Sept. 18, 1990; effective Jan. 1, 1991, as specified by the Agency.

Rule 120-2-48-.06. Procedure to be Followed by Secondary Plan.

(1) Total Allowable Expenses.

(a) When it is determined, pursuant to Rule 120-2-48-.05, that this Plan is a Secondary Plan, it may reduce its benefits so that the total benefits paid or provided by all plans during a Claim Determination Period are not more than total

Allowable Expenses. The amount by which the Secondary Plan's benefits have been reduced shall be used by the Secondary Plan to pay Allowable Expenses, not otherwise paid, which were incurred during the Claim Determination Period by the person for whom the claim is made. As each claim is submitted, the Secondary Plan determines its obligation to pay for Allowable Expenses based on all claims which were submitted up to that point in time during the Claim Determination Period.

(b) The benefits of the Secondary Plan will be reduced when the sum of the benefits that would be payable for the Allowable Expenses under the Secondary Plan in the absence of this COB provision and the benefits that would be payable for the Allowable Expenses under the other Plans, in the absence of provisions with a purpose like that of this COB provision, whether or not claim is made, exceeds those Allowable Expenses in a Claim Determination Period. In that case, the benefits of the Secondary Plan will be reduced so that they and the benefits payable under the other plans do not total more than those Allowable Expenses.

1. When the benefits of this Plan are reduced as described above, each benefit is reduced in proportion. It is then charged against any applicable benefit limit of this Plan.

2. Subparagraph (b)1. above may be omitted if the plan provides only one benefit, or may be altered to suit the coverage provided.

Cite as Ga. Comp. R. & Regs. R. 120-2-48-.06
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Procedure to be Followed by Secondary Plan" adopted. F. Sept. 18, 1990; eff. Jan. 1, 1991, as specified by the Agency.

Rule 120-2-48-.07. Miscellaneous Provisions.

(1) Reasonable Cash Values of Services. A Secondary Plan which provides benefits in the form of services may recover the reasonable cash value of providing the services from the Primary Plan, to the extent that benefits for the services are covered by the Primary Plan and have not already been paid or provided by the Primary Plan. Nothing in this provision shall be interpreted to require a plan to reimburse a covered person in cash for the value of services provided by a plan which provides benefits in the form of services.

(2) Excess and Other Nonconforming Provisions.

(a) Some plans have order of benefit determination rules not consistent with this Regulation which declare that the plan's coverage is "excess" to all others, or "always secondary." This occurs because certain plans may not be subject to

insurance regulation, or because some group contracts have not yet been conformed with this Regulation pursuant to Rule 120-2-48-.02.

(b) A plan with order of benefit determination rules which comply with this Regulation (Complying Plan) may coordinate its benefits with a plan which is "excess" or "always secondary" or which uses order of benefit determination rules which are inconsistent with those contained in this Regulation (Noncomplying Plan) on the following basis:

1. If the Complying Plan is the Primary Plan, it shall pay or provide its benefits on a primary basis;

2. If the Complying Plan is the Secondary Plan, it shall, nevertheless, pay or provide its benefits first, but the amount of the benefits payable shall be determined as if the Complying Plan were the Secondary Plan. In such a situation, such payment shall be the limit of the Complying Plan's liability; and

3. If the Noncomplying Plan does not provide the information needed by the Complying Plan to determine its benefits within a reasonable time after it is requested to do so, the Complying Plan shall assume that the benefits of the Noncomplying Plan are identical to its own, and shall pay its benefits accordingly. However, the Complying Plan must adjust any payments it makes based on such assumption whenever information becomes available as to the actual benefits of the Noncomplying Plan.

(c) If the Noncomplying Plan reduces its benefits so that the employee, subscriber, or member receives less in benefits than he or she would have received had the Complying Plan paid or provided its benefits as the Secondary Plan and the Noncomplying Plan paid or provided its benefits as the Primary Plan, and governing State law allows the right of subrogation set forth below, then the complying Plan shall advance to or on behalf of the employee, subscriber or member an amount equal to such difference. However, in no event shall the Complying Plan advance more than the Complying Plan would have paid had it been the Primary Plan less any amount it previously paid. In consideration of such advance, the Complying Plan shall be subrogated to all rights of the employee, subscriber or member against the Noncomplying Plan. Such advance by the Complying Plan shall also be without prejudice to any claim it may have against the Noncomplying Plan in the absence of such subrogation.

(d) Allowable Expenses. A term such as "usual and customary," "usual and prevailing," or "reasonable and customary," may be substituted for the term "necessary, reasonable and customary." Terms such as "medical care" or "dental care" may be substituted for "health care" to describe the coverages to which the COB provisions apply.

(e) Subrogation. The COB concept clearly differs from that of subrogation. Provisions for one may be included in health care benefits contracts without compelling the inclusion or exclusion of the other.

Cite as Ga. Comp. R. & Regs. R. 120-2-48-.07
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Miscellaneous Provisions" adopted. F. Sept. 18, 1990; eff. Jan. 1, 1991, as specified by the Agency.

Rule 120-2-48-.08. Effective Date; Existing Contracts.

(1) This Regulation is applicable to every group contract which provides health care benefits and which is issued on or after the effective date of this Regulation.

(2) A group contract which provides health care benefits and was issued before the effective date of this Regulation shall be brought into compliance with this Regulation by the later of:

(a) The next anniversary date or renewal date of the group contract; or

(b) The expiration of any applicable collectively bargained contract pursuant to which it was written.

APPENDIX A

COORDINATION OF THE GROUP CONTRACT'S BENEFITS WITH OTHER BENEFITS

I. APPLICABILITY

A. This Coordination of Benefits ("COB") provision applies to This Plan when an employee or the employee's covered dependent has health care coverage under more than one Plan. "Plan" and "This Plan" are defined below.

B. If this COB provision applies, the order of benefit determination rules should be looked at first. Those rules determine whether the benefits of This Plan are determined before or after those of another plan. The benefits of This Plan:

(1) Shall not be reduced when, under the order of benefit determination rules, This Plan determines its benefits before another plan; but

(2) May be reduced when, under the order of benefits determination rules, another plan determines its benefits first. The above reduction is described in Section IV "Effect on the Benefits of This Plan."

II. DEFINITIONS

A. "Plan" is any of these which provides benefits or services for, or because of, medical or dental care or treatment:

(1) Group insurance of group-type coverage, whether insured or uninsured. This includes prepayment, group practice or individual practice coverage. It also includes coverage other than school accident-type coverage.

(2) Coverage under a governmental plan, or coverage required or provided by law. This does not include a state plan under Medicaid (Title XIX, Grants to States for medical Assistance Programs, of the United States Social Security Act, as amended from time to time).

Each contract or other arrangement for coverage under (1) or (2) is a separate plan. Also, if an arrangement has two parts and COB rules apply only to one of the two, each of the parts is a separate plan.

B. "This Plan" is the part of the group contract that provides benefits for health care expenses.

C. "Primary Plan/Secondary Plan": The order of benefit determination rules state whether This Plan is a Primary Plan or Secondary Plan as to another plan covering the person.

When this Plan is a Primary Plan, its benefits are determined before those of the other plan and without considering the other plan's benefits.

When this Plan is a Secondary Plan, its benefits are determined after those of the other plan and may be reduced because of the other plan's benefits.

When there are more than two plans covering the person, This Plan may be a Primary Plan as to one or more other plans, and may be a Secondary Plan as to a different plan or plans.

D. "Allowable Expense" means a necessary, reasonable and customary item of expense for health care; when the item of expense is covered at least in part by one or more plans covering the person for whom the claim is made.

The difference between the cost of a private hospital room and the cost of a semiprivate hospital room is not considered an Allowable Expense under the

above definition unless the patient's stay in a private hospital room is medically necessary either in terms of generally accepted medical practice, or as specifically defined in the plan.

When a plan provides benefits in the form of services, the reasonable cash value of each service rendered will be considered both an Allowable Expense and a benefit paid.

When benefits are reduced under a Primary Plan because a covered person does not comply with the plan provisions, the amount of such reduction will not be considered an Allowable Expense. Examples of such provisions are those related to second surgical opinions, precertification of admissions or services, and preferred provider arrangements.

E. "Claims Determination Period" means a calendar year. However, it does not include any part of a year during which a person has no coverage under This Plan, or any part of a year before the date this COB provision or a similar provision takes effect.

III. ORDER OF BENEFIT DETERMINATION RULES

A. General. When there is a basis for a claim under This Plan and another plan, This Plan is a Secondary Plan which has its benefits determined after those of the other plan, unless:

(1) The other plan has rules coordinating its benefits with those of This Plan; and

(2) Both those rules and This Plan's rules, in Subsection B below, require that This Plan's benefits be determined before those of the other plan.

B. Rules. This Plan determines its order of benefits using the first of the following rules which applies:

(1) Non-dependent/Dependent. The benefits of the plan which covers the person as an employee, member, or subscriber (that is, other than as a dependent) are determined before those of the plan which covers the person as a dependent.

(2) Dependent Child/Parents not Separated or Divorced. Except as stated in Paragraph B.

(3) below, when This Plan and another plan cover the same child as a dependent of different persons, called "parents:"

(a) The benefits of the plan of the parent whose birthday falls earlier in a year are determined before those of the plan of the parent whose birthday falls later in that year; but

(b) If both parents have the same birthday, the benefits of the plan which covered one parent longer are determined before those of the plan which covered the other parent for a shorter period of time.

However, if the other plan does not have the rule described in (a) immediately above, but instead has a rule based upon the gender of the parent, and if, as a result, the plans do not agree on the order of benefits, the rule in the other plan will determine the order of benefits.

(3) Dependent Child/Separated or Divorced. If two or more plans cover a person as a dependent child of divorced or separated parents, benefits for the child are determined in this order:

(a) First, the plan of the parent with custody of the child;

(b) Then, the plan of the spouse of the parent with the custody of the child.

(c) Finally, the plan of the parent not having custody of the child.

However, if the specific terms of a court decree state that one of the parents is responsible for the health care expense of the child, and the entity obligated to pay or provide the benefits of the plan of that parent has actual knowledge of those terms, the benefits of that plan are determined first. The plan of the other parent shall be the Secondary Plan. This paragraph does not apply with respect to any Claim Determination Period or Plan Year during which any benefits are actually paid or provided before the entity has that actual knowledge.

(4) Joint Custody. If the specific terms of a court decree state that the parents shall share joint custody, without stating that one of the parents is responsible for the health care expenses of the child, the plans covering the child shall follow the order of benefit determination rules outlined in Paragraph III B.(2).

(5) Active/Inactive Employee. The benefits of a plan which covers a person as an employee who is neither laid off nor retired (or as that employee's dependent) are determined before those of a plan which covers that person as a laid off or retired employee (or as that employee's dependent). If the other plan does not have this rule, and if, as a result, the plans do not agree on the order of benefits, this Rule (5) is ignored.

(6) Longer/Shorter Length of Coverage. If none of the above rules determines the order of benefits, the benefits of the plan which covered an employee, member or

subscriber longer are determined before those of the Plan which covered that person for the shorter term.

IV. EFFECT ON THE BENEFITS OF THIS PLAN

A. When this Section Applies. This Section IV applies when, in accordance with Section III "Order of Benefit Determination Rules," This Plan is a Secondary Plan as to one or more other plans. In that event the benefits of This Plan may be reduced under this section. Such other plan or plans are referred to as "the other plans" in B immediately below.

B. Reduction in this Plan's Benefits. The benefits of This Plan will be reduced when the sum of:

(1) The benefits that would be payable for the Allowable Expense under This Plan in the absence of this COB provision; and

(2) The benefits that would be payable for the Allowable Expenses under the other plans, in the absence of provisions with a purpose like that of this COB provision, whether or not claim is made; exceeds those Allowable Expenses in a Claim Determination Period. In that case, the benefits of This Plan will be reduced so that they and the benefits payable under the other plans do not total more than those Allowable Expenses.

When the benefits of This Plan are reduced as described above, each benefit is reduced in proportion. It is then charged against any applicable benefit limit of This Plan.

V. RIGHT TO RECEIVE AND RELEASE NEEDED INFORMATION

Certain facts are needed to apply these COB rules. [Insurer] has the right to decide which facts it needs. It may get needed facts from or give them to any other organization or person. [Insurer] need not tell, or get the consent of, any person to do this. Each person claiming benefits under This Plan must give [insurer] any facts it needs to pay the claim.

VI. FACILITY OF PAYMENT

A payment made under Another plan may include an amount which should have been paid under This Plan. If it does, [insurer] may pay that amount to the organization which made that payment. That amount will then be treated as though it were a benefit paid under This Plan. [Insurer] will not have to pay that amount against. The term "payment made" includes providing benefits in the form

of services. in which case "payment made" means reasonable cash value of the benefits provided in the form of services.

VII. RIGHT OF RECOVERY

If the amount of the payments made by [in surer] is more than it should have paid under this COB provision, it may recover the excess from one or more of:

A. The persons it has paid or for whom it has paid;

B. Insurance companies; or

C. Other organizations.

The "amount of the payments made" includes the reasonable cash value of any benefits provided in the form of services.

Cite as Ga. Comp. R. & Regs. R. 120-2-48-.08
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Effective Date; Existing Contracts" adopted. F. Sept. 18, 1990; eff. Jan. 1, 1991, as specified by the Agency.

Subject 120-2-49. ADMINISTRATOR REGULATION.

Rule 120-2-49-.01. Authority.

This Regulation is promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. §§ 33-2-9 and 33-23-100*et seq*.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-23-100*et seq.*, 33-23-103, 33-23-105.
History. Original Rule entitled "Statutory Authority" adopted. F. May 19, 1993; eff. June 8, 1993.
Repealed: New Rule entitled "Authority" adopted. F. June 10, 1997; eff. June 30, 1997.
Repealed: New Rule of same title adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-49-.02. Scope and Purpose.

(1) This Regulation applies to any administrator as defined in O.C.G.A. Section 33-23-100.

(2) The purposes of this Regulation include

  (a) Providing disclosure of contracts between insurers and third party administrators, both to potential insureds and to the Commissioner;

(b) Promoting the financial responsibility of insurance administrators;

(c) Subjecting those business entities defined in O.C.G.A. § 33-23-100 to the jurisdiction of the Commissioner of Insurance; and

(d) Regulating insurance administrators' practices in conformity with the general purposes of the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-23-100*et seq.*, 33-23-105.
History. Original Rule entitled "Scope and Purpose of Regulation" adopted. F. May 19, 1993; eff. June 8, 1993.
Amended: F. Sept. 15, 1993; eff. Oct. 5, 1993.
Repealed: New Rule entitled "Scope and Purpose" adopted. F. June 10, 1997; eff. June 30, 1997.
Repealed: New Rule of same title adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-49-.03. License; Application; Issuance; Net Worth; Probationary License; Exemption.

(1) It is unlawful for any business entity to act as or hold itself out to be an administrator in this State without a valid license issued by the Commissioner of Insurance. To qualify for and hold a license to act as an administrator in this State, an administrator must otherwise be in compliance with Article 2 of Chapter 23 of Title 33 of the Official Code of Georgia Annotated, this Regulation, and with its organizational agreement.

(2) The administrator shall file with the Commissioner an application for a license upon a form to be furnished by the Commissioner, which application shall include or have attached the following information and documents and any other materials the Commissioner deems necessary to adequately assess the merits of the application:

(a) All basic organizational documents of the administrator, the articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement, and other applicable documents, and all amendments to those documents.

(b) The bylaws, rules and regulations or similar documents regulating the conduct or the internal affairs of the administrator.

(c) The names, addresses, official positions, and professional qualifications of the individuals who are responsible for the conduct of the affairs of the administrator, including all members of the board of directors, board of trustees, executive committee, or other governing board or committee, the principal officers in the case of a corporation, the partners or members in the case of a partnership or association, and any other person who exercises control or influence over the affairs of the administrator.

(d) Financial statements certified by the President, Chief Financial Officer or Treasurer or audited reports for the two most recent years, or such other information as the Commissioner may require in order to review the current financial condition of the applicant.

(e) If the applicant is not currently acting as an administrator, a statement of the amounts and sources of the funds available for organizational expenses and the proposed arrangements for reimbursement and compensation of incorporators or other principals.

(f) Proof that the applicant possesses a minimum net worth of $200,000; however, the Commissioner may, in his or her discretion, require a higher net worth if he or she deems such higher net worth necessary for the protection of the public. Letters of credit, backstop guarantees and special corporate structures will not be taken into consideration by the Commissioner in determining the net worth requirement.

(g) An application for an administrator's license or an application for renewal of such license shall be accompanied by fees as provided in O.C.G.A. § 33-8-1.

(3) The applicant shall make available for inspection by the Commissioner or his or her authorized representative copies of all contracts with insurers, self-insurers, or other persons utilizing the services of the administrator.

(4) The Commissioner shall not issue a license if he determines that the administrator or any principal thereof is not competent, trustworthy, financially responsible, or has had an insurance license refused, revoked, or suspended by any state.

(5) A license issued under this section may be issued on a probationary basis in the discretion of the Commissioner. The probationary license may be issued for not longer than 12 months and not less than 3 months and is subject to revocation without a hearing. The Commissioner, at his/her discretion, shall prescribe the terms of probation, may extend the probationary period, or refuse to grant a license at the end of any probationary period.

(6) Nonresident applicants for licenses under this chapter shall execute in a form acceptable to the Commissioner an agreement to be subject to the jurisdiction of the Georgia Commissioner of Insurance and courts of this state on any matter related to their insurance activities in Georgia, on the basis of service of process under Title 33 of the Official Code of Georgia Annotated or other service authorized in the Georgia Rules of Civil Procedure.

(7) Any business entity acting as an administrator that claims an exemption from the licensure requirements as defined by O.C.G.A. § 33-23-100(b)(1 - 12) shall file an annual claim of exemption each December 31 on a form as prescribed by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-23-100*et seq.*, 33-23-101, 33-23-105.

History. Original Rule entitled "License; Application, Issuance and Renewal" adopted. F. May 19, 1993; eff. June 8, 1993.
Amended: F. June 10, 1997; eff. June 30, 1997.
Repealed: New Rule entitled "License; Application; Issuance; Net Worth; Probationary License; Exemption" adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-49-.04. Written Agreement Necessary.

(1) No administrator shall act as such without a written agreement between the administrator and an insurer or self-insurer, and such written agreement shall be retained as part of the official records of an insurer or self-insurer and the administrator for the duration of the agreement and five years thereafter. Such written agreement shall contain provisions which meet the requirements of Rules 120-2-49-.05, 120-2-49-.08, 120-2-49-.09, 120-2-49-.10, 120-2-49-.12, 120-2-49-.13, 120-2-49-.14, and 120-2-49-.15, except insofar as those requirements do not apply to the functions performed by the administrator.

(2) Where a policy is issued to a trustee or trustees, a copy of the trust agreement and any amendments thereto shall be furnished to the insurer or self-insurer by the administrator and shall be retained as part of the official records of both the insurer and the administrator for the duration of the policy and five years thereafter.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-23-100*et seq.*, 33-23-104, 33-23-105.
History. Original Rule entitled "Written Agreement Necessary" adopted. F. May 19, 1993; eff. June 8, 1993.
Repealed: New Rule of same title adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-49-.05. Maintenance of Information; Books and Records; Reporting Requirements; Return Credits; Correction o.

(1) Every administrator shall maintain at its principal administrative office for the duration of the written agreement referred to in Rule 120-2-49-.04 and five years thereafter books and records of all transactions between it, insurers, self-insurers and insured persons. The Commissioner shall have access to such books and records for the purpose of examination, audit and inspection. Any trade secrets contained therein, including but not limited to the identity and addresses of policyholders and certificate holders, shall be confidential, except the Commissioner may use such information in any proceedings instituted against the administrator. The insurer shall retain the right to continuing access to such books and records of the administrator sufficient to permit the insurer to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement between the insurer and administrator on the proprietary rights of the parties in such books and records.

(2) Administrators shall maintain detailed books and records that reflect all administered transactions specifically in regard to premiums, premium taxes, agent's commissions,

administrator's fees, contributions received and deposited and claims and authorized expenses paid.

(3) The detailed preparation, journalizing, and posting of such books and records shall be made in accordance with the terms and conditions of the service agreement between the administrator and the insurer, self-insurer, or plan sponsor, and in accordance with the "Employee Retirement and Income Security Act of 1974," 88 Stat. 829, 29 U.S.C. § 1001*et seq.*, as amended and to enable the insurer to complete the National Association of Insurance Commissioners' annual financial statement.

(4) All books and records maintained by an administrator on behalf of an insurer, self-insurer or plan sponsor for a calendar or fiscal year shall be maintained for the period in which the administrator is providing service for the insurer, self-insurer or plan sponsor and for five years thereafter.

(5) Administrators shall maintain a cash receipts register of all premiums or contributions received. The minimum detail required in the register shall be:

(a) Date received and deposited;

(b) The mode of payment;

(c) The policy number;

(d) Name of group policyholder;

(e) Names of certificate-holders;

(f) Individual premium amounts; and

(g) Agent.

(6) The description of a disbursement shall be in sufficient detail to identify the source document substantiating the purpose of the disbursement, and shall include all of the following:

(a) The check number;

(b) The date of disbursement;

(c) The person to whom the disbursement was made;

(d) The amount disbursed. If the amount disbursed does not agree with the amount billed or authorized, the administrator shall prepare a written record as to the application for the disbursement; and

(e) Ledger account number.

(7) If the disbursement is for the earned administrative fee or commission, the disbursement shall be supported by a written record reflecting the identifying deposit from which the fee was matched.

(8) All journal entries for receipts and disbursements shall be supported by evidential matter. The evidential matters must be referenced in the journal entry so that it may be traced for verification.

(9) The administrator shall prepare and maintain monthly financial institution account reconciliations if such service is requested by an insurer or plan sponsor as provided in the service agreement by and between the administrator and the insurer or plan sponsor.

(10) The administrator shall prepare a report to be filed with the insurer and plan sponsor within ninety days of the end of the fiscal year of the plan, which discloses at least all of the following:

(a) The total premiums or contributions received from the plan sponsor, covered persons, or beneficiaries;

(b) The total administration fees withdrawn by the administrator pursuant to the written service agreement;

(c) The total claim payments made during the reporting period;

(d) A copy of the annual report shall be retained as part of the official record of the third party administrator for at least five (5) years;

(e) Any additional information required by the written agreement; and

(f) The names of all insurers, reinsurance carriers or ultimate risk bearers providing any type of insurance coverage to the plan sponsor.

(11) Return premiums or contributions shall be paid to the insurer, or self-insurer or plan sponsor or credited to the account of the insurer, self-insurer or plan sponsor within thirty days after receipt by the administrator. If the return premium or contribution is credited to the insurer, self-insurer or plan sponsor, the credit must be shown and applied to the next billing statement sent to the insurer, self-insurer or plan sponsor.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-23-100*et seq.*, 33-23-104, 33-23-105.
History. Original Rule entitled "Maintenance of Information; Books and Records; Annual Report; Return Credits; Correction of Violation" adopted. F. May 19, 1993; eff. June 8, 1993.
Amended: F. June 10, 1997; eff. June 30, 1997.
Repealed: New Rule entitled "Maintenance of Information; Books and Records; Reporting Requirements; Return Credits; Correction of Violation" adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-49-.06. Payment to Administrator.

Whenever an insurer utilizes the services of an administrator under the terms of a written contract as required in Rule 120-2-49-.04, the payment to the administrator of any premiums or charges for insurance by or on behalf of the insured shall be deemed to have been received by the insurer, and the payment of return premiums or claims by the insurer to the administrator shall not be deemed payment to the insured or claimant until such payments are received by the insured or claimant. Nothing herein shall limit any right of the insurer against the administrator resulting from its failure to make payments to the insurer, insureds or claimants.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-23-100*et seq.*, 33-23-104, 33-23-105.
History. Original Rule entitled "Payment to Administrator" adopted. F. May 19, 1993; eff. June 8, 1993.
Amended: F. June 10, 1997; eff. June 30, 1997.
Repealed: New Rule of same title adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-49-.07. Administrator Bond; Errors and Omissions Coverage.

(1) Every administrator shall file a bond with the Commissioner. The administrator shall file a certificate of such bond, in a form acceptable by a corporate surety insurer authorized to transact insurance in this state in favor of Commissioner of Insurance of the state of Georgia, continuous in form and in an amount equal to at least ten percent of the amount of the funds handled or managed annually by the administrator based on the preceding year, or if no funds were handled during the preceding year, ten percent of the amount of funds reasonably estimated to be handled during the current calendar year. In no event will the bond be less than $100,000.

(2) The bond shall inure to the benefit of any person damaged by any fraudulent act or conduct of the administrator and must be conditioned upon faithful accounting and application of all money coming into the administrator's possession in connection with its activities as an administrator.

(3) The bond remains in force until released by the Commissioner or canceled by the surety. Without prejudice to any liability previously incurred, the surety may cancel the bond upon 30 days' advance notice to the administrator and the Commissioner. An administrator's license shall be suspended if it does not file with the Commissioner a replacement bond before the date of cancellation of the previous bond. A replacement bond must meet all requirements of this section for the initial bond.

(4) Each administrator shall obtain errors and omissions 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.

(5) Any policy written in accordance with paragraph (4) 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 or certified 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 or certified mail by the party not renewing the policy to the other party to the policy and to the Commissioner.

(6) Upon approval by the Commissioner, bonds or policies may be written by an eligible surplus lines insurer.

(7) Compliance by the administrator with paragraph (4) of this Rule is a prerequisite to approval of its application by the Commissioner.

(8) Any bond and errors and omissions coverage required for licensure and renewal purposes shall be maintained in place by the administrator for a period of at least one year immediately following the surrender, non-renewal or revocation of the license.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-23-100*et seq.*, 33-23-102, 33-23-105.
History. Original Rule entitled "Administrators Fidelity Bond and Insurance" adopted. F. May 19, 1993; eff. June 8, 1993.
Amended: F. June 10, 1997; eff. June 30, 1997.
Repealed: New Rule entitled "Administrator Bond; Errors and Omissions Coverage" adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-49-.08. Premium Collection.

All insurance charges, fees, or premiums collected by an administrator on behalf of or for an insurer, insurers, or self-insurer, and return premiums received from such insurer, insurers, or self-insurer, shall be held by the administrator in a fiduciary capacity. Such funds shall be immediately remitted to the person or persons entitled thereto, or shall be deposited promptly in a fiduciary bank account established and maintained by the administrator. If charges or premiums so deposited have been collected on behalf of or for more than one insurer, or self-insurer, the administrator shall cause the bank in which such fiduciary account is maintained to keep records clearly recording the deposits in and withdrawals from such account on behalf of or for each insurer and for each self-insurer. The administrator shall promptly obtain and keep copies of all such records and, upon request of an insurer, or self-insurer, shall furnish such insurer or self-insurer with copies of such records pertaining to deposits and withdrawals on behalf of or for such insurer or self-insurer. The administrator shall not pay any claim by withdrawals from such fiduciary account. Withdrawals from such account shall be made, as provided in the written agreement between the administrator and the insurer, or self-insurer, for

(a) Remittance to an insurer, or self-insurer, entitled thereto;

(b) Deposit in an account maintained in the name of such insurer or self-insurer;

(c) Transfer to and deposit in a claims paying account, with claims to be paid as provided in 120-2-49-.09;

(d) Payment to a group policyholder for remittance to the insurer or self-insurer entitled thereto;

(e) Payment to the administrator of its fees or charges; or

(f) Remittance of return premiums to the person or persons entitled thereto.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-23-100*et seq.*, 33-23-104, 33-23-105.
History. Original Rule entitled "Premium Collection" adopted. F. May 19, 1993; eff. June 8, 1993.
Amended: F. June 10, 1997; eff. June 30, 1997.
Repealed: New Rule of same title adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-49-.09. Payment of Claims.

All claims paid by the administrator from funds collected on behalf of an insurer or self-insurer shall be paid by check, drafts, electronic funds transfer, or other method of electronic payment, as authorized by such insurer or self-insurer: provided, however, the payee may elect to receive payment by check.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.09
Authority: O.C.G.A. §§ 33-2-9, 33-23-100*et seq.*, 33-23-104, 33-23-105.
History. Original Rule entitled "Payment of Claims" adopted. F. May 19, 1993; eff. June 8, 1993.
Amended: F. June 10, 1997; eff. June 30, 1997.
Repealed: New Rule of same title adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.
Amended: F. Mar. 20, 2020; eff. Apr. 13, 2020, as specified by the Agency.

Rule 120-2-49-.10. Compensation for Adjusting or Settling Claims.

(1) Compensation to an administrator for any policies in which the administrator adjusts or settles claims shall in no way be contingent on claims experience. This section does not prevent the compensation of an administrator from being based on premiums or charges collected or the number of claims paid or processed.

(2) An administrator shall not receive from any plan sponsor, insurer, self-insurer, covered individual or beneficiary under a plan any compensation or other payments except as expressly set forth in the written agreement between the administrator and the plan sponsor, insurer, or self-insurer.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-23-100*et seq.*, 33-23-104, 33-23-105.
History. Original Rule entitled "Compensation for Adjusting or Settling Claims" adopted. F. May 19, 1993; eff. June 8, 1993.
Amended: F. June 10, 1997; eff. June 30, 1997.
Repealed: New Rule of same title adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-49-.11. Annual Renewal.

(1) Each authorized administrator shall file with the Commissioner an annual renewal of its license on a form prescribed by the Commissioner which sets forth the administrator's transactions, and affairs. The statement shall be filed annually on or before March 1. The annual renewal shall be in such form and contain such matters as the Commissioner prescribes and shall be verified by at least one officer of the administrator. For good cause shown the Commissioner may extend the time for filing of the annual renewal of the license conditioned upon payment of a fee prescribed therefore.

(2) At the time of filing its annual renewal, the administrator shall pay a filing fee as provided in O.C.G.A. § 33-8-1.

(3) The annual renewal shall include the complete names, addresses, N.A.I.C. company and N.A.I.C. group number of all insurers with which the administrator had an agreement during the preceding fiscal year, and the complete names and addresses of all self-insurers where such agreement existed during the preceding fiscal year.

(4) The administrator shall at all times maintain a net worth of $200,000. If the administrator fails to maintain a net worth of $200,000 the Commissioner, in his/her discretion, may enter any disciplinary order as he/she deems appropriate pursuant to Title 33 of the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.11
Authority: O.C.G.A. Secs. 33-2-9, 33-23-100*et seq.*, 33-23-101, 33-23-105.
History. Original Rule entitled "Annual Statement; Notice of Change in Ownership" adopted. F. May 19, 1993; eff. June 8, 1993.
Amended: F. June 10, 1997; eff. June 30, 1997.
Repealed: New Rule entitled "Annual Renewal" adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-49-.12. Underwriting Provisions.

(1) The written agreement between the administrator and an insurer shall make provision with respect to the underwriting or other standards pertaining to the business underwritten by such insurer. The written agreement between the administrator and a self-insurer shall make provision with respect to any underwriting requirements or other standards pertaining to the benefit coverage to be provided.

(2) As to the administration of coverage insured by an insurance company, the insurance company, and not the administrator, shall be responsible for determining the benefits, rates, underwriting criteria, and claims payment procedures applicable to such coverage and for securing reinsurance, if any.

(3) No administrator shall place any insurance or reinsurance coverage on behalf of a plan sponsor with an insurer that is not authorized or approved to do business in Georgia.

(4) No administrator shall have the authority to move the coverage of a group or subgroup to a new insurer unless such action is at the request of the current insurer or the group policyholder following notice of termination of the group coverage by the insurer or group policyholder, and the new insurer must hold a Certificate of Authority to do business in Georgia.

(5) Any insured individual whose group insurance coverage terminates, regardless of the situs of the group policy, shall be entitled to conversion rights as required under O.C.G.A. §§ 33-24-21.1 and 120-2-10-.11 of the Rules and Regulations of the Office of Commissioner of Insurance, or as provided in the group insurance policy, if more favorable.

(6) Where group insurance coverage is discontinued and replaced, the individual insureds shall be entitled to all takeover rights provided under Rule 120-2-10-.10 of the Rules and Regulations of the Office of Commissioner of Insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.12
Authority: O.C.G.A. Secs. 33-2-9, 33-23-100*et seq.*, 33-23-104, 33-23-105.
History. Original Rule entitled "Underwriting Provisions" adopted. F. May 19, 1993; eff. June 8, 1993.
Amended: F. June 10, 1997; eff. June 30, 1997.
Repealed: New Rule of same title adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-49-.13. Approval of Advertising.

(1) An administrator may use only such advertising pertaining to the business underwritten by an insurer as has been approved by such insurer in advance of its use.

(2) Each administrator shall maintain at its principal administrative office a complete file of all advertisements, regardless of by whom written, created or designed, which are used in the course of the administrator's business in this state, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to inspection by the Office of Commissioner of Insurance. All such advertisements shall be maintained in said file for a period of not less than five (5) years.

(3) Each administrator shall file with the Commissioner of Insurance on or before March 1 in each year, a certification executed by an authorized officer of the administrator attesting that to the best of his or her knowledge, information and belief, the advertisements

disseminated by the administrator during the preceding calendar year complied, or were made to comply in all respects, with the advertising regulations of this state.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.13
Authority: O.C.G.A. Secs. 33-2-9, 33-23-100*et seq.*, 33-23-104, 33-23-105.
History. Original Rule entitled "Approval of Advertising" adopted. F. May 19, 1993; eff. June 8, 1993.
Amended: F. June 10, 1997; eff. June 30, 1997.
Repealed: New Rule of same title adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-49-.14. Delivery of Policies and Notices.

Any policies, certificates, booklets, termination notices, or other written communications delivered by the insurer to the administrator for delivery to its policyholders shall be delivered by the administrator promptly after receipt of direction from the insurer to deliver them.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.14
Authority: O.C.G.A. Secs. 33-2-9, 33-23-100*et seq.*, 33-23-104, 33-23-105.
History. Original Rule entitled "Delivery of Policies and Notices" adopted. F. May 19, 1993; eff. June 8, 1993.
Amended: F. June 10, 1997; eff. June 30, 1997.
Repealed: New Rule of same title adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-49-.15. Notification Required.

(1) Where the services of an administrator are utilized, the administrator shall provide a written notice approved by the insurer, or self-insurer, to insured or self-insured individuals, advising them of the identity of and relationship among the administrator, the group policyholder and the insurer or self-insurer. Where an administrator collects funds, it must identify and state separately in writing to the person paying to the administrator any charge or premium for insurance coverage or self-funded benefits, the amount of any such charge or premium specified by the insurer or self-insurer for such insurance coverage or self-funded benefits.

(2) Each administrator shall identify to the Commissioner any ownership interest or affiliation of any kind with any insurance company responsible for providing benefits directly or through reinsurance to any plan for which the administrator provides administrative services.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.15
Authority: O.C.G.A. Secs. 33-2-9, 33-23-100*et seq.*, 33-23-104, 33-23-105
History. Original Rule entitled "Notification Required" adopted. F. May 19, 1993; eff. June 8, 1993.
Amended: F. June 10, 1997; eff. June 30, 1997.
Repealed: New Rule of same title adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-49-.16. Examination by Commissioner; On-Site Examinations.

(1) An administrator shall, at the request of the Commissioner, respond in writing within fifteen (15) working days to any complaint received by the Commissioner concerning the administrator. Complaints shall include those pertaining to improper adjudication of claims and any complaints or concerns, by any other state agency, relating to the administrator. If, in the Commissioner's discretion, the frequency or severity of such complaints or infractions justifies an examination of the administrator's practices and procedures, any such examination by the Commissioner, or any person designated by him or her, shall be at the expense of the administrator. The Commissioner may, in addition to any other remedy available, suspend, revoke or refuse to renew a license in the event that the administrator does not fully cooperate with the Commissioner's office relating to this rule.

(2) The Commissioner or his or her designated representative is authorized to make a complete on-site examination of the affairs of each administrator as often as is deemed necessary. Whenever the Commissioner shall deem it expedient, he or she shall examine by use of an examiner duly authorized by him or her the affairs, transactions, accounts, records, documents, assets, liabilities, of an administrator and any other facts relative to its business methods, management, and dealings with policyholders, certificate holders, and members.

(3) Any administrator being examined shall provide to the Commissioner or his or her designee convenient and free access, at all reasonable hours at their offices, to all books, records, documents and other papers relating to such administrator's business affairs.

(4) At the direction of the Commissioner the administrator shall pay the fees and expenses of the examination. A consolidated account for the examination shall be filed by the examiner with the Commissioner.

(5) Nothing in this rule shall limit or abridge any other investigatory powers of the Commissioner vested in him or her by Title 33 of the Official Code of Georgia Annotated.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.16
Authority: O.C.G.A. Secs. 33-2-9, 33-23-100*et seq.*, 33-23-103, 33-23-105.
History. Original Rule entitled "Examination by Commissioner; On-Site Visits" adopted. F. May 19, 1993; eff. June 8, 1993.
Amended: F. June 10, 1997; eff. June 30, 1997.
Repealed: New Rule entitled "Examination by Commissioner; On-Site Examinations" adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-49-.17. Unfair Practices; Marketing of Unapproved Products.

(1) No administrator, nor their officers, directors, partners, trustees, agents or employees shall engage in any unfair trade practice defined in Chapter 6 of Title 33 of the Official Code of Georgia Annotated, or determined pursuant to this rule to be an unfair or

deceptive act or practice. The provisions of Chapter 6 apply to administrators and their officers, directors, partners, trustees, agents or employees.

(2) In addition to the practices deemed unfair and deceptive in Chapter 6 of Title 33 of the Official Code of Georgia Annotated, it shall be deemed an unfair or deceptive practice for any administrator, officer, director, partner, trustee, agent or employee to commit or perform any of the following:

(a) Misrepresenting or withholding any data or information that has been provided by the plan sponsor and is pertinent to underwriting conditions for a contract of insurance between the plan sponsor and any insurer, reinsurer or ultimate risk bearer, or for a contract of self-insurance between the plan sponsor and the administrator.

(b) Misrepresenting the existence or the terms of any actual or proposed insurance or reinsurance policy, or self-insurance contract.

(c) Failing to make an appropriate reply within fifteen working days to any inquiries of the Office of Commissioner of Insurance as they pertain to this regulation or O.C.G.A. §§ 33-23-100 to 33-23-104.

(d) Failing to submit requested documentation to the Office of Commissioner of Insurance as it applies to any complaints or inquiries regarding the business practices of an administrator.

(3) A licensed administrator is not permitted to market or administer any insurance product not approved in this state or that is issued by a non-admitted insurer or unauthorized multiple employer self-insured health plan.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.17
Authority: O.C.G.A. Secs. 33-2-9, 33-23-100*et seq.*, 33-23-101, 33-23-105.
History. Original Rule entitled "Defined Unfair Practices" adopted. F. May 19, 1993; eff. June 8, 1993.
Repealed: New Rule entitled "Unfair Practices" adopted. F. June 10, 1997; eff. June 30, 1997.
Repealed: New Rule entitled "Unfair Practices; Marketing of Unapproved Products" adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-49-.18. Change of Management; Acquisition; Affiliation; Relationships with Third Parties.

(1) The administrator shall, within 30 days after the event, notify the Commissioner of any material change in its management.

(2) An administrator's license shall not be sold or transferred to a non-affiliated or otherwise unrelated party.

(3) An administrator may not contract or sub-contract any of its negotiated services to any unlicensed business entity unless specifically approved by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.18
Authority: O.C.G.A. Secs. 33-2-9, 33-23-100*et seq.*, 33-23-104, 33-23-105.
History. Original Rule entitled "Forms Relating to Regulation of Administrators" adopted. F. May 19, 1993; eff. June 8, 1993.
Repealed: New Rule entitled "Forms" adopted. F. June 10, 1997; eff. June 30, 1997.
Repealed: New Rule entitled "Change of Management; Acquisition; Affiliation; Relationships with Third Parties" adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-49-.19. Forms.

Standard administrator forms are required and will be supplied upon request by the Commissioner's office either in paper form or electronically over the internet. Applicants and licensed administrators shall utilize all applicable forms in preparing applications, statements, notices of required information, and other submissions required under Article 2 of Chapter 23 of Title 33 of the Official Code of Georgia Annotated.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.19
Authority: O.C.G.A. Secs. 33-2-9, 33-23-100*et seq.*, 33-23-105.
History. Original Rule entitled "Severability Provision" adopted. F. May 19, 1993; eff. June 8, 1993.
Repealed: New Rule entitled "Penalties" adopted. F. June 10, 1997; eff. June 30, 1997.
Repealed: New Rule entitled "Forms" adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-49-.20. Penalties.

Any business entity or affiliated party failing to comply with the requirements of this Regulation Chapter shall be subject to such penalties as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.20
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Severability" adopted. F. June 10, 1997; eff. June 30, 1997.
Repealed: New Rule entitled "Penalties" adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Rule 120-2-49-.21. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-49-.21
Authority: O.C.G.A. Sec. 33-2-9.

History. Original Rule entitled "Severability" adopted. F. Dec. 9, 2005; eff. Dec. 29, 2005.

Subject 120-2-50. MULTIPLE EMPLOYER SELF-INSURED HEALTH PLANS.

Rule 120-2-50-.01. Purpose.

The purpose of this Regulation is to implement the provisions of O.C.G.A. Chapter 33-50 and to ensure the safe and proper operation of multiple employer self-insured health plans in Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-50-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-50-10.
History. Original Rule entitled "Purpose" adopted. F. Mar. 19, 1993; eff. Apr. 8, 1993.

Rule 120-2-50-.02. Definitions.

(1) "Employee" means any person in the service of another under any contract of hire, express or implied, oral or written, where the employer has the power or right to control and direct the employee in the material details of how the work is to be performed.

(2) "Employer" means any person who employs the services of others or for whom the employees work.

(3) "Premium" means the consideration for insurance, by whatever name called. Any assessment, or any membership, policy, survey, inspection, or similar fee or charge in consideration for an insurance contract is deemed part of the premium.

Cite as Ga. Comp. R. & Regs. R. 120-2-50-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-50-10.
History. Original Rule entitled "Definitions" adopted. F. Mar. 19, 1993; eff. Apr. 8, 1993.

Rule 120-2-50-.03. Disclosure.

Any person who advertises, solicits, sells, transacts, or administers coverage, or who in any manner secures, helps or aids in the placing or administration of coverage with any multiple employer self-insured plan in Georgia shall prominently disclose in writing to every participating employer, covered employee, and employer being solicited for participation, in a form to be filed with and approved by the Commissioner at the time of licensing, the following: that the plan is a self-insured plan and that benefits are not guaranteed by a licensed insurer; that the plan is not covered by the Georgia Life and Health Guaranty Association which provides protection to Georgia residents from insolvent insurers; and that certain other major protections offered to Georgia residents under the Georgia Insurance Code and Rules and Regulations, such as

conversion rights and certain mandated or required benefits, may not be available through the multiple employer self-insured plan.

Cite as Ga. Comp. R. & Regs. R. 120-2-50-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-50-10.
History. Original Rule entitled "Disclosure" adopted. F. Mar. 19, 1993; eff. Apr. 8, 1993.

Rule 120-2-50-.04. Filing Requirements.

(1) All communications and filings must be made with the Regulatory Services Division, Georgia Insurance Department. To Complete the application for a license, the following items pertaining to the plan must be submitted:

(a) Each applicant for license shall make application on form ME-2, entitled "Application for License for Multiple Employer Self-Insured Health Plan," attached hereto as "Exhibit A" and incorporated herein.

(b) A copy of the plan's bylaws, all schedules of benefits, and all management, administration and trust agreements which the plan has made or proposes to make for the conduct of its business and affairs, certified to by a majority of the trustees. Any proposed change or amendment to the foregoing must also be filed with the Commissioner not less than sixty (60) days before the effective date of the change or amendment.

(c) An audited financial statement prepared by a certified public accountant (CPA), on form ME-3, entitled "Financial Statement," attached hereto as "Exhibit B" and incorporated herein.

(d) Signed and notarized biographical affidavits by all trustees of the plan on form ME-4, entitled "Biographical Questionnaire," attached hereto as "Exhibit C" and incorporated herein.

(e) A complete list of names, addresses, and telephone numbers of employers participating in the plan and the number of employees of each employer participating in the plan.

(f) A statement of the reasons for applying for a Georgia license, a description of exactly how the plan proposes to develop and Supervise its operations in Georgia, the name, title and qualifications of the person who will be responsible for the plan's operation in Georgia, and the location of and a description of the office facilities that will be provided by the plan in Georgia.

(2) After the plan has complied with the above requirements, the application file will be reviewed and the Commissioner will request any additional information as in his discretion he may deem proper for considering the plan's application for a license.

(3) While an application is pending, it is the responsibility of the plan to keep all required statements, documents and materials current.

(4) An application for a license in Georgia is not complete until the plan has complied, to the Commissioner's satisfaction, with all of the above requirements. The Commissioner is not required to act formally on an incomplete application.

Cite as Ga. Comp. R. & Regs. R. 120-2-50-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-50-3, 33-50-4, 33-50-10.
History. Original Rule entitled "Filing Requirements" adopted. F. Mar. 19, 1993; eff. Apr. 8, 1993.

Rule 120-2-50-.05. Stop-Loss Coverage Requirements.

(1) A multiple employer self-insured health plan is required to obtain individual and aggregate excess stop-loss coverage from an insurer authorized to transact insurance in Georgia. Such coverage must be submitted for approval by the Commissioner.

(2) Plan participants are required to find benefits up to the point at which the excess stop-loss insurer assumes one hundred percent of the liability to pay benefits. In reviewing an excess stop-loss agreement for approval, the Commissioner will closely scrutinize the agreement to determine whether the levels of individual and aggregate risk retained by the plan are such as will put the plan in an unsound condition or will render its proceedings hazardous to the public or to persons covered under the plan. In making his determination, the Commissioner will consider all relevant factors including, but not limited to, reserving practices, adequacy of employer/employee contributions, benefits provided under the plan, administrative and other expenses, and management. If the Commissioner is of the opinion that the excess stop-loss agreement will put the plan in an unsound condition, will render the plan's proceedings hazardous to the public or persons covered under the plan, or is otherwise not in compliance with the law, the Commissioner will disapprove the agreement.

Cite as Ga. Comp. R. & Regs. R. 120-2-50-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-50-5, 33-50-10.
History. Original Rule entitled "Step-Loss Coverage Requirements" adopted. F. Mar. 19, 1993; eff. Apr. 8, 1993.

Rule 120-2-50-.06. Security Deposits.

Security Deposit in the amount of $100,000 shall be made with the Commissioner on forms GID-5A through GID-6, as applicable. Referenced forms are attached to Rules and Regulations of the Georgia Insurance Department, Section 120-2-18-.04, Exhibits B and C, and are hereby incorporated herein by reference. The following types of security deposits are acceptable:

(a) Securities having a market value of not less than $100,000 registered in the name of the plan, both as to principal and interest, with forms GID-5A and GID-6. Forms GID-5B and 5C are not required with the deposit of U.S. Treasury Bonds or Notes.

(b) Certificates of Deposit in Georgia banks in an amount of $100,000, and for a duration of at least one year unless automatically renewable, with form GID-6.

Cite as Ga. Comp. R. & Regs. R. 120-2-50-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-50-3, 33-50-10.
History. Original Rule entitled "Security Deposits" adopted. F. Mar. 10, 1993; eff. Apr. 8, 1993.

Rule 120-2-50-.07. Examinations.

An examination will be performed by the Commissioner to verify the books, accounts and records underlying the plan during the licensing process. This examination will be performed at the expense of the applicant by a representative of the Office of the Commissioner of Insurance. After licensure, plans will be subject to periodic unscheduled and unannounced examinations in accordance with O.C.G.A. Chapter 33-2.

Cite as Ga. Comp. R. & Regs. R. 120-2-50-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-2-11, 33-2-15, 33-50-8, 33-50-10.
History. Original Rule entitled "Examinations" adopted. F. Mar. 19, 1993; eff. Apr. 8, 1993.

Rule 120-2-50-.08. Powers of Attorney.

A power of attorney appointing a person who is a resident of Georgia to receive service of legal process must be submitted on form ME-5 entitled "Power of Attorney," attached hereto as "Exhibit D" and incorporated herein. Such person must be readily accessible and available for service. Both the residence and business address must be provided.

Cite as Ga. Comp. R. & Regs. R. 120-2-50-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-50-10.
History. Original Rule entitled "Powers of Attorney" adopted. F. Mar. 19, 1993; eff. Apr. 8, 1993.

Rule 120-2-50-.09. Bonds.

Proof of bonding by a surety company having a certificate of authority to transact insurance in Georgia in a minimum amount of $150,000 for each plan trustee must be submitted.

Cite as Ga. Comp. R. & Regs. R. 120-2-50-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-50-6, 33-50-10.
History. Original Rule entitled "Bonds" adopted. F. Mar. 19, 1993; eff. Apr. 8, 1993.

Rule 120-2-50-.10. Surplus.

A detailed statement of the method used to arrive at the plan's required surplus account as required in Section 33-50-7(b)must be submitted.

Cite as Ga. Comp. R. & Regs. R. 120-2-50-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-50-7, 33-50-10.
History. Original Rule entitled "Surplus" adopted. F. Mar. 19, 1993; eff. Apr. 8, 1993.

Rule 120-2-50-.11. Loss Reserves.

The plan must establish and maintain loss reserves in an amount deemed appropriate by the Commissioner. Plans in existence and actually operating in a sound manner for a period of at least 3 years prior to July 1, 1991, may maintain a reserve amount, which combined with surplus, will be 35% of claims paid by such plan in the immediate preceding year. The 35% level combined surplus/reserve may be deemed appropriate by the Commissioner so long as a determination is made that the insured employees/employer plan is in sound financial condition.

Cite as Ga. Comp. R. & Regs. R. 120-2-50-.11
Authority: O.C.G.A. Secs. 33-2-9. 33-50-7, 33-50-10.
History. Original Rule entitled "Loss Reserves" adopted. F. Mar. 19, 1993; eff. Apr. 8, 1993.

Rule 120-2-50-.12. Fees.

(1) Any application for a license shall be accompanied by a fee as provided in O.C.G.A. Sec. 33-8-1. This fee is nonrefundable.

(2) An annual license fee as provided in O.C.G.A. Sec. 33-8-1, payable to the Georgia Commissioner of Insurance, is required upon licensing and on or before July 1 of each year. The first license period is from the date of licensing through the following June 30th. The license fee will not be prorated for a period of less than one year.

Cite as Ga. Comp. R. & Regs. R. 120-2-50-.12
Authority: O.C.G.A. Secs. 33-2-9, 33-8-1, 33-50-3, 33-50-30.
History. Original Rule entitled "Fees" adopted. F. Mar. 19, 1993; eff. Apr. 8, 1993.

Rule 120-2-50-.13. Reporting Requirements.

A multiple employer self- insured health plan is required to file, on or before March 1st of each year, a signed and certified statement of its condition and affairs as of the preceding December 31st, on form ME-3. A plan is further required to furnish any additional information concerning its business and affairs which the Commissioner or his representatives shall require.

Cite as Ga. Comp. R. & Regs. R. 120-2-50-.13
Authority: O.C.G.A. Secs. 33-2-9, 33-50-6, 33-50-10.
History. Original Rule entitled "Reporting Requirements adopted. F. Mar. 19, 1993; eff. Apr. 8, 1993.

Rule 120-2-50-.14. Dissolution.

Any application to dissolve must be made on form ME-6, entitled "Application for Dissolution," attached hereto as "Exhibit E" and incorporated herein. An application for dissolution will not be considered to have been received by the Commissioner until it has been completed to his satisfaction.

Cite as Ga. Comp. R. & Regs. R. 120-2-50-.14
Authority: O.C.G.A. Secs. 33-2-9, 33-50-9, 33-50-10.
History. Original Rule entitled "Dissolution" adopted. F. Mar. 19, 1993; eff. Apr. 8, 1993.

Rule 120-2-50-.15. Penalties.

Any person failing to comply with the requirements of this Regulation shall be subject to such penalties as may be appropriate under the insurance laws of Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-50-.15
Authority: O.C.G.A. Secs. 33-2-9, 33-50-10, 33-50-11.
History. Original Rule entitled "Penalties" adopted. F. Mar. 19, 1993; eff. Apr. 8, 1993.

Rule 120-2-50-.16. 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 and the applicability of such provision to other persons or circumstances shall not be affected thereby.

EXHIBIT A

OFFICE OF COMMISSIONER OF INSURANCE STATE OF GEORGIA

APPLICATION FOR LICENSE FOR MULTIPLE EMPLOYER SELF-INSURED HEALTH PLAN

To the Commissioner of Insurance of the State of Georgia:
_____

(Name of Plan) domiciled in the State of _____ and whose home or principal office is located in the City of _____ and State of _____ by its Trustees hereby make application for a license to transact business as a Multiple Employer Self-Insured Health Plan in the State of Georgia for the period ending June 30, 19_____.

1. Name of Plan and Federal Employer Identification (EIN) number _____.

2. Street Address _____

3. Post Office Box (if applicable) _____

4. City _____ State _____ Zip _____

5. Date plan organized _____ Has the plan been in continuous operation since that time?

Yes _____ No _____ If "no," explain why not_____
_____
_____

6. Form of Organization: _____
_____ (Trust, Corporation, Partnership, etc.)

7. Date Plan began business: _____
_____

8. Number of employers participating _____
_____

9. Type(s) of business(es) of participating employers _____
_____
_____
_____

10. Name and address of sponsoring organization or association, if any
_____
_____
_____

11. Number of employees covered _____
_____
_____

12. Give the names and addresses of plan trustees, the employers which they represent, and the licensed surety company(ies) by which they are bonded (including bond numbers):

Name Address Employer Surety Bond

Represented Name Number

a. _____

b. _____

c. _____

d. _____

e. _____

f. _____

g. _____

13. Name and address of licensed investment manager _____
_____
_____

14. Name and address of plan administrator, if any _____
_____
_____

Describe the duties which the administrator performs on behalf of the plan
_____
_____
_____

15. In what states is the administrator licensed? (Please provide all license numbers)_____
_____
_____

16. Has this plan ever been the subject of any administrative investigation or disciplinary action, by any insurance regulatory authority? Yes _____ No _____.

If "yes", provide details and attach copies of all orders and pertinent documentation.

17. Has this plan ever surrendered a license or entered into a Consent Order to avoid disciplinary proceedings by any insurance regulatory authority? Yes _____ No _____. If "yes", provide details and attach copies of all surrenders, orders, and other pertinent documentation.

18. List all states other than Georgia where the plan transacts business
_____
_____
_____
_____

19. List all states other than Georgia in which the plan is licensed in any manner by any regulatory authority, giving the type of license held and the name of the official or agency issuing the license:

State Type of license Issuing official or agency

a. _____

b. _____

c. _____

d. _____

(use additional page if necessary)

20. Identify benefits provided employees:

Accident and Health () Dental ()

Short-Term Disability () Other ()

Specify _____

21. State the reasons the plan is applying for a Georgia license, a description of exactly how the plan proposes to develop and supervise its operations in Georgia, the name, title and qualifications of the person who will be responsible for the plan's operation in Georgia, and the location of and a description of the office facilities that will be provided by the plan in Georgia.

_____

_____

_____

_____

_____

_____

_____

_____

(Attach additional sheets if needed)

22. Attached to this Application, and incorporated herein by reference, are the following:

a. Copy of the plan's bylaws, all schedules of benefits, and all management, administration and trust agreements which the plan has made or proposes to make for the conduct of its business and affairs, certified by a majority of the trustees.

b. An audited financial statement, prepared by a certified public accountant (CPA), on form ME-3.

c. A complete list of the names, addresses, Federal Employer Identification Numbers, and telephone numbers of all employers participating in the plan, and the number of employees of each employer.

d. A copy of individual and aggregate excess stop-loss policy or policies covering the plan.

e. A power of attorney appointing a Georgia resident to receive legal process (Form ME-5).

f. Proof of bonding of trustees as required in Rule 120-2-50-.09.

g. Proposed disclosure statement as required in Rule 120-2-50-.03.

h. A check for the applicable filing fee, made payable to the Georgia Commissioner of Insurance.

CERTIFICATION

We, _____
_____ _____, the undersigned, constituting a majority of the Trustees of
_____
_____
_____

(Name of Multiple Employer Self-Insured Health Plan) swear that to the best of our knowledge and belief, the statements contained in the foregoing application for license, including all documents attached hereto, are true and complete.

COUNTY OF _____

STATE OF _____

BY: _____

(Name of Trustee)

Sworn to before me this _____ day of _____ 19___.

_____

NOTARY PUBLIC

My Commission Expires

_____

COUNTY OF _____

STATE OF _____

BY: _____

(Name of Trustee)

Sworn to before me this

_____ day of _____ 19 _____.

_____

NOTARY PUBLIC

My Commission Expires _____

COUNTY OF _____

STATE OF _____

BY: _____

(Name of Trustee)

Sworn to before me this

_____ day of _____ 19 _____.

_____

NOTARY PUBLIC

My Commission Expires _____

COUNTY OF _____

STATE OF _____

BY: _____

(Name of Trustee)

Sworn to before me this

_____ day of _____ 19_____.

_____

NOTARY PUBLIC

My Commission Expires _____

EXHIBIT B

OFFICE OF COMMISSIONER OF INSURANCE STATE OF GEORGIA

FINANCIAL STATEMENT MULTIPLE EMPLOYER SELF-INSURED HEALTH PLANS

INSTRUCTIONS _____
_____

General Instructions. The financial statement consists of four basic statements:

1) balance sheet;

2) statement of income, expenses and surplus;

3) statement of changes in financial position; and

4) schedule of investments.

A plan's financial statements must be in conformance with these instructions. They may deviate from the prescribed format for the purpose of increasing the quality of the information. For example, an entry may be broken into more detailed subparts. Blank lines are provided for this purpose, or for adding entries. In general, whenever the meaning of an entry may be unclear, a footnote explanation should be provided. Footnotes are an integral part of the financial statement.

_____

_____

BALANCE SHEET

1. **Cash on hand and on deposit.** This is coin, currency, and the balance in accounts with banks or other financial institutions.

2. **Bonds.** This is the value of all fixed period, interest bearing securities, including bonds, certificates of deposit, commercial paper, and similar investments. Such securities shall be valued at their actual cost, excluding accrued interest.

3. **Stocks.** This is the value of all securities representing equity interest in commercial entities, including common stock and preferred stock. Such securities shall be valued at their market value.

4-6. List here any investments not fitting the other categories in this section.

7. Enter the total of items 1 through 6.

8. **Premiums due and unpaid.** This is the amount of premiums owed by plan members but not yet paid. Premium should not be considered due until the inception of the period to which the premium applies.

9. **Assessments due and unpaid.** This is the amount of assessments owed by plan members but not yet paid. Assessments may be to increase plan surplus or to correct a deficit.

10. **Penalties due and unpaid.** This is the amount of penalties levied against plan members pursuant to the plan's rules and bylaws, but not yet paid.

11. **Investment income due and accrued.** This is the amount of dividends declared and interest accrued on plan investments, but not yet received or credited to plan accounts.

12. **Third party reimbursements receivable.** This is the amount owed the plan on account of losses it has paid, for which it is entitled to reimbursement through subrogation, coordination of benefits, return of overpayments, or similar recovery actions.

13. **Amounts recoverable from stop loss insurers.**

This is the amount the plan is entitled to recover under its stop loss insurance, but which has not yet been paid. This is the total recoverable under both individual and aggregate access coverage, based on the plan's current level of losses paid and incurred but unpaid claims.

14. **Prepaid expenses.** This is the portion of any expenses which the plan has paid, for which the value has not yet been received. Prepaid expenses for services applicable to fixed periods of time, such as stop loss insurance, shall be valued according to the percentage of unelapsed time in the period to which the payment is applicable. Other prepaid expenses shall be valued according to the portion of the service which has not yet been received.

15-16. List here any assets not fitting the other categories in this section.

17. Enter the total of items 8 through 16.

18. Enter the total of items 7 and 17.

19. **Reserve for unearned and advance premiums.** This is the portion of all premiums which have not yet been earned. Premium is earned as the period of time to which the premium applies elapses. This reserve includes:

(A) All advanced premiums, namely, premiums paid prior to the inception of the period to which they apply.

(B) For coverage in force, the percentage of premium corresponding to the unelapsed time in the period to which the premium applies. For example, if premiums are paid monthly, half-way through any month one-half of the corresponding premium payment would be unearned.

20. **Reserve for outstanding losses - reported.** This is the plan's best estimate of the amount it will be obligated to pay for known loss occurrences or continuing courses of treatment. This reserve includes:

(A) Claims awaiting payment, for which checks have not yet been issued.

(B) The estimated final cost of claims subject to investigation, litigation, or negotiations (explain in footnote). For claims where liability is disputed or the amount uncertain, the estimated cost should be a weighted value of the possible outcomes. For example, if there is a 51% chance the plan will win a dispute and owe nothing, but a 49% chance it will lose and owe $10,000, the estimated cost should be closer to $5,000 than to zero.

(C) The estimated cost associated with covered persons undergoing a continuing course of treatment or a continuing disability for which the plan will likely be liable, notwithstanding that treatment has not yet been provided or that the period of disability has not yet occurred. For example, a person covered by the plan develops cancer and will undergo a lengthy course of treatment. If it is likely that the plan will continue to have responsibility for the person during the course of treatment, an appropriate reserve should be established.

21. **Reserve for outstanding losses - IBNR.** This is the plan's best estimate of the amount it will be obligated to pay for loss occurrences that have not yet been reported (incurred but not reported). At any given time, persons covered by the plan will be incurring treatment and submitting bills or becoming disabled, and claims staff will be at various stages of evaluating claims that have been received. The IBNR reserve should be reasonably sufficient to cover such outstanding liability, based on staff judgment and the plan's actual experience overtime.

22. List here any reserve not fitting the other categories in this section.

23. Enter the total of items 19 through 22.

24. **Stop loss premiums due and unpaid.** This is the amount of all stop loss premiums, for individual excess, aggregate excess, and incurred runoff excess if applicable, that the plan owes but has not yet paid.

25. **Stop loss aggregate advancement.** This applies only to plans with an aggregate advancement clause in their stop loss insurance contract. This is the amount of funds advanced or loaned to the plan from the stop loss insurer, that have not yet been repaid, or that have not yet been determined to be an actual obligation of the aggregate excess stop loss insurer.

26. **Commissions due or accrued.** This is the amount of commissions to agents or brokers that the plan owes but has not yet paid.

27. **Other expenses due or accrued.** This is the amount of all expenses not listed elsewhere that the plan owes but has not yet paid.

28. **Georgia license fees due or accrued.** This is the amount of license fees that the plan owes to the State of Georgia but has not yet paid.

29. **Federal income taxes due or accrued.** This is the amount of federal taxes on the plan's income that the plan owes but has not yet paid.

30. **Federal capital gains taxes due or accrued.**

This is the amount of federal taxes on capital gains on plan investment transactions, that the plan owes but has not yet paid.

31. **Dividends declared and unpaid.** This is the amount of dividends that have been declared, but that have not yet been paid to or claimed by members.

32-34. List here any liabilities not fitting the other categories in this section.

35. Enter the total of items 24 through 34.

36. Enter the total of items 23 and 35.

37. **Contributed surplus.** This is the amount contributed by the members to provide capital for operation, to correct a deficit; to increase the plan's working capital to forestall a deficit; or to otherwise ease operations.

38. **Retained earnings.** This is the amount of plan earnings from operations and unrealized capital gains that is retained and not paid out as dividends. This amount is initially zero, and is subsequently adjusted by each year's statement of income, expenses and surplus, item 38.

39. List here any surplus item not fitting the other categories in this section.

40. Enter the total of items 37 through 39.

41. Enter the total of items 36 and 40.

STATEMENT OF INCOME, EXPENSES AND SURPLUS

This statement contemplates that income and expenses will be calculated on an accrual basis, rather than a cash basis.

For income, this generally means that income is recognized for the current fund year if the service was provided or the payment was earned during the fund year, regardless of whether cash has been received. For expenses, this generally means that losses or expenses are recognized for the current fund year if the obligation was incurred during the fund year, regardless of whether cash as been paid. Even if not explicitly stated in each instruction, all income and expenses should be taken to apply to transactions occurring during the current fund year.

1. **Gross premiums written.** This is the amount of premiums written by the plan for coverage during the current fund year. This amount should be net of any discounts or adjustments to premium. Premium should not be considered written or booked until the inception of the period to which the premium applies.

2. **Individual excess stop expense.** This is the amount of premiums paid or incurred for individual excess stop loss insurance.

3. **Aggregate excess stop loss expense.** This is the amount of premiums paid or incurred for aggregate excess stop loss insurance, including extended or runoff aggregate excess coverage.

4. **Change in reserve for unearned and advancepremiums.** This is the net change in the amount reported one year ago on line 19 of the balance sheet. This and items 9, 10, 38, and 39 are negative entries only if the net change is an increase, otherwise they would be positive.

5. Enter the total of items 1 through 4.

6. **Losses paid.** This is the total amount of losses (claims) paid during the current fund year.

7. **Third party reimbursements.** This is the amount determined during the current fund year of reimbursements owed to the plan and which the plan expects to recover, through subrogation, coordination of benefits, return of over payments, or similar recovery actions. Cash need not have been received during the current fund year.

8. **Recovered from stop loss insurers.** This is the amount determined during the current fund year of reimbursements owed to the plan on account of its stop loss insurance policies. Cash need not have been received during the current fund year.

9. **Change in reserve for outstanding losses - reported.**

This is the net change in the amount reported one year ago on line 20 of the balance sheet. If there is a net increase, enter the amount as a negative number. A net decrease would be a positive entry.

10. **Change in reserve for outstanding losses - IBNR.** This is the net change in the amount reported one year ago on line 21 of the balance sheet. If there is a net increase, enter the amount as a negative number. A net decrease would be a positive entry.

11. Enter the total of items 6 through 10.

12. Enter the total of items 5 and 11.

13. **Interest income.** This is the amount of interest earned during the current fund year on the accounts and investments of the plan.

14. **Dividend income.** This is the amount of dividends earned during the current fund year on investments of the plan.

15. **Net realized capital gains (losses).** This is the total net gain or loss on the disposition of any plan assets during the current fund year. For the purpose of calculating a net gain or loss, the base value of the asset should be its carrying value on the balance sheet. Unrealized capital gains reported online 36 of previous statements should not be double-counted in reporting realized capital gains.

16. **Penalties assessed.** This is the amount of penalties levied against plan members pursuant to the plan's rules and bylaws during the current fund year.

17-18. List here any income not fitting the other categories in this section.

19. Enter the total of items 13 through 18.

20. Enter the total items 12 and 19.

21. **Service company expenses.** This is the amount incurred during the current fund year for the services of the plan's service company and subcontractors.

22. **Financial administrator expenses.** This is the amount incurred during the current fund year for the services of the plan's financial administrator.

23. Agent commissions expenses. This is the amount incurred during the current fund year for agent and broker commissions.

24. **Board of trustees expenses.** This is the amount incurred during the current year for board of trustees expenses.

25. **Fidelity bond expenses.** This is the amount incurred during the current fund year for fidelity bonds and similar coverages.

26. **License fees incurred.** This is the amount incurred during the current fund year for Georgia license fees.

27. **Federal capital gains taxes incurred.** This is the amount of federal taxes on capital gains on plan investment transactions incurred during the current fund year.

28-29. List here any expenses not fitting the other categories in this section.

30. Enter the total of items 21 through 29.

31. Enter the result of subtracting item 30 from item 20.

32. **Federal income taxes incurred.** This is the amount of federal taxes on the plan's income incurred during the current fund year.

33. Enter the results of subtracting item 32 from item 31.

34. **Total surplus, end of previous year.** This is the amount from item 47 of the previous year's statement of income, expenses and Surplus.

35. **After tax gain from operations.** From item 33 of this statement.

36. **Net unrealized capital gains (losses).** This is the total net gain or loss on plan assets owned as of this reporting, that is, not disposed of. For the purpose of calculating a net gain or loss, the base value of the asset should be whatever value it was carried at on the balance sheet as of the last reporting. The initial base value would be the purchase price; subsequently the balance sheet base value would be adjusted each year the asset was held to reflect unrealized capital gains and losses as the asset's value changes.

37. **Dividends declared.** This is the amount of dividends declared by the plan during the current fund year.

38. Enter the total of items 35 through 37.

39. **Contributed surplus and assessments.** This is the amount levied against or pledged by plan members during the current fund year to correct a deficit and/or increase the surplus.

40-44. List here any items affecting surplus not fitting the other categories in this section.

45. Enter the total of items 39 through 44.

46. Enter the total of items 38 and 45.

47. Enter the total of items 34 and 46.

STATEMENT OF CHANGES IN FINANCIAL POSITION

1. **Before tax gain (loss) from operations.** This is the amount from line 31 of the statement of income, expenses and surplus.

2-9. **Increase (decrease) in various liabilities.** This is the net change in the amount reported one year ago on the balance sheet for these liabilities. Changes in these liabilities affect income and expenses, but do not affect funds.

10-11. List here any other liabilities affecting income and expenses but not funds, not fitting the other categories in this section.

12-16. **Decrease (increase) in various assets.** This is the net change in the amount reported one year ago on the balance sheet for these assets. Changes in these assets affect income and expenses, but do not affect funds.

17-18. List here any other assets affecting income and expenses but not funds, not fitting the other categories in this section.

19. Enter the total of items 1 through 18.

20. **Bonds.** This is the amount received upon the sale, maturation, or disposition of all fixed period, interest bearing securities, including bonds, certificates of deposit, commercial paper, and similar investments. Such investments acquired and disposed of during the year should be reported in item 22.

21. **Stocks.** This is the amount received upon the sale or disposition of all securities representing equity interest in commercial entities, including stock and preferred stock. Such investments acquired and disposed of during the year should be reported in item 22.

22. **Net gain (loss) on investments acquired and disposed of during year.** This is the total net gain or loss on assets acquired and disposed of during the year. For the purpose of calculating a net gain or loss, the base value of the asset should be its purchase price.

23-24. List here any investments sold, matured, or repaid, not fitting the other categories in this section.

25. Enter the total of items 20 through 24.

26. **Decrease (increase) in prepaid expenses.** This is the net change in the amount reported one year ago on line 14 of the balance sheet.

27. **Increase (decrease) in federal income taxes due or accrued.** This is the net change in the amount reported one year ago on line 31 of the balance sheet.

28. **Stop loss aggregate advancement received (repaid).** This is the net amount of funds advanced or loaned to the plan from the stop loss insurer that have not yet been determined to be an actual obligation of the aggregate excess stop loss insurer, and funds repaid to the stop loss insurer pursuant to such an advance.

29. **Contributed surplus and assessments.** This is the amount of funds received during the fund year from assessments or other contributions to surplus from plan members. This should be equal to the net decrease (increase) in item 9 of the balance sheet, plus item 39 of the statement of income, expenses and surplus.

30-31. List here any other sources of funds provided not fitting the other categories in this section.

32. Enter the total of items 26 through 31.

33. Enter the total of items 19, 25, and 32.

34. **Bonds.** This is the amount expended for the acquisition of all fixed period, interest bearing securities, including bonds, certificates of deposit, commercial paper, and similar investments. This should include the amount expensed for accrued interest, and exclude the amount expended for investments acquired and disposed of during the fund year.

35. **Stocks.** This is the amount expended for the acquisition of all securities representing equity interest in commercial entities, including stock and preferred stock. This should exclude the amount expended for investments acquired and disposed of during the fund year.

36-37. List here any investments acquired not fitting the other categories in this section.

38. Enter the total of items 34 through 37.

39. **Dividends paid.** This is the amount of dividends paid to members during the fund year. This should be equal to the net decrease (increase) in item 31 of the balance sheet, plus item 37 of the statement of income, expenses and surplus.

40-41. List here any other uses of funds not fitting the other categories in this section.

42. Enter the total of items 39 through 41.

43. Enter the total of items 38 and 42.

44. **Cash on hand and on deposit, beginning of year.** This is the amount from item 1 of the balance sheet as of the end of the previous year.

45. **Increase (decrease) in cash.** This is the result of subtracting item 43 from item 33.

46. **Cash on hand and on deposit, year to date.** This is the total of items 44 and 45.

SCHEDULE OF INVESTMENTS

No form is provided for the schedule of investments. Plans should submit the required information using their own format. Please note that under O.C.G.A. Chapter 33-11 and Section 33-50-6(3), plans are restricted in the types of depositories, bonds, stocks, and other investments they may employ.

Cash on hand and on deposit. The schedule must contain a description of all accounts or depositories maintained by the plan at banks or other financial institutions. The description must contain:

(1) the institution's name and location;

(2) the account balance as of this reporting;

(3) the type of account;

(4) the interest rate, if any, that money in the account earns;

(5) a statement as to whether funds in the account are wholly or partially insured; and

(6) a statement as to which plan contractors have access to the account or depository, and on what conditions.

Bonds. The schedule must contain a description of all fixed period, interest bearing securities, including bonds, certificates of deposit, commercial paper, and similar investments. The description must contain:

(1) the issuer's name and location;

(2) the type of security;

(3) the interest rate, and the months in which interest is paid;

(4) the year of acquisition, and the security's maturity month/year;

(5) the actual cost of the security, excluding accrued interest;

(6) the security's par value; and

(7) the month sold or disposed of; for all securities sold or disposed of during the current fund year, including securities acquired during the year.

Stocks. The schedule must contain a description of all securities representing equity interest in commercial entities including common stock and preferred stock. The description must contain:

(1) the entity's name and location;

(2) the type of security;

(3) the year of acquisition;

(4) the number of shares;

(5) the current market value per share;

(6) the total market value of identical securities;

(7) the actual cost of the security; and

(8) the month sold or disposed of; for all securities sold or disposed of during the current fund year, including securities acquired during the year.

Other investments. The schedule must contain a description of all investments not fitting the above categories. The information provided about such investments should be comparable to the information required above.

FORM ME-3

BALANCE SHEET

		Reported as of (date)	
	ASSETS	**Current Year**	**Previous Year**
	CASH AND INVESTMENTS		
1.	Cash on hand and on deposit		
2.	Bonds		
3.	Stocks		
4.			
5.			
6.			
7.	Total cash and investments (items 1 to 6)		
	OTHER ASSETS		
8.	Premiums due and unpaid		
9.	Assessments due and unpaid		
10.	Penalties due and unpaid		
11.	Investment income due and accrued		
12.	Third party reimbursements receivable.		
13.	Amounts recoverable from stop loss insurers		
14.	Prepaid expenses		
15.			
16.			
17.	Total other assets (items 8 to 16)		
18.	TOTAL ASSETS (items 7 and 17)		
	LIABILITIES		
	RESERVES		
19.	Reserve for unearned and advance premiums		
20.	Reserve for outstanding losses - reported		
21.	Reserve for outstanding losses - IBNR		
22.			
23.	Total reserves (items 19 to 22)		
	OTHER LIABILITIES		
24.	Stop loss premiums due and unpaid		
25.	Stop loss aggregate advancement		
26.	Commissions due or accrued (if applicable)		
27.	Other expenses due or accrued		
28.	Georgia license fees due or accrued		
29.	Federal income taxes due or accrued		
30.	Federal capital gains taxes due or accrued		
31.	Dividends declared and unpaid		
32.			
33.			
34.			
35.	Total other liabilities (items 24 to 34)		
36.	TOTAL LIABILITIES (items 23 and 35)		
	SURPLUS		
37.	Contributed Surplus		
38.	Retained Earnings		
39.			
40.	TOTAL SURPLUS (items 37 to 39)		
41.	TOTAL LIABILITIES AND SURPLUS (items 36 & 40)		

FORM ME-3

STATEMENT OF INCOME, EXPENSES AND SURPLUS

		Current Year	Reported through (date) Previous Year
	INCOME		
	PREMIUM INCOME		
1.	Gross premiums written (attach itemized listing)		
2.	Individual excess stop loss expense	( )	( )
3.	Aggregate excess stop loss expense	( )	( )
4.	Change in reserve for unearned & advance premiums	( )	( )
5.	Net premium income (items 1 to 4)		
	LOSSES		
6.	Losses paid	( )	( )
7.	Third Party reimbursements		
8.	Recovered from stop loss insurers		
9.	Change in reserve for outstanding losses-reported		
10.	Change in reserve for outstanding losses-IBNR		
11.	Total losses (item 6 to 10)	( )	( )
12.	NET UNDERWRITING INCOME (items 5 and 11)		
	OTHER INCOME		
13.	Interest income		
14.	Dividend income		
15.	Net realized capital gains (losses)		
16.	Penalties assessed		
17.			
18.			
19.	Total other income (items 13 to 18)		
20.	TOTAL INCOME (items 12 and 19)		
	EXPENSES		
21.	Service company expenses		
22.	Financial administrator expenses		
23.	Agent commissions expenses (if applicable)		
24.	Board of trustees expenses		
25.	Fidelity bond expenses		
26.	License fees incurred		
27.	Federal capital gains taxes incurred		
28.			
29.			
30.	TOTAL EXPENSES (items 21 to 29)		
31.	**BEFORE TAX GAIN FROM OPERATIONS** (item 20 minus item 30)		
32.	Federal income taxes incurred	( )	( )
33.	**AFTER TAX GAIN FROM OPERATIONS** (item 31 minus item 32)		
	SURPLUS		
34.	Total surplus, end of previous year		
35.	After tax gain from operations		
36.	Net unrealized capital gains (losses)		
37.	Dividends declared	( )	( )
38.	RETAINED EARNINGS (items 35 to 37)		
39.	Contributed surplus and assessments		
40.			
41.			
42.			
43.			
44.			
45.	Total other changes to surplus (items 39 to 44)		
46.	Net change in surplus (items 38 and 45)		
47.	TOTAL SURPLUS, END OF CURRENT YEAR (items 34 and 46)		

FORM ME-3

STATEMENT OF CHANGES IN FINANCIAL POSITION

		Current Year	Reported through (date) Previous Year
	FUNDS PROVIDED		
	OPERATIONS		
1.	Before tax gain (loss) from operations		
	Adjustments for Transactions Not Affecting Funds		
2.	Increase (decrease) in reserve for unearned and advance premiums		
3.	Increase (decrease) in reserve for outstanding losses-reported		
4.	Increase (decrease) in reserve for outstanding losses-IBNR		
5.	Increase (decrease) in stop loss premiums due & unpaid		
6.	Increase (decrease) in commissions due or accrued		
7.	Increase (decrease) in other expenses due or accrued		
8.	Increase (decrease) in Georgia license fees due or accrued		
9.	Increase (decrease) in federal capital gains taxes due or accrued		
10.			
11.			
12.	Decrease (increase) in premiums due and unpaid		
13.	Decrease (increase) in penalties due and unpaid		
14.	Decrease (increase) in investment income due & accrued		
15.	Decrease (increase) in third party reimbursements receivable		
16.	Decrease (increase) in amounts recoverable from stop loss insurers		
17.			
18.			
19.	Total funds provided by (used for) operations (items 1 to 18)		
	INVESTMENTS SOLD, MATURED OR REPAID		
20.	Bonds		
21.	Stocks		
22.	Net gain (loss) on investments acquired and disposed of during year		
23.			
24.			
25.	Total funds provided by investments (items 20-24)		
	OTHER FUNDS PROVIDED		
26.	Decrease (increase) in prepaid expenses		
27.	Increase (decrease) in federal income taxes due or accrued		
28.	Stop loss aggregate advancement received (repaid)		
29.	Contributed surplus and assessments		
30.			
31.			
32.	Total other funds provided (items 26 to 31)		
33.	TOTAL FUNDS PROVIDED (items 19, 25, and 32)		
	FUNDS APPLIED		
	INVESTMENTS ACQUIRED		
34.	Bonds		
35.	Stocks		
36.			
37.			
38.	Total funds used for investments (items 34 to 37)		
	OTHER FUNDS APPLIED		
39.	Dividends paid		
40.			
41.			
42.	Total other funds used (items 39 to 41)		
43.	TOTAL FUNDS USED (items 38 and 42)		
	SUMMARY		
44.	Cash on hand and on deposit, beginning of year		
45.	Increase (decrease) in cash (item 33 minus item 43)		
46.	Cash on hand & on deposit, year to date (item 44 & 45)		

EXHIBIT C

OFFICE OF COMMISSIONER OF INSURANCE STATE OF GEORGIA

BIOGRAPHICAL QUESTIONNAIRE

1. Name _____

2. Office Held _____

3. Individual's Name _____

Date of Birth _____

Place of Birth_____

Social Security Number _____

4. Current Residential Address _____

5. Current Business Address _____

6. Residential address for past five (5) years

a. _____

b. _____

c. _____

d. _____

e. _____

7. Education (beyond secondary schools)

_____
_____
_____
_____

8. Employment History. (Beginning with current employer, trace back complete history. Show dates of employment, name and address of company, position held, and duties.)

_____

_____

_____

_____

9. List any other companies which you now serve, or within the past five (5) years have served, as either an officer or director. (List company, position and dates.)

_____

_____

_____

10. Have you ever been charged with a criminal violation

(other than traffic offense) at any time?_____

If "yes", provide complete details.

_____

_____

_____

_____

11. Have you ever held any other license (except a driver's license)? If "Yes", provide details as to any such license. If any such license was ever suspended, revoked, or renewal thereof refused, please explain and attach supporting documentation.

_____

_____

_____

_____

12. Have you ever been charged by any regulatory agency, City, County, State or Federal, with having violated any laws, rules or regulations? Has any company been so charged, allegedly as a result of any action or conduct on your part? _____ If "yes" as to either, submit full details including disposition of charge.

_____

_____

_____

_____

_____ 19 ____ _____

Date Signature

State of _____) ss.

County of _____)

On the _____ day of, 19___, before me, a Notary Public in and for the State and County aforesaid, personally appeared _____ to me known to be the individual described in and who executed the aforegoing and did make oath in due form of law that the matters and facts contained in the foregoing resume are true and correct.

_____

NOTARY PUBLIC

EXHIBIT D OFFICE OF COMMISSIONER OF INSURANCE STATE OF GEORGIA

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS,

That the_____ Multiple Employer Self-Insured health plan (hereinafter "Plan") of _____ State of _____ * does hereby make, constitute and appoint _____
_____

Business Address

_____

Street # and Name (P.O. Box not acceptable)

City County Zip Code

Home Address

_____

(Street number and name) (City) (County) (Zip Code)

its true and lawful Attorney in and for the State of Georgia, on whom all process of law, whether mense or final, against said Plan may be served in any action or special proceedings against said Plan in the State of Georgia, subject to and in accordance with all the provisions of the statutes and laws of said State of Georgia now in force, and such other Acts as may be hereafter passed amendatory thereof and supplementary thereto; and the said Attorney is duly authorized and empowered as the agent of said Plan to receive and accept service of process in all cases provided by the laws of the State of Georgia, and such service shall be deemed valid personal service upon said Plan.

* Has the above name and/or address of the appointment changed since the last ME-5 was filed? Yes_____ No_____

_____

Trustee

State of _____

County of _____

Sworn to and subscribed before me _____this day of

_____, 19 ____

_____

Notary Public

EXHIBIT E

OFFICE OF COMMISSIONER OF INSURANCE STATE OF GEORGIA

APPLICATION FOR DISSOLUTION

To the Commissioner of Insurance of the State of Georgia:
_____

(Name of Plan)

hereby applies for dissolution pursuant to O.C.G.A. Section 33-50-9. The following information is submitted:

1. Name, address, and state of domicile.

2. Date plan was first licensed in Georgia.

3. Number of employers participating.

4. Name and address of sponsoring organization, if any.

5. Number of employees covered.

6. (If applicable) Name and address of licensed insurer which has made an irrevocable commitment which provides for payment of all outstanding liabilities and for providing all related services, including payment of claims, preparation of reports, and administration of transactions associated with the period when the plan provided coverage.

The following items must be attached:

a) A current, audited financial statement, form ME-3, certified by a Certified Public Accountant.

b) A current list of names, addresses, telephone numbers, and current number of employees for each employer covered under the plan.

c) Evidence of an irrevocable commitment from a licensed insurer, if application is made pursuant to O.C.G.A. Section 33-50-9(a)(2).

d) A proposed plan for distribution of assets to participating employers in accordance with O.C.G.A.

Section 33-50-9(b).

NOTE: If the Commissioner approves this application for dissolution, the plan must submit evidence satisfactory to the Commissioner that said distribution has been made, within sixty (60) days of such approval. Failure to submit said evidence shall be deemed to be dissolution without authority.

CERTIFICATION

We, _____
_____ the undersigned, constituting a majority of the Trustees of
_____ swear that to the best of our knowledge and belief, the statements contained in the foregoing application for dissolution, including all documents attached hereto, are true and complete.

COUNTY OF_____

STATE OF _____

BY:_____

(Name of Trustee)

Sworn to before me this

_____day of_____

19____.

_____

NOTARY PUBLIC

My Commission Expires

_____

COUNTY OF_____

STATE OF _____

BY:_____

(Name of Trustee)

Sworn to before me this

_____day of_____ 19___.

_____

NOTARY PUBLIC

My Commission Expires

_____

COUNTY OF_____

STATE OF_____

BY:_____

(Name of Trustee)

Sworn to before me this

_____day of_____ 19___.

_____

NOTARY PUBLIC

My Commission Expires _____

COUNTY OF_____

STATE OF _____

BY:_____

(Name of Trustee)

Sworn to before me this

_____day of_____ 19_____.

_____

NOTARY PUBLIC

My Commission Expires

_____

Cite as Ga. Comp. R. & Regs. R. 120-2-50-.16
Authority: O.C.G.A. Secs. 33-2-9, 33-50-10.
History. Original Rule entitled "Severability" adopted. F. Mar. 19, 1993; eff. Apr. 8, 1993.

Subject 120-2-51. CONTINUING CARE PROVIDERS AND FACILITIES.

Rule 120-2-51-.01. Statutory Authority.

This Regulation is issued pursuant to the authority vested in the Commissioner of Insurance pursuant to O.C.G.A. Sections 33-2-9 and 33-45-4.

Cite as Ga. Comp. R. & Regs. R. 120-2-51-.01
Authority: O.C.G.A. §§ 33-2-9, 33-45-4.
History. Original Rule entitled "Authority" adopted. F. Aug. 7, 1992; eff. Aug. 27, 1992.
Repealed: New Rule entitled "Statutory Authority" adopted. F. Mar. 24, 2016; eff. Apr. 13, 2016.

Rule 120-2-51-.02. Scope and Purpose.

The purpose of this Regulation is to implement the provisions of Chapter 45 of Title 33 of the Official Code of Georgia Annotated. This Regulation governs the issuance and renewal of Certificates of Authority, the minimum provisions required in escrow agreements, and specific provisions related to resident owned living units.

Cite as Ga. Comp. R. & Regs. R. 120-2-51-.02
Authority: O.C.G.A. §§ 33-2-9, 33-45-4.
History. Original Rule entitled "Purpose" adopted. F. Aug. 7, 1992; eff. Aug. 27, 1992.
Repealed: New Rule entitled "Scope and Purpose" adopted. F. Mar. 24, 2016; eff. Apr. 13, 2016.

Rule 120-2-51-.03. Definitions.

As used in this Regulation, the term:

(1) "Continuing care" means furnishing pursuant to a continuing care agreement:

(a) Lodging that is not:

(i) In a skilled nursing facility, as such term is defined in O.C.G.A. Section 31-6-2(34);

(ii) An intermediate care facility, as such term is defined in O.C.G.A. Section 31-6-2(22);

(iii) An assisted living community, as such term is defined in O.C.G.A. Section 31-7-12.2; or

(iv) A personal care home, as such term is defined in O.C.G.A. Section 31-7-12;

(b) Food; and

(c) Nursing care provided in a facility or in another setting designated by the agreement for continuing care to an individual not related by consanguinity or affinity to the provider furnishing such care upon payment of an entrance fee including skilled or intermediate nursing services and, at the discretion of the continuing care provider, personal care services including, without limitation, assisted living care services designated by the continuing care agreement, including such services being provided pursuant to a contract to ensure the availability of such services to an individual not related by consanguinity or affinity to the provider furnishing such care upon payment of an entrance fee.

The term "continuing care" shall not include continuing care at home.

(2) "Continuing care agreement" means a contract or agreement to provide continuing care, continuing care at home, or limited continuing care. Continuing care agreements include agreements to provide care for any duration, including agreements that are terminable by either party.

(2.1) "Continuing care at home" means the furnishing of services pursuant to a continuing care agreement at a location other than at a facility and which includes the obligation to provide nursing care, assisted living care, or personal care home services. A continuing care at home agreement may, but is not required to, include an obligation to provide food.

(3) "Entrance fee" means an initial or deferred payment of a sum of money or property made as full or partial payment to assure the resident continuing care, limited continuing care, or continuing care upon the purchase of a resident owned living unit; provided, however, that any such initial or deferred payment which is greater than or equal to 12 times the

monthly care fee shall be presumed to be an entrance fee so long as such payment is intended to be a full or partial payment to assure the resident lodging in a residential unit. An accommodation fee, admission fee, or other fee of similar form and application greater than or equal to 12 times the monthly care fee shall be considered to be an entrance fee. Such term shall not include any portion of the purchase or sale of a resident owned living unit, including, but not limited to, any down payment or earnest money payment for the purchase and sale of a resident owned living unit.

(4) "Facility" means a place which is owned or operated by a provider and provides continuing care or limited continuing care. Such term includes a facility which contains resident owned living units.

(5) "Licensed" means that the provider has obtained a Certificate of Authority from the Department.

(6) "Limited continuing care" means furnishing pursuant to a continuing care agreement:

(a) Lodging that is not:

(i) In a skilled nursing facility, as such term is defined in O.C.G.A. Section 31-6-2(34);

(ii) An intermediate care facility, as such term is defined in O.C.G.A. Section 31-6-2(22);

(iii) An assisted living community, as such term is defined in O.C.G.A. Section 31-7-12.2; or

(iv) A personal care home, as such term is defined in O.C.G.A. Section 31-7-12;

(b) Food; and

(c) Personal services, whether such personal services are provided in a facility such as a personal care home or an assisted living community or in another setting designated by the continuing care agreement, to an individual not related by consanguinity or affinity to the provider furnishing such care upon payment of an entrance fee.

Such term shall not include continuing care at home.

(7) "Monthly care fee" means the fee charged to a resident for continuing care or limited continuing care on a monthly or periodic basis. Monthly care fees may be increased by the provider to provide care to the resident as outlined in the continuing care agreement. Periodic fee payments or other prepayments shall not be monthly care fees.

(8) "Nursing care" means services which are provided to residents of skilled nursing facilities or intermediate care facilities.

(9) "Personal services" means, but is not limited to, such services as individual assistance with eating, bathing, grooming, dressing, ambulation, and housekeeping; supervision of self-administered medication; arrangement for or provision of social and leisure services; arrangement for appropriate medical, dental, nursing, or mental health services; and other similar services which the department may define. Personal services may be provided at a facility or at a home on or off site of a facility. Personal services shall not be construed to mean the provision of medical, nursing, dental, or mental health services. Personal services provided, if any, shall be designated in the continuing care agreement.

(10) "Provider" means the owner or operator, whether a natural person, partnership, or other unincorporated association, however organized, trust, or corporation, of an institution, building, residence, or other place, whether operated for profit or not, which owner or operator undertakes to provide continuing care, limited continuing care, or continuing care at home for a fixed or variable fee, or for any other remuneration of any type for the period of care, payable in a lump sum or lump sum and monthly maintenance charges or in installments.

(11) "Resident" means a purchaser of or a nominee of or a subscriber to a continuing care agreement. Such an agreement may permit a resident to live at a home on or off site of a facility but shall not be construed to give the resident a part ownership of the facility in which the resident is to reside unless expressly provided for in the agreement.

(12) "Resident owned living unit" means a residence or apartment, the purchase or sale of which is not included in an entrance fee, which is a component part of a facility and in which the resident has an individual real property ownership interest.

(13) "Residential unit" means a residence or apartment in which a resident lives that is not a skilled nursing facility as defined in O.C.G.A. Section 31-6-2(34), an intermediate care facility as defined in O.C.G.A. Section 31-6-2(22), an assisted living community as defined in O.C.G.A. Section 31-7-12.2, or a personal care home as defined in O.C.G.A. Section 31-7-12.

(14) Unless the context otherwise requires, terms found in this Regulation shall be used as defined in O.C.G.A. Sections 33-1-2 and 33-45-1*et seq.* Other terminology shall be used in accordance with the Georgia Insurance Code or industry usage, if not otherwise defined in the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-51-.03
Authority: O.C.G.A. §§ 33-1-2, 33-2-9, 33-45-1*et seq.*
History. Original Rule entitled "Forms Incorporated by Reference" adopted. F. Aug. 7, 1992; eff. Aug. 27, 1992.
Note: Correction of non-substantive typographical error in History, "Original Rule entitled "Standards for Prompt and Fair Settlements of First Party Property Damage Claims" adopted. F. Aug. 7, 1992; eff. Aug. 27, 1992." corrected to "Original Rule entitled "Forms Incorporated by Reference" adopted. F. Aug. 7, 1992; eff. Aug. 27, 1992." Title correction only required for SOS website, title correct in Official Compilation. Effective Apr. 13, 2016.

Repealed: New Rule entitled "Definitions" adopted. F. Mar. 24, 2016; eff. Apr. 13, 2016.

Rule 120-2-51-.04. License; Application; Issuance; Renewal; and Revisions to Agreements.

(1) No person may engage in the business of providing continuing care, limited continuing care, continuing care at home, issue continuing care agreements in Georgia, or hold oneself out to the public as a provider without first obtaining a valid certificate of authority issued by the Commissioner of Insurance.

(2) Each applicant shall file with the Commissioner an application for a certificate of authority upon a form to be furnished by the Commissioner, which will be available on the Georgia Insurance Department's website. Such application shall include or have attached the following information and documents:

(a) All basic organizational documents of the applicant, including, but not limited to, the articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, membership agreement, or other applicable documents, and all amendments to those documents;

(b) The bylaws, rules and regulations or similar documents regulating the conduct or the internal affairs of the applicant;

(c) Proof from the Georgia Secretary of State's Office that the applicant is qualified to do business in this state;

(d) Organizational chart that accurately reflects the relationship of the applicant to any parent, subsidiary, or affiliated person or organization;

(e) A list of all individuals who are the officers, directors, partners, members, administrators, stockholders owning more than 10 percent of the stock of the applicant, or any person occupying a similar position or performing similar duties or functions, as applicable. Include the full name, business address and position held for each of these individuals. Also include a list containing the same information for any parent or affiliated person or organization that is controlling, controlled by, or under common control with the applicant;

(f) A biographical affidavit and background report for each natural person listed in Regulation 120-2-51-.04(2)(e) above;

(g) Copies of proposed agreements to be used in furnishing continuing care, including but not limited to continuing care agreements and escrow agreements; disclosure statements; addenda; and amendments;

(h) A list of all Facilities currently or previously owned, managed or developed by applicant, an affiliate of applicant, or any principal thereof. Provide the name,

address, city and state of each Facility listed and explain the Facility's existing or past relationship with applicant, an affiliate of applicant, or any principal thereof. Specify the current status of each Facility listed and include any administrative actions or financial problems that existed while applicant, an affiliate of applicant, or any principal thereof, was associated with the Facility, including any such occurrences up to one year after the relationship was terminated;

(i) The latest financial statement, audited by an independent CPA, of the applicant and any parent company. Also include the latest unaudited financial statements attested to by the Chief Financial Officer for each quarter ended subsequent to the date of the last audit;

(j) Fee as provided in O.C.G.A. Section 33-8-1 for a continuing care provider; and

(k) Any other materials the Commissioner deems necessary to adequately assess the merits of the application.

(3) Upon issuance, a license pursuant to this Regulation is valid until June 1, and is to be renewed annually on or before May 31 of the first year issued, and each year thereafter, on a form to be prescribed by the Commissioner. This form will be available on the Georgia Insurance Department's website prior to May 31 each year. Failure to file a renewal application, and any required documents or information, on or before May 31 will result in the non-continuance of the license. Licensees that fail to renew their licenses in a timely manner and that desire to be relicensed will be required to reapply. Along with the renewal application, each licensed provider shall file the following with the renewal package:

(a) An annual statement to be submitted on a form prescribed by the Commissioner, which shall be available on the Georgia Insurance Department's website;

(b) Annual revised disclosure statement pursuant to O.C.G.A. Section 33-45-6;

(c) An actuary's opinion as to the actuarial financial condition of the provider's continuing care or limited continuing care operations, which shall include, but not be limited to, an estimate of the capacity of the provider to meet its contractual obligation to the residents or prospective residents with consideration given to expected rates of mortality and morbidity, expected refunds, and expected capital expenditures, unless the provider requests in writing an exemption from this requirement and the Commissioner determines that there is good cause to permit such request; and

(d) Fee as provided in O.C.G.A. Section 33-8-1 for a continuing care provider.

(4) Should a licensed provider revise or amend any agreements submitted pursuant to Regulation 120-2-51-.04(2)(g), such revisions or amendments must be submitted to the Department for approval prior to being used by the provider.

Cite as Ga. Comp. R. & Regs. R. 120-2-51-.04
Authority: O.C.G.A. §§ 33-1-2, 33-2-9, 33-45-4, 33-45-5, 33-45-6, 33-45-7.
History. Original Rule entitled "License; Application; Issuance; Renewal; and Revisions to Agreements" adopted. F. Mar. 24, 2016; eff. Apr. 13, 2016.

Rule 120-2-51-.05. Escrow Account, Escrow Agreement and Certain Minimum Provisions Required.

(1) Any portion of the entrance fee paid by a resident or prospective resident to the provider shall be held in an escrow account which shall be governed by an escrow agreement, unless the provisions set forth in O.C.G.A. Section 33-45-8 regarding the release of escrow funds have been met at the time the entrance fee for a resident owned living unit is paid by the resident to the provider. If an escrow agreement is required, such agreement shall include in writing at least the following minimum provisions:

(a) The purpose of the escrow agreement pursuant to O.C.G.A. Section 33-45-8(a);

(b) Any portion of the entrance fee paid by a resident to the provider shall be held in an escrow account governed by the escrow agreement;

(c) Definitions set forth in O.C.G.A. Section 33-45-1*et seq.* shall be incorporated into the escrow agreement;

(d) Any portion of the entrance fee paid by a resident or prospective resident to the provider is subject to the terms of the escrow agreement and shall be deposited by the provider with the bank promptly after receipt;

(e) The bank shall be appointed as escrow agent;

(f) The bank shall hold and distribute all entrance fees deposited with the bank in accordance with the escrow agreement;

(g) Any portion of the entrance fee paid by a resident or prospective resident to the provider that is held for ninety (90) days or more shall earn interest. Such interest shall be credited at least quarterly to the resident's account(s) and shall belong to the resident;

(h) The bank shall disburse funds from the escrow account payable to the resident or prospective resident upon the receipt of documentation signed by a representative of the provider certifying that such funds may be released in accordance with the terms of the escrow agreement and any applicable law or regulations, a copy of which shall be attached to the escrow agreement, or upon the bank's determination that such funds may be released to the resident in accordance with O.C.G.A. Section 33-45-8. The bank may rely upon the total disbursement amount included in such signed documentation from the provider and shall have no obligation to verify the accuracy of any such documentation. Upon receipt by the bank of such

documentation, the bank shall disburse funds to the resident or prospective resident within five (5) banking business days;

(i) The bank shall disburse funds from the escrow account payable to the provider upon the receipt of documentation signed by a representative of the provider certifying that such funds may be released in accordance with the terms of the escrow agreement and any applicable law or regulations, a copy of which shall be attached to the escrow agreement. The bank may rely upon the total disbursement amount included in such signed documentation from the provider and shall have no obligation to verify the accuracy of any such documentation. Upon receipt by the bank of such documentation, the bank shall disburse funds to the provider in accordance with the provider's instructions within five (5) banking business days;

(j) The bank shall be entitled to rely upon the written notices, instructions and directions of the provider and shall have no liability for any action taken based upon such reliance;

(k) The bank shall not be liable for the following if done in good faith: any errors of judgement, any act committed, any step taken or omitted, any mistake of fact or law, or for anything that the bank may do or refrain from doing in connection therewith. However, the bank shall be liable for its own negligence or willful misconduct;

(l) The bank may consult with legal counsel of its own choice should any dispute or question arise pursuant to the escrow agreement, or bank's duties thereunder. Should a dispute arise related to the proper disbursement of funds by the bank, the bank, upon ten (10) days prior notice to the provider, may file a suit in interpleader for the purpose of determining the rights of the parties to any funds held in escrow and may deposit such funds with the court. The provider shall reimburse the bank for its reasonable and legitimate legal expenses so incurred to the extent allowed by Georgia law;

(m) The escrow agreement may be terminated by either the bank or the provider. Upon termination, the bank shall deliver the escrow agreement and all funds held in the escrow account(s) (including any income earned thereon) and any and all related instruments or documents to a successor escrow agent. Such termination shall become effective upon the date such funds and any related instruments or documents are delivered to the successor escrow agent. Upon delivery of all funds and any related instrument or documents in accordance with this paragraph, the bank shall thereafter be discharged from any further obligations pursuant to the escrow agreement. All power, authority, duties and obligations of the bank shall henceforth apply to the successor escrow agent; and

(n) Contact information, including name and address, for the provider, bank and Department for notice, instruction and direction purposes.

(2) In addition to the required minimum provisions to be included in an escrow agreement pursuant to Regulation 120-2-51-.05(1), as set forth above, the following documents must be attached as exhibits to such escrow agreement:

(a) A document setting forth the bank's fees in connection with the escrow agreement;

(b) A form to be used to request disbursement of funds from the bank to the resident or prospective resident pursuant to Regulation 120-2-51-.05(1)(h). Such form must list the total disbursement amount and must certify that the resident or prospective resident has sent written notice to the provider requesting a refund and that either (i) such resident or prospective resident has rescinded his or her reservation agreement or continuing care agreement within the period provided in such agreements, or (ii) the reservation agreement or continuing care agreement has been terminated by the resident, prospective resident or provider in accordance with its stated terms; and

(c) A form to be used to request disbursement of funds from the bank to the provider pursuant to Regulation 120-2-51-.05(1)(i). Such form must list the total disbursement amount and certify the following:

(i) The provider has presold at least fifty (50) percent of the residential units, having received at least a ten (10) percent deposit on each residential unit presold; AND

(ii) The provider has received a commitment for any first mortgage loan or other financing, and any conditions of the commitment prior to disbursement of funds thereunder have been substantially satisfied; AND

(iii) Aggregate entrance fees received or receivable by the provider pursuant to binding continuing care agreements, plus the anticipated proceeds of any first mortgage loan or other financing commitment, are equal to not less than ninety (90) percent of the aggregate cost of constructing or purchasing, equipping, and furnishing the facility, and not less than ninety (90) percent of the funds estimated in the statement of cash flows submitted by the provider as part of its disclosure statement, to be necessary to fund start-up losses and assure full performance of the obligations of the provider pursuant to continuing care contracts shall be on hand; OR

(iv) The continuing care facility is fully financed or open and operational, the continuing care facility is compliant with the minimum financial reserves required by O.C.G.A. Section 33-45-11, and sufficient funds are maintained in escrow to meet the provider's refund obligations under O.C.G.A. Sections 33-45-8(b)(1),(2) or (3).

Cite as Ga. Comp. R. & Regs. R. 120-2-51-.05
Authority: O.C.G.A. §§ 33-2-9, 33-45-4, 33-45-8, 33-45-11.

History. Original Rule entitled "Escrow Account, Escrow Agreement and Certain Minimum Provisions Required" adopted. F. Mar. 24, 2016; eff. Apr. 13, 2016.

Rule 120-2-51-.06. Resident Owned Living Unit.

(1) Continuing Care Agreements

(a) The lodging component of a continuing care agreement for resident owned living units may be expressed in a real estate purchase agreement for a resident owned living unit or other documents that govern the purchase and sale of such resident owned living unit, including, but not limited to, condominium declarations, homeowners association rules, and any other documents required for compliance with real property law related to the purchase and sale of resident owned living units. However, such documents must be incorporated by reference into the continuing care agreement for the resident owned living unit and a copy of each referenced documents must be attached as an exhibit.

(b) Continuing care agreements for resident owned living units may provide that the entrance fee can be collected simultaneously with the closing of the purchase and sale of a resident owned living unit.

(2) Funds or Property for Purchase and Sale

Funds or property transferred for the purchase and sale of a resident owned living unit shall not be considered to be funds or property transferred for the care of a resident and, therefore, shall not be subject to the requirements set forth in OCGA 33-45-7(a)(6). Such funds or property shall be governed by applicable real property law related to the purchase and sale of resident owned living units.

(3) Commissions

Funds payable to a duly licensed real estate broker as commissions related to the purchase and sale of the real property interest in a resident owned living unit shall not be considered to be a fee charged by the provider for the transfer of membership or sale of an ownership right.

(4) Reporting and Disclosure

When reporting or disclosure of any information is required under any other body of law governing the purchase and sale of resident owned living units, including, but not limited to, real property law or condominium law, all documents required for such reporting and disclosure shall be made available to the Department of Insurance immediately upon request.

Cite as Ga. Comp. R. & Regs. R. 120-2-51-.06
Authority: O.C.G.A. §§ 33-2-9, 33-45-4, 33-45-7.

History. Original Rule entitled "Resident Owned Living Unit" adopted. F. Mar. 24, 2016; eff. Apr. 13, 2016.

Rule 120-2-51-.07. Penalties.

Any provider, or any agent, counselor, representative, officer, or employee of such provider, failing to comply with the requirements of this Regulation shall be subject to such penalties as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-51-.07
Authority: O.C.G.A. §§ 33-2-9, 33-45-1*et seq*.
History. Original Rule entitled "Penalties" adopted. F. Mar. 24, 2016; eff. Apr. 13, 2016.

Rule 120-2-51-.08. Severability.

If any provision of this Regulation or the application of it to any person or circumstance is held invalid, such invalidity shall not affect the provisions or applications of the rules herein which can be given effect without the invalid portion. To that end, the provisions of this Regulation are declared to be severable.

Cite as Ga. Comp. R. & Regs. R. 120-2-51-.08
Authority: O.C.G.A. §§ 33-2-9, 33-45-1*et seq*.
History. Original Rule entitled "Severability" adopted. F. Mar. 24, 2016; eff. Apr. 13, 2016.

Subject 120-2-52. FAIR AND EQUITABLE SETTLEMENT OF FIRST PARTY PROPERTY DAMAGE CLAIMS.

Rule 120-2-52-.01. Authority.

This Regulation is promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. Sections 33-2-9 and 33-34-8.

Cite as Ga. Comp. R. & Regs. R. 120-2-52-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-34-8.
History. Original Rule entitled "Authority" adopted. F. Mar. 29, 1994; eff. Apr. 18, 1994.

Rule 120-2-52-.02. Purpose.

The purpose of this Regulation is to provide procedures for the expeditious and efficient settlement of first party property damage claims arising under personal private passenger motor vehicle policies (hereinafter referred to as "claims").

Cite as Ga. Comp. R. & Regs. R. 120-2-52-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-34-8.

History. Original Rule entitled "Purpose" adopted. F. Mar. 29, 1994; eff. Apr. 18, 1994.

Rule 120-2-52-.03. Standards for Prompt and Fair Settlements of First Party Property Damage Claims.

(1) Every insurer, upon receiving notification of a claim shall, within fifteen (15) days, acknowledge the receipt of such notice by the insured, unless payment is made within that time period. If an acknowledgment is made by means other than writing, a notation of the acknowledgment shall be made in the claim file of the insurer and dated. Notification of a claim given to an agent of an insurer shall be notification to the insurer.

(2) Every insurer, upon receiving notification of a claim shall, within fifteen (15) days, provide the insured with the proof of loss forms, if applicable, with reasonable explanations regarding their use. The providing of these forms will constitute an acknowledgement of receipt of the claim referred to in paragraph (1) above. 18, 1994.

(3) The insurer shall affirm or deny liability on claims within fifteen (15) days of receiving the completed proof of loss from the insured. If the insurer does not require the proof of loss to be completed, the affirmation or denial of liability shall be within thirty (30) days from the day the claim was reported to the insurer.

(4) Payment shall be tendered within ten (10) days after coverage is confirmed and the full amount of the claim is determined and not in dispute. In claims where multiple coverages are involved, payments for individual coverages, which are not in dispute and where the payee is known, shall be tendered within ten (10) days, if such payment would terminate the insurer's known liability under that individual coverage.

(5) If the insurer needs more time than that specified in paragraph (3) above, to determine whether a first party claim should be accepted or denied, it shall notify the claimant within five (5) business days after the time limitation has elapsed in paragraph (3) above giving the reason that more time is needed and an estimate of additional time needed to establish liability. This can be accomplished in writing or if by other means, a proper notation shall be made in the claim file and dated. The total time the insurer has to accept or deny liability shall not exceed 60 days from the company being notified of the claim, unless the company has documented the claim file where information that has been requested necessary to determine liability has not been submitted.

(6) If the insurer has affirmed liability on a claim, or affirmed liability for individual coverages where the claim involves multiple coverages and the amount payable is in dispute, the insured, or the insurer, may submit to the Commissioner a request for their case to be arbitrated. The request must be in writing and must include the facts of the case to include where each party currently stands in the negotiations. The Commissioner may establish a panel of arbitrators consisting of attorneys authorized to practice law in this State and insurance adjusters licensed to act as such in this State. The arbitrators will be charged with the duty of establishing a fair and equitable monetary settlement of the case.

If an arbitration panel has been established, three (3) individuals from the panel of arbitrators, at least one of whom shall be an attorney authorized to practice law in this State and at least one of whom shall be an insurance adjuster licensed to act as such in this State, will be designated to hear each request for arbitration. Any claim settled pursuant to this Chapter shall be binding on both parties and fulfill any arbitration provision currently contained in the motor vehicle insurance policy, but shall not preclude or waive any other rights either party has under common law. The decision of the arbitration panel shall in no way be construed as a decision of the Commissioner. If an arbitration panel has been established, the Commissioner shall forward the written request for arbitration to the three (3) individuals selected to hear such request. The cost of the arbitration shall be borne equally by the parties to the arbitration.

(7) No insurer shall deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to such provision, condition, or exclusion is included in the denial. The denial shall be given to the insured in writing and the claim file of the insurer shall contain documentation of the denial.

(8) The insurer shall pay according to the terms of its policy for the covered loss up to the actual cash value to repair or to replace the damaged or stolen property subject to any deductibles. However, the insured has the right to choose the place of repair and pay the difference in cost, if the cost of the repair shop selected by the insured is greater than that obtained by the insurer.

   (a) Unless permitted pursuant to the provisions of the policy of insurance, no insurer shall require an insured to utilize a particular person, firm, or corporation to repair a motor vehicle in order to settle a first party claim if the insured can obtain the repair work on the motor vehicle at the same cost from another source.

Cite as Ga. Comp. R. & Regs. R. 120-2-52-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-34-6, 33-34-8.
History. Original Rule entitled "Standards for Prompt and Fair Settlements of First Party Property Damage Claims" adopted. F. Mar. 29, 1994; eff. Apr. 18, 1994.
Amended: F. Sept. 5, 1997; eff. Sept. 25, 1997.

Rule 120-2-52-.04. Vehicle Repairs.

(1) If losses are settled on the basis of a written estimate prepared by or for the insurer, the insurer shall supply, upon request of the insured, a copy of the estimate upon which the settlement is based. The estimate prepared by or for the insurer shall be reasonable, and of an amount which will allow for repairs to be made in a workmanlike manner which would restore the damaged vehicle to its preaccident condition relative to quality, safety, function and appearance. If the insured subsequently shows, based upon a written estimate which he obtains, that necessary repairs will exceed the written estimate prepared by or for the insurer, the insurer shall review and respond within fifteen (15) days. The insurer shall either provide the insured with the name of a repair shop that will

make the repairs according to the written estimate obtained by the insurer which are commercially acceptable and conform with industry standards, or pay the difference between the written estimate and the one obtained by the insured.

(2) When the monetary amount claimed by the insured is reduced because of betterment or depreciation, all reasons for such reduction shall be contained and documented in the insurer's claim file. Such deductions shall be itemized and specified as to dollar amount and shall be appropriate for the amount of deductions. Deductions for betterment and depreciation shall be allowable only if:

(a) They reflect a measurable decrease in market value attributable to the poorer condition of; or prior damage to, the vehicle;

(b) They reflect the general overall condition of the vehicle considering its age, for either or both:

1. The wear and tear, or rust, limited to no more than a deduction of $1,000, and/or

2. Missing parts, limited to no more of a deduction than the replacement cost of such part or parts.

(c) The deductions set forth in subparagraphs (2)(a) and (b) above shall be limited to 20% of the market value of the vehicle prior to the loss.

(3) No insurer shall require the insured to supply parts for replacement.

Cite as Ga. Comp. R. & Regs. R. 120-2-52-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-34-8.
History. Original Rule entitled "Vehicle Repairs" adopted. F. Mar. 29, 1994; eff. Apr. 18, 1994.

Rule 120-2-52-.05. Aftermarket Crash Parts.

(1) Purpose. The purpose of this section is to set forth standards for the use of aftermarket crash parts. It sets forth certain requirements relative to the identity, quality and disclosure of after market crash parts.

(2) Definition. For purposes of this regulation, the term "aftermarket crash part" shall mean a replacement for any of the non-mechanical sheet metal or plastic parts which generally constitute the exterior of a motor vehicle, including inner and outer panels.

(3) Identification. All aftermarket crash parts which are subject to this section and manufactured after the effective date of this section, shall carry sufficient permanent identification so as to identify their manufacturer. Such identification shall be accessible to the extent practicable after installation.

(4) The price of nonoriginal manufacturer aftermarket crash parts may be used by insurers to determine repair costs, provided the use of such parts would restore the damaged vehicle to its preaccident condition relative to quality, safety, function and appearance. If an insurer includes nonoriginal manufacturer aftermarket crash parts in its repair estimate, the insurer shall notify the insured in writing as follows:

(a) The written repair estimate shall clearly identify each such part.

(b) A disclosure document containing the following information in no smaller print than 10 point type shall appear on or be attached to the insurers copy of the estimate:

"THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF AFTERMARKET CRASH PARTS SUPPLIED BY A SOURCE OTHER THAN THE MANUFACTURER OF YOUR MOTOR VEHICLE.

THE AFTERMARKET CRASH PARTS USED IN THE PREPARATION OF THIS ESTIMATE ARE WARRANTED BY THE MANUFACTURER OR DISTRIBUTION OF SUCH PARTS RATHER THAN THE MANUFACTURER OF YOUR VEHICLE."

(5) No insurer, as part of a claims settlement, may require an insured to authorize the use of nonoriginal manufacturer aftermarket crash parts in the repair of a damaged vehicle.

Cite as Ga. Comp. R. & Regs. R. 120-2-52-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-34-8.
History. Original Rule entitled "Aftermarket Crash Parts" adopted. F. Mar. 29, 1994; eff. Apr. 18, 1994.

Rule 120-2-52-.06. Total Loss Vehicle Claims.

If the insurer determines the insured vehicle to be a total loss, and the insurance policy provides for the adjustment and settlement of first party vehicle claims on the basis of actual cash value or replacement, the insurer may elect to pay a cash equivalent settlement or replace the insured vehicle. The insurer shall use one of the following methods:

(a) Cash Equivalent Method. The insurer may elect to pay a cash equivalent settlement based upon the actual cost less any deductible provided in the policy, to purchase a comparable automobile by the same manufacturer, same model year, with similar body style, similar options and mileage, including all applicable taxes, license fees and other fees incident to the transfer of ownership of a comparable automobile. The amount payable on taxes, license fees, and transfer fees shall be limited to the amount that would have been paid on the totaled, insured vehicle at the time of settlement. Such cost shall be based on one or more of the following methods:

1. The cost of two or more comparable automobiles in the local market area, defined in this subsection as fifty (50) miles from the county seat where the insured vehicle was principally garaged, when comparable automobiles are available or were available within the last thirty (30) days to consumers in the local market area. These sources may include dealer's sales price, any established printed automobile sales publication or newspaper.

2. The cost of two (2) or more comparable automobiles in areas proximate to the local market area defined in this subsection as 100 miles from the county seat where the insured vehicle was principally garaged, including the closest major metropolitan area within or without the state, that are available or were available within the last thirty (30) days to consumers when comparable automobiles are not available in subparagraph (a)1. above. These sources shall include the same as in subparagraph (a)1. above.

3. One of two or more quotations obtained by the insurer from two or more licensed dealers located within the local market area defined in this subparagraph as 50 miles from the county seat where the insured vehicle was principally garaged, when the cost of comparable automobiles are not available in subparagraphs (a)1. and 2. above.

4. Any source for determining statistically valid fair market values that meet all of the following criteria which may be in electronic or printed format:

   (i) The source shall give primary consideration to the values of vehicles in the local market area, or may consider data on vehicles outside the area when comparable vehicles have not been available for data collection in the local market area.

   (ii) The source's database shall produce values for at least 85% of all makes and models for at least the last fifteen (15) model years, taking into account the values of all major options for such vehicles.

   (iii) The source shall produce fair market values based on current data available from the area surrounding the location where the insured vehicle was principally garaged or a necessary expansion of parameters (such as time and area) to assure statistical validity.

(b) Replacement Vehicle Method. The insurer may elect to replace the insured vehicle, including all applicable taxes, license fees, and other fees necessary to transfer ownership. The following requirements and standards shall apply if the insurer elects the replacement vehicle method:

1. The replacement vehicle must be comparable to the insured vehicle in that it is the same manufacturer model, same or newer model year, similar body style, similar options and mileage as the insured vehicle and in good overall condition.

2. The replacement vehicle shall be available for inspection by the insured within fifty (50) miles of the insured's residence or further if agreeable to the insured.

3. The insurer's claim file shall contain a full description of the replacement vehicle, including, but not limited to, the vehicle identification number and the schedule of options.

4. A replacement vehicle of the same or newer model year must be available for purchase through a licensed dealer or through an established printed sales publication.

5. In the event that a replacement vehicle meeting the requirements in subparagraphs 1. through 4. above is not available, the cash equivalent method should be used.

6. If the insured rejects a replacement vehicle, the option to replace the insured vehicle may not be exercised. The rejection shall be documented in the claim file. The insurer need only pay the amount it would have otherwise paid if the insured had accepted the replacement vehicle, including the applicable taxes, license fees, or other fees to transfer ownership.

7. If the insured selects another vehicle substantially similar in value, the insurer may either replace the insured vehicle with this substitute, or only pay the amount it would have otherwise paid if the insured had accepted the replacement vehicle, including the applicable taxes, license fees or other fees to transfer ownership.

Cite as Ga. Comp. R. & Regs. R. 120-2-52-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-34-8.
History. Original Rule entitled "Total Loss Vehicle Claims" adopted. F. Mar. 29, 1994; eff. Apr. 18, 1994.

Rule 120-2-52-.07. Loss of Use.

If a policy provides loss of use or rental reimbursement coverage, reimbursement is limited to actual expenses incurred while an insured vehicle is inoperable due to a loss payable under either comprehensive or collision coverage. It is not necessary that the policy include coverage for the kind of loss itself (i.e., a comprehensive loss, but no comprehensive coverage), as long as rental reimbursement is applicable to the loss.

(a) Actual expenses include reasonable fares for substitute transportation. If a rental car is used, the expenses can include daily charges, mileage expenses and taxes, subject to policy limitations.

(b) The insurer may apply daily or aggregate monetary limitations to the actual expenses subject to policy provisions.

(c) The insurer may limit the benefits to the period the vehicle is inoperable or under repair, or ending when an offer to pay for a total loss is made. The offer to pay for the total loss must be made in accordance with these rules, and the date of the offer must be clearly documented in the insurer's claim file.

Cite as Ga. Comp. R. & Regs. R. 120-2-52-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-34-8.
History. Original Rule entitled "Loss of Use" adopted. F. Mar. 29, 1994; eff. Apr. 18, 1994.

Rule 120-2-52-.08. 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.

Cite as Ga. Comp. R. & Regs. R. 120-2-52-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-34-8.
History. Original Rule entitled "Severability" adopted. F. Mar. 29, 1994; eff. Apr. 18, 1994.

Subject 120-2-53. CANCELLATION AND NONRENEWAL REGULATION.

Rule 120-2-53-.01. Authority.

This Regulation made and promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. § 33-24-45.

Cite as Ga. Comp. R. & Regs. R. 120-2-53-.01
Authority: O.C.G.A. Secs. 33-24-45, 33-2-9.
History. Original Rule entitled "Authority" adopted. F. Apr. 7, 1994; eff. Apr. 27, 1994.
Repealed: New Rule of same title adopted. F. Sept. 16, 1997; eff. Oct. 6, 1997.

Rule 120-2-53-.02. Purpose.

The purpose of this Regulation is to establish the notice requirements an insurer shall include in the notice of cancellation or notice of nonrenewal sent to an insured and to provide for procedures for a review by the Commissioner when an insured believes his or her policy has been canceled or nonrenewed in violation of O.C.G.A. § 33-24-45.

Cite as Ga. Comp. R. & Regs. R. 120-2-53-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-24-45.
History. Original Rule entitled "Purpose" adopted. F. Apr. 7, 1994; eff. Apr. 27, 1994.
Repealed: New Rule of same title adopted. F. Sept. 16, 1997; eff. Oct. 6, 1997.

Rule 120-2-53-.03. Notice Requirements for Cancellations and Nonrenewals.

(1) Each notice of cancellation or nonrenewal shall include the following:

(a) Each notice of nonrenewal, except for those exceptions contained within these rules, shall advise the insured of the opportunity of review of the nonrenewal by the Commissioner, as set forth herein, if the insured believes that his or her policy has been nonrenewed in violation of O.C.G.A. § 33-24-45. Notice in the following form shall satisfy the notice requirement in O.C.G.A. § 33-24-45(e)(5)(B) and serve to notify the insured of his or her opportunity for review of the nonrenewal. This notice shall only be used for nonrenewals.

NOTICE OF NONRENEWAL

"Code Section 33-24-45 of the Official Code of Georgia Annotated provides that this insurer must upon request, furnish you with the reasons for the failure to renew this policy. If you wish to assert that the nonrenewal is unlawful, you must file a written notice with this insurer before the time at which the nonrenewal becomes effective. The notice must specify the manner in which the failure to renew is alleged to be unlawful.

If you do not file the written notice, you may not later assert a claim or action against this insurer based upon an unlawful nonrenewal.

Additionally, within fifteen (15) days of receipt of this Notice of Nonrenewal, you may mail or deliver a written request for a review of the nonrenewal by the Commissioner if you believe your policy has been nonrenewed in violation of O.C.G.A. § 33-24-45. Your request must state the reasons why you believe the nonrenewal is in violation of O.C.G.A. § 33-24-45(e).

(b) Each notice of cancellation, except for those exceptions contained within these rules, shall advise the insured of his or her opportunity to request, in writing, a review of the cancellation by the Commissioner, as set forth herein, if the insured believes that his or her policy has been canceled in violation of O.C.G.A. § 33-24-45. This notice shall only be used in the case of cancellation. Such cancellation notice to the insured shall be in substantially the following form:

NOTICE OF CANCELLATION

Within fifteen (15) days of receipt of this Notice of Cancellation, you may mail or deliver a written request for a review of the cancellation by the Commissioner if you believe your policy has been canceled in violation of O.C.G.A. § 33-24-45(c). Your request must state the reasons why you feel the cancellation is in violation of this Code Section.

(c) The notice of cancellation or nonrenewal shall specifically state any and all reasons for such cancellation or nonrenewal in clear, easy to understand language.

(d) The notice of cancellation or nonrenewal shall specifically state the tender of premium requirements contained in Rule 120-2-53-.04.

(e) The notice required by this rule shall not be mandated for policies canceled in compliance with O.C.G.A. § 33-24-45(c)(1) or those canceled in compliance with O.C.G.A. § 33-24-45(k).

(2) No request for a review by the Commissioner shall be valid unless a written request is delivered or mailed with sufficient postage to the Commissioner within fifteen (15) days after receipt by the insured of the notice of cancellation or nonrenewal. A post office receipt of mailing to the named insured, at the insured's last known address according to the policy records, shall be conclusive proof of receipt of notice by the named insured on the fourth calendar day after mailing.

Cite as Ga. Comp. R. & Regs. R. 120-2-53-.03
Authority: O.C.G.A. Secs. 33-24-45, 33-2-9.
History. Original Rule entitled "Insured's Right to a Hearing" adopted. F. Apr. 7, 1994; eff. Apr. 27, 1994.
Repealed: New Rule entitled "Notice Requirements for Cancellations and Nonrenewals" adopted. F. Sept. 16, 1997; eff. Oct. 6, 1997.

Rule 120-2-53-.04. Tender of Premiums During Period of Review, Refund of Premiums.

During this period of review of the cancellation or nonrenewal, the insured shall tender to, and the insurer shall accept, a 30 day pro rata portion of the premiums applicable to the policy at the time the cancellation or nonrenewal is issued. The insured shall submit proof of such tender of premium as a part of the request for review by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-53-.04
Authority: O.C.G.A. Secs. 33-24-45, 33-2-9.
History. Original Rule entitled "Disposition and Penalties" adopted. F. Apr. 7, 1994; eff. Apr. 27, 1994.
Repealed: New Rule entitled "Tender of Premiums During Period of Review, Refund of Premiums" adopted. F. Sept. 16, 1997; eff. Oct. 6, 1997.

Rule 120-2-53-.05. Disposition and Penalties.

(1) If the Commissioner determines the cancellation or nonrenewal is lawful, termination under the policy shall be effective as of the date and time originally set forth under the notice of cancellation or nonrenewal. Termination of the interim coverage provided pursuant to O.C.G.A. § 33-24-45(o)during the pendency of the Commissioner's review

shall not be effective less than five (5) days following the date of the Commissioner's decision. The Commissioner's decision shall establish the effective date of the termination of the interim coverage provided during the review of the cancellation or nonrenewal and shall serve as the official notice of termination of coverage referenced in O.C.G.A. § 33-24-45(e)(1).

(2) In the event that the cancellation or nonrenewal is upheld by the Commissioner,

(a) the insurer shall retain that portion of the pro rata premiums tendered for the period of time beginning with the original date of cancellation or nonrenewal and ending with the date of the termination of the interim coverage as established by the Commissioner pursuant to Rule 120-2-53-.05(1); and

(b) the insurer shall refund all remaining premiums to the insured within ten (10) working days of receipt of the Commissioner's decision establishing the effective date of the termination of the interim coverage.

(3) A penalty may be assessed against the insurer in all cases where the Commissioner has determined that the cancellation or nonrenewal was not lawful. If the Commissioner makes such a determination, the insurer shall reinstate or renew the policy. The Commissioner may also order such other remedies and penalties as he or she deems appropriate and as are authorized by law in the event of an abusive nonrenewal or cancellation or in the event of a determination that the insurer has engaged in a pattern or practice of improper policy nonrenewal or cancellation procedures.

Cite as Ga. Comp. R. & Regs. R. 120-2-53-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-24-45.
History. Original Rule entitled "Severability" adopted. F. Apr. 7, 1994; eff. Apr. 27, 1994.
Repealed: New Rule entitled "Disposition and Penalties" adopted. F. Sept. 16, 1997; eff. Oct. 6, 1997.

Rule 120-2-53-.06. 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.

Cite as Ga. Comp. R. & Regs. R. 120-2-53-.06
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Severability" adopted. F. Sept. 16, 1997; eff. Oct. 6, 1997.

Subject 120-2-54. REGULATION TO DEFINE STANDARDS AND COMMISSIONER'S AUTHORITY FOR COMPANIES DEEMED TO BE IN HAZARDOUS FINANCIAL CONDITION.

Rule 120-2-54-.01. Authority.

This regulation is adopted and promulgated by the Commissioner pursuant to the authority granted by O.C.G.A. §§ 33-2-9, 33-3-17, 33-3-18, 33-37-11, and 33-37-16.

Cite as Ga. Comp. R. & Regs. R. 120-2-54-.01
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Authority" adopted. F. Aug. 19, 1993; eff. Sept. 8, 1993.
Amended: F. Jan. 3, 2013; eff. Jan. 23, 2013.

Rule 120-2-54-.02. Purpose.

The purpose of this regulation is to set forth the standards which the Commissioner may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to their policyholders, creditors, or the general public.

This regulation shall not be interpreted to limit the powers granted the Commissioner by any laws or parts of laws of this State, nor shall this regulation be interpreted to supersede any laws or parts of laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-54-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-2-11, 33-3-17, 33-3-18.
History. Original Rule entitled "Purpose" adopted. F. Aug. 19, 1993; eff. Sept. 8, 1993.
Amended: F. Jan. 3, 2013; eff. Jan. 23, 2013.

Rule 120-2-54-.03. Standards.

The following standards, either singly or a combination of two or more, may be considered by the Commissioner to determine whether the continued operation of any insurer transacting an insurance business in this State might be deemed to be hazardous to its policyholders, creditors, or the general public. The Commissioner may consider:

(a) Averse findings reported in financial condition and market conduct examination reports, audit reports, and actuarial opinions, reports or summaries;

(b) The National Association of Insurance Commissioners Insurance Regulatory Information System and its other financial analysis solvency tools and reports;

(c) Whether the insurer has made adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expense of the insurer, when considered in light of the assets held by the insurer with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts;

(d) The ability of an assuming reinsurer to perform and whether the insurers reinsurance program provides sufficient protection for the insurer's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer;

(e) Whether the insurer's operating loss in the last twelve-month period or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets, and cash dividends paid to shareholders, is greater than fifty percent (50%) of the insurer's remaining surplus as regards policyholders in excess of the minimum required;

(f) Whether the insurer's operating loss in the last twelve-month period or any shorter period of time, excluding net capital gains, is greater than twenty percent (20%) of the insurer's remaining surplus as regards policyholders in excess of the minimum required;

(g) Whether a reinsurer, obligor or any entity within the insurer's insurance holding company system, is insolvent, threatened with insolvency or delinquent in payment of its monetary or other obligations, and which in the opinion of the Commissioner may affect the solvency of the insurer;

(h) Contingent liabilities, pledges or guarantees which either individually or collectively involve a total amount which in the opinion of the Commissioner may affect the solvency of the insurer;

(i) Whether any controlling person of any insurer is delinquent in the transmitting to, or payment of, net premiums to the insurer;

(j) The age and collectability of receivables;

(k) Whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of the insurer, fails to possess and demonstrate the competence, fitness, and reputation deemed necessary to serve the insurer in such position;

(l) Whether the management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading information concerning an inquiry;

(m) Whether the insurer has failed to meet financial and holding company filing requirements in the absence of a reason satisfactory to the Commissioner;

(n) Whether the management of an insurer either has filed any false or misleading sworn financial statement, or has released false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of a material amount in the books of the insurer;

(o) Whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner;

(p) Whether the insurer has experienced or will experience in the foreseeable future cash flow or liquidity problems;

(q) Whether management has established reserves that do not comply with minimum standards established by State insurance laws, regulations, statutory accounting standards, sound actuarial principles, and standards of practice;

(r) Whether management persistently engages in material under-reserving that results in adverse development;

(s) Whether transactions among affiliates, subsidiaries, or controlling persons for which the insurer receives assets or capital gains, or both, do not provide sufficient value, liquidity, or diversity to assure the insurer's ability to meet its outstanding obligations as they mature;

(t) Any other finding determined by the Commissioner to be hazardous to the insurer's policyholders, creditors, or general public.

Cite as Ga. Comp. R. & Regs. R. 120-2-54-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-2-11, 33-2-12, 33-2-13, 33-2-14, 33-3-17, 33-3-18, 33-3-19, 33-13-6, 33-13-18.
History. Original Rule entitled "Standards" adopted. F. Aug. 19, 1993; eff. Sept. 8, 1993.
Amended: F. Jan. 3, 2013; eff. Jan. 23, 2013.

Rule 120-2-54-.04. Commissioner's Authority.

(a) For the purposes of making a determination of an insurer's financial condition under this regulation, the Commissioner may:

(1) Disregard any credit or amount receivable resulting from transactions with a reinsurer that is insolvent, impaired, or otherwise subject to a delinquency proceeding;

(2) Make appropriate adjustments including disallowance to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates consistent with the NAIC Accounting Practices And Procedures Manual, State laws, and regulations;

(3) Refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; or

(4) Increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the

insurer will be called upon to meet the obligation undertaken within the next twelve-month period.

(b) If the Commissioner determines that the continued operation of the insurer licensed to transact business in this State may be hazardous to its policyholders, creditors, or the general public, then the Commissioner may, upon a determination, issue an order requiring the insurer to:

(1) Reduce the total amount of present and potential liability for policy benefits by reinsurance;

(2) Reduce, suspend, or limit the volume of business being accepted or renewed; or

(3) Reduce general insurance and commission expenses by specified methods;

(4) Increase the insurer's capital and surplus;

(5) Suspend or limit the declaration and payment of dividend by an insurer to its stockholders or to its policyholders;

(6) File reports in a form acceptable to the Commissioner concerning the market value of a security;

(7) Limit or withdraw from certain investments or discontinue certain investment practices to the extent the Commissioner deems necessary;

(8) Document the adequacy of premium rates in relation to the risks insured;

(9) File, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or in such format as promulgated by the Commissioner;

(10) Correct corporate governance practice deficiencies, and adopt and utilize governance practices acceptable to the Commissioner;

(11) Provide a business plan to the Commissioner in order to continue to transact business in the State; or

(12) Notwithstanding any of the other provisions of law limiting the frequency or amount of premium rate adjustments, adjust rates for any non-life insurance product written by the insurer that the Commissioner considers necessary to improve the financial condition of the insurer.

If the insurer is a foreign insurer the Commissioner's order may be limited to the extent provided by statute.

(c) An insurer subject to an order under paragraph (b) may request a hearing to review that order. All requests for hearings and all hearings shall be conducted in a manner consistent with O.C.G.A. § 33-2-17.

Cite as Ga. Comp. R. & Regs. R. 120-2-54-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-2-11, 33-2-12, 33-2-13, 33-2-14, 33-3-17, 33-3-18, 33-3-19, 33-13-6, 33-13-8.
History. Original Rule entitled "Commissioner's Authority" adopted. F. Aug. 19, 1993; eff. Sept. 8, 1993.
Amended: F. Jan. 3, 2013; eff. Jan. 23, 2013.

Rule 120-2-54-.05. 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.

Cite as Ga. Comp. R. & Regs. R. 120-2-54-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-3-17, 33-3-18.
History. Original Rule entitled "Severability" adopted. F. Aug. 19, 1993; eff. Sept. 8, 1993.

Subject 120-2-55. ADMINISTRATIVE SUPERVISION.

Rule 120-2-55-.01. Authority.

This Regulation is promulgated pursuant to the authority granted by O.C.G.A. Sections 33-2-9 and 33-3-1.

Cite as Ga. Comp. R. & Regs. R. 120-2-55-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-3-1.
History. Original Rule entitled "Authority" adopted. F. Aug. 19, 1993; eff. Sept. 8, 1993.

Rule 120-2-55-.02. Purpose.

The purpose of this Regulation is to set forth the rules and procedural requirements which the Commissioner of Insurance deems necessary to carry out the provisions of Chapter 3, Title 33 of the Georgia Insurance Code, relating to administrative supervision.

(a) This Regulation shall not be interpreted to limit the powers granted the Commissioner by any laws or parts of laws of this state.

Cite as Ga. Comp. R. & Regs. R. 120-2-55-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-2-11, 33-3-1, 33-3-17, 33-3-18, 33-3-19.

History. Original Rule entitled "Purpose" adopted. F. Aug. 19, 1993; eff. Sept. 8, 1993.

Rule 120-2-55-.03. Definitions.

(1) "Exceeded its Powers" means, including but not limited to, the following conditions:

(a) The insurer has refused to permit examination of its books, papers, accounts, records of affairs by the Commissioner;

(b) A domestic insurer has unlawfully removed from this State books, papers, accounts or records necessary for an examination of the insurer;

(c) The insurer has failed to promptly comply with the applicable financial reporting statutes or rules and departmental requests relating thereto;

(d) The insurer has neglected or refused to observe a requirement or order of the Commissioner to make good, within the time prescribed by law, any prohibited deficiency in its capital, capital stock, surplus.

(e) The insurer is continuing to transact insurance or write business after its license has been revoked or suspended by the Commissioner;

(f) The insurer, by contract or otherwise, has unlawfully or has in violation of a requirement or order of the Commissioner or has without first having obtained written approval of the Commissioner if approval is required by law:

1. Totally reinsured its entire outstanding business; or

2. Merged or consolidated substantially its entire property or business with another insurer.

(g) The insurer engaged in any transaction in which it is not authorized to engage under the laws of this State;

(h) The insurer has failed to comply with a lawful requirement or order of the Commissioner.

(2) "Consent" means agreement to administrative supervision by the insurer.

Cite as Ga. Comp. R. & Regs. R. 120-2-55-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-2-13, 33-3-1, 33-3-17, 33-3-18.
History. Original Rule entitled "Definitions" adopted. F. Aug. 19, 1993; eff. Sept. 8, 1993.

Rule 120-2-55-.04. Applicability.

This Regulation shall apply to all insurers doing business in this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-55-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-3-1, 33-3-2, 33-3-17, 33-3-18, 33-14-6.
History. Original Rule entitled "Applicability" adopted. F. Aug. 19, 1993; eff. Sept. 8, 1993.

Rule 120-2-55-.05. Requirements to Comply; Administrative Supervision.

(1) If the Commissioner determines that any of the conditions exist as set forth in Section 33-3-17 or 33-3-18 of the Official Code of Georgia Annotated relating to administrative supervision, the Commissioner may proceed with the administrative supervision of the insurer.

(2) If placed under administrative supervision, the insurer shall have such period of time as deemed necessary by the Commissioner to comply with the requirements of the Commissioner subject to the provisions of this Regulation.

(3) If it is determined by the Commissioner that the conditions giving rise to the supervision still exist at the end of the supervision period specified above, the Commissioner may extend such period.

(4) If it is determined by the Commissioner that none of the conditions giving rise to the supervision exist, the Commissioner may release the insurer from supervision.

Cite as Ga. Comp. R. & Regs. R. 120-2-55-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-2-11, 33-2-12, 33-2-14, 33-3-1, 33-3-17, 33-3-18, 33-3-19.
History. Original Rule entitled "Requirements to Comply; Administrative Supervision" adopted. F. Aug. 19, 1993; eff. Sept. 8, 1993.

Rule 120-2-55-.06. Powers.

The Commissioner may take such action as deemed necessary or appropriate to reform the insurer under supervision and the expense for such action shall be borne by the insurer. The Commissioner shall have all the powers of the shareholders, policyholders, members, subscribers, directors, committees of the board of directors, officers, managers, and attorneys-in-fact whose authority shall be subordinate to him. He shall have full power to direct and manage, to hire and discharge employees, officers and directors, notwithstanding any by-laws of the insurer or any contracts that may exist. The Commissioner may deal directly with the property and business affairs of the insurer.

(a) Administrative supervision consists of supervision of the actions of the Board of Directors of the company and the employees of the company. Any resolutions by the board of Directors shall be subject to the approval of the Commissioner. All actions and

transactions of the employees and officers of the company are subject to the approval of the Commissioner as the administrator.

(b) The Commissioner shall have control over the cash receipts and cash disbursements of the company. All company decisions shall be subject to the approval of the Commissioner.

(c) The Commissioner shall be able to act for the company in connection with any of its custodian agreements.

(d) The Commissioner may require the insurer to:

1. Reduce the total amount of present and potential liability for policy benefits by reinsurance;

2. Reduce, suspend or limit the volume of business being accepted or renewed;

3. Reduce general insurance and commission expenses by specified methods;

4. Increase the insurer's capital and surplus;

5. Suspend or limit the declaration and payment of dividend by an insurer to its stockholders or to its policyholders;

6. File reports in a form acceptable to the Commissioner concerning the market value of an insurer's assets;

7. Limit or withdraw from certain investments or discontinue certain investment practices to the extent the Commissioner deems necessary;

8. Document the adequacy of premium rates in relation to the risks insured; or

9. File, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or on such format as promulgated by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-55-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-3-1, 33-3-17, 33-3-18.
History. Original Rule entitled "Powers" adopted. F. Aug. 19, 1993; eff. Sept. 8, 1993.

Rule 120-2-55-.07. Prohibited Acts During Period of Supervision.

During the period of supervision, the Commissioner or his designated appointee shall serve as the Administrator. The Commissioner may provide that the insurer is prohibited from doing any of the following things during the period of supervision, without the prior approval of the Commissioner or his appointed supervisor:

(a) Dispose of; convey or encumber any of its assets or its business in force;

(b) Withdraw any of its bank accounts;

(c) Lend any of its funds;

(d) Invest any of its funds;

(e) Transfer any of its property;

(f) Incur any debt, obligation or liability;

(g) Merge or consolidate with another company;

(h) Approve new premiums or renew any policies;

(i) Enter into any new reinsurance contract or treaty;

(j) Terminate, surrender, forfeit, convey or lapse any insurance policy, certificate or contract, except for nonpayment of premiums due;

(k) Release, pay or refund premium deposits, accrued cash or loan values, unearned premiums, or other reserves on any insurance policy, certificate or contract;

(l) Make any material change in management;

(m) Increase salaries and benefits of officers or directors or the preferential payment of bonuses, dividends or other payments deemed preferential; or

(n) Any other action the Commissioner deems may impair the safety or security of the insurer's policyholders or certificate holders, its creditors, or the public.

Cite as Ga. Comp. R. & Regs. R. 120-2-55-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-3-1, 33-3-17, 33-3-18.
History. Original Rule entitled "Prohibited Acts During Period of Supervision" adopted. F. Aug. 19, 1993; eff. Sept. 8, 1993.

Rule 120-2-55-.08. Administrative Election of Proceedings.

Nothing contained in this Regulation shall preclude the Commissioner from initiating proceedings to place an insurer in conservation, rehabilitation or liquidation proceedings or other delinquency proceedings, however designated under the laws of this State, regardless of whether the Commissioner has previously initiated administrative supervision proceedings under this Regulation against the insurer.

Cite as Ga. Comp. R. & Regs. R. 120-2-55-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-3-17, 33-3-18, 33-37-7, 33-37-8.

History. Original Rule entitled "Administrative Election of Proceedings" adopted. F. Aug. 19, 1993; eff. Sept. 8, 1993.

Rule 120-2-55-.09. 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.

Cite as Ga. Comp. R. & Regs. R. 120-2-55-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-3-1, 33-13-8.
History. Original Rule entitled "Severability" adopted. F. Aug. 19, 1993; eff. Sept. 8, 1993.

Subject 120-2-56. WORKERS' COMPENSATION HEALTH BENEFITS PILOT PROJECTS.

Rule 120-2-56-.01. Authority.

This Regulation is adopted and promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. Sections 33-2-9 and 34-9-122.1.

Cite as Ga. Comp. R. & Regs. R. 120-2-56-.01
Authority: O.C.G.A. Secs. 33-2-9, 34-9-122.1.
History. Original Rule entitled "Authority" adopted. F. Feb. 9, 1993; eff. Mar. 1, 1993.

Rule 120-2-56-.02. Workers' Compensation Health Benefits Pilot Projects.

The Commissioner of Insurance shall permit, but not require, employers and employees to enter into agreements to provide the employees with workers' compensation medical payments benefits through comprehensive health insurance that covers workplace injury and illness. The Commissioner of Insurance shall determine whether the medical benefits afforded under pilot projects for injured employees are substantially similar to benefits available under Title 34, Chapter 9, of the Official Code of Georgia Annotated, relating to workers' compensation.

Cite as Ga. Comp. R. & Regs. R. 120-2-56-.02
Authority: O.C.G.A. Secs. 33-2-9, 34-9-122.1.
History. Original Rule entitled "Workers' Compensation Health Benefits Pilot Projects" adopted. F. Feb. 9, 1993; eff. Mar. 1, 1993.

Subject 120-2-58. CERTIFICATION OF PRIVATE REVIEW AGENTS.

Rule 120-2-58-.01. Purpose.

The Purpose of this Chapter of the Rules and Regulations of the Office of Commissioner of Insurance is to promote the delivery of quality health care by cost-effective means, efficient communication, protection of parties involved, accessible treatment done in a timely and effective manner, maintaining confidentiality of information, and to provide minimum standards for private review agents.

Cite as Ga. Comp. R. & Regs. R. 120-2-58-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-46-1, 33-46-11.
History. Original Rule entitled "Purpose" adopted. F. May 23, 1996; eff. Jun. 12, 1996.

Rule 120-2-58-.02. Definitions.

(1) "Adverse Determination" means a determination by a private review agent not to certify a hospital or surgical facility admission, extension of a hospital stay or other health care service or procedure based on medical necessity or appropriateness.

(2) "Appeal" means a formal request, either orally, or in writing or by electronic transmission, to a private review agent to reconsider a determination not to certify an admission, extension of stay, or other health care service or procedure.

(3) "Complaint" is a communication either orally, in writing or by electronic transmission concerning matters related to utilization review including, but not limited to, health care services, denials, accessibility, and confidentiality.

(4) "Concurrent Review" means utilization review conducted during a patient's hospital stay or course of treatment.

(5) "Reconsideration" means a request either orally, in writing or by electronic transmission to the private review agent to reconsider an adverse determination.

(6) "Review Criteria" means the written policies, decisions, rules, medical protocols or guidelines used by the private review agent to determine medical necessity or appropriateness.

(7) "Utilization Review Determination" means a recommendation by a private review agent regarding medical necessity or appropriateness of the health care services given or proposed to be given to a patient.

Cite as Ga. Comp. R. & Regs. R. 120-2-58-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-46-1, 33-46-11.
History. Original Rule entitled "Definitions" adopted. F. May 23, 1996; eff. Jun. 12, 1996.

Rule 120-2-58-.03. Application and Renewal Filing Requirements.

(1) Applications for certification shall be submitted to the Office of the Commissioner of Insurance on Forms GID-57, GID-65(UR) and GID-72, attached hereto and incorporated herein, along with the original license or certificate fee and application fee required for private review agents under O.C.G.A. 33-8-1.

(2) Private review agents operating in Georgia prior to the effective date of this Chapter of the Rules and Regulations of the Office of Commissioner of Insurance and which have not applied for certification within sixty (60) days of such effective date shall be in violation of Chapter 46 of Title 33 of the Official Code of Georgia Annotated and this Chapter of the Rules and Regulations of the Office of Commissioner of Insurance and are prohibited from operating as a private review agent until such private review agent has applied for certification and has been certified.

(3) Any private review agent not operating in Georgia on the effective date of this Chapter of the Rules and Regulations of the Office of Commissioner of Insurance may apply for certification at any time prior to doing business in Georgia.

(4) A certificate shall expire on the second anniversary of its effective date unless renewed, suspended or revoked. Renewal for an additional two (2) year term may be applied for no sooner than ninety (90) days prior to the certification expiration date. Application for renewal shall be submitted on Forms GID-57, GID-65(UR) and GID-72 with the renewal license or certificate fee required for private review agents under O.C.G.A. § 33-8-1.

(5) On initial application for certification, all advertising materials to be used in Georgia by private review agents shall be filed with the Office of the Commissioner of Insurance.

(6) Each application for certification or renewal must include the following:

(a) A utilization review plan;

(b) Documentation that the private review agent has received full accreditation or certification by the Utilization Review Accreditation Commission (URAC) or the National Committee for Quality Assurance (NCQA). Reason or reasons should be stated if the organization is not presently fully accredited or certified by URAC or NCQA.

(c) The type, qualifications and number of the personnel, either employed or under contract, to perform the utilization review;

(d) A copy of the materials designed to inform applicable patients and health care providers of the requirements of the utilization review plan;

(e) A written description of an ongoing quality assessment program;

(f) The written policies and procedures to ensure that an appropriate representative of the private review agent is reasonably accessible to patients and health care providers five (5) days a week during normal business hours in this State;

(g) The written policies and procedures to ensure that information obtained in the course of utilization review is maintained in a confidential manner. Such policies and procedures shall include, but not be limited to, the following:

1. Assurances that information obtained during the process of utilization review will be kept confidential in accordance with any applicable state or federal laws and regulations;

2. Assurances that the information collected for purposes of utilization review will be limited to the information necessary for the claims administrator to adjudicate the claim and used solely for the purposes of utilization review, quality management, discharge planning and case management;

3. Assurances that information obtained for purposes of utilization review will be shared only with those agents (such as the claims administrator) who have authority to receive such information;

4. Guidelines to prevent unauthorized release of individual enrollee information to the public. Information pertaining to the diagnosis, treatment or health of an enrollee shall be disclosed only to authorized persons. Release of information otherwise shall only be permitted with the express written consent of the covered enrollee, or pursuant to court order for the production of evidence or discovery, or as otherwise provided by state or federal law.

(h) The written policies and procedures establishing and maintaining a complaint system; and

(i) A sample John Doe copy of each type of contract or agreement to be executed between the private review agent and payor, employer, claim administrator, or other entity with certification that the private review agent shall not enter into any incentive payment provision contained in a contract or agreement with a payor which is based on reduction of services or the charges thereof, reduction of length of stay, or utilization or alternative treatment settings to reduce amounts of necessary or appropriate medical care.

Cite as Ga. Comp. R. & Regs. R. 120-2-58-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-39-1, 33-39-14, 33-46-1, 33-46-3 to 33-46-6, 33-46-8, 33-46-11.
History. Original Rule entitled "Application and Renewal Filing Requirements" adopted. F. May 23, 1996; eff. Jun. 12, 1996.
Amended: F. June 5, 2002; eff. June 25, 2002.

Rule 120-2-58-.04. Refusal, Suspension and Revocation.

The Office of Commissioner of Insurance may refuse to issue or renew and may suspend or revoke a certificate if a private review agent:

(a) Violates any provision or otherwise fails to comply with any provision of Chapter 46 of Title 33 of the Official Code of Georgia Annotated or this Chapter of the Rules and Regulations of the Office of Commissioner of Insurance;

(b) Has intentionally misrepresented or concealed any material fact in any application for certification or on any form filed with the Commissioner of Insurance;

(c) Has obtained or attempted to obtain the certification by misrepresentation, concealment, or other fraud or uses a certification without proper authority; or

(d) Has failed to produce records in response to a written request by the Office of Commissioner of Insurance sent to the last known address of the private review agent.

Cite as Ga. Comp. R. & Regs. R. 120-2-58-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-46-1, 33-46-11.
History. Original Rule entitled "Refusal, Suspension and Revocations" adopted. F. May 23, 1996; eff. Jun. 12, 1996.

Rule 120-2-58-.05. Requirements for Utilization Review.

(1) Private review agents shall have sufficient staff to facilitate review in accordance with review criteria and shall designate one or more individuals able to effectively communicate medical and clinical information.

(2) Private review agent shall provide access to its review staff by a toll free or collect call telephone line during normal business hours. A private review agent shall have an established procedure to review timely call backs from health care providers and shall establish written procedures for receiving after-hour calls, either in person or by recording.

(3) Private review agent shall collect only the information necessary to certify the admission, procedure or treatment, length of stay, frequency and duration of services. All requests for information shall be made during normal business hours.

(4) Private review agents shall identify themselves prior to collecting necessary information.

(5) Private review agents shall establish and follow procedures and rules for on-site medical facility review.

(6) In the event a private review agent questions the medical necessity or appropriateness of care, the following procedures will apply:

(a) The attending health care provider shall have the opportunity to discuss a utilization review determination promptly by telephone with an identified health care provider representing the private review agent and trained in a related medical specialty. If the determination is made not to certify, an adverse determination exists.

(b) Reconsideration of an adverse determination occurs when any questions concerning medical necessity or appropriateness of care are not resolved under subparagraph (a) above. The right to appeal an adverse determination shall be available to the enrollee and the attending physician or other ordering health care provider. The enrollee or enrollee's representative shall be allowed a second review by another identified health care provider in an appropriate medical specialty who represents the private review agent.

(7) The private review agent shall have written procedures for providing notification of its determinations regarding all forms of certification in accordance with the following:

(a) When an initial determination is made to certify, notification shall be provided promptly either by telephone, in writing or electronic transmission to the attending health care provider, the facility rendering service as well as to the enrollee. Written notification shall be transmitted within two (2) business days of the determination.

(b) When a determination is made not to certify, the attending physician and/or other ordering health care provider or facility rendering service shall:

1. Be notified by telephone within one (1) business day.

2. Be sent a written notification within one (1) business day, which also shall be sent to the enrollee. The written notification shall include: principal reason(s) for the determination and instructions for initiating an appeal of the adverse determination.

(c) The private review agent shall establish procedures for appeals to be made in writing and by telephone. The private review agent shall notify the health care provider and enrollee in writing of its determination on the appeal as soon as possible, but in no case later than sixty (60) days after receiving the required documentation to conduct the appeal.

(d) The appeals procedure does not preclude the right of an enrollee to pursue legal action.

Cite as Ga. Comp. R. & Regs. R. 120-2-58-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-46-1, 33-46-11.
History. Original Rule entitled "Requirements for Utilization Review" adopted. F. May 23, 1996; eff. Jun. 12, 1996.

Rule 120-2-58-.06. Complaint Procedure.

Private review agents shall establish and maintain a complaint system which includes, at a minimum, the following:

(a) All complaints shall be directed to the private review agent; and

(b) The private review agent shall contact the complainant, gather all pertinent facts regarding the complaint, and attempt to resolve the complaint as soon as reasonably possible within the context of written policies and procedures.

Cite as Ga. Comp. R. & Regs. R. 120-2-58-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-46-1, 33-46-11.
History. Original Rule entitled "Complaint Procedure" adopted. F. May 23, 1996; eff. Jun. 12, 1996.

Rule 120-2-58-.07. Reporting Requirements.

(1) By March 1, 1997, and annually thereafter on or before the same date, each private review agent shall submit to the Office of the Commissioner of Insurance a list of all complaints by type and disposition, and an analysis of such complaints files against them during the past calendar year.

(2) By March 1, 1997, and annually thereafter on or before the same date, the annual report information regarding utilization review activities for the preceding calendar year shall be submitted to the Office of Commissioner of Insurance on Form GID-73 which is attached hereto and incorporated herein.

(3) The Commissioner of Insurance shall require any other reporting requirements that are necessary to fully evaluate utilization review compliance with Chapter 46 of Title 33 of the Official Code of Georgia Annotated and this Chapter of the Rules and Regulations of the Office of Commissioner of Insurance and the impact of utilization review programs on patient access to care.

(4) Each private review agent shall notify the Office of Commissioner of Insurance in writing within sixty (60) days of any changes to information last filed with the Office of Commissioner of Insurance under Form GID-57.

Cite as Ga. Comp. R. & Regs. R. 120-2-58-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-46-1, 33-46-11.
History. Original Rule entitled "Reporting Requirements" adopted. F. May 23, 1996; eff. Jun. 12, 1996.

Rule 120-2-58-.08. Penalties.

Any certified private review agent which violates or fails to comply with any provision of Chapter 46 of Title 33 of the Official Code of Georgia Annotated and this Chapter of the Rules and Regulations of the Office of Commissioner of Insurance will be subject to fines and penalties applicable to licensed insurers generally, including revocation of its certification or right to do business in this state.

Cite as Ga. Comp. R. & Regs. R. 120-2-58-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-46-1, 33-46-11.
History. Original Rule entitled "Penalties" adopted. F. May 23, 1996; eff. Jun. 12, 1996.

Rule 120-2-58-.09. Severability Provision.

If any rule or portion of a rule in this Chapter of the Rules and Regulations of the Office of Commissioner of Insurance or the applicability thereof to any particular person or circumstance is held invalid by a court of competent jurisdiction, the remainder of the rules or the applicability of such provisions to other persons or circumstances shall not be affected thereby.

JOHN W. OXENDINE

OFFICE OF COMMISSIONER OF INSURANCE

STATE OF GEORGIA

ATLANTA, GEORGIA

APPLICATION FOR CERTIFICATION AS A PRIVATE REVIEW AGENT

(Typewritten Only)

If you are an individual with a disability and wish to acquire this application in an alternative format, please contact the ADA Coordinator at the Georgia Insurance Department, 2 Martin Luther King Jr. Drive, Atlanta, Georgia 30334 (404) 656-2056 / TDD (404) 656-4031

Application is hereby made for certification to operate as a Private Review Agent pursuant to the Laws of Georgia. In support thereof, the following information and documentary evidence is submitted:

Date of filing:_____

Name of organization:_____

Mailing address:_____

Street address:_____

Office building:_____ Room number:_____

City:_____ County:_____

State:_____ Zip:_____

Telephone number: (___)_____Fax number: (___)_____

Name of Attorney or Principal filing this application:

_____

Mailing address:_____

Street address:_____

City:_____ State:_____

Zip:_____

Telephone number: (___)_____Fax number: (___)_____

NOTE: ANSWER THE FOLLOWING QUESTIONS AND PROVIDE THE INFORMATION REQUESTED ON SEPARATE SHEETS IDENTIFYING EACH BY THE CORRESPONDING NUMBER ON THIS APPLICATION.

1. Submit all applicable organizational documents including an organizational chart. The following documents MUST BE an original copy or a certified copyof the original: partnership agreement; articles of incorporation certified by your Secretary of State; trade name certificate; trust agreement; any other applicable documents; and all amendments to those documents.

2. Provide one copy of the bylaws, rules and regulations or similar documents regulating the affairs of the private review agent certified by the principal partners or the president and secretary and containing the corporate seal.

3. List the names, addresses, and official titles of positions held by individuals who are responsible for the conduct of the affairs of the private review agent in Georgia.

4. Submit one copy of the Biographical Affidavit on Form GID-65(UR) for each of the persons listed in item 3.

5. Indicate if the private review agent plans to utilize a fictitious or "dba" name. If so, attach a certified copy of the recorded application received from the Clerk of the Superior Court in the county where doing business.

6. Submit all other items required under Rule 120-2-58-.03(6).

DIRECTIONS FOR ATTESTING TO THIS APPLICATION:

a. If applicant is a sole proprietor, the application must be sworn by the sole proprietor.

b. If applicant is a partnership, the application must be sworn by the principal partners or by all officers and directors.

c. If applicant is a corporation, the application must be sworn by the president and secretary.

==========

THE FOLLOWING ATTESTATION FORM SHALL BE USED:

I do solemnly swear or affirm that I am familiar with the Laws of Georgia relating to Private Review Agents; that I have complied with all of the requirements of O.C.G.A. §§ 33-46-4, 33-46-5 and Chapter 39 of Title 33 of the Official Code of Georgia Annotated; that all the foregoinginformation and documentary evidence submitted is true,complete, and correct to the best of my knowledge and belief. I understand that my certification is subject to administrative action if false information is contained herein.

_____

Organization

_____

Signature of Affiant

_____

Name (typewritten)

_____

Title (typewritten)

Sworn to and subscribed before me this_____ day of_____,19_____.

_____

(Notary Public)

JOHN W. OXENDINE

OFFICE OF COMMISSIONER OF INSURANCE

STATE OF GEORGIA

ATLANTA, GEORGIA

Biographical Affidavit

(Typewritten Only)

If you are an individual with a disability and wish to acquire this affidavit in an alternative format, please contact the ADA Coordinator at the Georgia Insurance Department, 2 Martin Luther King Jr. Drive, Atlanta, Georgia 30334 (404) 656-2056 / TDD (404) 656-4031.

Full Name and Address of Private Review Agent (Do Not Use Group Names).

_____

_____

_____

_____

_____

In connection with the above-named private review agent, I herewith make representations and supply information about myself as herein-after set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any question fully.) IF ANSWER IS "NO" or "NONE", SO STATE.

1. Affiant's Full Name (Initials Not Acceptable)._____

_____

_____

2.

a. Have you ever had your name changed? - If yes, give the reason for the change._____

_____

_____

_____

b. Other names used at any time

_____

_____

_____

_____

_____

3. Affiant's Business Address_____

_____

_____

_____

_____

_____

_____

_____

4. Present or Proposed Position with the Applicant Organization

_____

_____

_____

_____

_____

5. Present employer may be contacted.

Yes No (Circle One)

6. List any professional licenses issued by any public or governmental licensing agency or regulatory authority which you presently hold or have held in the last ten (10) years (state date license issued, issuer of license, date terminated, reasons for termination).

_____

_____

_____

_____

_____

7. Has the certificate of authority or license to do business of any private review agent of which you were an officer or director or key management person ever been suspended or revoked while you occupied such position?

_____If yes, give details:

_____

_____

_____

_____

_____

Dated and signed this_____ day of_____ at _____.I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

_____

(Signature of Affiant)

State of_____ County of_____ Personally appeared before me the above named _____ personally known to me, who, being duly sworn, deposes and says that he/she executed the above instrument and that the statements and answers contained therein are true and correct to the best of his/her knowledge and belief.

Subscribed and sworn to before me this _____ day of _____ 19____.

_____

(Notary Public)

(SEAL) My Commission Expires _____

JOHN W. OXENDINE

OFFICE OF COMMISSIONER OF INSURANCE

STATE OF GEORGIA

ATLANTA, GEORGIA

CHECKLIST OF APPLICATION DOCUMENTS

FOR CERTIFICATION OF PRIVATE REVIEW AGENTS

Name of organization:_____

(Please file your documents in the same order as the checklist) (check or n/a)

_____ 1. Are all applicable organizational documents (original copy or certified copy of the original) including all amendments to those documents attached?

_____ a. Partnership Agreement

_____ b. Articles of Incorporation (certified by your Secretary of State)

_____ c. Trade Name Certificate

_____ d. Trust Agreement

_____ e. Other _____

_____ 2. Are the bylaws, rules and regulations or similar documents regulating the affairs of the private review agent certified by the principal partners or the president and secretary and containing the corporate seal attached?

_____ 3. Is one copy of the Biographical Affidavit (GID-65(UR)) for each of the individuals responsible for the conduct of the affairs of the private review agent attached?

_____ 4. Is the private review agent using a fictitious or "dba" name? If so, is a certified copy of the recorded application received from the Clerk of the Superior Court in the county where doing business attached?

_____ 5. Was the private review agent operating in Georgia prior to the effective date of this Regulation?

_____ yes _____ no

If so, was the certification applied for within sixty (60) days of such effective date?

_____ yes _____ no

_____ 6. Have the original license or certificate fee and application fee been enclosed? (Please make checks payable to the Commissioner of Insurance)

_____ 7. If a renewal, was it applied for no sooner than ninety (90) days prior to the certification expiration date?

_____ a. Was the application for renewal submitted on Forms GID-57, GID-65(UR) and GID-72?

_____ b. Has the renewal license or certificate fee been received?

_____ 8. Is the utilization review plan attached?

_____ 9. Is a statement or documentation that the private review agent has received full accreditation by URAC attached?

_____ 10. If your organization is not fully accredited by URAC, have you attached the reasons why full accreditation has not been obtained?

_____ 11. Is a description of the type, qualifications and number of the personnel, either employed or under contract, to perform utilization review attached?

_____ 12. Is a copy of the materials designed to inform applicable patients and health care providers of the requirements of the utilization review plan attached?

_____ 13. Is a written description of an ongoing quality assessment program attached?

_____ 14. Are the written policies and procedures to ensure that a representative of the private review agent is reasonably accessible to patients and providers five (5) days a week during normal business hours in this state attached?

_____ 15. Are the written policies and procedures to ensure compliance with all state laws and regulations to protect the confidentiality of information obtained in the course of utilization review attached?

_____ 16. Are the written policies and procedures for establishing and maintaining a complaint system attached?

_____ 17. Is a sample John Doe copy of each type of contract or agreement to be executed between the private review agent and payor, employer, claim administrator, or other entity with certification that no incentive payment provision exists in these contracts or agreements for the private review agent based on reduction of services or the charges thereof, reduction of length of

stay, or utilization of alternative treatment settings to reduce amounts of necessary or appropriate medical care attached?

_____ 18. Is the Application for Certification as a Private Review Agent **Form GID-57** completed and attached?

_____ 19. Are the Biographical Affidavits on Form GID-65(UR) completed and attached?

_____ 20. Is the Checklist of Application Documents Form GID-72 completed and attached?

_____ 21. Are all the appropriate areas in the application signed and notarized or certified?

If you are an individual with a disability and wish to acquire this document in an alternative format, please contact the ADA Coordinator, Office of Commissioner of insurance, 2 Martin Luther King, Jr., Dr., Atlanta, Georgia 30334. (404) 656-2056 - TDD (404) 656-4031.

JOHN W. OXENDINE

OFFICE OF COMMISSIONER OF INSURANCE

STATE OF GEORGIA

ATLANTA, GEORGIA

ANNUAL REPORT INFORMATION FOR UTILIZATION

REVIEW ACTIVITIES

FOR THE YEAR ENDED _____

(Typewritten Only)

If you are an individual with a disability and wish to acquire this application in an alternative format, please contact the ADA Coordinator at the Georgia Insurance Department, 2 Martin Luther King, Jr. Drive, Atlanta, Georgia 30334 (404) 656-2056 / TDD (404) 656-4031

This information is necessary for the annual report which is required under O.C.G.A. Section 33-46-14 to assess utilization review operations and the extent to which these practices actually affect patients in Georgia. This form is distributed to each private review agent. The information obtained will be summarized providing an overall picture of the "State of Utilization Review in Georgia."

Background Information

1. Legal name and address of private review agent:

_____

_____

_____

_____

2. Telephone number: (_____)_____

Fax number: (_____)_____

3. Name, title and phone number of designated contact person responsible for this information:

_____

_____

4. Indicate the year in which your organization was established: _____ Indicate the year in which your organization began operations in Georgia: _____

5. Is your organization independently owned or is it a subsidiary of or owned by another organization? Independently owned _____ (SKIP TO NEXT SECTION)

A subsidiary of or owned by another organization _____

6. Does the parent organization or any of its subsidiaries provide direct patient care?

yes _____ no _____

7. Is the parent organization or any of its subsidiaries a health insurer?

yes _____ no _____

8. Has the parent organization or any of its subsidiaries ever purchased any of your utilization review services?

yes _____ no _____

Services Performed

1. Indicate the estimated percentage distribution of clinical services reviewed:

Review	Total	Inpatient Review	Outpatient Review
Medical	%	%	%
Surgical	%	%	%
Chiropractic	%	%	%
Maternity	%	%	%
Chemical dependency/ Substance abuse	%	%	%
Mental Health	%	%	%
Other	%	%	%

2. Indicate the total acute care hospital admissions reviewed:
_____

3. Indicate the percent of proposed admissions diverted for outpatient care:
_____

4. Indicate the volume of reviews annually performed: prospective (precertification) _____ concurrent (continued stay) _____ restrospective _____ other _____

5. Indicate the total number of Georgia lives covered for each entity for whom the private review agent performs utilization review services:

Entity # Georgia lives covered

a. Employers _____

b. Payors (Insurers) _____

c. Claim administrators _____

d. Others _____

6. Indicate if your organization performs the following types of review and the percentage performed telephonically and/or on-site;

Telephonic On site

Prospective Review yes no _____% _____%

Concurrent Stay Review yes no _____% _____%

Discharge Planning yes no _____% _____%

Case Management yes no _____% _____%

7. How many reviews does your organization conduct on average, per episode of care?

prospective _____

concurrent _____

retrospective _____

other _____

Utilization Review Staff

1. Personnel who conduct reviews.

(A) For each type, please indicate if, at any phase of the utilization review process, any of that staff type made decisions about the necessity or the appropriateness of requested medical or surgical care for your organization for the preceding calendar year.

(B) If "yes," please enter the total number of staff of each type that made these decisions, and the number of staff that were full-time employees of your organization, part-time employees of your organization who worked on the premises of your organization, part-time employees of your organization who worked off the premises of your organization, and consultants/advisors to your organization. (IF NONE, ENTER "0")

Form GID-73

	(A) For the preceding calendar year, did staff make necessity/ appropriateness decisions? (CHECK ONE)			(B) For each type of staff who made necessity or appropriateness decisions, please enter the number of ... (ENTER A NUMBER FOR EACH)			
	No	yes	Employees in total	Full-time employees	Part-time employees on premises	Part-time employees off premises	Consultants/ advisors to organization
Physicians							
Registered Nurses							
Licensed Practical Nurses							
Accredited Records Technicians (ART)							
Registered Records Administrators (RRA)							
PhD's							
Medical Social Workers (MSW)							
Other licensed (please specify)							
Non-licensed (please specify)							

2. List the board specialties (as recognized by the American Board of Medical Specialists) for the number of staff physicians and the number of consultants/advisors for the organization. (i.e.

Family Practice, Internal Medicine, Pediatrics, etc.) Also, indicate the same for staff recognized by the Advisory Board of Osteophatic Specialist.

Board Specialty	# of staff physicians	# of consultants/ advisors

Utilization Review and Appeals

1. CASE MANAGEMENT

a. During the preceding calendar year, did your organization review any catastrophic medical or surgical cases to determine the need for case management services; that is, determine the need for coordinated care for patients requiring expensive or extended care?

yes no _____ no _____

(SKIP TO QUESTION 2)

b. How many cases did you screen for case-management?_____

c. How many of these cases were recommended for case-management?

_____

_____

d. How many were ultimately case-managed?

_____

2. Please list the top five surgeries or procedures that your organization most often did not authorize during the preceding calendar year because of unsubstantiated medical need.

_____

_____

_____

_____

_____

_____

3. Indicate the number and outcome by clinical service (i.e. medical, surgical, maternity, etc.) of each appeal as addressed in Rule 120-2-58-.05, entitled "Requirements for Utilization Review", paragraph (6)(b).

_____

_____

_____

_____

_____

_____

_____

4. The average number of days required to complete each level of appeal:

_____

_____

ACKNOWLEDGEMENT

The Office of Commissioner of Insurance expresses its gratitude and appreciation to the United States General Accounting Office for granting permission to use some material from their study entitled "Information on Utilization Review Organizations." GAO/HRD-93-22FS.

Cite as Ga. Comp. R. & Regs. R. 120-2-58-.09
Authority: O.C.G.A. Sec. 33-2-9, 33-46-1, 33-46-11.
History. Original Rule entitled "Severability Provision" adopted. F. May 23, 1996; eff. Jun. 12, 1996.

Subject 120-2-59. STANDARD CLAIM FORM FOR ACCIDENT AND SICKNESS INSURANCE.

Rule 120-2-59-.01. Authority.

This Regulation is issued pursuant to the authority vested in the Commissioner of Insurance by O.C.G.A. Sections 33-2-9 and 33-24-10.1.

Cite as Ga. Comp. R. & Regs. R. 120-2-59-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-24-10.1.
History. Original Rule entitled "Authority" adopted. F. Jan. 11, 1994; eff. Jan. 31, 1994.
Amended: April 30, 1999; eff. May 20, 1999.

Rule 120-2-59-.02. Purpose.

The purpose of this Regulation Chapter is to implement the provisions of Chapter 24 of Title 33 of the Official Code of Georgia Annotated, provide for a standardized form to be used in the billing and reimbursement of health care, reduce the number of forms utilized and increase efficiency in the reimbursement of health care through standardization.

Cite as Ga. Comp. R. & Regs. R. 120-2-59-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-24-10.1.
History. Original Rule entitled "Purpose" adopted. F. Jan. 11, 1994; eff. Jan. 31, 1994.
Amended: April 30, 1999; eff. May 20, 1999.

Rule 120-2-59-.03. Applicability and Scope.

(1) Except as otherwise specifically provided, this Regulation Chapter shall apply to all issuers, health care practitioners, and institutional care practitioners.

(2) Nothing in this Regulation Chapter shall prohibit an issuer, health care practitioner or institutional care practitioner from using alternative forms or procedures for filing claims as are specified in a written contract between the health care practitioner or institutional care practitioner and issuer.

Cite as Ga. Comp. R. & Regs. R. 120-2-59-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-24-10.1.
History. Original Rule entitled "Applicability" adopted. F. Jan. 11, 1994; eff. Jan. 31, 1994.
Repealed: New Rule, same title, adopted. F. Apr. 30, 1999; eff. May 20, 1999.

Rule 120-2-59-.04. Definitions.

For the purposes of O.C.G.A. 33-24-10.1 and this Regulation Chapter:

(a) "HCFA" means the Health Care Financing Administration of the United States Department of Health and Human Services.

(b) "HCFA Form 1450" means the health insurance claim form maintained by HCFA for use by institutional care practitioners.

(c) "HCFA Form 1500" means the health insurance claim form maintained by HCFA for use by health care practitioners.

(d) "Health Care Practitioner" means a health care provider duly licensed by the Secretary of State of the State of Georgia pursuant to the Official Code of Georgia Annotated and the Rules and Regulations of the State of Georgia.

(e) "Institutional Care Practitioner" means a hospice, hospital, skilled nursing facility, extended care facility, intermediate care facility, convalescent nursing home, and personal care facility licensed pursuant to the Official Code of Georgia Annotated and the Rules and Regulations of the State of Georgia.

(f) "Insured" means an individual covered under a policy of insurance or the provider to which that individual has assigned benefits.

(g) "Issuer" means an insurance company, fraternal benefit society, health care service plan, health maintenance organization, third party administrator, and any other entity reimbursing the costs of health care expenses.

(h) "J512 Form" means the uniform dental claim form approved by the American Dental Association for use by dentists.

Cite as Ga. Comp. R. & Regs. R. 120-2-59-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-24-10.1.
History. Original Rule entitled "Definitions" adopted. F. Jan. 11, 1994; eff. Jan. 31, 1994.
Repealed: New Rule, same title, adopted. F. Apr. 30, 1999; eff. May 20, 1999.

Rule 120-2-59-.05. Requirements.

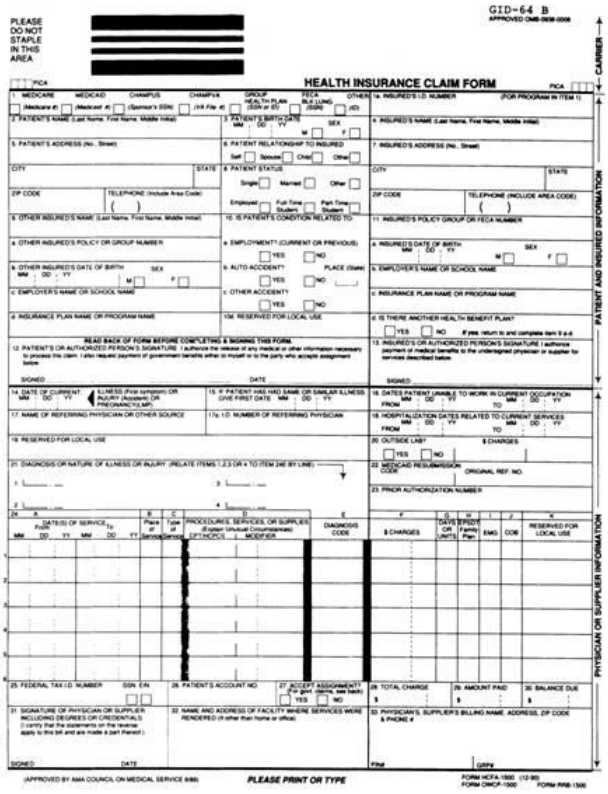
(1) Health care practitioners and institutional care practitioners shall use and accept the most current editions of the HCFA Form 1450, HCFA Form 1500, or J512 Form and most current instructions for these forms in the billing of patients or their representatives and filing claims with issuers.

(2) Issuers shall provide, upon request, to health care practitioners, institutional care practitioners and insureds, and accept the most current editions of the HCFA Form 1450, HCFA Form 1500, or J512 Form for the processing of claims.

Cite as Ga. Comp. R. & Regs. R. 120-2-59-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-24-10.1.
History. Original Rule entitled "Requirements" adopted. F. Jan. 11, 1994; eff. Jan. 31, 1994.
Repealed: New Rule, same title, adopted. F. Apr. 30, 1999; eff. May 20, 1999.

Rule 120-2-59-.06. Severability.

If any provision of this Regulation Chapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the Regulation Chapter and the application of such provision to other persons or circumstances shall not be affected thereby.


PLEASE DO NOT STAPLE IN THIS AREA

GID-64 B

HEALTH INSURANCE CLAIM FORM

PICA

CARRIER

PATIENT AND INSURED INFORMATION

PHYSICIAN OR SUPPLIER INFORMATION

PLEASE PRINT OR TYPE

BECAUSE THIS FORM IS USED BY VARIOUS GOVERNMENT AND PRIVATE HEALTH PROGRAMS, SEE SEPARATE INSTRUCTIONS ISSUED BY APPLICABLE PROGRAMS.

NOTICE: Any person who knowingly files a statement of claim containing any misrepresentation or any false, incomplete or misleading information may be guilty of a criminal act punishable under law and may be subject to civil penalties.

REFERS TO GOVERNMENT PROGRAMS ONLY

MEDICARE AND CHAMPUS PAYMENTS: A patient's signature requests that payment be made and authorizes release of any information necessary to process the claim and certifies that the information provided in Blocks 1 through 12 is true, accurate and complete. In the case of a Medicare claim, the patient's signature authorizes any entity to release to Medicare medical and nonmedical information, including employment status, and whether the person has employer group health insurance, liability, no-fault, worker's compensation or other insurance which is responsible to pay for the services for which the Medicare claim is made. See 42 CFR 411.24(a). If item 9 is completed, the patient's signature authorizes release of the information to the health plan or agency shown. In Medicare assigned or CHAMPUS participation cases, the physician agrees to accept the charge determination of the Medicare carrier or CHAMPUS fiscal intermediary as the full charge, and the patient is responsible only for the deductible, coinsurance and noncovered services. Coinsurance and the deductible are based upon the charge determination of the Medicare carrier or CHAMPUS fiscal intermediary if this is less than the charge submitted. CHAMPUS is not a health insurance program but makes payment for health benefits provided through certain affiliations with the Uniformed Services. Information on the patient's sponsor should be provided in those items captioned in "Insured"; i.e., items 1a, 4, 6, 7, 9, and 11.

BLACK LUNG AND FECA CLAIMS

The provider agrees to accept the amount paid by the Government as payment in full. See Black Lung and FECA instructions regarding required procedure and diagnosis coding systems.

SIGNATURE OF PHYSICIAN OR SUPPLIER (MEDICARE, CHAMPUS, FECA AND BLACK LUNG)

I certify that the services shown on this form were medically indicated and necessary for the health of the patient and were personally furnished by me or were furnished incident to my professional service by my employee under my immediate personal supervision, except as otherwise expressly permitted by Medicare or CHAMPUS regulations.

For services to be considered as "incident" to a physician's professional service, 1) they must be rendered under the physician's immediate personal supervision by his/her employee, 2) they must be an integral, although incidental part of a covered physician's service, 3) they must be of kinds commonly furnished in physician's offices, and 4) the services of nonphysicians must be included on the physician's bill.

For CHAMPUS claims, I further certify that I (or any employee) who rendered services am not an active duty member of the Uniformed Services or a civilian employee of the United States Government or a contract employee of the United States Government; either civilian or military (refer to 5 USC 5536). For Black Lung claims, I further certify that the services performed were for a Black Lung related disorder.

No Part B Medicare benefits may be paid unless this form is received as required by existing law and regulations (42 CFR 424.32).

NOTICE: Any one who misrepresents or falsifies essential information to receive payment from Federal funds requested by this form may upon conviction be subject to fine and imprisonment under applicable Federal laws.

NOTICE TO PATIENT ABOUT THE COLLECTION AND USE OF MEDICARE, CHAMPUS, FECA, AND BLACK LUNG INFORMATION
(PRIVACY ACT STATEMENT)

We are authorized by HCFA, CHAMPUS and OWCP to ask you for information needed in the administration of the Medicare, CHAMPUS, FECA, and Black Lung programs. Authority to collect information is in section 205(a), 1862, 1872 and 1874 of the Social Security Act as amended, 42 CFR 411.24(a) and 424.5(a) (6), and 44 USC 3101-41 CFR 101 et seq and 10 USC 1079 and 1086, 5 USC 8101 et seq; and 30 USC 901 et seq, 38 USC 613; E.O. 9397.

The information we obtain to complete claims under these programs is used to identify you and to determine your eligibility. It is also used to decide if the services and supplies you received are covered by these programs and to insure that proper payment is made.

The information may also be given to other providers of services, carriers, intermediaries, medical review boards, health plans, and other organizations or Federal agencies, for the effective administration of Federal provisions that require other third parties payers to pay primary to Federal program, and as otherwise necessary to administer these programs. For example, it may be necessary to disclose information about the benefits you have used to a hospital or doctor. Additional disclosures are made through routine uses for information contained in systems of records.

FOR MEDICARE CLAIMS: See the notice modifying system No. 09-70-0501, titled, 'Carrier Medicare Claims Record, published in the Federal Register, Vol. 55 No. 177, page 37549, Wed. Sept. 12, 1990, or as updated and republished.

FOR OWCP CLAIMS: Department of Labor, Privacy Act of 1974, "Republication of Notice of Systems of Records," Federal Register Vol. 55 No. 40, Wed Feb. 28, 1990. See ESA-5, ESA-6, ESA-12, ESA-13, ESA-30, or as updated and republished.

FOR CHAMPUS CLAIMS: PRINCIPLE PURPOSE(S): To evaluate eligibility for medical care provided by civilian sources and to issue payment upon establishment of eligibility and determination that the services/supplies received are authorized by law.

ROUTINE USE(S): Information from claims and related documents may be given to the Dept. of Veterans Affairs, the Dept. of Health and Human Services and/or the Dept. of Transportation consistent with their statutory administrative responsibilities under CHAMPUS/CHAMPVA, to the Dept. of Justice for representation of the Secretary of Defense in civil actions, to the Internal Revenue Service, private collection agencies, and consumer reporting agencies in connection with recoupment claims, and to Congressional Offices in response to inquiries made at the request of the person to whom a record pertains. Appropriate disclosures may be made to other federal, state, local, foreign government agencies, private business entities, and individual providers of care, on matters relating to entitlement, claims adjudication, fraud, program abuse, utilization review, quality assurance, peer review, program integrity, third-party liability, coordination of benefits, and civil and criminal litigation related to the operation of CHAMPUS.

DISCLOSURES: Voluntary, however, failure to provide information will result in delay in payment or may result in denial of claim. With the one exception discussed below, there are no penalties under these programs for refusing to supply information. However, failure to furnish information regarding the medical services rendered or the amount charged would prevent payment of claims under these programs. Failure to furnish any other information, such as name or claim number, would delay payment of the claim. Failure to provide medical information under FECA could be deemed an obstruction.

It is mandatory that you tell us if you know that another party is responsible for paying for your treatment. Section 1128B of the Social Security Act and 31 USC 3801-3812 provide penalties for withholding this information.

You should be aware that P.L. 100-503, the "Computer Matching and Privacy Protection Act of 1988", permits the government to verify information by way of computer matches.

MEDICAID PAYMENTS (PROVIDER CERTIFICATION)

I hereby agree to keep such records as are necessary to disclose fully the extent of services provided to individuals under the State's Title XIX plan and to furnish information regarding any payments claimed for providing such services as the State Agency or Dept. of Health and Humans Services may request.

I further agree to accept, as payment in full, the amount paid by the Medicaid program for those claims submitted for payment under that program, with the exception of authorized deductible, coinsurance, co-payment or similar cost-sharing charge.

SIGNATURE OF PHYSICIAN (OR SUPPLIER): I certify that the services listed above were medically indicated and necessary to the health of this patient and were personally furnished by me or my employee under my personal direction.

NOTICE: This is to certify that the foregoing information is true, accurate and complete. I understand that payment and satisfaction of this claim will be from Federal and State funds, and that any false claims, statements, or documents, or concealment of a material fact, may be prosecuted under applicable Federal or State laws.

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to HCFA, Office of Financial Management, P.O. Box 26684, Baltimore, MD 21207, and to the Office of Management and Budget, Paperwork Reduction Project (OMB-0938-0008), Washington, D.C. 20503.

GID-64 C

11 DENTAL SERVICES INVOICE/ PRIOR APPROVAL REQUEST

GEORGIA DEPARTMENT OF MEDICAL ASSISTANCE

MAKE CLAIMS FOR PAYMENT TO EDS
P. O. BOX 105021
TUCKER, GA 30085-5021

FOR MEDICAL AGENT USE ONLY

DOCUMENT CONTROL NUMBER

FOR PRIOR APPROVAL REQUESTS KEEP WHITE AND YELLOW COPIES TOGETHER. STAPLE X-RAYS BEHIND TOP LEFT CORNER OF FORM AND MAIL TO: EDS P. O. BOX 105025 TUCKER, GA. 30085-5025

PRIOR APPROVAL NUMBER

MEDICAID PROVIDER NUMBER

1. RECIPIENT NAME (LAST, FIRST, MIDDLE INITIAL)
2. RECIPIENT MEDICAID NUMBER
3. SEX (CHECK ONE) ☐ MALE ☐ FEMALE
4. RECIPIENT MAILING ADDRESS
5. CITY, STATE, ZIP CODE
6. RECIPIENT PHONE NUMBER ( )
7. RECIPIENT BIRTHDATE (MM-DD-YY)
8. AGE
9. WILL SERVICE BE RENDERED IN HOSPITAL? 1 YES 2 NO
IF YES, WILL SERVICE BE 1 INPATIENT 2 OUTPATIENT
10. HOSPITAL NAME
11. HOSPITAL STREET ADDRESS
12. HOSPITAL CITY, STATE, ZIP CODE
13. DENTIST NAME
14. STATE LICENSE NUMBER
15. EPSDT REFERRAL? 1 YES 2 NO
16. DENTIST MAILING ADDRESS
17. DENTIST PHONE NUMBER ( )
18. IS ANY TREATMENT FOR ORTHODONTIC PURPOSES? 1 YES 2 NO
19. CITY, STATE, ZIP CODE
20. DOES RECIPIENT HAVE THIRD PARTY COVERAGE? 1 YES 2 NO
21. THIRD PARTY CARRIERS
22. POLICY NUMBERS
23. GROUP INSURANCE NUMBERS
24. PATIENT'S RELATIONSHIP TO INSURED: 1 SELF 2 SPOUSE 3 DEPENDENT
25. INJURY CODE: 1 NOT AN ACCIDENT 2 AUTOMOBILE 3 WORK RELATED 4 OTHER THAN AUTO/WORK
26. IF PROSTHESIS IS THIS INITIAL PLACEMENT? ☐ YES ☐ NO (IF NO, GIVE REASON FOR REPLACEMENT)
27. DATE OF PRIOR PLACEMENT
28. X-RAYS ENCLOSED? ☐ YES ☐ NO HOW MANY?
29. REASON FOR P.A. REQUEST (CHECK ONE OR BOTH)
☐ PROCEDURE(S) REQUIRE P.A.
☐ SERVICE(S) WILL EXCEED CALENDAR YEAR DOLLAR LIMIT

30. PRIOR APPROVAL TYPE
Check one: ☐ EPSDT (Patient under 21) ☐ ADULT (Patient 21 or older)
Check if applicable: ☐ HOSPITAL ☐ ORAL SURGERY
Check if applicable: ☐ SPECIAL CASES • Root canal therapy • Stainless steel crowns • Pulpotomy • Pulp capping • Pulp extirpation

31. CONSULTANT DECISION CODES
A — SERVICE APPROVED
C — SERVICE APPROVED AS CHANGED
D — SERVICE NOT APPROVED

30. TOOTH CHARTING SYMBOLS
• MISSING TOOTH
• SURFACES TO BE FILLED
• CROWN
• ORAL EXTRACTION: A TOOTH TO BE EXTRACTED
• LINGUAL
• VENEER
• FACIAL
• LOST PERMANENT TEETH

32. EXAMINATION AND TREATMENT RECORD — LIST IN ORDER FROM TOOTH NO. 1 THROUGH TOOTH NO. 32

	TOOTH # OR LETTER	SURFACES ARE MESIAL, OCCLUSAL, LINGUAL, FACIAL, DISTAL	DESCRIPTION OF SERVICE (INCLUDING X-RAYS, PROPHylaxis, MATERIALS USED, ETC.)	DATE SERVICE PERFORMED MO	DAY	YEAR	PROCEDURE CODE	FEE		DENTIST CODE
1										
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TOTAL FEE ACTUALLY CHARGED
THIRD PARTY AMOUNT
NET CLAIM CHARGE

CONSULTANT APPROVAL AREA

DMA USE ONLY

I HEREBY CERTIFY THAT THE SERVICES LISTED ABOVE HAVE BEEN PERFORMED AND TO THE BEST OF MY KNOWLEDGE ARE WITHIN THE PROVISIONS OF THE GEORGIA DEPARTMENT OF MEDICAL ASSISTANCE DENTAL PLAN. PAYMENT IS THEREFORE DUE.

DENTIST SIGNATURE DATE

DMA-505 (5/92)

Cite as Ga. Comp. R. & Regs. R. 120-2-59-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-24-10.1.
History. Original Rule entitled "Severability" adopted. F. Jan. 11, 1994; eff. Jan. 31, 1994.
Repealed: New Rule, same title, adopted. F. Apr. 30, 1999; eff. May 20, 1999.

Subject 120-2-60. CPA ANNUAL AUDITED FINANCIAL REPORTS.

Rule 120-2-60-.01. Authority.

This rule is promulgated by the Commissioner of Insurance pursuant to Sections 33-2-9 and 33-3-21 of the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-3-21.
History. Original Rule entitled "Authority" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule of same title adopted. F. June 25, 2015; eff. July 15, 2015.

Rule 120-2-60-.02. Purpose and Scope.

(1) The purpose of this rule is to improve the Georgia Insurance Department's surveillance of the financial condition of insurers by requiring an annual examination by independent certified public accountants of the financial statements reporting the financial position and the results of operations of insurers.

(2) Every insurer (as defined in 120-2-60-.03) shall be subject to this rule. Insurers having direct premiums written in this state of less than $1,000,000 in any calendar year and less than 1,000 policyholders or certificate holders of directly written policies nationwide at the end of such calendar year shall be exempt from this rule for such year (unless the Commissioner makes a specific finding that compliance is necessary for the Commissioner to carry out statutory responsibilities) except that insurers having assumed premiums pursuant to contracts and/or treaties of reinsurance of $1,000,000 or more will not be so exempt.

(3) Foreign or alien insurers filing audited financial reports in another state, pursuant to such other state's requirement of audited financial reports which has been found by the Commissioner to be substantially similar to the requirements herein, are exempt from this rule if:

   (a) A copy of the Audited Financial Report, Report on Significant Deficiencies in Internal Controls, and the Accountant's Letter of Qualifications which are filed with such other state are filed with the Commissioner in accordance with the filing dates specified in 120-2-60-.04 and .11 and .12, respectively (Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance); or

(b) A copy of any Notification of Adverse Financial Condition Report filed with such other state is filed with the Commissioner within the time specified in 120-2-60-.10.

(4) This rule shall not prohibit, preclude or in any way limit the Commissioner of Insurance from ordering and/or conducting and/or performing examinations of insurers under the rules and regulations of the Georgia Department of Insurance and the practices and procedures of the Georgia Department of Insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-2-11, 33-3-21.
History. Original Rule entitled "Purpose and Scope" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule of same title adopted. F. June 25, 2015; eff. July 15, 2015.

Rule 120-2-60-.03. Definitions.

(1) "Accountant" or "independent certified public accountant" means an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants (AICPA) and in all states in which they are licensed to practice; for Canadian and British companies, it means a Canadian-chartered or British-chartered accountant.

(2) An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(3) "Audit committee" means a committee (or equivalent body) established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or Group of insurers, the internal audit function of an insurer or group of insurers (if applicable), and external audits of financial statements of the insurer or Group of insurers. The Audit committee of any entity that controls a Group of insurers may be deemed to be the Audit committee for one or more of these controlled insurers solely for the purposes of this regulation at the election of the controlling person. Refer to 120-2-60-.14(5) for exercising this election. If an Audit committee is not designated by the insurer, the insurer's entire board of directors shall constitute the Audit committee.

(4) "Audited financial report" means and includes those items specified in 120-2-60-.05 of this rule.

(5) "Indemnification" means an agreement of indemnity or release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing or other misrepresentations made by the insurer or its representatives.

(6) "Independent board member" has the same meaning as described in 120-2-60-.14(3).

(7) "Insurer" means a licensed insurer as defined in Section 33-3-2(a) of the Georgia Insurance Code.

(8) "Group of insurers" means those licensed insurers included in the reporting requirements of Section 33-13-4 of the Georgia Insurance Code, or a set of insurers as identified by management, for the purpose of assessing the effectiveness of Internal control over financial reporting.

(9) "Internal audit function" means a person or persons that provide independent, objective and reasonable assurance designed to add value and improve an organization's operations and accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

(10) "Internal control over financial reporting" means a process effected by an entity's board of directors, management and other personnel designed to provide reasonable assurance regarding the reliability of the financial statements, i.e., those items specified in 120-2-60-.05(2)(b) - (g) of this regulation and includes those policies and procedures that:

(a) Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets;

(b) Provide reasonable assurance that transactions are recorded as necessary to permit preparation of the financial statements, i.e., those items specified in 120-2-60-.05(2)(b) - (g) of this regulation and that receipts and expenditures are being made only in accordance with authorizations of management and directors; and

(c) Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of assets that could have a material effect on the financial statements, i.e., those items specified in 120-2-60-.05(2)(b) - (g) of this regulation.

(11) "SEC" means the United States Securities and Exchange Commission.

(12) "Section 404" means Section 404 of the Sarbanes-Oxley Act of 2002 and the SEC's rules and regulations promulgated thereunder.

(13) "Section 404 Report" means management's report on "internal control over financial reporting" as defined by the SEC and the related attestation report of the independent certified public accountant as defined in 120-2-60-.03(1).

(14) "SOX Compliant Entity" means an entity that either is required to be compliant with, or voluntarily is compliant with, all of the following provisions of the Sarbanes-Oxley Act of 2002: (i) the preapproval requirements of Section 201 (Section 10A(i) of the Securities Exchange Act of 1934); (ii) the Audit committee independence requirements of Section 301 (Section 10A(m)(3) of the Securities Exchange Act of 1934); and (iii) the

Internal control over financial reporting requirements of Section 404 (Item 308 of SEC Regulation S-K).

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-3-2, 33-3-21.
History. Original Rule entitled "Definitions" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Amended: F. Oct. 10, 2006; eff. Oct. 30, 2006.
Repealed: New Rule of same title adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.
Repealed: New Rule of same title adopted. F. June 25, 2015; eff. July 15, 2015.

Rule 120-2-60-.04. Filing and Extensions for Filing of Annual Audited Financial Reports.

(1) All insurers shall have an annual audit by an independent certified public accountant and shall file an Audited financial report with the Commissioner on or before June 1 for the year ended December 31 immediately preceding. The Commissioner may require an insurer to file an audited financial report earlier than June 1 with ninety (90) days advance notice to the insurer.

(2) Extensions of the June 1 filing date may be granted by the Commissioner for thirty (30) day periods upon showing by the insurer and its independent certified public accountant the reasons for requesting such extension and determination by the Commissioner of good cause for an extension. The request for extension must be submitted in writing not less than ten (10) days prior to the due date in sufficient detail to permit the Commissioner to make an informed decision with respect to the requested extension.

(3) If an extension is granted in accordance with the provisions in paragraph 2, a similar extension of thirty (30) days is granted to the filing of Management's Report of Internal Control over Financial Reporting.

(4) Every insurer required to file an annual Audited financial report pursuant to this regulation shall designate a group of individuals as constituting its Audit committee, as defined in 120-2-60-.03(3). The Audit committee of an entity that controls an insurer may be deemed to be the insurer's Audit committee for purposes of this regulation at the election of the controlling person.

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-3-21.
History. Original Rule entitled "Filing and Extensions for Filing of Annual Audited Financial Reports" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule of same title adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.
Repealed: New Rule of same title adopted. F. June 25, 2015; eff. July 15, 2015.

Rule 120-2-60-.05. Contents of Annual Audited Financial Report.

(1) The annual Audited financial report shall report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows and changes in capital and surplus for the year then ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the Department of Insurance of the state of domicile.

(2) The annual Audited financial report shall include the following:

(a) Report of independent certified public accountant;

(b) Balance sheet reporting admitted assets, liabilities, capital and surplus;

(c) Statement of operations;

(d) Statement of cash flows;

(e) Statement of changes in capital and surplus;

(f) Notes to financial statements. These notes shall be those required by the appropriate NAIC Annual Statement Instructions and the NAIC Accounting Practices and Procedures Manual. In addition these notes shall also include:

1. A reconciliation of differences, if any, between the audited statutory financial statements and the Annual Statement filed pursuant to O.C.G.A. Section 33-3-21 of the Georgia Insurance Code with a written description of the nature of these differences;

2. A summary of ownership and relationships of the insurer and all affiliated companies; and

(g) The financial statements included in the Audited Financial Report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the Annual Statement of the insurer filed with the Commissioner, and the financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. (However, in the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.)

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-3-21.
History. Original Rule entitled "Contents of Annual Audited Financial Report" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule of same title adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.
Repealed: New Rule of same title adopted. F. June 25, 2015; eff. July 15, 2015.

Rule 120-2-60-.06. Designation of Independent Certified Public Accountant.

(1) Each insurer required by this rule to file an annual Audited financial report must within sixty (60) days after becoming subject to such requirement, register with the Commissioner in writing the name and address of the independent certified public accountant or accounting firm retained to conduct the annual audit set forth in this rule. Insurers not retaining an independent certified public accountant on the effective date of this rule shall register the name and address of their retained independent certified public accountant not less than six (6) months before the date when the first audited financial report is to be filed.

(2) The insurer shall obtain a letter from the accountant, and file a copy with the Commissioner stating that the accountant is aware of the provisions of the insurance code and the rules and regulations of the insurance department of the state of domicile that relate to accounting and financial matters and affirming that he or she will express his opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that Department, specifying such exceptions as he or she may believe appropriate.

(3) If an accountant who was the accountant for the immediately preceding filed audited financial report is dismissed or resigns the insurer shall within five (5) business days notify the Commissioner of this event. The Commissioner shall also request that the insurer furnish the Commissioner with a separate letter within ten (10) business days of the above notification stating whether in the twenty-four (24) months preceding such event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure; which disagreements, if not resolved to the satisfaction of the former accountant, would have caused him or her to make reference to the subject matter of the disagreement in connection with his or her opinion. The disagreements to be reported in response to this section include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this section are those that occur at the decision-making level, i.e., between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report. The insurer should also in writing request the former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for which he or she does not agree; and the insurer should furnish the responsive letter from the former accountant to the Commissioner together with its own.

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-2-11, 33-2-1333-2-14, 33-3-21.
History. Original Rule entitled "Designation of Independent Certified Public Accountant" adopted. F. Oct. 7, 1994; aweigh. Oct. 27, 1994.
Repealed: New Rule of same title adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.
Repealed: New Rule of same title adopted. F. June 25, 2015; eff. July 15, 2015.

Rule 120-2-60-.07. Qualifications of Independent Certified Public Accountant.

(1) The Commissioner shall not recognize any person or firm as a qualified independent certified public accountant if that person or firm:

(a) Is not in good standing with the AICPA and in all states in which the accountant is licensed to practice, or, for a Canadian or British company, that is not a chartered accountant; or

(b) Has either directly or indirectly entered into an agreement of indemnity or release from liability (collectively referred to as indemnification) with respect to the audit of the insurer.

(2) Except as otherwise provided herein, an independent certified public accountant shall be recognized as qualified as long as he or she conforms to the standards of his or her profession, as contained in the Code of Professional Ethics of the AICPA and Rules and Regulations and Code of Ethics and Rules of Professional Conduct of the Georgia Board of Public Accountancy, or similar code.

(3) A qualified independent certified public accountant may enter into an agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration. However, in the event of a delinquency proceeding commenced against the insurer under Chapter 37 of the Georgia Insurance Code, the mediation or arbitration provisions shall operate at the option of the statutory successor.

(4) The lead (or coordinating) audit partner, having primary responsibility for the audit, may not act in that capacity for more than five (5) consecutive years. Following any period of service such person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of five (5) years. An insurer may make application to the Commissioner for relief from the above rotation requirement on the basis of unusual circumstances. This application should be made at least thirty (30) days before the end of the calendar year. The Commissioner may consider the following factors in determining if the relief should be granted:

(a) Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;

(b) Premium volume of the insurer; or

(c) Number of jurisdictions in which the insurer transacts business.

(5) The insurer shall file, with its annual statement filing, the approval for relief from paragraph 4 with the states that it is licensed in or doing business in and with the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

(6) The Commissioner shall not recognize as a qualified independent certified public accountant, nor accept any annual Audited financial report, prepared in whole or in part by, any natural person who:

(a) Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Section 1961- 1968, or any dishonest conduct or practices under federal or state law;

(b) Has been found to have violated the insurance laws of this state with respect to any previous reports submitted under this rule; or

(c) Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this rule.

(7) The Commissioner, as provided in Chapter 2 of Title 33 of the Official Code of Georgia Annotated and the applicable Rules and Regulations of the Georgia Insurance Department, may hold a hearing to determine whether an independent certified public accountant is qualified and, considering the evidence presented, may rule that the accountant is not qualified for purposes of expressing his or her opinion on the financial statements in the annual Audited financial report made pursuant to this regulation and require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this regulation.

(8) The Commissioner shall not recognize as a qualified independent certified public accountant, nor accept an annual Audited financial report, prepared in whole or in part by an accountant who provides to an insurer, contemporaneously with the audit, the following non-audit services:

(a) Bookkeeping or other services related to the accounting records or financial statements of the insurer;

(b) Financial information systems design and implementation;

(c) Appraisal or valuation services, fairness opinions, or contribution-in-kind reports;

(d) Actuarially-oriented advisory services involving the determination of amounts recorded in the financial statements. The accountant may assist an insurer in understanding the methods, assumptions and inputs used in the determination of amounts recorded in the financial statement only if it is reasonable to conclude that the services provided will not be subject to audit procedures during an audit of the insurer's financial statements. An accountant's actuary may also issue an actuarial opinion or certification ("opinion") on an insurer's reserves if the following conditions have been met:

(1) Neither the accountant nor the accountant's actuary has performed any management functions or made any management decisions;

(2) The insurer has competent personnel (or engages a third-party actuary) to estimate the reserves for which management takes responsibility; and

(3) The accountant's actuary tests the reasonableness of the reserves after the insurer's management has determined the amount of the reserves;

(e) Internal audit outsourcing services;

(f) Management functions or human resources;

(g) Broker or dealer, investment adviser, or investment banking services;

(h) Legal services or expert services unrelated to the audit; or

(i) Any other services that the Commissioner determines, by regulation, are impermissible.

(9) In general, the principles of independence with respect to services provided by the qualified independent certified public accountant are largely predicated on three basic principles, violations of which would impair the accountant's independence. The principles are that the accountant cannot function in the role of management, cannot audit his or her own work, and cannot serve in an advocacy role for the insurer.

(10) Insurers having direct written and assumed premiums of less than $100,000,000 in any calendar year may request an exemption from paragraph 8. The insurer shall file with the Commissioner a written statement discussing the reasons why the insurer should be exempt from these provisions. If the Commissioner finds, upon review of this statement, that compliance with this regulation would constitute a financial or organizational hardship upon the insurer, an exemption may be granted.

(11) A qualified independent certified public accountant who performs the audit may engage in other non-audit services, including tax services, that are not described in paragraph 8 or that do not conflict with paragraph 9, only if the activity is approved in advance by the Audit committee, in accordance with paragraph 12.

(12) All auditing services and non-audit services provided to an insurer by the qualified independent certified public accountant of the insurer shall be preapproved by the Audit committee. The preapproval requirement is waived with respect to non-audit services if the insurer is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity or:

(a) The aggregate amount of all such non-audit services provided to the insurer constitutes not more than five percent (5%) of the total amount of fees paid by the insurer to its qualified independent certified public accountant during the fiscal year in which the non-audit services are provided;

(b) The services were not recognized by the insurer at the time of the engagement to be non-audit services; and

(c) The services are promptly brought to the attention of the Audit committee and approved prior to the completion of the audit by the Audit committee or by one or more members of the Audit committee who are the members of the board of directors to whom authority to grant such approvals has been delegated by the Audit committee.

(13) The Audit committee may delegate to one or more designated members of the Audit committee the authority to grant the preapprovals required by paragraph 12. The decisions of any member to whom this authority is delegated shall be presented to the full Audit committee at each of its scheduled meetings.

(14) The Commissioner shall not recognize an independent certified public accountant as qualified for a particular insurer if a member of the board, president, chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for that insurer, was employed by the independent certified public accountant and participated in the audit of that insurer during the one-year period preceding the date that the most current statutory opinion is due. This section shall only apply to partners and senior managers involved in the audit. An insurer may make application to the Commissioner for relief from the above requirement on the basis of unusual circumstances.

(15) The insurer shall file, with its annual statement filing, the approval for relief from paragraph 14 with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-2-17, 33-3-21, 33-37-14, 33-37-23.
History. Original Rule entitled "Qualifications of Independent Certified Public Accountant" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Amended: F. Oct. 10, 2006; eff. Oct. 30, 2006.
Repealed: New Rule of same title adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.
Repealed: New Rule of same title adopted. F. June 25, 2015; eff. July 15, 2015.

Rule 120-2-60-.08. Consolidated or Combined Audits.

An insurer may make written application to the Commissioner for approval to file audited consolidated or combined financial statements in lieu of separate annual audited financial statements if the insurer is part of a group of insurance companies which utilizes a pooling or one hundred percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and such insurer cedes all of its direct and assumed business to the pool. In such cases, a columnar consolidating or combining worksheet shall be filed with the report, as follows:

(a) Amounts shown on the consolidated or combined Audited Financial Report shall be shown on the worksheet;

(b) Amounts for each insurer subject to this section shall be stated separately;

(c) Noninsurance operations may be shown on the worksheet on a combined or individual basis;

(d) Explanations of consolidating and eliminating entries shall be included; and

(e) A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the Annual Statements of the insurers.

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-3-21.
History. Original Rule entitled "Consolidated or Combined Audits" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule of same title adopted. F. June 25, 2015; eff. July 15, 2015.

Rule 120-2-60-.09. Scope of Examination and Report of Independent Certified Public Accountant.

Financial statements furnished pursuant to 120-2-60-.05 hereof shall be audited by an independent certified public accountant. The audit of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards. In accordance with AU Section 319 of the Professional Standards of the AICPA (Consideration of Internal Control in a Financial Statement Audit), the independent certified public accountant should obtain an understanding of internal control sufficient to plan the audit. To the extent required by AU 319, for those insurers required to file a Management's Report of Internal Control over Financial Reporting pursuant to 120-2-60-.17, the independent certified public accountant should consider (as that term is defined in Statement on Auditing Standards (SAS) No. 102, Defining Professional Requirements in Statements on Auditing Standards or its replacement) the most recently available report in planning and performing the audit of the statutory financial statements. Consideration shall also be given to such other procedures illustrated in the Financial Condition Examiner's Handbook promulgated by the National Association of Insurance Commissioners as the independent certified public accountant deems necessary.

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-3-21.
History. Original Rule entitled "Scope of Examination and Report of Independent Certified Public Accountant" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule entitled "Scope of Audit and Report of Independent Certified Public Accountant" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.
Repealed: New Rule of same title adopted. F. June 25, 2015; eff. July 15, 2015.

Rule 120-2-60-.10. Notification of Adverse Financial Condition.

(1) The insurer required to furnish the annual Audited financial report shall require the independent certified public accountant to report, in writing, within five (5) business days to the board of directors or its Audit committee any determination by the independent certified public accountant that the insurer has materially misstated its financial condition as reported to the Commissioner as of the balance sheet date currently under audit or that the insurer does not meet the minimum capital and surplus requirement of the Georgia Insurance Code as of that date. An insurer who has received a report pursuant to this paragraph shall forward a copy of the report to the Commissioner within five (5) business days of receipt of such report and shall provide the independent certified public accountant making the report with evidence of the report being furnished to the Commissioner. If the independent certified public accountant fails to receive such evidence within the required five (5) business day period, the independent certified public accountant shall furnish to the Commissioner a copy of its report within the next five (5) business days.

(2) No independent certified public accountant shall be liable in any manner to any person for any statement made in connection with the above paragraph if the statement is made in good faith in compliance with paragraph 1.

(3) If the accountant, subsequent to the date of the Audited financial report filed pursuant to this rule, becomes aware of facts which might have affected his report, the Commissioner notes the obligation of the accountant to take such action as prescribed in Volume 1, Section AU 561 of the Professional Standards of the AICPA.

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-3-21.
History. Original Rule entitled "Notification of Adverse Financial Condition" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule of the same title adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.
Repealed: New Rule of same title adopted. F. June 25, 2015; eff. July 15, 2015.

Rule 120-2-60-.11. Communication of Internal Control Related Matters Noted in an Audit.

(1) In addition to the annual audited financial Statements, each insurer shall furnish the Commissioner with a written communication as to any unremediated material weaknesses in its Internal control over financial reporting noted during the audit. Such communication shall be prepared by the accountant within sixty (60) days after the filing of the annual Audited financial report, and shall contain a description of any unremediated material weakness (as the term material weakness is defined by Statement on Auditing Standard 60, Communication of Internal Control Structure Matters Noted in an Audit, or its replacement) as of December 31 immediately preceding (so as to coincide

with the Audited financial report discussed in 120-2-60-.04(1)) in the insurer's Internal control over financial reporting noted by the accountant during the course of their audit of the financial statements. If no unremediated material weaknesses were noted, the communication shall so state.

(2) The insurer is required to provide a description of remedial actions taken or proposed to correct unremediated material weaknesses, if the actions are not described in the accountant's communication.

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.11
Authority: O.C.G.A. Secs. 33-2-9, 33-3-21.
History. Original Rule entitled "Report on Significant Deficiencies in Internal Controls" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule entitled "Communication of Internal Control Related Matters Noted in an Audit" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.
Repealed: New Rule of same title adopted. F. June 25, 2015; eff. July 15, 2015.

Rule 120-2-60-.12. Accountant's Letter of Qualifications.

The accountant shall furnish the insurer in connection with, and for inclusion in, the filing of the annual Audited financial report, a letter stating:

(a) That the accountant is independent with respect to the insurer and conforms to the standards of his or her profession as contained in the Code of Professional Ethics and pronouncements of the AICPA and the Rules of Professional Conduct of the Georgia Board of Public Accountancy, or similar code;

(b) The background and experience in general, and the experience in audits of insurers of the staff assigned to the engagement and whether each is an independent certified public accountant. Nothing within this rule shall be construed as prohibiting the accountant from utilizing such staff as he or she deems appropriate where use is consistent with the standards prescribed by generally accepted auditing standards;

(c) That the accountant understands the annual Audited financial report and his or her opinion thereon will be filed in compliance with this rule and that the Commissioner will be relying on this information in the monitoring and regulation of the financial position of insurers;

(d) That the accountant consents to the requirements of 120-2-60-.13 and that the accountant consents and agrees to make available for review by the Commissioner, or the Commissioner's designee or appointed agent, the workpapers as defined in 120-2-60-.13;

(e) A representation that the accountant is properly licensed by an appropriate state licensing authority and is a member in good standing in the AICPA; and

(f) A representation that the accountant is in compliance with the requirements of 120-2-60-.07 of this regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.12
Authority: O.C.G.A. Secs. 33-2-9, 33-3-21.
History. Original Rule entitled "Accountant's Letter of Qualification" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule of same title adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.
Repealed: New Rule of same title adopted. F. June 25, 2015; eff. July 15, 2015.

Rule 120-2-60-.13. Definition, Availability and Maintenance of CPA Workpapers.

(1) Workpapers are the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the audit of the financial statements of an insurer. Workpapers, accordingly, may include audit planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of his or her audit of the financial statements of an insurer and which support his or her opinion thereof.

(2) Every insurer required to file an Audited financial report pursuant to this rule shall require the accountant to make available for review by insurance department examiners all workpapers prepared in the conduct of the accountant's audit and any communications related to the audit between the accountant and the insurer, at the offices of the insurer, at the insurance department or at any other reasonable place designated by the Commissioner. The insurer shall require that the accountant retain the audit workpapers and communications until the insurance department has filed a report on examination covering the period of the audit but no longer than seven (7) years from the date of the audit report.

(3) In the conduct of the aforementioned review by insurance department examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the Department. Such reviews by the Department examiners are examinations and all working papers and communications obtained during the course of such examinations shall be afforded the same confidentiality as other examination workpapers generated by the Department or Department examiners.

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.13
Authority: O.C.G.A. Secs. 33-2-9, 33-2-11, 33-2-13, 33-2-14, 33-3-21.
History. Original Rule entitled "Definition, Availability and Maintenance of CPA Workpapers" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule of same title adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.
Repealed: New Rule of same title adopted. F. June 25, 2015; eff. July 15, 2015.

Rule 120-2-60-.14. Requirements for Audit Committees.

This section shall not apply to foreign or alien insurers licensed in this state or an insurer that is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity.

(a) The Audit committee shall be directly responsible for the appointment, compensation and oversight of the work of any accountant (including resolution of disagreements between management and the accountant regarding financial reporting) for the purpose of preparing or issuing the Audited financial report or related work pursuant to this regulation. Each accountant shall report directly to the Audit committee.

(b) The audit committee of an insurer or group of insurers shall be responsible for overseeing the insurer's Internal audit function and granting the person or persons performing the function suitable authority and resources to fulfill their responsibilities if required by 120-2-60-.15 of this regulation.

(c) Each member of the Audit committee shall be a member of the board of directors of the insurer or a member of the board of directors of an entity elected pursuant to paragraph (f) and 120-2-60-.03(3).

(d) In order to be considered independent for purposes of this section, a member of the Audit committee may not, other than in his or her capacity as a member of the Audit committee, the board of directors, or any other board committee, accept any consulting, advisory or other compensatory fee from the entity or be an affiliated person of the entity or any subsidiary thereof. However, if law requires board participation by otherwise non-independent members, that law shall prevail and such members may participate in the Audit committee and be designated as independent for Audit committee purposes, unless they are an officer or employee of the insurer or one of its affiliates.

(e) If a member of the Audit committee ceases to be independent for reasons outside the member's reasonable control, that person, with notice by the responsible entity to the state, may remain an Audit committee member of the responsible entity until the earlier of the next annual meeting of the responsible entity or one year from the occurrence of the event that caused the member to be no longer independent.

(f) To exercise the election of the controlling person to designate the Audit committee for purposes of this regulation, the ultimate controlling person shall provide written notice to the commissioners of the affected insurers. Notification shall be made timely prior to the issuance of the statutory audit report and include a description of the basis for the election. The election can be changed through notice to the Commissioner by the insurer, which shall include a description of the basis for the change. The election shall remain in effect for perpetuity, until rescinded.

(g) (1) The Audit committee shall require the accountant that performs for an insurer any audit required by this regulation to timely report to the Audit committee in accordance with the requirements of SAS 61, Communication with Audit Committees, or its replacement, including:

i. All significant accounting policies and material permitted practices;

ii. All material alternative treatments of financial information within statutory accounting principles that have been discussed with management officials of the insurer, ramifications of the use of the alternative disclosures and treatments, and the treatment preferred by the accountant; and iii. Other material written communications between the accountant and the management of the insurer, such as any management letter or schedule of unadjusted differences.

(2) If an insurer is a member of an insurance holding company system, the reports required by paragraph (g)(1)) may be provided to the Audit committee on an aggregate basis for insurers in the holding company system, provided that any substantial differences among insurers in the system are identified to the Audit committee.

(h) The proportion of independent Audit committee members shall meet or exceed the following criteria:

Prior Calendar Year Direct Written and Assumed Premiums		
$0 - $300,000,000	Over $300,000,000 - $500,000,000	Over $500,000,000
No minimum requirements. See also Note A and B.	Majority (50% or more) of members shall be independent. See also Note A and B.	Supermajority of members (75% or more) shall be independent. See also Note A.

Note A: The Commissioner has authority afforded by state law to require the entity's board to enact improvements to the independence of the Audit committee membership if the insurer is in a risk based capital 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.

(i) An insurer with direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than $500,000,000 may make application to the Commissioner for a waiver from the 120-2-60-.14 requirements based upon hardship. The insurer shall file, with its annual statement filing, the approval for relief from 120-2-60-.14 with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.14
Authority: O.C.G.A. Secs. 33-2-9, 33-3-21.
History. Original Rule entitled "Exemptions and Effective Dates" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule entitled "Requirements for Audit Committees" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.
Repealed: New Rule of same title adopted. F. June 25, 2015; eff. July 15, 2015.

Rule 120-2-60-.15. Internal Audit Function Requirements.

(1) Exemption - An insurer is exempt from the requirements of this section if:

(a) 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,

(b) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.15
Authority: O.C.G.A. Secs. 33-2-9, 33-3-21.
History. Original Rule entitled "Canadian and British Companies" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule entitled "Conduct of Insurer in Connection with the Preparation of Required Reports and Documents" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.
Repealed: New Rule entitled "Internal Audit Function Requirements" adopted. F. June 25, 2015; eff. July 15, 2015.
Amended: F. Oct. 1, 2015; eff. Oct. 21, 2015.

Rule 120-2-60-.16. Conduct of Insurer in Connection with the Preparation of Required Reports and Documents.

(1) No director or officer of an insurer shall, directly or indirectly:

(a) Make or cause to be made a materially false or misleading statement to an accountant in connection with any audit, review or communication required under this regulation; or

(b) Omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which the statements were made, not misleading to an accountant in connection with any audit, review or communication required under this regulation.

(2) No officer or director of an insurer, or any other person acting under the direction thereof, shall directly or indirectly take any action to coerce, manipulate, mislead or fraudulently influence any accountant engaged in the performance of an audit pursuant to this regulation if that person knew or should have known that the action, if successful, could result in rendering the insurer's financial statements materially misleading.

(3) For purposes of paragraph 2 of this section, actions that, "if successful, could result in rendering the insurer's financial statements materially misleading" include, but are not limited to, actions taken at any time with respect to the professional engagement period to coerce, manipulate, mislead or fraudulently influence an accountant:

(a) To issue or reissue a report on an insurer's financial statements that is not warranted in the circumstances (due to material violations of statutory accounting

principles prescribed by the Commissioner, generally accepted auditing standards, or other professional or regulatory standards);

(b) Not to perform audit, review or other procedures required by generally accepted auditing standards or other professional standards;

(c) Not to withdraw an issued report; or

(d) Not to communicate matters to an insurer's Audit committee.

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.16
Authority: O.C.G.A. Secs. 33-2-9, 33-3-21.
History. Original Rule entitled "Severability Provision" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule entitled "Management's Report of Internal Control Over Financial Reporting" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.
Repealed: New Rule entitled "Conduct of Insurer in Connection with the Preparation of Required Reports and Documents" adopted. F. June 25, 2015; eff. July 15, 2015.

Rule 120-2-60-.17. Management's Report of Internal Control over Financial Reporting.

(1) Every insurer required to file an Audited financial report pursuant to this regulation that has annual direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of $500,000,000 or more shall prepare a report of the insurer's or Group of insurers' Internal control over financial reporting, as these terms are defined in 120-2-60-.03. The report shall be filed with the Commissioner along with the Communication of Internal Control Related Matters Noted in an Audit described under 120-2-60-.11. Management's Report of Internal Control over Financial Reporting shall be as of December 31 immediately preceding.

(2) Notwithstanding the premium threshold in paragraph 1, the Commissioner may require an insurer to file Management's Report of Internal Control over Financial Reporting if the insurer is in any RBC level event, or meets any one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in 120-2-54.

(3) An insurer or a Group of insurers that is

(a) directly subject to Section 404;

(b) part of a holding company system whose parent is directly subject to Section 404;

(c) not directly subject to Section 404 but is a SOX Compliant Entity; or

(d) a member of a holding company system whose parent is not directly subject to Section 404 but is a SOX Compliant Entity;

may file its or its parent's Section 404 Report and an addendum in satisfaction of this requirement provided that those internal controls of the insurer or Group of insurers having a material impact on the preparation of the insurer's or Group of insurers' audited statutory financial statements (those items included in 120-2-60-.05(2)(b) - (g)) were included in the scope of the Section 404 Report. The addendum shall be a positive statement by management that there are no material processes with respect to the preparation of the insurer's or Group of insurers' audited statutory financial statements (those items included in 120-2-60-.05(2)(b) - (g)) excluded from the Section 404 Report. If there are internal controls of the insurer or Group of insurers that have a material impact on the preparation of the insurer's or Group of insurers' audited statutory financial statements and those internal controls were not included in the scope of the Section 404 Report, the insurer or Group of insurers may either file (i) a 120-2-60-.16 report, or (ii) the Section 404 Report and a 120-2-60-.16 report for those internal controls that have a material impact on the preparation of the insurer's or Group of insurers' audited statutory financial statements not covered by the Section 404 Report.

(4) Management's Report of Internal Control over Financial Reporting shall include:

(a) A statement that management is responsible for establishing and maintaining adequate Internal control over financial reporting;

(b) A statement that management has established Internal control over financial reporting and an assertion, to the best of management's knowledge and belief, after diligent inquiry, as to whether its Internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles;

(c) A statement that briefly describes the approach or processes by which management evaluated the effectiveness of its Internal control over financial reporting; and

(d) A statement that briefly describes the scope of work that is included and whether any internal controls were excluded;

(e) Disclosure of any unremediated material weaknesses in the Internal control over financial reporting identified by management as of December 31 immediately preceding. Management is not permitted to conclude that the Internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles if there is one or more unremediated material weaknesses in its Internal control over financial reporting;

(f) A statement regarding the inherent limitations of internal control systems; and

(g) Signatures of the chief executive officer and the chief financial officer (or equivalent position/title).

(5) Management shall document and make available upon financial condition examination the basis upon which its assertions, required in paragraph 4 above, are made. Management may base its assertions, in part, upon its review, monitoring and testing of internal controls undertaken in the normal course of its activities.

(a) Management shall have discretion as to the nature of the internal control framework used, and the nature and extent of documentation, in order to make its assertion in a cost effective manner and, as such, may include assembly of or reference to existing documentation.

(b) Management's Report on Internal Control over Financial Reporting, required by 120-2-60-.16(1) above, and any documentation provided in support thereof during the course of a financial condition examination, shall be kept confidential by the state insurance department.

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.17
Authority: O.C.G.A. Secs. 33-2-9, 33-2-11, 33-2-13, 33-2-14, 33-3-21.
History. Original Rule entitled "Exemptions and Effective Dates" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.
Repealed: New Rule entitled "Management's Report of Internal Control over Financial Reporting" adopted. F. June 25, 2015; eff. July 15, 2015.

Rule 120-2-60-.18. Exemptions and Effective Dates.

(1) Upon written application of any insurer, the Commissioner may grant an exemption from compliance with this rule if the Commissioner finds, upon review of the application, that compliance with this rule would constitute a financial or organizational hardship upon the insurer. An exemption may be granted at any time and from time to time for a specified period or periods. Within ten (10) days from a denial of an insurer's written request for an exemption from this rule, such insurer may request in writing a hearing on its application for an exemption. Such hearing shall be conducted in accordance with Chapter 2 of Title 33 of the Official Code of Georgia Annotated and the applicable Rules and Regulations of the Georgia Insurance Department.

(2) Domestic insurers retaining a certified public accountant on the effective date of this regulation who qualify as independent shall comply with this regulation for the year ending December 31, 2010, and each year thereafter unless the Commissioner permits otherwise.

(3) Domestic insurers not retaining a certified public accountant on the effective date of this rule who qualify as independent may meet the following schedule for compliance unless the Commissioner permits otherwise.

(a) As of December 31, 2010, file with the Commissioner:

1. Report of independent certified public accountant;

2. Audited balance sheet;

3. Notes to audited balance sheet.

(b) For the year ending December 31, 2010, and each year thereafter, such insurers shall file with the Commissioner all reports required by this regulation.

(4) Foreign insurers shall comply with this Regulation for the year ending December 31, 2010, and each year thereafter, unless the Commissioner permits otherwise.

(5) The requirements of 120-2-60-.07(4) shall be in effect for audits of the year beginning January 1, 2010 and thereafter.

(6) The requirements of 120-2-60-.14 are to be in effect January 1, 2010. An insurer or Group of insurers that is not required to have independent Audit committee members or only a majority of independent Audit committee members (as opposed to a supermajority) because the total written and assumed premium is below the threshold and subsequently becomes subject to one of the independence requirements due to changes in premium shall have one (1) year following the year the threshold is exceeded (but not earlier than January 1, 2010) to comply with the independence requirements. Likewise, an insurer that becomes subject to one of the independence requirements as a result of a business combination shall have one (1) calendar year following the date of acquisition or combination to comply with the independence requirements.

(7) The requirements of 120-2-60-.17 and other modified sections [i.e., 120-2-60-.03, .04, .05, .06, .07, .09, .10, .11, .12, .13, .15, .17, .18, and .19], except for 120-2-60-.14 covered above, are effective beginning with the reporting period ending December 31, 2010 and each year thereafter. An insurer or Group of insurers that is not required to file a report because the total written premium is below the threshold and subsequently becomes subject to the reporting requirements shall have two (2) years following the year the threshold is exceeded (but not earlier than December 31, 2010) to file a report. Likewise, an insurer acquired in a business combination shall have two (2) calendar years following the date of acquisition or combination to comply with the reporting requirements.

(8) The requirements of 120-2-60-.15 are to be in effect January 1, 2016. If an insurer or group of insurers that is exempt from the 120-2-60-.15 requirements no longer qualifies for that exemption, it shall have one year after the year the threshold is exceeded to comply with the requirements of this article.

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.18
Authority: O.C.G.A. Secs. 33-2-9, 33-3-17, 33-3-21.
History. Original Rule entitled "Canadian and British Companies" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.Effective Dates" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.
Repealed: New Rule entitled "Exemption and Effective Dates" adopted. F. June 25, 2015; eff. July 15, 2015.

Rule 120-2-60-.19. Canadian and British Companies.

(1) In the case of Canadian and British insurers, the Annual audited financial report shall be defined as the annual statement of total business on the form filed by such companies with their domiciliary supervision authority duly audited by an independent chartered accountant.

(2) For such insurers, the letter required in 120-2-60-.06 shall state that the accountant is aware of the requirements relating to the annual audited statement filed with the Commissioner pursuant to 120-2-60-.04 and shall affirm that the opinion expressed is in conformity with such requirements.

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.19
Authority: O.C.G.A. Secs. 33-2-9, 33-3-21.
History. Original Rule entitled "Severability Provision" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.
Repealed: New Rule entitled "Canadian and British Companies" adopted. F. June 25, 2015; eff. July 15, 2015.

Rule 120-2-60-.20. Severability Provisions.

If any section or portion of a section of this rule or the applicability thereof to any person or circumstance is held invalid by a court, the remainder of the rule or the applicability of such provision to other persons or circumstances shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-2-60-.20
Authority: O.C.G.A. Secs. 33-2-9, 33-3-21.
History. Original Rule entitled "Severability Provisions" adopted. F. June 25, 2015; eff. July 15, 2015.

Subject 120-2-61. LIFE AND HEALTH REINSURANCE AGREEMENTS.

Rule 120-2-61-.01. Authority.

This rule is adopted and promulgated by the Commissioner of Insurance pursuant to Sections 33-2-9 and 33-7-14 of the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-61-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-7-14.
History. Original Rule entitled "Authority" adopted. F. Sept. 8, 1993; eff. Sept. 28, 1993.

Rule 120-2-61-.02. Preamble.

(1) The Georgia Insurance Department recognizes that licensed insurers routinely enter into reinsurance agreements that yield legitimate relief to the ceding insurer from strain to surplus.

(2) However, it is improper for a licensed insurer, in the capacity of ceding insurer, to enter into reinsurance agreements for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business being reinsured. In substance or effect, the expected potential liability to the ceding insurer remains basically unchanged by the reinsurance transaction, notwithstanding certain risk elements in the reinsurance agreement, such as catastrophic mortality or extraordinary survival. The terms of such agreements referred to herein and described in Section 120-2-61-.04(1) (excluding the provisions found in 120-2-61-.04(1)(g)1. and 120-2-61-.04(1)(g)2.) violate:

(a) O.C.G.A. Section 33-3-21 relating to financial statements which do not properly reflect the financial condition of the ceding insurer;

(b) O.C.G.A. Section 33-7-14 relating to reinsurance reserve credits, thus, resulting in a ceding insurer improperly reducing liabilities or establishing assets for reinsurance ceded; and

(c) O.C.G.A. Section 33-3-17, relating to creating a situation that may be hazardous to policyholders and the people of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-61-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-7-14.
History. Original Rule entitled "Preamble" adopted. F. Sept. 8, 1993; eff. Sept. 28, 1993.

Rule 120-2-61-.03. Scope.

This Regulation shall apply to all domestic life and accident and health insurers and to all other licensed life and accident and health insurers which are not subject to a substantially similar regulation in their domiciliary state. This regulation shall also similarly apply to licensed property and casualty insurers with respect to their accident and health business. This regulation shall not apply to assumption reinsurance, yearly renewable term reinsurance or certain nonproportional reinsurance such as stop loss or catastrophe reinsurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-61-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-7-14.
History. Original Rule entitled "Scope" adopted. F. Sept. 8, 1993; eff. Sept. 28, 1993.

Rule 120-2-61-.04. Accounting Requirements.

(1) No insurer subject to this regulation shall, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the Department if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist:

(a) Renewal expense allowance provided or to be provided to the ceding insurer by the reinsurer in any accounting period are not sufficient to cover anticipated allocable renewal expenses of the ceding insurer on the portion of the business reinsured, unless a liability is established for the present value of the shortfall (using assumptions equal to the applicable statutory reserve basis on the business reinsured). Those expenses include commissions, premium taxes and direct expenses including, but not limited to, billing, valuation, claims and maintenance expected by the company at the time the business is reinsured;

(b) The ceding insurer can be deprived of surplus or assets at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer, except that termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums or other amounts due, such as modified coinsurance reserve adjustments, interest and adjustments on funds withheld, and tax reimbursements, shall not be considered to be such a deprivation of surplus or assets;

(c) The ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against current and prior years' losses under the agreement nor payment by the ceding insurer of an amount equal to the current and prior years' losses under the agreement upon voluntary termination of in force reinsurance by the ceding insurer shall be considered such a reimbursement to the reinsurer for negative experience. Voluntary termination does not include situations where termination occurs because of unreasonable provisions which allow the reinsurer to reduce its risk under the agreement. An example of such a provision is the right of the reinsurer to increase reinsurance premiums or risk and expense charges to excessive levels forcing the ceding company to prematurely terminate the reinsurance treaty;

(d) The ceding insurer must, at specific points in time scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded;

(e) The reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income realized from the reinsured policies. For example, it is improper for a ceding company to pay reinsurance premiums or other fees or charges to a reinsurer which are greater than the direct premiums collected by the ceding company;

(f) The treaty does not transfer all of the significant risk inherent in the business being reinsured. The table following subparagraph (vi) identifies for a representative sampling of products or type of business, the risks which are considered to be

significant. For products not specifically included, the risks determined to be significant shall be consistent with this table.

1. Risk categories:

   (i) Morbidity.

   (ii) Mortality.

   (iii) Lapse - This is the risk that a policy will voluntarily terminate prior to the recoupment of a statutory surplus strain experienced at issue of the policy.

   (iv) Credit Quality - This is the risk that invested assets supporting the reinsured business will decrease in value. The main hazards are that assets will default or that there will be a decrease in earning power. It excludes market value declines due to changes in interest rate.

   (v) Reinvestment - This is the risk that interest rates will fall and funds reinvested (coupon payments or monies received upon asset maturity or call) will therefore earn less than expected. If asset durations are less than liability durations, the mismatch will increase.

   (vi) Disintermediation - This is the risk that interest rates rise and policy loans and surrenders increase or maturing contracts do not renew at anticipated rates of renewal. If assets durations are greater than the liability durations, the mismatch will increase. Policyholders will move their funds into new products offering higher rates. The company may have to sell assets at a loss to provide for these withdrawals.

TABLE

+ - Significant 0 - Insignificant

RISK CATEGORY	(i)	(ii)	(iii)	(iv)	(v)	(vi)
Health Insurance - other than LTC/LTD*	+	0	+	0	0	0
Health Insurance - LTC/LTD*	+	0	+	+	+	0
Immediate Annuities	0	+	0	+	+	0
Single Premium Deferred Annuities	0	0	+	+	+	+
Flexible Premium Deferred Annuities	0	0	+	+	+	+
Guaranteed Interest Contracts	0	0	0	+	+	+
Other Annuity Deposit Business	0	0	+	+	+	+

Single Premium Whole Life	0	+	+	+	+	+
Traditional Non-Par Permanent	0	+	+	+	+	+
Traditional Non-Par Term	0	+	+	0	0	0
Traditional Par Permanent	0	+	+	+	+	+
Traditional Par Term	0	+	+	0	0	0
Adjustable Premium Permanent	0	+	+	+	+	+
Indeterminate Premium Permanent	0	+	+	+	+	+
Universal Life Flexible Premium	0	+	+	+	+	+
Universal Life Fixed Premium	0	+	+	+	+	+
Universal Life Fixed Premium dump-in premiums allowed	0	+	+	+	+	+

*LTC = Long Term Care Insurance

*LTD = Long Term Disability Insurance

(g) The credit quality, reinvestment, or disintermediation risk is significant for the business reinsured and the ceding company does not (other than for the classes of business excepted in 120-2-61-.04(1)(g)1.) either transfer the underlying assets to the reinsurer or legally segregate such assets in a trust or escrow account or otherwise establish a mechanism satisfactory to the Commissioner which legally segregates, by contract or contract provision, the underlying assets.

1. Notwithstanding the requirements of 120-2-61-.04(1)(g), the assets supporting the reserves for the following classes of business and any classes of business which do not have a significant credit quality, reinvestment or disintermediation risk may be held by the ceding company without segregation of such assets:

   (i) Health Insurance - LTC/LTD;

   (ii) Traditional Non-Par Permanent;

   (iii) Traditional Par Permanent;

   (iv) Adjustable Premium Permanent;

   (v) Indeterminate Premium Permanent;

   (vi) Universal Life Fixed Premium (no dump-in premiums allowed).

2. The associated formula for determining the reserve interest rate adjustment must use a formula which reflects the ceding company's investment

earnings and incorporates all realized and unrealized gains and losses reflected in the quarterly and annual statements of the insurer. The following is an acceptable formula:

$$\text{Rate} = \frac{2\,(I + CG)}{X + Y - I - CG}$$

Where: I is the net investment income

(Exhibit 2, Line 16, Column 7)

CG is capital gains less capital losses

(Exhibit 4, Line 10, Column 6)

X is the current year cash and invested assets

(Page 2, Line 104, Column 1) plus investment income due and accrued (Page 2, Line 16, Column 1) less borrowed money (Page 3, Line 22, Column 1)

Y is the same as X but for the prior year

(h) Settlements are made less frequently than quarterly or payments due from the reinsurer are not made in cash within ninety (90) days of the settlement date;

(i) The ceding insurer is required to make representations or warranties not reasonably related to the business being reinsured;

(j) The ceding insurer is required to make representations or warranties about future performance of the business being reinsured;

(k) The reinsurance agreement is entered into for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business reinsured and, in substance or effect, the expected potential liability to the ceding insurer remains basically unchanged.

(2) Notwithstanding 120-2-61-.04(1), an insurer subject to this regulation may, with the prior approval of the Commissioner, take such reserve credit or establish such asset as the

Commissioner may deem consistent with the Georgia Insurance Code and Rules and Regulations, including actuarial interpretations or standards adopted by the Department.

(3) Agreements entered into after the effective date of this regulation which involve the reinsurance of business issued prior to the effective date of the agreements, along with any subsequent amendments thereto, shall be filed by the ceding company with the Commissioner within thirty (30) days from its date of execution. Each filing shall include data detailing the financial impact of the transaction. The ceding insurer's actuary who signs the financial statement actuarial opinion with respect to valuation of reserves shall consider this regulation and any applicable actuarial standards of practice when determining the proper credit in financial statements filed with this Department. The actuary should maintain adequate documentation and be prepared upon request to describe the actuarial work performed for inclusion in the financial statements and to demonstrate that such work conforms to this regulation;

(a) Any increase in surplus net of federal income tax resulting from arrangements described in 120-2-61-.04(3) shall be identified separately on the insurer's statutory financial statement as a surplus item (aggregate write-ins for gains and losses in surplus in the Capital and Surplus Account, page 4 of the Annual Statement) and recognition of the surplus increase as income shall be reflected on a net of tax basis in the "Reinsurance ceded" line, page 4 of the Annual Statement as earnings emerge from the business reinsured.

(b) For example, on the last day of calendar year N, company XYZ pays a $20 million initial commission and expense allowance to company ABC for reinsuring an existing block of business. Assuming a 34% tax rate, the net increase in surplus at inception is $13.2 million ($20 million - $6.8 million) which is reported on the "Aggregate write-ins for gains and losses in surplus" line in the Capital and Surplus account. $6.8 million (34% of $20 million) is reported as income on the "Commissions and expense allowances on reinsurance ceded" line of the Summary of Operations.

1. At the end of year N+1 the business has earned $4 million. ABC has paid $.5 million in profit and risk charges in arrears for the year and has received a $1 million experience refund. Company ABC's annual statement would report $1.65 million (66% of($ million - $1 million - $.5 million) up to a maximum of $13.2 million) on the "Commissions and expense allowance on reinsurance ceded" line of the Summary of Operations, and -$1.65 million on the "Aggregate write-ins for gains and losses in surplus" line of the Capital and Surplus account. The experience refund would be reported separately as a miscellaneous income item in the Summary of Operations.

Cite as Ga. Comp. R. & Regs. R. 120-2-61-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-7-14.
History. Original Rule entitled "Accounting Requirements" adopted. F. Sept. 8, 1993: eff. Sept. 28, 1993.

Rule 120-2-61-.05. Written Agreements.

(1) No reinsurance agreement or amendment to any agreement may be used to reduce any liability or to establish any asset in any financial statement filed with the Department, unless the agreement, amendment or a letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement.

(2) In the case of a letter of intent, a reinsurance agreement or an amendment to a reinsurance agreement must be executed within a reasonable period of time, not exceeding ninety (90) days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.

(3) The reinsurance agreement shall contain provisions which provide that:

   (a) The agreement shall constitute the entire agreement between the parties with respect to the business being reinsured thereunder and that there are no understandings between the parties other than as expressed in the agreement; and

   (b) Any change or modification to the agreement shall be null and void unless made by amendment to the agreement and signed by both parties.

Cite as Ga. Comp. R. & Regs. R. 120-2-61-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-7-14.
History. Original Rule entitled "Written Agreements" adopted. F. Sept. 8, 1993; eff. Sept. 28, 1993.

Rule 120-2-61-.06. Existing Agreements.

Insurers subject to this Regulation shall reduce to zero by December 31, 1995, any reserve credits or assets established with respect to reinsurance agreements entered into prior to the effective date of this regulation which, under the provisions of this regulation would not be entitled to recognition of the reserve credits or assets; provided, however, that the reinsurance agreements shall have been in compliance with laws or regulations in existence immediately preceding the effective date of this Regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-61-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-7-14.
History. Original Rule entitled "Existing Agreements" adopted. F. Sept. 8, 1993; eff. Sept. 28, 1993.

Rule 120-2-61-.07. Penalties.

Any insurer which violates or fails to comply with any provision of this regulation will be subject to fines and penalties applicable to licensed insurers generally, including revocation of its license or right to do business in this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-61-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-3-17, 33-3-18, 33-3-19, 33-3-20.
History. Original Rule entitled "Penalties" adopted. F. Sept. 8, 1993; eff. Sept. 28, 1993.

Rule 120-2-61-.08. Severability Provision.

If any section or portion of a section of this rule or the applicability thereof to any person or circumstance is held invalid by a court, the remainder of the rule or the applicability of such provision to other persons or circumstances shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-2-61-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-7-14.
History. Original Rule entitled "Severability Provision" adopted. F. Sept. 8, 1993; eff. Sept. 28, 1993.

Subject 120-2-62. ASSUMPTION REINSURANCE.

Rule 120-2-62-.01. Authority.

This regulation is adopted and promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. Sections 33-2-9, 33-52-3 and 33-52-6.

Cite as Ga. Comp. R. & Regs. R. 120-2-62-.01
Authority: O.C.G.A Secs. 33-2-9, 33-52-3, 33-52-6.
History. Original Rule entitled "Authority" adopted. F. Aug. 11, 1995; eff. Aug. 31, 1995.

Rule 120-2-62-.02. Purpose.

The purpose of this regulation is to implement Chapter 52 of Title 33 of the Official Code of Georgia Annotated to provide for the regulation of the transfer and novation of contracts of insurance by way of assumption reinsurance. This chapter sets forth a "Notice of Transfer" and "Second Notice of Transfer" pursuant to O.C.G.A Section 33-52-3(a) and an "Application for Approval of Assumption Reinsurance Agreement" pursuant to O.C.G.A. Sections 33-52-3(b) and 33-52-6.

Cite as Ga. Comp. R. & Regs. R. 120-2-62-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-52-3, 33-52-6.
History. Original Rule entitled "Purpose" adopted. F. Aug. 11, 1995; eff. Aug. 31, 1995.

Rule 120-2-62-.03. Definition.

"Applicant" means either the transferring or the assuming insurer required to submit the "Application for Approval of Assumption Reinsurance Agreement" based on the following criteria:

(a) If both insurers are licensed to transact the business of insurance in the State of Georgia, the transferring insurer shall submit the required filings; otherwise

(b) The insurer licensed to transact the business of insurance in the state of Georgia shall submit the required filings.

Cite as Ga. Comp. R. & Regs. R. 120-2-62-.03
Authority: O.C.G.A. Secs. 33-29-9, 33-52-3, 33-52-6.
History. Original Rule entitled "Definition" adopted. F. Aug. 11, 1995; eff. Aug. 31, 1995.

Rule 120-2-62-.04. Notice Requirements.

Notice in forms identical or substantially similar to the "Notice of Transfer" and "Second Notice of Transfer," attached hereto and incorporated herein as "EXHIBIT A" and "EXHIBIT B" respectively, shall be deemed to comply with the requirements of O.C.G.A. Section 33-52-3(a).

Cite as Ga. Comp. R. & Regs. R. 120-2-62-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-52-3, 33-52-6.
History. Original Rule entitled "Notice Requirements" adopted. F. Aug. 11, 1995; eff. Aug. 31, 1995.

Rule 120-2-62-.05. Required Filings.

The following items shall be submitted to the Commissioner of Insurance:

(a) A completed Form GID-67, entitled the "Application for Approval of Assumption Reinsurance Agreement," attached hereto and incorporated herein as "EXHIBIT C"; and

(b) A copy of the proposed notices of transfer which comply with the requirements of Rule 120-2-62-.04 of this regulation and bear unique form numbers.

Cite as Ga. Comp. R. & Regs. R. 120-2-62-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-52-3, 33-52-6.
History. Original Rule entitled "Required Filings" adopted. F. Aug. 11, 1905; eff. Aug. 31, 1995.

Rule 120-2-62-.06. Penalties.

Any insurer which violates or falls to comply with any provision of this regulation will be subject to fines and penalties applicable to licensed insurers generally, including revocation of its license or right to do business in this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-62-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-2-24(g), 33-3-17.
History. Original Rule entitled "Penalties" adopted. F. Aug. 11, 1995; eff. Aug. 31, 1995.

Rule 120-2-62-.07. Severability.

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

EXHIBIT A

NOTICE OF TRANSFER

IMPORTANT: THIS NOTICE AFFECTS YOUR CONTRACT RIGHTS.

PLEASE READ IT CAREFULLY.

Transfer of Policy

The ABC insurance Company has agreed to replace us as your insurer under {insert policy/certificate name and number} effective {insert date}.

The ABC Insurance Company's principal place of business is {insert address}. You may obtain financial information concerning ABC Insurance Company by contacting your Commissioner of Insurance at {insert address}.

This transfer is necessary due to {insert detailed statement explaining the reason[s]}.

The ABC Insurance Company is licensed to write this coverage in the following states: {insert states)

If the ABC Company is not licensed in the state in which you reside, this transfer may affect your guaranty fund protection or your Insurance Commissioner's ability to assist you with any matters concerning the company.

Your Rights

You may choose to reject the transfer and novation of your policy to ABC Insurance Company. If you do *not* want your policy transferred, you *must* notify us in writing no later than 60 days after the date this notice was mailed to you by signing and returning the enclosed pre-addressed, postage-paid card or by writing to us at:

{Insert name, address and facsimile number of contact person.}

IF WE DO NOT RECEIVE YOUR WRITTEN REJECTION WITHIN THE 60 DAY PERIOD, YOU WILL BE SENT A SECOND NOTICE. IF WE DO NOT RECEIVE YOUR WRITTEN REJECTION WITHIN 30 DAYS AFTER THE DATE OF THE SECOND MAILING, YOU SHALL BE DEEMED TO HAVE ACCEPTED THE TRANSFER.

If you reject the transfer, you may keep your policy with us or exercise any option under your policy.

Effect of Transfer

If you do not reject this transfer and novation, ABC

Insurance Company will be your insurer. It will have direct responsibility to you for the payment of all claims, benefits and for all other policy obligations. We will no longer have any obligations to you.

{Insert a summary of any effect that rejecting the transfer and novation will have on the policyholder's rights including, for participating policyholders, dividend payments or payments under the contract of insurance.}

If you have any further questions about this agreement, you may contact XYZ Insurance Company or ABC Insurance Company.

Sincerely,

_____

President

XYZ Insurance Company

XYZ Insurance Company

111 No Street

Smithville, USA

555/555-5555

ABC Insurance Company

222 No Street

Jonesvilie, USA

333/333-3333

{Notice Date}

RESPONSE CARD

_____ I reject the proposed transfer and novation of my policy from XYZ Insurance Company to ABC insurance company and wish to retain my policy with XYZ insurance company.

{Date} {Signature}

_____

Name:_____

Street Address:_____

City, State, Zip:_____

Form No.:

EXHIBIT B

SECOND NOTICE OF TRANSFER

IMPORTANT: "THIS NOTICE AFFECTS YOUR CONTRACT RIGHTS.

PLEASE READ IT CAREFULLY.

Transfer of Policy

You were previously sent a Notice of Transfer notifying you that the ABC Insurance Company has agreed to replace us as your insurer under {insert policy/certificate name and number} effective {insert date}.

The ABC Insurance Company's principal place of business is {insert address}. You may obtain financial information concerning ABC Insurance Company by contacting your Commissioner of Insurance at {insert address}.

This transfer is necessary due to {insert detailed statement explaining the reason(s)}.

The ABC Insurance Company is licensed to write this coverage in the following states: {insert states}.

If the ABC Insurance Company is not licensed in the state in which you reside, this transfer may affect your guaranty fund protection or your Insurance Commissioner's ability to assist you with any matters concerning the company.

Your Rights

Since we did not receive the pre-addressed, postage-paid response card or other written notice from you indicating your rejection of the proposed transfer of your policy, this second notice is

required to be sent to you. If you do not not want your policy transferred and novated, you must notify us in writing no later than 30 days after the date this notice was mailed to you by signing and returning the enclosed pre-addressed, postage-paid card or by writing to us at:

{Insert name, address and facsimile number of contact person.}

IF WE DO NOT RECEIVE YOUR WRITTEN REJECTION WITHIN THE THIRTY DAY PERIOD FOLLOWING THE DATE WE MAILED THIS NOTICE, YOU SHALL BE DEEMED TO HAVEACCEPTEDTHE TRANSFER.

If you reject the transfer, you may keep your policy with us or exercise any option under your policy.

Effect of Transfer

If you do not reject this transfer and novation, ABC Insurance Company will be your insurer. It will have direct responsibility to you for the payment of all claims, benefits and for all other policy obligations. We will no longer have any obligations to you.

If you do not reject this transfer and novation, you should make all premium payments and claims submissions to ABC Insurance Company and direct all questions to ABC insurance company.

{Insert a summary of any effect that rejecting the transfer and novation will have on the policyholder's rights including, for participating policyholders, dividend payments or payments under the contract of insurance.}

If you have any further questions about this agreement, you may contact XYZ Insurance Company or ABC Insurance Company.

Sincerely,

_____

President

XYZ Insurance Company

XYZ Insurance Company

111 No Street

Smithville, USA

555/555-5555

ABC Insurance Company

222 No Street

Jonesville, USA

333/333-3333

{Notice Date}

RESPONSE CARD

_____ I reject the proposed transfer and novation of my policy from XYZ Insurance Company to ABC insurance company and wish to retain my policy with XYZ Insurance Company.

{Date} {Signature}

_____

Name:_____

Street Address:_____

City, State, Zip:_____

Form No.:

EXHIBIT C

Application for Approval of Assumption Reinsurance Agreement

Pursuant to O.C.G.A. Section 33-52-6, the Commissioner of insurance must approve or disapprove any assumption reinsurance transaction affecting Georgia insureds. This form has been designed to elicit the information required by that section.

Assuming Company Name: _____

Company NAIC #: _____

Transferring Company Name: _____

Company NAIC #: _____

Form Number or Identification of Policy Contracts to be Transferred:

_____

Proposed Date of Transfer/Assumption:

Please provide a detailed statement explaining the reasons for the transfer of the business:

_____

_____

_____

_____

Check the following items as submitted. Enclose additional filings referenced by these numbers as necessary to document compliance with these requirements.

_____ 1. Attach a copy of the Assumption Reinsurance

Agreement.

_____ 2. Attach a copy of the proposed Certificate of

Assumption.

_____ 3. Attach a copy of the proposed Notice of Transfer and proposed Second Notice of Transfer.

_____ 4. If either the ceding or assuming company is not domiciled in Georgia, please enclose copies of the approvals of the entire transaction by the insurance supervisory officials of the states of domicile of the companies involved.

_____ 5. Attach a statement describing provisions made for servicing those policyholders who reject the transfer.

_____ 6. If the block of business to be assumed is participating business by a stock or mutual company, attach a statement describing the disposition of the accumulated surplus connected with the block of business and the level of future dividends.

_____ 7. Describe the effect of this assumption reinsurance transaction on any policyholder protection under the Georgia Insurers Insolvency Pool, the Georgia Life and Health Insurance Guaranty Association, or any other state guaranty association or insolvency pool.

_____

Signature

_____

Name and Title (please type)

_____

Street Address

_____

City State Zip Code

_____

Telephone Number

_____

Date

IF YOU ARE AN INDIVIDUAL WITH A DISABILITY AND WISH TO ACQUIRE THIS FORM IN AN ALTERNATIVE FORMAT, PLEASE CONTACT THE ADA COORDINATOR, OFFICE OF COMMISSIONER OF INSURANCE, NO.2 MARTIN LUTHER KING, JR. DRIVE, ATLANTA, GEORGIA 30334 404 656-2056, TDD # 404 656-4031.

Cite as Ga. Comp. R. & Regs. R. 120-2-62-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-52-3, 33-52-6.
History. Original Rule entitled "Severability" adopted F. Aug. 11, 1995; eff. Aug. 31, 1995.

Subject 120-2-63. PURCHASING GROUPS.

Rule 120-2-63-.01. Authority.

This rule is adopted and promulgated by the Commissioner of Insurance pursuant to O.C.G.A. Secs. 33-2-9 and 33-40-1 through 33-40-21.

Cite as Ga. Comp. R. & Regs. R. 120-2-63-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-40-1, 33-40-21.
History. Original Rule entitled "Authority" adopted. F. Sept. 8, 1993; eff. Sept. 28, 1993.

Rule 120-2-63-.02. Restrictions on Insurance Purchased by Purchasing Groups.

(1) A purchasing group which obtains liability insurance from an insurer not admitted in this state or a risk retention group shall inform each of the members of the group which have a

risk resident located in this state that the risk is not protected by an insurance insolvency guaranty fund in this state and that the risk retention group or insurer may not be subject to all insurance laws and regulations of this state.

(2) No purchasing group may purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole; however, coverage may provide for a deductible or self-insured retention applicable to individual members.

Cite as Ga. Comp. R. & Regs. R. 120-2-63-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-40-1, 33-40-16.
History. Original Rule entitled "Restrictions on Insurance Purchased by Purchasing Groups" adopted. F. Sept. 8, 1993; eff. Sept. 28, 1993.

Rule 120-2-63-.03. Penalties.

Any purchasing group which violates or fails to comply with any provision of this regulation will be subject to fines and penalties pursuant to O.C.G.A. Sec. 33-3-20.

Cite as Ga. Comp. R. & Regs. R. 120-2-63-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-3-20.
History. Original Rule entitled "Penalties" adopted. F. Sept. 8, 1993; eff. Sept. 28, 1993.

Rule 120-2-63-.04. Severability Provision.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-63-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-40-1.
History. Original Rule entitled "Severability Provision" adopted. F. Sept. 8, 1993; eff. Sept. 28, 1993.

Subject 120-2-64. PRODUCER CONTROLLED PROPERTY AND CASUALTY INSURERS REGULATION.

Rule 120-2-64-.01. Purpose.

The purpose of this regulation is to provide minimum standards for contracts between controlling producers and controlled insurers.

Cite as Ga. Comp. R. & Regs. R. 120-2-64-.01
Authority: O.C.G.A. Secs. 3-2-9, 33-48-8.
History. Original Rule entitled "Purpose" adopted. F. Sept. 8, 1993; eff. Sept. 28, 1993.

Rule 120-2-64-.02. Required Contract Provisions.

The contract between controlled insurer and controlling producer must be in writing, must be approved by the board of directors, and must contain the following minimum provisions:

(a) The controlled insurer may terminate the contract for cause, upon written notice to the controlling producer. The controlled insurer shall suspend the authority of the controlling producer to write business during the pendency of any dispute regarding the cause for the termination;

(b) The Controlling producer shall render accounts to the controlled insurer detailing all material transactions, including information necessary to support all commissions, charges and other fees received by, or owing to, the controlling producer;

(c) All funds collected for the controlled insurer's account shall be held by the controlling producer in a fiduciary capacity, in one or more appropriately identified bank accounts in banks that are members of the Federal Reserve System. (However, funds of a controlling producer not required to be licensed in this state shall be maintained in compliance with the requirements of the controlling producer's domiciliary jurisdiction);

(d) The controlling producer shall maintain separately identifiable records of business written for the controlled insurer;

(e) The contract shall not be assigned in whole or in part by the controlling producer;

(f) The controlled insurer shall provide the controlling producer with its underwriting standards, rules and procedures, manuals setting forth the rates to be charged, and the conditions for the acceptance or rejection of risks. The controlling producer shall adhere to the standards, rules, procedures, rates and conditions. The standards, rules, procedures, rates and conditions shall be the same as those applicable to comparable business placed with the controlled insurer by a producer other than the controlling producer;

(g) The rates and terms of the controlling producer's commissions shall be no greater than those applicable to comparable business placed with the controlled insurer by producers other than controlling producers. For purposes of this subparagraph and subparagraph (f) above, examples of comparable business" include the same line of insurance, same kinds of insurance, same kinds of risks, similar policy limits, and similar quality of business;

(h) If the contract provides that the controlling producer, on insurance business placed with the insurer, is to be compensated contingent upon the insurers profits on that business, then such compensation shall not be determined and paid until at least five (5) years after the premiums on liability insurance are earned and at least one (1) year after the premiums are earned on any other insurance. In no event shall the commissions be paid until the adequacy of the controlled insurer's reserves on remaining claims has been independently verified pursuant to O.C.G.A. Sec. 33-48-3(a)(4);

(i) The controlled insurer shall establish limits on the controlling producer's writings in relation to the insurer's surplus and total writings. The insurer may establish a different limit for each line or sub-line of business. The controlled insurer shall notify the controlling producer when the applicable limit is approached and shall not accept business from the controlling producer if the limit is reached; and

(j) The controlling producer may negotiate but shall not bind reinsurance on behalf of the controlled insurer on business the controlling producer places with the controlled insurer, except that the controlling producer may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the controlled insurer contains under writing guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which such automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured and commission schedules.

Cite as Ga. Comp. R. & Regs. R. 120-2-64-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-48-3.
History. Original Rule entitled "Required Contract Provisions" adopted. F. Sept. 8, 1993; eff. Sept. 28, 1993.

Rule 120-2-64-.03. Severability.

If any section or portion of a section of this Regulation or application thereof to any insurer, producer, or circumstances is held invalid by a court of competent jurisdiction, the remainder of the rules or the applicability of such provisions to other insurers, producers, or circumstances, shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-2-64-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-48-1.
History. Original Rule entitled "Severability" adopted. F. Sept. 8, 1993; eff. Sept. 28, 1993.

Rule 120-2-64-.04. Penalties.

Any controlling producer or controlled insurer failing to comply with the requirements of this Regulation shall be subject to such penalties as prescribed by O.C.G.A. Sec. 33-48-4.

Cite as Ga. Comp. R. & Regs. R. 120-2-64-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-48-4.
History. Original Rule entitled "Penalties" adopted. F. Sept. 8, 1993; eff. Sept. 28, 1993.

Subject 120-2-65. PROHIBITED CRITERIA FOR PRIVATE PASSENGER AUTOMOBILE UNDERWRITING GUIDELINES.

Rule 120-2-65-.01. Intent and Purpose.

(1) The intent of this Regulation Chapter is to prohibit insurers from engaging in unfair discrimination due to the fictitious grouping of risks based on criteria which are not actuarially supported and shown to be relevant to risk. As such, it is the purpose of this Regulation Chapter that no insurer shall condition the issuance, renewal or other continuation of a private passenger automobile insurance policy by placing a risk in a fictitious group based on characteristics enumerated herein.

(2) Nothing containing herein is intended to invalidate actuarially sound rating variables not in conflict with any portion of O.C.G.A. Title 33.

(3) Nothing contained herein is intended to limit or diminish the scope of prohibited underwriting practices found elsewhere in the Georgia Insurance Code or the Rules and Regulations of the Georgia Insurance Department.

Cite as Ga. Comp. R. & Regs. R. 120-2-65-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-6-5, 33-6-12, 33-24-45.
History. Original Rules entitled "Intent and Purpose" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule of same title adopted. F. Aug. 8, 1996; eff. Aug. 28, 1996.

Rule 120-2-65-.02. Definitions.

For the purpose of this Regulation Chapter, the following definitions shall apply:

(a) "Commissioner" shall mean the Commissioner of Insurance of the State of Georgia.

(b) "Policy" or "policies" shall mean any private passenger automobile policy as defined in O.C.G.A. § 33-24-45(b)(1).

(c) "Underwriting guidelines" shall mean the written, oral or electronic statements, guidelines, or criteria of an insurer which describe the standards used by an insurer to determine whether to issue a policy, decline to issue a policy, non-renew a policy, discontinue or cancel a policy, or restrict coverages provided by a policy of automobile insurance to persons within this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-65-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-6-5, 33-6-12, 33-24-45.
History. Original Rule entitled "Definitions" adopted F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule of same title adopted. F. Aug. 8, 1996, eff. Aug. 28, 1996.

Rule 120-2-65-.03. Prohibited Practices.

(1) No insurer, broker or agent shall use underwriting criteria or guidelines to determine an applicant's or insured's acceptability for policy issuance or continuation of coverage which result in the fictitious grouping of risks and result in unfair discrimination.

(2) An insurer, broker or agent engages in the grouping of risks when a determination is made concerning an applicant's or insured's acceptability for policy issuance or continuation thereof based upon, but not limited to, any of the following:

(a) Marital status of the applicant, insured or anyone residing in the applicant's or insured's household;

(b) The applicant's or insured's length of time at an address;

(c) Employment status or lawful occupation of the applicant or insured, including the length of time employed with present employer, unless vehicle is used in the course of business;

(d) Credit reports of an applicant or insured or other credit history by whatever manner obtained;

(e) Number of vehicles to be insured;

(f) Status of the applicant or insured as a tenant or homeowner;

(g) Level of education of the applicant or insured;

(h) Lack of, lack of potential for or failure of applicant or insured to agree to a writing of additional business, which includes but is not limited to any additional coverages or increased liability limits on an automobile which are not compulsory according to O.C.G.A. § 40-9-37;

(i) That the applicant or insured has never purchased or been covered by a private passenger automobile policy during any specified period preceding the date of application when the need for coverage did not exist, or that the applicant or insured has previously been covered by a non-standard or residual market issurer; or

(j) The individual's status as a member of the United States Armed Forces, the Reserves of the United States Armed Forces or the National Guard. Nothing herein shall prohibit the use and enforcement of a war exclusion clause if included in the policy at time of issuance.

(3) Any grouping specified in the foregoing subparagraph (2) is fictitious and results in unfair discrimination if:

(a) it is:

1. not actuarially supported;
2. not relevant to risk; and
3. not based on a reasonable consideration allowed under O.C.G.A. § 33-9-4(7); or

(b) it is based in whole or in part, directly or indirectly, upon race, creed or ethnic extraction.

Cite as Ga. Comp. R. & Regs. R. 120-2-65-.03
Authority: O.C.G.A. Secs. 33-2-9-, 33-6-5, 33-6-12, 33-24-45.
History. Original Rule entitled "Prohibited Practices" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed. New Rule of same title adopted. F. Aug. 8, 1996; eff. Aug. 28, 1996

Rule 120-2-65-.04. Distribution to Agent Requirement.

Each insurer shall provide a complete copy of all available underwriting guidelines and any subsequent revisions to its agents and any authorized representatives. Each insurer shall also provide a copy of this Regulation Chapter to its agents and any authorized representatives.

Cite as Ga. Comp. R. & Regs. R. 120-2-65-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-6-5, 33-6-12, 33-24-45.
History. Original Rule entitled "Distribution to Agent Requirement" adopted. F. Oct. 7, 1994; eff. Oct 27, 1994.
Repealed: New Rule of same title adopted. F. Aug. 8, 1996; eff. Aug. 28, 1996.

Rule 120-2-65-.05. Reporting Upon Written Notice.

Upon the request by the Commissioner of Insurance or his or her designated representative, each insurer shall provide the Georgia Insurance Department with a true and correct copy of its underwriting guidelines within twenty (20) days of the date requested.

Cite as Ga. Comp. R. & Regs. R. 120-2-65-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-6-5, 33-6-12, 33-24-45.
History. Original Rule entitled "Reporting Upon Written Notice" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule of same title adopted. F. Aug. 8, 1996; eff. Aug. 28, 1996.

Rule 120-2-65-.06. Penalties.

Any insurer, representative, officer or employee of such insurer, failing to comply with the requirements of this Regulation Chapter shall be subject to such penalties and other enforcement action as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-65-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-6-5, 33-6-12, 33-24-45.
History. Original Rule entitled "Penalties" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule of same title adopted. F. Aug. 8, 1996; eff. Aug. 28, 1996.

Rule 120-2-65-.07. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-65-.07
Authority: O.C.G.A. Sec. 33-2-9, 33-6-5, 33-6-12, 33-24-45.
History. Original Rule entitled "Severability" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule of same title adopted. F. Aug. 8, 1996; eff. Aug. 28, 1996.

Subject 120-2-66. PROHIBITED CRITERIA FOR RESIDENTIAL PROPERTY UNDERWRITING GUIDELINES.

Rule 120-2-66-.01. Intent and Purpose.

(1) The intent of this Regulation Chapter is to prohibit insurers from engaging in unfair discrimination due to the fictitious grouping of risks based on criteria which are not actuarially supported and shown to be relevant to risk. As such, it is the purpose of this Regulation Chapter that no insurer shall condition the issuance, renewal or other continuation of a residential property insurance policy by placing a risk in a fictious group based on characteristics enumerated herein.

(2) Nothing contained herein is intended to invalidate actuarially sound rating variables not in conflict with any portion of O.C.G.A. Title 33.

(3) Nothing contained herein is intended to limit or diminish the scope of prohibited underwriting practices found elsewhere in the Georgia Insurance Code or the Rules and Regulations of the Georgia Insurance Department.

Cite as Ga. Comp. R. & Regs. R. 120-2-66-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-6-5, 33-6-12, 33-24-46.
History. Original Rules entitled "Intent and Purpose" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule of same title adopted. F. Aug. 8, 1996; eff. Aug. 28, 1996.

Rule 120-2-66-.02. Definitions.

For the purpose of this Regulation Chapter, the following definitions shall apply:

(a) "Commissioner" shall mean the Commissioner of Insurance of the State of Georgia.

(b) "Policy" or "policies" shall mean any policy issued to a natural person or persons as the named insured which provides coverage for residential property at a specifically described location. The term "policy" shall include but not be limited to homeowner's, dwelling fire, manufactured housing, tenant, condo-unit owners and farmowners policies.

(c) "Underwriting guidelines" shall mean the written, oral or electronic statements, guidelines, or criteria of an insurer which describe the standards used by an insurer to determine whether to issue a policy, decline to issue a policy, nonrenew a policy, discontinue or cancel a policy or restrict coverages provided by a residential property policy issued to persons residing in this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-66-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-6-5, 33-6-12, 33-24-46.
History. Original Rule entitled "Definitions" adopted F. Oct. 7, 1994; eff Oct. 27, 1994.
Repealed: New Rule of same title adopted. F. Aug. 8, 1996, eff.Aug. 28, 1996.

Rule 120-2-66-.03. Prohibited Practices.

(1) No insurer, broker or agent shall use underwriting criteria or guidelines to determine an applicant's or insured's acceptability for policy issuance or continuation of coverage which result in the fictitious grouping of risks and result in unfair discrimination.

(2) An insurer, broker or agent engages in the grouping of risks when a determination is made concerning an applicant's or insured's acceptability for policy issuance or continuation thereof based upon, but not limited to, any of the following:

(a) Marital status of the applicant, insured or anyone residing in the applicant's or insured's household;

(b) The applicant's or insured's length of time at an address;

(c) Employment status or lawful occupation of the applicant or insured, including the length of time employed with present employer;

(d) Level of education of the applicant or insured;

(e) Failure of applicant or insured to agree to purchase an additional policy which is not requested by the insured or applicant;

(f) Age of dwelling without proper consideration of updated mechanical and structural systems;

(g) The individual's status as a member of the United States Armed Forces, the Reserves of the United States Armed Forces or the National Guard. Nothing herein shall prohibit the use and enforcement of a war exclusion clause if included in the policy at time of issuance.

(3) Any grouping specified in the foregoing subparagraph (2) is fictitious and results in unfair discrimination if:

(a) it is:

1. not actuarially supported;

2. not relevant to risk; and

3. not based on a reasonable consideration allowed under O.C.G.A. § 33-9-4(7); or

(b) it is based in whole or in part, directly or indirectly, upon race, creed or ethnic extraction.

Cite as Ga. Comp. R. & Regs. R. 120-2-66-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-6-4, 33-6-5, 33-24-46.
History. Original Rule entitled "Prohibited Practices" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed New Rule of same title adopted. F. Aug. 8, 1996; eff. Aug. 28, 1996

Rule 120-2-66-.04. Distribution to Agent Requirement.

Each insurer shall provide a complete copy of all available underwriting guidelines and any subsequent revisions to its agents and any authorized representatives. Each insurer shall also provide a copy of this Regulation Chapter to its agents and any authorized representatives.

Cite as Ga. Comp. R. & Regs. R. 120-2-66-.04
Authority: O.C.G.A. secs. 33-2-9, 33-6-5, 33-6-12, 33-24-46.
History. Original Rule entitled "Distribution to Agent Requirement" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule of same title adopted. F. Aug. 8, 1998; eff. Aug. 28, 1996.

Rule 120-2-66-.05. Reporting Upon Written Notice.

Upon the request by the Commissioner of Insurance or his or her designated representative, each insurer shall provide the Georgia Insurance Department with a true and correct copy of its underwriting guidelines within twenty (20) days of the date requested.

Cite as Ga. Comp. R. & Regs. R. 120-2-66-.05
Authority: O.C.G.A. secs. 33-2-9, 33-6-5, 33-6-12, 33-24-46.
History. Original Rule entitled "Reporting Upon Written Notice" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.

Repealed: New Rule of same title adopted. F. Aug. 8, 1996; eff. Aug. 28, 1996.

Rule 120-2-66-.06. Penalties.

Any insurer, representative, officer or employee of such insurer, failing to comply with the requirements of this Regulation Chapter shall be subject to such penalties and other enforcement action as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-66-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-6-5, 33-6-12, 33-24-46.
History. Original Rule entitled "Penalties" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule of same title adopted. F. Aug. 8, 1996; eff. Aug. 28, 1996.

Rule 120-2-66-.07. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-66-.07
Authority: O.C.G.A. Sec. 33-2-9, 33-6-5, 33-6-12, 33-24-46.
History. Original Rule entitled "Severability" adopted. F. Oct. 7, 1994; eff. Oct. 27, 1994.
Repealed: New Rule of same title adopted. F. Aug. 8, 1996; eff. Aug. 28, 1996.

Subject 120-2-67. PORTABILITY AND RENEWABILITY.

Rule 120-2-67-.01. Authority.

This Regulation Chapter is issued pursuant to the authority vested in the Commissioner of Insurance pursuant to O.C.G.A. §§ 33-2-9 and 33-30-15.

Cite as Ga. Comp. R. & Regs. R. 120-2-67-.01
Authority: O.C.G.A. Sec.. 33-2-9, 33-30-15.
History. Original Rule entitled "Authority" adopted F. Feb. 29, 1996; eff. Mar. 20, 1996.

Rule 120-2-67-.02. Purpose.

The purpose of this Regulation Chapter is to implement O.C.G.A. § 33-30-15 with respect to portability of group health insurance, and other insurance provisions related to the Health Insurance Portability and Accountability Act of 1996 including renewability of group and individual health insurance coverage.

Cite as Ga. Comp. R. & Regs. R. 120-2-67-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-30-15.
History. Original Rule entitled "Purpose" adopted. F. Feb. 29, 1996; eff. Mar. 20, 1996.
Amended: ER 120-2-67-0.7 adopted. F. and eff. Nov. 10, 1997, to remain in effect for 120 days or until the effective date of a permanent Rule covering the Same subject matter superseding this ER is adopted, as specified by the Agency.
Repealed: Permanent Rule, same title, adopted. F. Feb. 17, 1998; eff. Mar. 9, 1998.

Rule 120-2-67-.03. Definitions.

For the purpose of this Regulation Chapter, the following definitions shall apply:

(a) "Association" shall mean an organization as defined in O.C.G.A. § 33-30-1(b) and the Rules and Regulations of the Office of Commissioner of Insurance.

(b) "Creditable Coverage" shall mean any hospital, surgical, or medical expense coverage, or any combination of these coverages, as defined in O.C.G.A. § 33-30-15(a)(2), regardless of exclusions or waivers related to such coverage, other than coverage under a disability income policy, a long-term care insurance policy, a medicare supplement policy, a health insurance policy written as part of workers' compensation equivalent coverage or supplemental to a liability policy, a specified disease policy, a credit insurance policy, a dental or vision benefit policy which is not an integral part of creditable coverage, a fixed indemnity policy, or a limited accident policy. Creditable coverage shall include coverage under a short-term, limited duration policy or a blanket accident and sickness policy which includes basic or comprehensive hospital, surgical, or medical expense coverage, or any combination of these coverages, which is (are) not exclusively contingent on accident or injury resulting from particular activities or limited to liability arising from such activities.

(c) "Employer based accident and sickness insurance or health benefit arrangement," as used in O.C.G.A. § 33-30-15(a)(2)(B) and in this Regulation Chapter, shall mean any insured plan or self-funded plan, regardless of whether such plan is, or claims to be, subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1001, *et seq.*

(d) "Group Member" shall mean any individual in a group eligible for coverage under a group health insurance policy or contract.

(e) "Health Insurance" shall mean, for purposes of this Regulation Chapter, any creditable coverage as defined in paragraph (b) issued by an insurer on a group or individual basis, other than a blanket accident and sickness policy or a short-term, limited duration policy which limits coverage to a maximum of twelve month. Such blanket or short-term policies which constitute creditable coverage shall be considered health insurance in this Regulation Chapter only for the purposes of Rule 120-2-67-.12.

(f) "Health Status Related Factor" shall mean any of the factors described in Rule 120-2-67-.13(a)(1).

(g) "Insured" shall mean:

(1) with regard to group health insurance coverage, any employee, group member, subscriber, enrollee or dependent covered under a group health insurance policy or contract; or

(2) with regard to individual health insurance coverage, any covered person.

(h) "Late Enrollee" shall mean an employee, group member, or enrollee who enrolls other than:

(1) when first eligible under the terms of the group health insurance policy or contract, taking into account eligibility only during the most recent continuous period of employment or group coverage; or

(2) when eligible for special enrollment.

(i) "Placement for adoption" shall mean the assumption and retention by an employee, member or enrollee covered or eligible for coverage under a group health insurance policy or contract of a legal obligation for total or partial support of a child in anticipation of adoption of such child. The child's placement with such employee, member or enrollee terminates upon the termination of such legal obligation.

(j) "Policyholder" shall mean, with respect to group health insurance coverage, the entity to which a group health insurance policy or contract is issued in accordance with O.C.G.A.§ 33-30-1, including, but not limited to, an employer, an association, or employer members issued certificates of coverage through a trust.

(k) "Portability" shall mean that any employee, group member, subscriber, enrollee, or dependent who was enrolled under prior "creditable coverage" and who meets the eligibility requirements under Rule 120-2-67-.04 shall be eligible immediately, subject to applicable waiting or affiliation periods, for the same coverage provided other employees, group members, subscribers, enrollees, or dependents under a new group insurance health benefit plan without limitations for preexisting conditions, subject to the requirements of O.C.G.A. § 33-30-15 and this Regulation Chapter.

(l) "Preexisting Condition" shall mean any physical or mental condition, sickness, impairment, or ailment, regardless of cause, for which medical advice, diagnosis, care, or treatment was received within the six month period ending on the effective date of coverage under a group health plan, the date of enrollment under a group health insurance plan, or the first date of a waiting period for a group health insurance plan, whichever is earliest. In no case shall any of the following be considered a preexisting condition:

(1) pregnancy, or

(2) genetic information in the absence of a diagnosis related to such information.

(m) "Small Employer" shall mean any employer that employed an average of at least two but not more than 50 employees on business days during the preceding calendar year and that employs at least two employees on the first day of the rating period. All employers treated as a single employer under subsection (b), (c), (m), or (o) of Section 414 of the Internal Revenue Code of 1986 shall be treated as one employer. In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether or not an employer is a small employer shall be based on the average number of employees that it is reasonably expected that the employer will employ on business days in the current calendar year.

(n) "Waiting Period" shall mean any period of time which must pass before a newly eligible employee, group member, or enrollee is first covered by a group health insurance policy or contract, provided an employee or group member elects coverage when first eligible under the terms of the group health insurance plan. With regard to coverage under an individual health insurance policy or contract, the waiting period shall mean the period of time beginning with the date a substantially completed application for coverage is received by an insurer, and ending with the effective date of coverage; however, such a waiting period exists only if the application results in the actual purchase of an individual health insurance policy or contract. A waiting period shall not constitute a gap in coverage for the purposes of determining any previous creditable coverage.

Cite as Ga. Comp. R. & Regs. R. 120-2-67-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-30-15.
History. Original Rule entitled "Definitions" adopted. F. Feb. 29, 1996; eff. Mar. 20, 1996.
Amended: ER 120-2-67-0.7 adopted. F. and eff. Nov. 10, 1997, to remain in effect for 120 days or until the effective date of a permanent Rule covering the Same subject matter superseding this ER is adopted, as specified by the Agency.
Repealed: Permanent Rule, same title, adopted. F. Feb. 17, 1998; eff. Mar. 9, 1998.

Rule 120-2-67-.04. Portability Eligibility.

The requirements for an insured to be eligible for portability under a group health insurance benefit plan as required in O.C.G.A. § 33-30-15 are as follows:

(a) The newly eligible insured was enrolled under similar coverage within the previous 90 days and is a "newly eligible employee" as defined in O.C.G.A. § 33-30-15(a)(4)(A) and (B), or a late enrollee subject to all provisions of this Regulation Chapter which apply to late enrollees and subject to the terms of coverage; or

(b) The insured was subject to an exclusion or waiver for a preexisting condition under the group health insurance policy or contract prior to the effective date of the Rule for that policy or contract.

Cite as Ga. Comp. R. & Regs. R. 120-2-67-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-30-15.

History. Original Rule entitled "Portability Eligibility" adopted. F. Feb. 29, 1966; eff. Mar. 20, 1996.
Amended: ER 120-2-67-0.7 adopted. F. and eff. Nov. 10, 1997, to remain in effect for 120 days or until the effective date of a permanent Rule covering the Same subject matter superseding this ER is adopted, as specified by the Agency.
Repealed: Permanent Rule, same title, adopted. F. Feb. 17, 1998; eff. Mar. 9, 1998.

Rule 120-2-67-.05. Preexisting Conditions.

Group health insurance policies subject to O.C.G.A. § 33-30-15 and this Regulation Chapter shall not include a limitation for preexisting conditions for individuals without previous creditable coverage in excess of twelve (12) months following the eligibility date of a newly eligible insured's coverage or the first day of any applicable waiting period, whichever is earlier, and eighteen (18) months following the effective date of coverage for late enrollees. Limitations on coverage include any form of exclusion rider or waiver for preexisting conditions. Conditions pertaining to preexisting limitations are as follows:

(a) The time period applicable to preexisting condition limitations under the new group health insurance benefit plan shall be reduced by the amount of time any newly eligible insured was previously covered by creditable coverage, or a combination of creditable coverages not separated by any gap in coverage greater than 90 days;

(b) If an insured was covered under prior creditable coverage, or a combination of creditable coverages, for twelve (12) months when first eligible, or eighteen (18) months if a late enrollee, no preexisting conditions limitation or exclusion period shall be applicable to any preexisting condition under the group health insurance benefit plan;

(c) An insurer may provide a maximum limitation of less than twelve months for preexisting conditions;

(d) Any preexisting exclusion or limitation must run concurrently with any applicable waiting period; and

(e) No preexisting condition exclusion or limitation may be placed on a newborn child or newly adopted child, if that child is enrolled within thirty (30) days following the date of birth, adoption, placement for adoption, or within thirty-one (31) days following such dates if dependent or family coverage was not previously elected or payment of additional specific premium is required to provide coverage for the child.

Cite as Ga. Comp. R. & Regs. R. 120-2-67-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-24-22, 33-30-15.
History. Original Rule entitled "Preexisting Conditions" adopted. F. Feb. 29, 1996; eff. Mar. 20, 1996.
Amended: ER 120-2-67-0.7 adopted F. and eff. Nov. 10, 1997, to remain in effect for 120 days or until the effective date of a permanent Rule covering the Same subject matter superseding this ER is adopted, as specified by the Agency.
Repealed: Permanent Rule, same title, adopted. F. Feb. 17, 1998; eff. Mar. 9, 1998.

Rule 120-2-67-.06. Affiliation Periods.

A group health insurance policy offered by a health maintenance organization may impose an affiliation period to employees, enrollees, or group members in lieu of any and all pre-existing condition exclusions or limitations only if the following are satisfied:

(a) The affiliation period is applied uniformly to all employees, enrollees, or members of the group, without regard to any health status related factor;

(b) The affiliation period does not exceed two months for newly eligible employees, group members and dependents, or three months for late enrollees;

(c) The affiliation period begins on the first day of any waiting period, or on the first day of employment, whichever is earlier, and runs concurrently with any waiting period;

(d) No premium is charged for the affiliation period; and

(e) A health maintenance organization electing to use an affiliation period in their group health policies or contracts must fully disclose the terms of such affiliation period in all policies or contracts and certificates.

Cite as Ga. Comp. R. & Regs. R. 120-2-67-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-30-15.
History. Original Rule entitled "Liabilities and Duties of Prior Insurers" adopted. F. Feb. 29, 1996; eff. Mar. 20, 1996.
Amended: ER 120-2-67-0.7 adopted. F. and eff. Nov. 10, 1997, to remain in effect for 120 days or until the effective date of a permanent Rule covering the Same subject matter superseding this ER is adopted, as specified by the Agency.
Repealed: Permanent Rule entitled "Affiliation Periods" adopted. F. Feb. 17, 1998; eff. Mar. 9, 1998.

Rule 120-2-67-.07. Alternative Method of Crediting Coverage.

(a) Pursuant to O.C.G.A. § 33-30-15(c)(2), insurers offering group health insurance coverage may apply the preexisting condition exclusion crediting method described in this Rule within any category of benefits described in paragraph (b) and not based on coverage for any other benefits. Insurers may elect to use all or any of the categories in counting certain benefits within a category against a preexisting condition exclusion related to such benefits.

(b) The alternative method for counting creditable coverage may be used for the following categories of benefits:

(1) mental health;

(2) substance abuse treatment;

(3) prescription drugs;

(4) dental care; and

(5) vision care.

(c) All other benefits, and all associated conditions, not related to the categories of benefits outlined in paragraph (b) are subject to the preexisting condition exclusion and limitation provisions of Rule 120-2-67-.05.

(d) The time period applicable to a preexisting condition exclusion within a particular category under the new group health insurance plan shall be reduced by the amount of time any newly eligible insured was previously covered by creditable coverage, or a combination of creditable coverages, which included any level of benefits within that category maintained under such previous creditable coverage or coverages. A lapse of coverage for benefits within a category shall not be treated as a significant break in coverage if, during such a lapse, creditable coverage was maintained except for coverage in a category, or a break of 90 days or less occurred in which no creditable coverage was maintained.

(e) If an insured was covered for benefits within a particular category under prior creditable coverage, or a combination of coverages, for twelve (12) months, no preexisting condition exclusion period for benefits within that category shall be applicable to any preexisting condition under the new group health insurance benefit plan.

(f) An insurer may provide a maximum exclusion of less than twelve months for benefits within a category because of preexisting conditions related to that category of benefits.

(g) If an insurer uses the alternative method with a particular policy, the insurer must state prominently in any disclosure statement concerning the coverage, and to each employer at the time of the offer or sale of the coverage, that the insurer is using the alternative method, and include in such statements a description of the effect of using the alternative method. This applies separately to each type of coverage offered by the insurer.

(h) An insurer may require an eligible employee, group member, or enrollee to document previous creditable coverage within a category or categories and to cooperate in obtaining such documentation. An insurer may also request information on categories of benefits included in previous creditable coverage from any previous insurer, administrator, employer, or employer health benefit arrangement and solicit corroboration documentation for the purposes of crediting coverage under the alternative method.

(i) An insurer, upon the request of another insurer, administrator, employer, or employer health benefit arrangement providing coverage to a former insured, must promptly disclose specific information needed by the other insurer, administrator, employer, or employer health benefit arrangement in order to determine an insured's or former insured's previous creditable coverage with respect to any category or categories of benefits

creditable coverage with respect to any category or categories of benefits permitted for consideration under the alternative method. An insurer furnishing this information may charge the reasonable cost of disclosing such information.

Cite as Ga. Comp. R. & Regs. R. 120-2-67-.07
Authority: O.C.G.A. Sec. 33-2-9, 33-30-15.
History. Original Rule entitled "Ratings" adopted. F. Feb. 29, 1996; eff. Mar. 20, 1996.
Amended: ER 120-2-67-0.7 adopted. F. and eff. Nov. 10, 1997, to remain in effect for 120 days or until the effective date of a permanent Rule covering the Same subject matter superseding this ER is adopted, as specified by the Agency.
Repealed: Permanent Rule entitled "Alternative Method of Crediting Coverage" adopted. F. Feb. 17, 1998; eff. Mar. 9, 1998.

Rule 120-2-67-.08. Special Enrollment.

(a) Individuals who decline group health insurance coverage when first eligible and satisfy subparagraphs (1) or (2) shall be considered newly eligible employees and not late enrollees, and must be offered coverage under the group policy or contract as newly eligible employees in accordance with paragraph (b), if such eligible individuals elect to enroll within the specified period in each subparagraph. Such individuals are:

(1) Existing employees or group members, and existing dependents of such existing employees or group members, who declines coverage when first eligible or when first offered because of coverage under other creditable coverage, provided that:

(A) the employee or group member stated in writing that existing creditable coverage was the reason for the employee, group member, or dependent declining enrollment, but only if such statement is required by the insurer, and the insurer has provided the employee or group member notice of such a requirement at the time of declination and included in such notice the consequences of not making a statement;

(B) (i) federal or state continuation coverage has been exhausted; or

(ii) other coverage unrelated to continuation has terminated as a result of loss of eligibility for such other coverage under the terms of that coverage or; (iii) contributions for such other coverage from a former or current employer have terminated;

(C) such other creditable coverage was not terminated in accordance with the Rules and Regulations of the Office of Commissioner of Insurance Rule 120-2-67-.10(b)(2) or for failure of the employee, group member, or dependent to pay premiums or contributions on a timely basis in accordance with the terms of coverage and the Georgia Insurance Code or

the Rules and Regulations of the Office of Commissioner of Insurance; and

(D) the employee or group member requests enrollment for the employee or group member and/or dependents not later than thirty (30) days after the effective date of the event described in subparagraph (B).

(2) Any of the following as a result of marriage, birth, adoption or placement for adoption:

(A) the employee or group member, if not enrolled under the group policy as a result of declining coverage when first eligible;

(B) the spouse of an employee or group member, provided the employee or group member is covered or elects coverage with the spouse; or

(C) the dependent or dependents of an employee or group member, provided the employee or group member is covered or elects coverage with the dependent or dependents.

(3) Coverage must be elected for any individual or individuals specified in paragraph (2) no later than thirty (30) days after the date of marriage, birth, adoption or placement for adoption, or, only for newborns or adopted children, thirty-one (31) days after the date of birth, adoption or placement for adoption if dependent or family coverage was not previously elected or payment of additional specific premium is required to provide coverage for such children.

(4) Coverage must be elected no later than thirty (30) days after a group policy is modified to make dependent coverage available for all employees or group members.

(b) Special enrollment date is to be determined as follows:

(1) In the event an employee, group member, or dependent becomes eligible in accordance with paragraph (a)(1) of this Rule, enrollment must become effective no later than the first day of the first calendar month after the date the completed request for enrollment is received by the insurer.

(2) In the event an employee, group member, or dependent becomes eligible in accordance with subparagraph (a)(2) of this Rule, enrollment must become effective on the date of birth, adoption or placement for adoption, or in the case of marriage, no later than the first day of the first calendar month after the date the completed request for enrollment is received.

Cite as Ga. Comp. R. & Regs. R. 120-2-67-.08
Authority: O.C.G.A. Sec. 33-2-9, 33-24-22, 33-30-15.
History. Original Rule entitled "Reporting Requirements" adopted. F. Feb. 29, 1996; eff. Mar. 20, 1996.
Amended: ER 120-2-67-0.7 adopted. F. and eff. Nov. 10, 1997, to remain in effect for 120 days or until the effective date of a permanent Rule covering the Same subject matter superseding this ER is adopted, as specified by the Agency.
Repealed: Permanent Rule entitled "Special Enrollment" adopted. F. Feb. 17, 1998; eff. Mar. 9, 1998.

Rule 120-2-67-.09. Renewability and Modification of Coverage under Group Health Insurance.

(a) On and after July 1, 1997, all insurers which issue, issue for delivery, deliver, or renew existing group policies, certificates, or contracts of health insurance in the State of Georgia shall renew or continue such coverage at the option of the policyholders.

(b) Notwithstanding paragraph (a), an insurer may cancel or nonrenew coverage in the following instances:

(1) The policyholder has failed to pay premiums or contributions in accordance with the terms of the group health insurance policy or contract, including any timeliness requirements, subject to applicable State law;

(2) The policyholder has performed an act or practice that constitutes fraud or intentional misrepresentation of material fact in applying for or procuring coverage under the terms of the group health insurance policy or contract;

(3) The policyholder has violated an insurer's minimum employer contribution or group participation rules, provided that the insurer submits written notice to each affected policyholder and provides each policyholder sixty (60) days in which to bring the group into compliance prior to cancellation;

(4) None of the policyholder's employees, group members, or enrollees live, reside, or work in the service area of the provider network, only if the group policy or contract is issued by a health maintenance organization or a provider-sponsored health care corporation, unless there is at least one insured employee, group member, or enrollee who has agreed to return to the service area of a health maintenance organization in accordance with the Rules and Regulations of the Office of Commissioner of Insurance 120-2-33-.06(5).

(5) An insurer terminates, cancels, or does not renew all coverage under a particular policy form, provided that:

(A) the insurer provides at least ninety (90) days notice prior to the termination of the policy form to all policyholders and certificate holders;

(B) for a policy form used by small employers, the insurer offers to such small employer policyholders the option to purchase all other group policies from the insurer currently being offered to or renewed by small employers in this State for which the small employer policyholders would otherwise be eligible;

(C) for a policy form used by large employers, the insurer offers to such large employer policyholders the option to purchase any other group policy from the insurer currently being offered to or renewed by a large employer in this State; and

(D) the insurer acts uniformly without regard to the claims experience of any or all policyholders, covered employers, or any healthstatus related factor relating to any enrollees or other eligibles covered by or eligible for coverage under the policy.

(6) An insurer discontinues offering and terminates, cancels, or does not renew all coverage in either the small employer market or the large employer market, or both, provided that:

(A) the insurer provides at least 180 days notice prior to the discontinuance or nonrenewal of a policy or contract to all policyholders and certificate holders,

(B) the insurer provides at least 180 days notice to the Commissioner prior to the earliest date of termination or non-renewal related to the discontinuation in the market and indicates in such notice the date described in subparagraph (6)(C), and

(C) the insurer does not issue coverage in such market for five (5) years beginning with the date of the last health insurance policy or contract in that market not renewed.

(7) An employer ceases membership in an association through which health insurance coverage is issued, provided that the insurer was still issuing coverage through that association, or the association was still making such coverage available, and the coverage cancellation or non-renewal is uniform without regard to any health status related factor relating to any insured. If the association ceases to make coverage available under any health insurance policy or contract, or ceases to exist, employers covered under such association policies shall be considered policyholders and shall be guaranteed renewability by the insurer.

(c) Insurers may modify group policies only at the time of renewal, provided that, for all small employers covered under a policy, such modifications to that policy are effective on a uniform basis among all small employers with that policy.

(d) Notwithstanding paragraph (c), an insurer may modify a group policy other than at renewal only if a policyholder elects to modify its coverage at such other time.

(e) For the purposes of this section "large employer" shall mean all employers or other groups not meeting the definition of "small employer" as set forth in this Regulation Chapter.

Cite as Ga. Comp. R. & Regs. R. 120-2-67-.09
Authority: O.C.G.A. Sec. 33-2-9, 33-30-15.
History. Original Rule entitled "Filing Requirements" adopted. F. Feb. 29, 1996; eff. Mar. 20, 1996.
Amended: ER 120-2-67-0.7 adopted. F. and eff. Nov. 10, 1997, to remain in effect for 120 days or until the effective date of a permanent Rule covering the Same subject matter superseding this ER is adopted, as specified by the Agency.
Repealed: Permanent Rule entitled "Renewability and Modification of Coverage under Group Health Insurance" adopted. F. Feb. 17, 1998; eff. Mar. 9, 1998.

Rule 120-2-67-.10. Renewability and Modification of Coverage under Individual Health Insurance.

(a) On and after July 1, 1997, all insurers which issue, issue for delivery, deliver, or renew existing individual policies or contracts of health insurance in the State of Georgia shall renew or continue such coverage at the option of the insured.

(b) Notwithstanding paragraph (a), an insurer may cancel or nonrenew coverage only in the following instances:

(1) The insured has failed to pay premiums in accordance with the terms of the individual health insurance policy or contract, including any timeliness requirements, subject to applicable State law;

(2) The insured has performed an act or practice that constitutes fraud or intentional misrepresentation of material fact in applying for or procuring coverage, subject to the time limit specified in O.C.G.A. § 33-29-3(b)(2)(A); or

(3) Subject to the Rules and Regulations of the Office of Commissioner of Insurance Rule 120-2-33-.06(6), the insured no longer lives, resides, or works in the service area of the network if the individual policy or contract is issued by a health maintenance organization or a provider-sponsored health care corporation, but only if coverage is canceled or non-renewed uniformly without regard to any health status related factor of the insureds.

(4) An insurer terminates, cancels, or does not renew all coverage under a particular policy form, provided that:

(A) the insurer provides at least ninety (90) days notice prior to the discontinuance of the policy form to all insured and to the Commissioner;

(B) the insurer offers to such insured all other individual policies currently being offered or renewed by the insurer in this State for which the insured are otherwise eligible without regard to any health status related factor; and

(C) the insurer acts uniformly without regard to the claims experience or any health-status related factor of individuals insured or eligible to be insured.

(5) An insurer discontinues offering and terminates, cancels, or does not renew all coverage under all policy forms in the individual market, provided that:

(A) the insurer provides at least 180 days notice prior to the discontinuance or nonrenewal of a policy or contract to all insured under that policy or contract;

(B) the insurer provides at least 180 days notice to the Commissioner prior to the earliest date of termination or non-renewal related to the discontinuation in the market and indicates in such notice the date described in subparagraph (5)(C);

(C) the insurer does not issue coverage in such market for 5 years beginning with the date of the last health insurance policy or contract in that market not renewed; and

(D) the insurer acts uniformly without regard to the claims experience or any health status related factor of individuals insured or eligible to be insured.

(6) An insured ceases membership in an association through which health insurance coverage is issued, provided that the insurer was still issuing coverage through that association, or the association was still making such coverage available, and the coverage cancellation or non-renewal is uniform without regard to any health status related factor relating to any insured. If the association ceases to make coverage available under any health insurance policy or contract, or ceases to exist, individuals insured under such association policies shall be guaranteed renewability by the insurer.

(c) Insurers may modify individual policies at the time of renewal, provided that:

(1) such modifications to that policy are effective on a uniform basis among all individuals with that policy form; and

(2) such modifications are accepted and signed by the insured.

(d) The term "accident and sickness insurance" as used in O.C.G.A. § 33-29-21 shall have the same meaning as the term "health insurance" used in this Regulation Chapter.

Cite as Ga. Comp. R. & Regs. R. 120-2-67-.10
Authority: O.C.G.A. Sec. 33-2-9, 33-29-21, 33-30-15.
History. Original Rule entitled "Penalties" adopted. F. Feb. 29, 1996; eff. Mar. 20, 1996.
Amended: ER 120-2-67-0.7 adopted. F. and eff. Nov. 10, 1997, to remain in effect for 120 days or until the effective date of a permanent Rule covering the Same subject matter superseding this ER is adopted, as specified by the Agency.
Repealed: Permanent Rule entitled "Renewability and Modification of Coverage under Individual Health Insurance" adopted. F. Feb. 17, 1998; eff. Mar. 9, 1998.

Rule 120-2-67-.11. Liabilities and Duties of Prior Insurers.

(a) A prior insurer shall remain liable only to the extent of its accrued liabilities and extensions of benefits.

(b) In accordance with O.C.G.A. § 33-30-15(b)(2), an insurer must offer a conversion policy to any insured whose group health insurance coverage terminates, including termination of such group health insurance coverage after any period of continuation required under § 33-24-21.1 or the provisions of the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) Section 601, *et seq.* of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. Section 1611*et seq.*

Cite as Ga. Comp. R. & Regs. R. 120-2-67-.11
Authority: O.C.G.A. Sec. 33-2-9, 33-30-15.
History. Original Rule entitled "Severability" adopted. F. Feb. 29, 1996; eff. Mar. 20, 1996.
Amended: ER 120-2-67-0.7 adopted. F. and eff. Nov. 10, 1997, to remain in effect for 120 days or until the effective date of a permanent Rule covering the Same subject matter superseding this ER is adopted, as specified by the Agency.
Repealed: Permanent Rule entitled "Liabilities and Duties of prior Insurers" adopted. F. Feb. 17, 1998; eff. Mar. 9, 1998.

Rule 120-2-67-.12. Certification of Creditable Coverage.

(a) Any insurer issuing a group health insurance policy or contract or individual insurance policy or contract must furnish a certification of creditable coverage described in subparagraph (1) in accordance with subparagraphs (2) through (6) of this paragraph.

(1) The certification of creditable coverage must be in writing and include the following information:

(A) the date the certification is issued;

(B) the name of the insurer that provided the coverage described in the certification;

(C) the name of the insured (including any covered dependents) with respect to whom the certification applies, and any other information necessary for the

insurer providing the coverage specified in the certification to identify the insured, such as the insured's insurance indentification number and the name of the employee or group member under group health insurance coverage, or the policyholder under individual health insurance coverage, if the certification is for (or includes) a dependent;

(D) the name, address, and telephone number of the insurer or plan administrator required to provide the certification;

(E) the telephone number to call for further information regarding the certification;

(F) either;

(i) a statement that an insured has at least eighteen (18) months of creditable coverage, or

(ii) the date any applicable waiting or affiliation period began, and the date creditable coverage began; and

(G) the date creditable coverage ended, unless the certification indicates that creditable coverage is continuing as of the date of the certification.

(2) An insurer issuing a group health insurance policy or contract must provide a written certification for (i) the most recent period of continuous creditable coverage ending with events described in (A) and (B) of this subparagraph, or (ii) each period of continuous coverage as permitted in (C) of this subparagraph without charge, to insureds or former insureds, or any other person designated by an insured or former insured, or any other individual, insurer, employer health benefit arrangement, or administrator requesting on behalf of an insured or former insured. An insurer must issue such certification within fourteen (14) days after receipt of notice that any of the following events have occurred:

(A) Coverage for an insured has ceased or terminated for any reason;

(B) An insured has terminated or exhausted federal or state continuation of benefits; or

(C) A request has been made within twenty-four (24) months after coverage ceased, regardless of whether the former insured has previously received a certification from the insurer. An insurer must make reasonable efforts to ascertain whether any of the above events have occurred.

(3) An insurer issuing an individual health insurance policy or contract must provide a written certification for (i) the most recent period of continuous creditable

coverage ending with an event described in (A) of this subparagraph, or (ii) each period of continuous coverage as permitted in (B) of this subparagraph without charge, to insureds or former insureds, or any other person designated by an insured or former insured, or any other individual, insurer, employer health benefit arrangement, or administrator requesting on behalf of an insured or former insured. An insurer must issue such certification within fourteen (14) days after receipt of notice that any of the following events have occurred:

(A) Coverage for an insured has ceased or terminated for any reason; or

(B) A request has been made within twenty-four (24) months after coverage ceased, regardless of whether the former insured has previously received a certification from the insurer.

(4) A certification may provide information with respect to an insured and the insured's covered dependents if the information is identical for each individual. If not, certifications may be provided on one form if the form provides all the required information for the insured and covered dependents and separately states the information that is not identical.

(5) The insurer may satisfy the requirement to provide a certification of creditable coverage by sending a certification via first-class mail to the last known address of the insured or former insured for all covered individuals residing at that address. If a covered dependent's or spouse's last known address is different than the former insured's last known address, a separate certification is required to be provided to the covered dependent or spouse at the dependent's or spouse's last known address. If separate certifications are being provided by mail to insureds or former insureds who reside at the same address, separate mailings of each certification are not required.

(6) An insurer must use reasonable efforts to determine any information needed for a certification relating to coverage of a dependent. In any case in which a certification is required to be furnished with respect to a dependent for events described in subparagraphs (a)(2)(A) or (B) or (a)(3)(A), no dependent certification is required to be furnished until the insurer knows, or making reasonable efforts, should know, of the dependent's cessation of coverage under the policy or contract. The following transition rules apply to certifications for termination or cessation of coverage occurring before June 30, 1998:

(A) an insurer that cannot provide the names (or related coverage information) of dependents of an insured or former insured for purposes of providing a certification of coverage for a dependent may satisfy the requirements of subparagraph (a)(1)(C) by providing the name of the insured or former insured and specifying that the type of coverage described in the certification is for dependent coverage, such as, for example, family coverage or enrollee and spouse coverage;

(B) an insurer must make reasonable efforts to obtain and provide the names of any dependent covered by the certification where such information is requested to be provided; and

(C) an insurer providing a certification for an insured in accordance with subparagraph (6)(A) must furnish a certification within twenty-one (21) days after the insured ceases to be covered under an individual health insurance policy or contract.

(b) An insurer is not required to provide a written certification to individuals as required in paragraph (a) if:

(1) An insurer did not provide the creditable coverage, in which case the insurer is not required to provide information regarding coverage provided to an individual by another party;

(2) An insured or former insured entitled to receive a certification requests that the certification be sent to another insurer, administrator, or employer health benefit arrangement and such insurer, administrator, or employer health benefit arrangement agrees to accept, and actually receives from the insurer within fourteen (14) days, the information in subparagraph (a)(1) telephonically or by other means;

(3) There is a written agreement or contract in which an employer, administrator, or other third party is made responsible for the issuing of certifications of creditable coverage, or otherwise, if another party provides the certifications, but only to the extent that information relating to the individual's creditable coverage and waiting or affiliation period is provided by the other party; or

(4) With regard to certification requirements relating to paragraphs (a)(2)(A) and (B), an insured's coverage under the group health insurance policy or contract ceases prior to the cessation of coverage under the employer health benefit arrangement, or because of the election of any other group health insurance option offered therein, although in any event the insurer must provide sufficient information reflecting the insured's or former insured's period of creditable coverage under the policy or contract to the employer health benefit arrangement or its delegate to enable a certification to be provided by the arrangement or its delegate after cessation of the individual's coverage under the arrangement. An insurer may presume that an insured whose coverage ceases at a time other than the group's effective date for changing enrollment options is concurrently ceasing coverage under the employer health benefit arrangement and must consequently issue certifications as required by paragraph (a)(2) for events described in paragraphs (a)(2)(A) and (B).

(c) For the purposes of demonstrating previous creditable coverage upon becoming eligible for coverage under a group health insurance policy or contract, if there is no available certification demonstrating prior creditable coverage with an insurance company or employer health benefit arrangement, or if the accuracy of a certificate is contested, it shall be the responsibility of the newly eligible insured to provide an insurer with the information necessary to verify the type of plan and the effective date of his or her previous coverage.

(d) An insurer shall take into account all information that it obtains or that is presented on behalf of a newly eligible insured, based on the relevant facts and circumstances, to determine whether an individual has creditable coverage and is entitled to offset all or a portion of any preexisting condition exclusion period. An insurer shall accept an attestation from a newly eligible insured as to periods of creditable coverage, or periods spent in affiliation or waiting periods, if such attestation is accompanied by evidence of some form of creditable coverage during the period, and the insured cooperates with the insurer's efforts to verify the insured's previous creditable coverage. Such evidence includes the following:

(1) explanations of benefit claims;

(2) correspondence from an insurer, administrator, or employer health benefit arrangement indicating coverage;

(3) pay stubs showing a payroll deduction for health coverage;

(4) a health insurance identification card;

(5) a certificate of coverage under a group health insurance;

(6) records from medical care providers indicating health coverage;

(7) statements from third parties verifying periods of coverage;

(8) telephone calls by the insurer to a previous insurer, administrator, employer, or other third party verifying coverages; and

(9) any other relevant documents that demonstrate coverage at any point during the period of time to which the insured attests coverage.

(e) Provisions of this subsection permitting attestation, evidence, and verification shall be applicable to demonstrating categories of creditable coverage relating to the alternative method as permitted in this Regulation Chapter, and in demonstrating coverage as a dependent under another individual's coverage.

(f) If relevant information is not provided by the insured or otherwise obtained by the insurer after reasonable attempts, or if the insured fails to cooperate with the insurer's efforts to

verify coverage, the insurer may apply a twelve (12) month preexisting exclusion period provison.

(g) In the event an insurer receives information via a certification or through means permitted in paragraph (c) of this Rule and intends to impose any preexisting condition exclusion or limitation under the terms of a group health insurance policy or contract, the insurer is required, within a reasonable time period following receipt of the information, to disclose to the insured in writing a determination regarding the insured's period of creditable coverage which includes the basis for such determination, a written explanation of any appeal procedures established by the insurer, and a reasonable opportunity to submit additional evidence of creditable coverage. A time frame for disclosure is considered reasonable if it is based on the relevant facts and circumstances of the case, including whether the application of a preexisting condition exclusion would prevent an insured from having access to urgent medical services.

(h) An insurer may modify an initial determination of creditable coverage if it determines, upon verification or the discovery of additional evidence, that the insured did not have the claimed creditable coverage, provided that:

(1) a notice of the reconsideration is provided to the insured; and

(2) until the final determination is made, the insurer, for purposes of approving access to medical services (such as pre-surgery authorization) acts in a manner consistent with the initial determination.

(i) Any administrator or designee of an insurer responsible for the provision of certifications of creditable coverage under this section must comply with all the relevant provisions of this section as they apply to the issuing of certifications of creditable coverage by insurers.

(j) The term "certification" as used in this section shall have the same meaning as "certification" as used in the federal Public Health Service Act, Section 2701(e). Nothing in this section shall be construed to prevent insurers from using model certificate forms approved by the Health Care Financing Administration for the purposes of complying with certification requirements.

Cite as Ga. Comp. R. & Regs. R. 120-2-67-.12
Authority: O.C.G.A. Sec. 33-2-9.
History. ER 120-2-67-0.7 adopted. F. and eff. Nov. 10, 1997, to remain in effect for 120 days or until the effective date of a permanent Rule covering the Same subject matter superseding this ER is adopted, as specified by the Agency.
Repealed: Permanent Rule entitled "Certification of Creditable Coverage" adopted. F. Feb. 17, 1998; eff. Mar. 9, 1998.

Rule 120-2-67-.13. Prohibitions on Use of Health Status; Rating.

(a) Except for the use of preexisting condition exclusions as permitted by this Regulation Chapter, no insurer may inpose a limitation of benefits on, or impose or condition the length of any waiting period on, or condition rules for eligibility, late, or special enrollment for, or decline any employee or group member, or any dependents of any employee or group member, for coverage under a group health insurance policy or contract solely on the basis of any of the following health status related factors:

(1) health status;

(2) medical condition or history;

(3) claims experience;

(4) receipt of health care;

(5) genetic information;

(6) evidence of insurability (such as consideration of an avocational factor or conditions arising out of acts of domestic violence); or

(7) disability.

(b) No insurer may impose a rating methodology which requires an individual employee, group member, or dependent of an employee or group member covered by a group health insurance policy or contract to pay a higher premium than other group members solely on the basis of any health status related factor relating to that employee, group member, or dependent of an employee or group member, except that insurers shall be allowed to offer premium reductions or discounts for legitimate disease prevention or health promotion programs.

(c) Nothing in this section shall be construed to require insurers to accept late enrollees for coverage under a group policy, provided that an insurer may not establish terms for late enrollment based on any health status related factor. Nothing in this Regulation Chapter shall be construed to prevent an insurer from permitting late enrollees only during an annual or other periodic open enrollment period in accordance with the terms of the group health insurance policy or contract.

(d) At any time during the first policy year, or the renewal period during which this Regulation Chapter becomes effective, employees, group members, or dependents of employees or group members who are otherwise eligible for coverage under the terms of the group health insurance plan but were previously declined coverage upon application when first eligible to enroll based on any health status related factor must be offered an opportunity to enroll in the group health insurance policy or contract. If an insurer does not have a record of denials under its term of coverage for a group, the insurer must accept all reasonable forms of proof submitted by such employees, group members, or dependents for whom records are unavailable. An insurer may verify denials with a policyholder, but must provide prior notice to a policyholder of its intention to offer

coverage to declined employees, group members, and dependents during a specified period of enrollment. If such employees, group members, or dependents decline coverage that is offered as required in this paragraph, they may be considered late enrollees for the purposes of this Regulation Chapter.

(e) An insurer replacing health insurance coverage for a group must count all previous creditable coverage under the prior insurer and any other previous creditable coverage against any preexisting condition limitations imposed by the succeeding insurer upon group members as required by this Regulation Chapter.

Cite as Ga. Comp. R. & Regs. R. 120-2-67-.13
Authority: O.C.G.A. Sec. 33-2-9, 33-30-15.
History. ER 120-2-67-0.7 adopted. F. and eff. Nov. 10, 1997, to remain in effect for 120 days or until the effective date of a permanent Rule covering the Same subject matter superseding this ER is adopted, as specified by the Agency.
Repealed: Permanent Rule entitled "Prohibitions on Use of Health Status; Rating" adopted. F. Feb. 17, 1998; eff. Mar. 9, 1998.

Rule 120-2-67-.14. Filing Requirements.

Every portability and renewability provision to be included in a group health insurance policy or contract, certificate, rider and/or endorsement issued, delivered, or issued for delivery in this State, and certificates issued to a Georgia resident insured under a multiple employer trust or welfare arrangement issued in another state must be submitted to the Georgia Insurance Department for approval prior to use in this State. Existing group health insurance policies and certificates must be amended by adding an approved portability and renewability provision not later than the first anniversary date of such existing group policies following the effective date of this Regulation Chapter.

Cite as Ga. Comp. R. & Regs. R. 120-2-67-.14
Authority: O.C.G.A. Sec. 33-2-9, 33-30-15.
History. ER 120-2-67-0.7 adopted. F. and eff. Nov. 10, 1997, to remain in effect for 120 days or until the effective date of a permanent Rule covering the Same subject matter superseding this ER is adopted, as specified by the Agency.
Repealed: Permanent Rule entitled "Filing Requirements" adopted. F. Feb. 17, 1998; eff. Mar. 9, 1998.

Rule 120-2-67-.15. Effective Dates.

(a) All portability provisions in Rules 120-2-67-.03 through 120-2-67-.08 and Rule 120-2-67-.13 shall become effective for a group health insurance policy or contract as of the first day of the policy year or renewal date of the policy on or after July 1, 1997.

(b) Rule 120-2-67-.12 shall become effective in accordance with the transition rules specified by the Health Care Financing Administration in the Federal Register, 45 CFR § 146.125.

Specifically, the following apply to insurers with regard to their obligations to insureds or former insureds in delivering certifications of creditable coverage:

(1) No insurer is required to issue certifications for termination or cessation of coverage occurring prior to July 1, 1996, nor is any insurer required to document coverage prior to July 1, 1996 on any certification;

(2) For termination or cessation of coverage occurring on or after July 1, 1996, and before October 1, 1996, a certification is required to be provided in accordance with Rule 120-2-67-.12 only upon a written request by or on behalf of the former insured to whom the certification applies;

(3) For termination or cessation of coverage occurring on or after October 1, 1996, and before June 1, 1997, a certification must either be furnished in accordance with Rule 120-2-67-.12 on June 1, 1997, or upon request in accordance with Rule 120-2-67-.12 if written notice was delivered on June 1, 1997, indicating the availability of such certification upon request; and

(4) For termination or cessation of coverage occurring on or after June 1, 1997, a certification must be delivered as required by Rule 120-2-67-.12.

(c) Not including the provisions specified in paragraphs (a) and (b), the effective date of this Regulation Chapter with regard to all health insurance policies or contracts in this state shall be July 1, 1997.

Cite as Ga. Comp. R. & Regs. R. 120-2-67-.15
Authority: O.C.G.A. Sec. 33-2-9, 33-30-15.
History. ER 120-2-67-0.7 adopted. F. and eff. Nov. 10, 1997, to remain in effect for 120 days or until the effective date of a permanent Rule covering the Same subject matter superseding this ER is adopted, as specified by the Agency.
Repealed: Permanent Rule entitled "Effective Dates" adopted. F. Feb. 17, 1998; eff. Mar. 9, 1998.

Rule 120-2-67-.16. Penalties.

Any insurer failing to comply with the requirements of this Regulation Chapter shall be subject to penalties and other enforcement actions as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-67-.16
Authority: O.C.G.A. Sec. 33-2-9, 33-30-15.
History. ER 120-2-67-0.7 adopted. F. and eff. Nov. 10, 1997, to remain in effect for 120 days or until the effective date of a permanent Rule covering the Same subject matter superseding this ER is adopted, as specified by the Agency.
Repealed: Permanent Rule entitled "Penalties" adopted. F. Feb. 17, 1998; eff. Mar. 9, 1998.

Rule 120-2-67-.17. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-67-.17
Authority: O.C.G.A. Sec. 33-2-9, 33-30-15.
History. ER 120-2-67-0.7 adopted. F. and eff. Nov. 10, 1997, to remain in effect for 120 days or until the effective date of a permanent Rule covering the Same subject matter superseding this ER is adopted, as specified by the Agency.
Repealed: Permanent Rule entitled "Severability" adopted. F. Feb. 17, 1998; eff. Mar. 9, 1998.

Subject 120-2-68. CHILD WELLNESS.

Rule 120-2-68-.01. Authority.

This Regulation Chapter is issued pursuant to the authority vested in the Commissioner of Insurance under O. C. G. A. Sections 33-2-9, 33-29-3.4 and 33-30-4.5.

Cite as Ga. Comp. R. & Regs. R. 120-2-68-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-29-3.4, 33-30-4.5.
History. Original Rule entitled "Authority" adopted. F. Apr. 30, 1996, eff. May 20, 1996.

Rule 120-2-68-.02. Purpose.

The purpose of this Regulation Chapter is to set forth guidelines to assist in the implementation of Section 3.4 of Chapter 29 of Title 33 of the Official Code of Georgia Annotated and Section 4.5 of Chapter 30 of Title 33 of the Official Code of Georgia Annotated.

Cite as Ga. Comp. R. & Regs. R. 120-2-68-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-29-3.4, 33-30-4.5.
History. Original Rule entitled "Purpose" adopted. F. Apr. 30, 1996; eff. May 30, 1996.

Rule 120-2-68-.03. Applicability and Scope.

Except as otherwise specifically provided, this Regulation Chapter shall apply to all insurers issuing policies or contracts of individual or group accident and sickness insurance, including conversion policies or contracts, which provide basic medical or hospital expenses, major medical, and comprehensive medical expense coverages.

Cite as Ga. Comp. R. & Regs. R. 120-2-68-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-29-3.4, 33-30-4.5.
History. Original Rule entitled "Applicability and Scope" adopted. F. Apr. 30, 1996; eff. May 20, 1996.

Rule 120-2-68-.04. Definitions.

For the purpose of this Regulation Chapter, the following definitions shall apply:

(a) Child Wellness services shall mean the periodic review of a child's physical and emotional status conducted by a physician or conducted pursuant to a physician's supervision, but shall not include periodic dental examinations or other dental services. The review shall include a medical history, complete physical examination, developmental assessment, appropriate immunizations, anticipatory guidance for the parent or parents, and laboratory testing in keeping with the standards outlined in the prevailing Recommendations for Preventive Pediatric Health Care as established by the American Academy of Pediatrics.

(b) Periodic Review shall mean at intervals outlined in the prevailing Recommendations for Preventive Pediatric Health Care as established by the American Academy of Pediatrics.

Cite as Ga. Comp. R. & Regs. R. 120-2-68-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-29-3.4, 33-30-4.5.
History. Original Rule entitled "Definitions" adopted. F. Apr. 30, 1996; eff. May 20, 1996.

Rule 120-2-68-.05. Basic Coverage for Child Wellness Services.

Benefits for the preventive care of children from birth through the age of five (5) years shall be consistent with the prevailing Recommendations for Preventive Pediatric Health Care. The following services shall be included in basic coverage for child wellness services:

(a) Medical history;

(b) Measurement of height, weight and head circumference;

(c) Testing of blood pressure;

(d) Sensory screening including vision and hearing;

(e) Hereditary and metabolic screening in accordance with state law;

(f) Developmental/behavioral assessment;

(g) Immunizations consistent with prevailing American Academy of Pediatric Committee statements;

(h) Tuberculin test;

(i) Hematocrit or hemoglobin;

(j) Urinalysis;

(k) Anticipatory guidance.

Cite as Ga. Comp. R. & Regs. R. 120-2-68-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-29-3.4, 33-30-4.5.
History. Original Rule entitled "Basic Coverage for Child Wellness Services" adopted. F. Apr. 30, 1996; eff. May 20, 1996.

Rule 120-2-68-.06. Penalties.

Any insurer, representative, officer, or employee of such insurer failing to comply with the requirements of this Regulation Chapter shall be subject to such penalties and other enforcement actions as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-68-.06
Authority: O.C.G.A. Secs. 33-2-9, 38-2-24.
History. Original Rule entitled "Penalties" adopted. F. Apr. 30, 1996; eff. May 20, 1996.

Rule 120-2-68-.07. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-68-.07
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Severability" adopted. F. Apr. 30, 1996; eff. May 30, 1996.

Subject 120-2-69. REQUIREMENTS FOR INSURANCE COMPANY CUSTODIAL ACCOUNTS.

Rule 120-2-69-.01. Purpose.

The purpose of this Regulation Chapter is to set forth guidelines for certificated and uncertificated securities eligible for investment as set forth in O.C.G.A. § 33-11-2 for domestic insurers and O.C.G.A § 33-11-42 for foreign insurers and to enable domestic insurers to comply with O.C.G.A. § 33-14-13.

Cite as Ga. Comp. R. & Regs. R. 120-2-69-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-11-2, 33-11-42, 33-14-13.
History. Original Rule entitled "Purpose" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-69-.02. Definitions.

When used in this regulation, the term:

(a) "Agent" shall mean a national bank, state bank or trust company that maintains an account in its name in a clearing corporation or that is a member of the Federal Reserve System and through which a custodian participates in a clearing corporation or the Federal Reserve book-entry system, except that with respect to securities issued by institutions organized or existing under the laws of any foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, "agent" may include a corporation which is organized or existing under the laws of a foreign country and which is legally qualified under those laws to accept custody of securities;

(b) "Clearing corporation" shall mean a corporation as defined in Section 8-102(3) of the Uniform Commercial Code that is organized for the purpose of effecting transactions in securities by computerized book-entry, except that with respect to securities issued by institutions organized or existing under the laws of any foreign country or securities used to meet deposit requirements pursuant to the laws of a foreign country as a condition for doing business therein, "clearing corporation" may include a corporation that is organized or existing under the laws of any foreign country and which is legally qualified under such laws to effect transactions in securities by computerized book-entry;

(c) "Commissioner" shall mean the Insurance Commissioner of the State of Georgia;

(d) "Custodian" shall mean a national bank, state bank or trust company that shall at all times during which it acts as a custodian pursuant to this regulation be no less than adequately capitalized as determined by the standards adopted by United States banking regulators and that is regulated by either state banking laws or is a member of the Federal Reserve System and that is legally qualified to accept custody of securities in accordance with the standards set forth below, except that with respect to securities issued by institutions organized or existing under the laws of any foreign country, or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, "custodian" may include a bank or trust company incorporated or organized under the laws of a country other than the United States that is regulated as such by that country's government or an agency thereof which shall at all times during which it acts as a custodian pursuant to this Regulation Chapter be no less than adequately capitalized as determined by the standards adopted by international banking authorities and that is legally qualified to accept custody of securities. Such definitions also shall apply to subcustodians selected by the custodian and disclosed to and approved by the principal;

(e) "Federal Reserve book-entry system" shall mean the computerized systems sponsored by the United States Department of the Treasury and certain agencies and instrumentalities of the United States for holding and transferring securities of the United States government and the agencies and instrumentalities, respectively, in Federal Reserve

Banks through banks which are members of the Federal Reserve System or which otherwise have access to such computerized systems;

(f) "Securities" shall mean certificated securities and uncertificated securities as defined in Section 8-102(1)(a) and (b) of the Uniform Commercial Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-69-.02
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Definitions" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-69-.03. Custody Agreements; Requirements.

(1) An insurance company may, by written agreement with a custodian, provide for the custody of its securities with a custodian. The securities may be held by the custodian or its agent or in a clearing corporation or in the Federal Reserve book-entry system. Securities so held, whether held by the custodian or its agent or in a clearing corporation or in the Federal Reserve book-entry system, are referred to herein as "custodied securities."

(2) The agreement shall be in writing and shall be authorized by a resolution of the board of directors of the insurance company or of an authorized committee thereof The terms of the agreement shall comply with the following:

(a) Certificated securities held by the custodian shall be held either separate from the securities of the custodian and all of its other customers or in a fungible bulk of securities as part of a Filing of Securities by Issue (FOSBI) arrangement;

(b) Securities held in fungible bulk by the custodian and securities in a clearing corporation or in the Federal Reserve book-entry system shall be separately identified on the custodian's official records as being owned by the insurance company. The records shall identify which custodied securities are held by the custodian or by its agent and which securities are in a clearing corporation or in the Federal Reserve book-entry system. If the securities are in a clearing corporation or in the Federal Reserve book-entry system, the records shall also identify where the securities are and if in a clearing corporation, the name of the clearing corporation and if through an agent, the name of the agent;

(c) All custodied securities that are registered shall be registered in the name of the company or in the name of a nominee of the company or in the name of the custodian or its nominee or, if in a clearing corporation, in the name of the clearing corporation or its nominee;

(d) Custodied securities shall be held subject to the instructions of the insurance company and shall be withdrawable upon the demand of the insurance company, except that custodied securities used to meet the deposit requirements set forth in

Chapter 12 of the Georgia Insurance Code shall, to the extent required by that section, be under the control of the Georgia Insurance Department and shall not be withdrawn by the insurance company without the express written approval of the Georgia Insurance Department. Nothing in this section, however, shall prohibit an insurance company from effecting a valid substitution of securities to maintain compliance with Chapter 12 of the Georgia Insurance Code;

(e) The custodian shall be required to send or cause or make available to the insurance company a confirmation of all transfers of custodied securities to or from the account of the insurance company. In addition, the custodian shall be required to furnish no less than monthly to the insurance company reports of holdings of custodied securities at times and containing information reasonably requested by the insurance company;

(f) During the course of the custodian's regular business hours, and upon reasonable notice, an officer or employee of the insurance company, an independent accountant selected by the insurance company, and a representative of an appropriate regulatory body shall be entitled to examine, on the premises of the custodian, the custodian's records relating to custodied securities, but only upon furnishing the custodian with written instructions to that effect from an appropriate officer of the insurance company;

(g) The custodian and its agents shall be required to send to the insurance company:

1. All reports which they receive from a clearing corporation or the Federal Reserve book-entry system on their respective systems of internal accounting control, and

2. Reports prepared by outside auditors on the custodians or its agent's accounting control of custodied securities that the insurance company may reasonably request;

(h) The custodian shall maintain records sufficient to provide identifying information relating to custodied securities that may be reported in the insurance company's annual statement and supporting schedules and information required in an audit of the financial statements of the insurance company;

(i) the custodian shall provide, upon written request from an appropriate officer of the insurance company, the appropriate affidavits, substantially in the form attached to this Regulation Chapter, with respect to custodied securities;

(j) The custodian shall secure and maintain insurance protection in an adequate amount covering the custodian's duties and activities as custodian for the insurer's assets, and shall state in the custody agreement that protection is in compliance with the requirements of the custodian's banning regulator. The Commissioner may

determine whether the type of insurance is appropriate and the amount of coverage is adequate;

(k) The custodian shall be obligated to indemnify the insurance company for any loss of custodied securities, except that the custodian shall not be required by this regulation to be so obligated to the extent that the loss was caused by other than the negligence or dishonesty of the custodian;

(l) In the event that there is a loss of custodied securities for which the custodian shall be obligated to indemnify the insurance company as provided in Paragraph (k) above, the custodian shall promptly replace the securities or the value thereof and the value of any direct loss of rights or privileges resulting from the loss of securities;

(m) The agreement may provide that the custodian will not be liable for a failure to take an action required under the agreement in the event and to the extent that the taking of the action is prevented or delayed by war (whether declared or not and including existing wars), revolution, insurrection, riot, civil commotion, act of God, accident, fire, explosion, stoppage of labor, strikes or other differences with employees, laws, regulations, orders or other acts of any governmental authority, or any other cause whatever beyond its reasonable control;

(n) In the event that the custodian gains entry in a clearing corporation or in the Federal Reserve book-entry system through an agent, there shall be an agreement between the custodian and the agent under which the agent shall be subject to the same liability for loss of custodied securities as the custodian. However, if the agent shall be subject to regulation under the laws of a jurisdiction that is different from the jurisdiction the laws of which regulate the custodian, the Commissioner of Insurance of the state of domicile of the insurance company may accept a standard of liability applicable to the agent that is different from the standard of liability applicable to the custodian.

Cite as Ga. Comp. R. & Regs. R. 120-2-69-.03
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Custody Agreements; Requirements" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-69-.04. Assets.

(1) Certificated and uncertificated securities shall be maintained in depositories within this State by domestic insurers and may be maintained outside of this State by foreign insurers provided that the appropriate affidavits or model custodian agreement, substantially in the form attached to this Regulation Chapter, be utilized as evidence of ownership whenever required by the Commissioner, his staff or his duly appointed examiners:

(a) Exhibit A: for use by a custodian bank where securities entrusted to its care have not been redeposited elsewhere;

(b) Exhibit B: for use in instances where a Custodian bank maintains securities on deposit with The Depository Trust Company or like entity;

(c) Exhibit C: for use where ownership is evidenced by book-entry at a Federal Reserve Bank;

(d) Exhibit D: for use by custodians who hold all or a majority of the assets of a domestic insurer.

(2) A domestic insurer may maintain securities outside of this State only with the express written permission of the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-69-.04
Authority: O.C.G.A. Sec. 33-2-9, 33-11-10, 33-14-13.
History. Original Rule entitled "Assets" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-69-.05. Penalties.

Any insurer, representative, officer, or employee of such insurer failing to Comply with the requirements of this Regulation Chapter shall be subject to such penalties and other enforcement actions as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-69-.05
Authority: O.C.G.A. Sec. 33-2-9, 33-2-24.
History. Original Rule entitled "Penalties" adopted. F. Jul. 19, 1998; eff. Aug. 8, 1996.

Rule 120-2-69-.06. Severability.

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

EXHIBIT A

CUSTODIAN AFFIDAVIT

[For use by a custodian bank where securities entrusted to its care have not been redeposited elsewhere.]

STATE OF _____)

) SS:

COUNTY OF _____)

_____, being duly sworn deposes and says that he or she is _____ of _____, a banking corporation organized under and pursuant to the laws of the _____ with the principal place of business at _____ (hereinafter called the "bank"):

That his or her duties involve supervision of activities of the bank as custodian and records relating thereto;

That the bank is custodian for certain securities of _____ having a place of business _____ at (hereinafter called the "insurance company") pursuant to an agreement between the bank and the insurance company;

That the schedule attached hereto is a true and complete statement of securities (other than those caused to be deposited with The Depository Trust Company or like entity or a Federal Reserve Bank under the Federal Reserve book-entry procedure) which were in the custody of the bank for the account of the insurance company as of the close of business on _____; that, unless otherwise indicated on the schedule, the next maturing and all subsequent coupons were then either attached to coupon bonds or in the process of collection; and that, unless otherwise shown on the schedule, all such securities were in bearer form or in registered form in the name of the insurance company or its nominee or of the bank or its nominee, or were in the process of being registered in such form;

That the bank as custodian has the responsibility for the safekeeping of such securities as that responsibility is specifically set forth in the agreement between the bank as custodian and the insurance company; and that, to the best of his or her knowledge and belief, unless otherwise shown on the schedule, the securities were the property of the insurance company and were free of all liens, claims or encumbrances whatsoever.

Subscribed and sworn to before me this _____ day _____ (L.S.) of _____, 19 ___. Vice President [or other authorized officer]

EXHIBIT B

CUSTODIAN AFFIDAVIT

[For use in instances where a custodian bank maintains securities on deposit with The Depository Trust Company or like entity.]

STATE OF _____)

) SS:

COUNTY OF _____)

_____, being duly sworn deposes and says that he or she is _____ of _____, a banking corporation organized under and pursuant to the laws of the _____ with the principal place of business at _____ _____(hereinafter called the "bank"):

That his or her duties involve supervision of activities of the bank as custodian and records relating thereto;

That the bank is custodian for certain securities of _____ having a place of business at _____ (hereinafter called the "insurance company") pursuant to an agreement between the bank and the insurance company;

That the bank has caused certain of such securities to be deposited with _____ and that the schedule attached hereto is a true and complete statement of the securities of the insurance company of which the bank was custodian as of the close of business on _____, and which were so deposited on such date;

That the bank as custodian has the responsibility for the safekeeping of the securities both in the possession of the bank or deposited with _____ as is specifically set forth in the agreement between the bank as custodian and the insurance company; and

That, to the best of his or her knowledge and belief, unless otherwise shown on the schedule, the securities were the property of the insurance company and were free of all liens, claims or encumbrances whatsoever.

Subscribed and sworn to before me this _____ day _____ (L.S.) of _____, 19 ___ . Vice President [or other authorized officer]

EXHIBIT C

CUSTODIAN AFFIDAVIT

[For use where ownership is evidenced by book-entry at a

Federal Reserve Bank.]

STATE OF _____)

) SS:

COUNTY OF _____)

_____, being duly sworn deposes and says that he or she is _____ of _____, a banking corporation organized under and pursuant to the laws of the _____ with the principal place of business at _____ (hereinafter called the "bank"):

That his or her duties involve supervision of activities of the bank as custodian and records relating thereto;

That the bank is custodian for certain securities of _____ having a place of business at _____ (hereinafter called the "insurance company") pursuant to an agreement between the bank and the insurance company;

That the bank has caused certain securities to be credited to its book-entry account with the Federal Reserve Bank of _____ under the Federal Reserve book-entry procedure and that the schedule attached hereto is a true and complete statement of the securities of the insurance company of which the bank was custodian as of the close of business on _____, which were in a "general" book-entry account maintained in the name of the bank on the books and records of the Federal Reserve Bank _____ of at such date;

That the bank has the responsibility for the safekeeping of such securities both in the possession of the bank or in the "general" book-entry account as is specifically set forth in the agreement between the bank as custodian and the insurance company; and

That, to the best of his or her knowledge and belief, unless otherwise shown on the schedule, the securities were the property of the insurance company and were free of all liens, claims or encumbrances whatsoever.

Subscribed and sworn to before me this _____ day _____ (L.S.) of _____, 19 ___ . Vice President [or other authorized officer]

EXHIBIT D

MODEL CUSTODIAN AGREEMENT

[For use by a custodian bank who holds all or a majority of the assets of a domestic insurer.]

GEORIGA _____ COUNTY

THIS AGREEMENT, made and entered into between _____ _____ _____, incorporated under the laws of the State of Georgia (hereinafter referred to as "Principal"), and

_____ _____, _____ County, Georgia (hereinafter called "Custodian").

WITNESSETH:

WHEREAS, Principal is the owner of certain property, including book-entry securities, identified in Exhibit "1" attached hereto and made a part hereof which property Principal wishes to place in custody of Custodian in order that such properties may be preserved and serviced in the manner hereinafter specified, and Custodian is willing to undertake to preserve and service the same as hereinafter provided;

NOW THEREFORE, it is agreed between the parties hereto as follows:

1. Powers and Duties of Custodian. Custodian shall:

   (a) Hold and safekeep the assets either in its custody and control or, for a reasonable time, in the custody and control of an agent bank whenever the Custodian determines that custody by an agent bank will expedite the delivery of securities when purchased or sold. The record of all assets held in the custody and control of Custodian shall at all times be identified separately and apart from all other assets held by the Custodian, and such records must clearly identify these assets as belonging solely to the Principal.

   Notwithstanding the foregoing:

   (i) Custodian may deposit or arrange for the deposit of securities with a Federal Reserve Bank or with the Depository Trust Company or any other clearing corporation approved for this purpose by the Commissioner of Insurance of the State of Georgia ("Commissioner") and by the Securities and Exchange Commission, notwithstanding that such securities may be commingled in a book-entry account with, or may be merged and held in bulk in the name of such depository or its nominee with, other similar securities not belonging to Principal or held by Custodian.

   (ii) Custodian shall have liability or responsibility for any losses incurred with respect to securities deposited with a Federal Reserve Bank, approved clearing corporation or agent bank pursuant to the foregoing clause only to the extent provided in Paragraph 5.

   (iii) Custodian shall be entitled to rely on receipts, confirmations, statements, reports and other documentation concerning securities so deposited which Custodian shall receive from such Federal Reserve Bank, approved clearing corporation or agent bank electronically and shall have no responsibility to inquire into the validity or accuracy of such documentation unless it is reasonably apparent from the face thereof that such documentation is

invalid or inaccurate, or that there is a possibility of invalidity or inaccuracy which reasonably warrants further inquiry.

(iv) Custodian shall not be required to hold securities which would otherwise be within its custody or control or within the custody or control of an agent bank when such securities are in transit as a result of a sale, purchase or corporate action, and in the normal course of business would temporarily not be in the actual possession of Custodian. Custodian shall be required to insure such securities as they may be required to deliver during the period such securities are in transit.

(v) Custodian shall be authorized to deposit and hold assets consisting of securities of foreign issuers and obligators in the custody and control of subcustodian agents appointed by Custodian upon such terms as Custodian may reasonably agree with such subcustodian agents, including terms granting to subcustodian agents the power to deposit and hold securities in the custody and control of other subcustodians selected by subcustodian agents appointed by Custodian.

(b) Collect the dividends, interest, issues and income from the assets, and the principal at maturity as the same becomes due and payable. Custodian shall promptly forward to Principal information received by Custodian and requiring action by Principal, such as rights offerings, proxies, and calls or redemption of funds.

(c) Keep accurate books of the custody account and render to Principal monthly a statement accounting for the assets and their market value as of the date of such statement, and all receipts and disbursements in connection with the assets.

(d) Accumulate and hold all income or other cash receipts, from proceeds of sales or otherwise, collected or received by Custodian, subject to such disbursement and disposition as Principal may direct, or subject to such investment or reinvestment as Principal may direct from time to time.

(e) Take such action respecting sales of any assets and the investment or reinvestment of the proceeds thereof as Principal may direct from time to time.

(f) Except for securities held in bearer form or at an approved depository, be authorized to register any stock, bond or other security held in the custody and control of Custodian in nominee form provided such nominee is listed with the American Society of Corporate Secretaries, Inc., or any similar body publishing lists of nominees. Accurate records shall be maintained showing that any such security is a custodial asset hereunder. Assets physically held by Custodian in bearer or registered form, in nominee registration or at a Federal Reserve Bank, agent bank, Deporitory Trust Company or other approved clearing corporation shall at all times remain under the direction and control of Principal.

2. Return of Assets. Principal shall have the right at any time to direct Custodian to return to Principal all or any part of the Custodian assets, except that custodied securities used to meet the deposit requirements set forth in Chapter 12 of the Georgia Insurance Code shall, to the extent required by that section, be under the control of the Commissioner and shall not be withdrawn by Principal without the express written approval of the Commissioner.

3. Limitations on Duties. In performing said duties, Custodian shall serve Principal's interest with loyalty. Custodian, however, shall not be required to prepare or file any tax returns, render any legal services or institute or defend any legal proceedings in connection with this Agreement or the assets hereunder.

4. Notices; Reliance. Any notice, direction or instruction of Principal to Custodian shall be in writing, signed by at least one authorized person or shall be given orally, in person, by telephone, by facsimile or other electronic means by an authorized person followed promptly by written confirmation, or by acceptable electronic authorization signed by at least one authorized person. A person shall be deemed to be authorized to act for Principal for purposes hereof if his or her name, specimen signature and authority have been certified to Custodian by the Secretary or an Assistant Secretary of Principal over its corporate seal, and such person shall continue to be an authorized person until Custodian receives written notice to the contrary from the Secretary or an Assistant Secretary of the Principal over its corporate seal. Custodian shall act and be fully protected in acting in accordance with notice, direction or instruction reasonably believed by Custodian to have been given by an authorized person, and shall not be obligated to take any corrective action with respect thereto unless and directed to do so by Principal.

5. Indemnity. Custodian shall be responsible for losses or damage to the assets in its care, custody and control, including assets held at an agent bank, approved clearing corporation, Federal Reserve Bank, subcustodian bank or any other agent of Custodian, if such loss is occasioned by the dishonesty, willful acts or negligence of Custodian's officers or employees, fire, burglary, robbery, theft or mysterious disappearance. Under no circumstances shall Custodian be liable for consequential damages under this Agreement or for any cause whatsoever beyond its reasonable control including, but not limited to, acts of governmental authority, war, insurrection, nuclear reaction, or acts of God such as hurricane, tornado, earthquake or volcanic eruption. This indemnity provision shall survive the termination of this agreement.

6. Replacement of Losses. In the event there is an injury to or loss of assets while under the care, custody and control of Custodian or one of its agents or nominees, a Federal Reserve Bank or an approved clearing corporation, Custodian shall, promptly and upon demand by Principal, cause said securities to be replaced with securities of like kind and quality, together with all rights and privileges pertaining thereto or, if acceptable to Principal, replace the value thereof at the time of loss, together with the value at such time of any loss of any rights or privileges hereunder.

7. Termination of Agreement. This Agreement may be terminated at any time by either party upon thirty (30) days written notice to the other party. Upon such termination, all assets

remaining in the care, custody and control of the Custodian shall be delivered to Principal, its authorized agent or a successor custodian.

8. Compensation of Custodian. For its services hereunder, custodian shall be paid such compensation as may be provided in a separate agreement between Principal and Custodian or, in the absence of such agreement, shall receive the fees it normally charges for similar custodian services under its regularly published fee schedule as the same may from time to time be amended.

9. Inspection by Regulatory. The books and records of Custodian pertaining to its actions under this Agreement and assets held by the Custodian under this Agreement shall be open to inspection and audit at reasonable times by Principal's officers and auditors or by representatives of the Commissioner or any bank regulatory authority.

10. Regulatory Reporting. Custodian agrees to cooperate with Principal in providing the information necessary for the preparation of routine reports to Principal's stockholders, the Securities and Exchange Commission under forms N-1R and N-1Q, state "blue sky" authorities and other governmental agencies in connection with audits of Principal or other similar matters requiring access to the assets held by Custodian and all records applicable hereunder.

11. Modifications; Governing Law . This Agreement, together with any agreement regarding the compensation of Custodian referred to herein, shall constitute the entire agreement of the parties and no modifications shall be effective unless in writing signed by Custodian and Principal. The construction and interpretation of this Agreement and the rights, duties and liabilities of the parties hereunder shall be determined in accordance with the laws of the State of Georgia.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed by their duly authorized officers and their seals to be affixed and duly attested this _____day of _____, 19_____.

(CORPORATE SEAL) as Principal

Attest: By:

_____ _____

Title Title

(CORPORATE SEAL) as Custodian

Attest: By:

_____ _____

Title Title

Cite as Ga. Comp. R. & Regs. R. 120-2-69-.06
History. Original Rule entitled "Severability" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Subject 120-2-71. SALE OF ANNUITIES BY FINANCIAL INSTITUTIONS.

Rule 120-2-71-.01. Sale of Annuities by Financial Institutions.

(1) Fixed and variable annuities may be sold by certain lending institutions, bank holding companies, or subsidiaries or affiliates of either of the foregoing doing business in this State. However, fixed and variable annuities are underwritten by insurers and sold by insurance agents. Therefore, the purpose of this Regulation Chapter is to specify the requirements for the sale of fixed and variable annuities by lending institutions, bank holding companies, and their subsidiaries and affiliates.

(2) Nothing in this Regulation Chapter shall authorize any of the following activities by a lending institution, bank holding company, or subsidiary or affiliate of either.

(a) The sale of any fixed or variable annuity that is not underwritten by an insurer which has a certificate of authority to transact business in Georgia;

(b) The sale of any insurance product, not including a fixed or variable annuity, except as specifically authorized pursuant to O.C.G.A. § 33-3-23;

(c) Failure to comply with the licensing requirements for agents and agencies;

(d) Failure to comply with any other provisions of this Regulation Chapter with respect to the sale of fixed or variable annuities.

(e) Failure to comply with Title 33 of the Official Code of Georgia Annotated or the Rules and Regulations of the Commissioner of Insurance of the State of Georgia.

(f) Failure to comply with Title 7 of the Official Code of Georgia or the Rules and Regulations of the Department of Banking and Finance.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Sale of Annuities by Financial Institutions" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.02. Definitions.

As used in this Regulation Chapter, the term:

(a) "Agent" means a person, including corporations, subsidiary corporations, partnerships, non-natural persons, etc., associated with or in the form of a financial institution who represents one or more insurers and is engaged in the business of soliciting or procuring or accepting applications for annuity sales;

(b) "Agent" means an individual appointed or employed by an insurer who solicits or procures applications for insurance; who in any way, directly or indirectly, makes or causes to be made any insurance contract for or on account of an insurer, or who as a representative of an insurer receives money for transmission to the insurer for an insurance contract, anything in the application or contract to the contrary notwithstanding, and who has on file with the Commissioner a certificate of authority from each insurer with whom the agent places insurance;

(c) "Insurance/Annuity Agents" means an individual appointed or employed by a financial institution who solicits or procures applications for annuities; who in any way, directly or indirectly, makes or causes to be made any annuity contract for or on account of an insurer; and who has on file with the Commissioner a certificate of authority from each insurer with whom the agent places annuities;

(d) An "annuity" is a contract of insurance underwritten by an insurance company that pays an income benefit (monthly, quarterly, semiannually, or annually) for: 1.) the life of a person (annuitant), 2.) the lives of two or more persons, or 3.) a specified period of time. Payments are made for a stated period of time or for the life or lives of the person or persons specified in the contract. The term does not cover the proceeds of life insurance no matter how payable;

(e) "Financial Institution" means a state or national bank, building and loan or savings and loan association, bank holding company, or a subsidiary or affiliate of any of the above;

(f) A "fixed annuity" means one party agrees to pay to the annuitant a stipulated amount (monthly, quarterly, semiannually, or annually, as desired) throughout the annuitant's lifetime whereby the dollar amount will not fluctuate regardless of adverse changes in the insurance company's mortality experience, investment return, and expenses;

(g) A "variable annuity" means a contract that pays an annuitant income payments of which the amounts vary in accordance with the market value of the securities in the separate account of the insurer on the respective valuation days;

(h) An "annuitant" is a person who receives an income benefit from an annuity for life or for a specified period of time.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Definitions" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.03. Notification to Department of Intent to Sell Annuities In or Through Financial Institutions.

(1) Prior to marketing annuities, a financial institution shall provide notification to the Department of Insurance on Form GID 323FI and a copy to the Department of Banking and Finance (DBF). Such report shall:

(a) Identify any financial institution location where an insurance/annuity agent will be physically present. Each branch must be identified specifically in the registration;

(b) Acknowledge that the financial institution has read and understands these rules; and

(c) Identify any insurance company and the policy form numbers of the annuities which will be marketed in association with the financial institution.

(2) An Amended Form shall be filed within thirty (30) days if there is a change in any information previously submitted to the Department.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Notification to Department of Intent to Sell Annuities In or Through Financial Institutions" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.04. Financial Institutions Registering as an Agency.

(1) The conduct of annuity transactions in association with a financial institution shall be subject to the requirements of O.C.G.A. § 33-23-3 and Georgia Insurance Department Regulation 120-2-3-.05.

(2) Each financial institution where a licensed and appointed insurance/annuity agent is engaged in transactions with respect to annuity products shall be considered an insurance agency for purposes of O.C.G.A. § 33-23-3 and must register with this Department pursuant to Georgia Regulation Chapter 120-2-3-.05 using Form GID 130FI.

(3) GID Form 323FI must identify all locations or branches from which annuities will be sold.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23, 33-23-3.
History. Original Rule entitled "Financial Institutions Registering as an Agency" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.05. Licensure of Agents.

(1) Any individual soliciting, selling or marketing annuities to individuals permanently or temporarily residing in this state must be licensed and appointed as an insurance agent in accordance with the provisions of the Georgia Insurance Code and Georgia Insurance Department Regulation Chapter 120-2-22-.07.

(2) No licensed and appointed insurance/annuity agent shall, while working from within and on behalf of a financial institution, transact any lines of insurance other than annuities except to the extent permitted by O.C.G.A. § 33-3-23.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Licensure of Agents" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.06. Underwriting of Annuities Prohibited.

A financial institution may not itself directly or indirectly assume the obligation to provide the benefits of an annuity contract or otherwise undertake to perform the obligations of an annuity.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-3-2, 33-3-23.
History. Original Rule entitled "Underwriting of Annuities Prohibited" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.07. Location for the Sale of Annuities.

(1) If annuities are sold on the premises of a financial institution, the area utilized by an insurance agent for such transactions must be sufficiently segregated and distinct from areas utilized by the financial institution for accepting insured deposits so as to avoid confusion as to the separate identities and activities of the financial institution and the licensed agent.

(2) No insurance agent or employee of the financial institution shall under any circumstances conduct annuity transactions from the teller area. See DBF Regulation 80-5-3-.05

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Location for the Sale of Annuities" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.08. Insurer Reporting.

(1) Any insurer marketing annuities in association with one or more financial institutions shall report the existence of such program and the volume of premium written when the

gross annualized premium for such program or programs exceeds or is projected to exceed 10% of the gross annual premium for that line.

(2) Such report shall be made to the Commissioner of Insurance on Form GID 323INS and shall include:

(a) the program name;

(b) the name of the associated financial institution (including branches);

(c) the form number of each annuity offered; and

(d) the total annualized premium.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Insurer Reporting" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.09. Agent Activities.

(1) Only a licensed and appointed agent shall:

(a) solicit the sale of annuities or describe the benefits of the annuity contract or otherwise describe the terms of coverage including premiums or rates of return;

(b) provide an application, enrollment form or other document by which a purchaser effectuates coverage; or

(c) accept an initial premium payment from the annuity purchaser.

(2) In connection with the marketing of fixed or variable annuities, employees of a financial institution who are not licensed and appointed as insurance agents shall not:

(a) make general or specific recommendations as to fixed or variable annuities;

(b) qualify or screen a purchaser for such products;

(c) respond to questions from prospective purchasers regarding annuity products. Any individual seeking general or specific information about annuity contracts shall be advised as to the location of the licensed agent or otherwise advise as to how the agent may be contacted; or

(d) refer to fixed or variable annuities as any type of deposit product or insured deposit.

(3) The licensed and appointed insurance/annuity agent shall be identified as an insurance/annuity agent on stationery and business cards utilized by the licensee, on other materials provided to the purchaser as well as in any verbal discussions with the annuity purchaser. If the agent is licensed as a securities broker, the additional license may be disclosed on the materials as well as in any verbal discussions with the annuity purchaser regarding annuity products, provided the marketer is also identified as an insurance/annuity agent.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23, 33-6-12.
History. Original Rule entitled "Agent Activities" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.10. Disclosure of Employment Status for Agents Employed by Financial Institutions.

If employees of the financial institution that have contact with the general public or financial institution customers with respect to lending, checking, deposit taking, or trust activities are licensed as insurance agents to sell annuities, in addition to the other disclosures required by this section, the employee shall disclose verbally at the time a solicitation is made or an application is taken that the employee is acting as an insurance agent representing one or more specifically identified insurance companies, and that the annuity is not issued or guaranteed by the financial institution.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23, 33-6-12.
History. Original Rule entitled "Disclosure of Employment Status for Agents Employed by Financial Institutions" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.11. Premium Collection.

(1) Only a licensed agent or insurance/annuity agent may accept the initial premium paid for an annuity contract.

(2) A financial institution or affiliate may, at the request of the annuity purchaser, send premium billings or notices to annuity purchasers and debit the purchaser's account or credit arrangement for the payment of annuity premiums subsequent to the initial payment. Upon the written request of the annuity purchaser or insurer to discontinue this form of premium payment, the financial institution shall immediately discontinue such debits.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.11
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Premium Collection" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.12. Utilization of Independent Agents in Financial Institutions.

(1) Any financial institution may contract with agents or an insurance agency on a full-time or part-time basis for the sale of annuity products from bank locations. Such agents shall be appointed by the licensed insurers issuing and underwriting the annuity product. Commissions shall be paid to the agent or agency and may be paid to the financial institution subject to the conditions of paragraphs 2 and 3 of this section.

(2) An insurance agent or agency may not share any commissions with the financial institution and the financial institution shall not accept any such commission unless the financial institution has registered as an agency using the GID Form 130FI.

(3) Any lease of space by a financial institution to an insurance agent under which the amount of the rent is based directly or indirectly on the volume of premium written by the insurance agent entails the sharing of commission.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.12
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23, 33-23-4.
History. Original Rule entitled "Utilization of Independent Agents in Financial Institutions" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.13. Compensation of Agents.

Licensed independent agents may be paid by an insurer for their activities in connection with the sale of annuities. The insurers and agent shall independently determine the terms of the agent contract including compensation.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.13
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23, 33-23-4.
History. Original Rule entitled "Compensation of Agents" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.14. Access to Records and Premises.

(1) An insurance agent marketing annuities is responsible for maintaining such records as are necessary to enable the Department to determine that transactions under his or her license comply with all applicable requirements of the insurance code and for making such records available to the Georgia Insurance Department.

(2) If the licensed insurance agent markets other products, provides other services, or maintains other information regarding the customer which related to other than annuity transactions, all records relating to annuity transactions shall be separately maintained.

(3) The Commissioner of Insurance shall have access to the books and records relating to the sale of annuities irrespective of the physical location of such books and records.

(4) A contract or agreement regarding the sale of annuities between the financial institution and any independent insurance agent or other person conducting annuity transactions shall be in writing and available for inspection by the Georgia Insurance Department.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.14
Authority: O.C.G.A. Secs. 33-2-9, 33-2-11, 33-3-23.
History. Original Rule entitled "Access to Records and Premises" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.15. Advertising.

(1) Advertisements of fixed and variable annuities marketed pursuant to this regulation shall be subject to the provisions of O.C.G.A. § 33-6-1*et seq.* and Georgia Insurance Department Regulation 120-2-11 and the applicable provisions of Department of Banking and Finance Regulation 80-5-3-.07.

(2) No licensed or unlicensed person shall in connection with the marketing of annuities refer to coverage available by the Georgia Life and Health Insurance Guaranty Association, unless specifically asked by the annuity purchaser.

(3) If annuity advertisements directed to prospective purchasers are included in mailings of bank statements or other documents generated by the financial institution relating to products or services provided by the financial institution, the mailings shall clearly identify the separate sources of the materials.

(4) If the product or program named under which an annuity is marketed includes the name of a financial institution or the name of a program associated with the financial institution, the product or program name must also identify the insurance company which is issuing and underwriting the annuity.

(5) Premiums shall not be referred to as "deposits." Terminology used in connection with annuities must be sufficiently different than that used in connection with traditional banking products and services so as to avoid confusion.

(6) Advertisements of annuities are the responsibility of the insurer and are subject to review by the Georgia Insurance Department. If an advertisement describes annuity products and other types of financial services or investments, the entire advertisement must be submitted to the Georgia Insurance Department in the form in which it will be communicated to consumers.

(7) An unlicensed employee of a financial institution may distribute an advertisement describing an annuity product to a prospective annuity purchaser or may refer a customer to a display containing such advertisements. However, that employee shall not recommend the purchase of an annuity, describe the features of an annuity, or respond to questions regarding the content of the advertisement. In response to any questions, the employee must indicate that the consumer should pose that question to the licensed agent.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.15
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23, 33-6-1*et seq.*, 33-38-21.
History. Original Rule entitled "Advertising" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.16. Communication with Annuitants.

Premium notices, notices of cancellation, renewal notices, statements of annuity values or other communications relating to inforce annuities shall be separated from financial institution account information.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.16
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23, 33-6-1*et seq.*
History. Original Rule entitled "Communication with Annuitants" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.17. Disclosures to Prospective and Existing Annuitants.

Disclosures to the customer must be made in accordance with Department of Banking and Finance Regulation 80-5-3-.08.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.17
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Disclosures to Prospective and Existing Annuitants" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.18. Joint Announcements.

Endorsements, announcements, or advertisements, regarding annuities by a financial institution in conjunction with an agent or insurer, communicated to financial institution customers or prospective customers by direct mail or otherwise shall be subject to the requirements of O.C.G.A. § 33-6-1*et seq.*.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.18
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23, 33-6-1*et seq.*
History. Original Rule entitled "Joint Announcements" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.19. Anti-Tying Provisions.

(1) No person may by words, actions, or distribution of written materials require or create the impression that the purchase of an annuity by a borrower or prospective borrower is required as a condition of or is in any way related to the lending of money or the extension of credit, the establishment or maintenance of a trust account, the establishment or maintenance of an insured deposit account, or the provision of services related to such activities.

(2) If annuities are marketed in connection with or in conjunction with any activities described in this section:

(a) The marketer shall disclose both verbally and in writing that the purchase of an annuity is unrelated to and not a condition to the provision or term of any banking services or activity. The written disclosure required by this section shall be part of the disclosures required by the Department of Banking and Finance Regulation 80-5-3-.08.

(b) If an annuity product is offered in a package with other services described in (1) above, the financial institution shall offer the annuity product available separately, subject to the terms and conditions no less favorable to the consumer than in the package

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.19
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23, 33-6-1*et seq.*
History. Original Rule entitled "Anti-Tying Provisions" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.20. Related Laws and Rules.

In addition to the statutes and rules referenced herein products and transactions addressed by these Rules shall be subject to all applicable provisions of Title 33 and Title 7 of the Official Code of Georgia Annotated.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.20
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Related Laws and Rules" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.21. Penalties.

Any person, insurer, agent, agency, or financial institution violating the provisions of this Regulation Chapter shall be subject to the administrative actions and procedures, including but not limited to suspension, fine, revocation of license, as provided to the Commissioner of Insurance and/or the Commissioner of Banking and Finance pursuant to O.C.G.A. § 33-23-21 and § 7-1-91.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.21
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Penalties" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-71-.22. Severability.

If any provision of this Regulation Chapter or the application of it to any person or circumstance is held invalid, such invalidity shall not affect the provisions or applications of the rules herein

which can be given effect without the invalid portion. To that end, the provisions of this rule are declared to be severable.

Cite as Ga. Comp. R. & Regs. R. 120-2-71-.22
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Severability" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Subject 120-2-72. SPECIAL INSURANCE FRAUD FUND.

Rule 120-2-72-.01. Authority.

This Regulation Chapter is made and promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. § 33-1-17.

Cite as Ga. Comp. R. & Regs. R. 120-2-72-.01
Authority: O.C.G.A. Secs. 33-1-17, 33-2-9.
History. Original Rule entitled "Authority" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.
Amended: F. Dec. 4, 2008; eff. Dec. 24, 2008.

Rule 120-2-72-.02. Purpose.

The purpose of this Regulation Chapter is:

(a) to provide for the proper and expeditious investigation and prosecution of fraudulent insurance acts through the establishment of a Special Insurance Fraud Fund;

(b) to establish guidelines for the administration of the Special Insurance Fraud Fund, including the annual assessment of insurers doing business in this State;

(c) to provide terms and conditions for the use of the funds of the Special Insurance Fraud Fund.

Cite as Ga. Comp. R. & Regs. R. 120-2-72-.02
Authority: O.C.G.A. Secs. 33-1-17, 33-2-9.
History. Original Rule entitled "Purpose" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.
Amended: F. Dec. 4, 2008; eff. Dec. 24, 2008.

Rule 120-2-72-.03. Applicability.

This Regulation Chapter shall apply to foreign, alien and domestic insurance companies doing business in the State of Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-72-.03
Authority: O.C.G.A. Secs. 33-1-17, 33-2-9.

History. Original Rule entitled "Applicability" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.
Amended: F. Dec. 4, 2008; eff. Dec. 24, 2008.

Rule 120-2-72-.04. Definitions.

For the purposes of this Regulation Chapter, the following words shall be defined as follows:

(a) "Commissioner" shall mean the Commissioner of Insurance of the State of Georgia; and

(b) "Special Insurance Fraud Fund" shall mean the fund established by O.C.G.A. § 33-1-17 for the purpose of funding the investigation of insurance fraud.

Cite as Ga. Comp. R. & Regs. R. 120-2-72-.04
Authority: O.C.G.A. Secs. 33-1-17, and 33-2-9.
History. Original Rule entitled "Definitions" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.
Amended: F. Dec. 4, 2008; eff. Dec. 24, 2008.
Repealed: New Rule of same title adopted. F. Jun. 7, 2013; eff. Jun. 27, 2013.

Rule 120-2-72-.05. Participation in Fund.

(1) On or before July 1 of the year of the approval of the appropriation specified in O.C.G.A. § 33-1-17, the Commissioner shall assess each foreign, alien and domestic insurance company doing business in Georgia on the following basis:

(a) Each insurer whose Georgia written premium is less than $1,000,000.00, including those insurers whose Georgia written premium is zero or less than zero, will each be assessed a fixed amount not more than the minimum amount assessed an insurer with Georgia written premium of $1,000,000.00 or greater;

(b) Each insurer whose Georgia written premium is $40,000,000.00 or greater but less than $100,000,000.00, an assessment equal to .0035 times the appropriated amount;

(c) Each insurer whose Georgia written premium is $100,000,000.00 or greater but less than $500,000,000.00, an assessment equal to .0045 times the appropriated amount;

(d) Each captive insurer - other than the following domestic captive insurance companies: an agency captive insurance company, dormant captive insurance company, industrial insured captive insurance company, sponsored captive insurance company (including a protected cell thereof), or pure captive insurance company - shall be assessed a fixed amount of $100.00, without regard to the amount of premium written;

(e) Each insurer whose Georgia written premium is $500,000,000.00 or greater but less than $1,000,000,000.00, an assessment equal to .0055 times the appropriated amount;

(f) Each insurer whose Georgia written premium is $1,000,000,000.00 or greater, an assessment equal to .0065 times the appropriated amount;

(g) Regarding each insurer not included in (a) through (f) herein, an assessment shall be computed on a pro-rata basis of the remainder of the appropriation for each insurer whose Georgia written premium is $1,000,000.00 or greater but less than $40,000,000.00.

(2) Written premium is premiums written in GEORGIA ONLY, including annuity considerations and is determined prior to reinsurance transactions. Written premium is determined from the most recent annual statement on file with the Commissioner at the time the assessment calculations are made.

(3) Assessments based on the annual appropriation shall be due on September 1 of the year of the assessment.

(4) In the event of a supplemental appropriation, the assessment will be made as soon as practicable after approval of the appropriation, and will be due thirty (30) days after assessment.

(5) Any assessment levied pursuant to this Regulation Chapter which is not remitted to the Georgia Insurance Department on or before the due date shall be deemed delinquent and subject to a penalty of 10% of the amount owed, together with interest on the principal at the rate of 1% per month, or any part of a month, from the date due until the date paid. Such penalty and interest, if any, shall be transmitted by the Commissioner to the State Treasury and shall not act to increase the funds available for the purposes described in O.C.G.A. § 33-1-17.

Cite as Ga. Comp. R. & Regs. R. 120-2-72-.05
Authority: O.C.G.A. §§ 33-1-17, 33-2-9.
History. Original Rule entitled "Participation in Fund" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.
Amended: ER. 120-2-72-0.15-.05 adopted. F. June 29, 2005; eff. June 28, 2005, the date of adoption.
Amended: Permanent Rule adopted. F. June 24, 2005; eff. July 14, 2005.
Amended: F. Dec. 4, 2008; eff. Dec. 24, 2008.
Repealed: New Rule of same title adopted. F. Jun. 7, 2013; eff. Jun. 27, 2013.
Amended: F. Sep. 21, 2015; eff. Oct. 11, 2015.
Amended: F. Dec. 12, 2016; eff. Jan. 1, 2017.
Amended: F. Mar. 20, 2020; eff. Apr. 13, 2020, as specified by the Agency.

Rule 120-2-72-.06. Terms and Conditions for Use of Funds.

(1) The Commissioner may utilize the funds from the Special Insurance Fraud Fund for the investigation of insurance fraud. For purposes of this Regulation, investigation of insurance fraud shall include but not be limited to investigations carried out under official authority by law enforcement personnel employed by the Commissioner, and examinations of annual or other required statements by personnel employed or appointed by the Commissioner to identify any false material statement therein. In addition, the Commissioner may utilize a portion of said funds to reimburse prosecuting attorneys for some or all of the costs of retaining assistant prosecuting attorneys to prosecute insurance fraud cases when it is determined by the Commissioner that extraordinary circumstances exits necessitating such reimbursement.

(2) In an effort to spend the funds from the Special Insurance Fraud Fund responsibly and in a manner that will lead to proper and expeditious investigation and prosecution of fraudulent insurance acts, the following conditions apply:

(a) Expenses of independent contractors reimbursed with funds from the Special Insurance Fraud Fund shall be calculated in accordance with Georgia Insurance Department procedures regarding expense accounts;

(b) All items submitted for reimbursement must be fully documented and are subject to audit by the Georgia Insurance Department;

(c) Any independent contractors utilized by the Georgia Insurance Department for the purposes outlined in O.C.G.A. § 33-1-17 must receive advance written authorization from the Commissioner before any request for reimbursement will be considered.

Cite as Ga. Comp. R. & Regs. R. 120-2-72-.06
Authority: O.C.G.A. Secs. 33-1-17, and 33-2-9.
History. Original Rule entitled "Terms and Conditions for Use of Funds" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.
Amended: F. Dec. 4, 2008; eff. Dec. 24, 2008.
Repealed: New Rule of same title adopted. F. Jun. 7, 2013; eff. Jun. 27, 2013.

Rule 120-2-72-.07. Penalties.

Any person failing to comply with the requirements of this Regulation Chapter shall be subject to penalties and other enforcement action as may be appropriate under the insurance laws of this State as well as any other applicable Georgia law.

Cite as Ga. Comp. R. & Regs. R. 120-2-72-.07
Authority: O.C.G.A. Secs. 33-1-17, 33-2-9.
History. Original Rule entitled "Penalties" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.
Amended: F. Dec. 4, 2008; eff. Dec. 24, 2008.

Rule 120-2-72-.08. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-72-.08
Authority: O.C.G.A. Sec. 33-1-17.
History. Original Rule entitled "Severability" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.
Amended: F. Dec. 4, 2008; eff. Dec. 24, 2008.
Repealed: New Rule of same title adopted. F. Jun. 7, 2013; eff. Jun. 27, 2013.

Subject 120-2-73. Appendix - .05.

Rule 120-2-73-.01. Purpose.

(1) The purpose of this Chapter of the Rules and Regulation of the Office of Commissioner of Insurance is to require insurers to deliver to prospects for annuity contracts, for annuity riders to life insurance policies, or for deposit funds accepted in conjunction with life insurance policies or annuity contracts, information which helps the prospect select an annuity or deposit fund, or both, appropriate to the prospect's needs; improves the prospect's understanding of the basic features of the plan under consideration; and improves the prospect's ability to evaluate the relative benefits of similar plans.

(2) This regulation does not prohibit the use of additional material which is not in violation of this regulation or any other Georgia statute or regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-73-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-6-12.
History. Original Rule entitled "Purpose" adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.
Amended: F. Oct. 8, 2014; eff. Jan. 1, 2015, as specified by the Agency.

Rule 120-2-73-.02. Scope.

(1) To the extent hereinafter provided, this regulation shall apply to any solicitation, negotiation or procurement of annuity contracts, or deposit funds accepted in conjunction with individual life insurance policies or with annuity contracts which are subject to this regulation, occurring within this state. The regulation shall apply to any issuer of life insurance policies or annuity contracts, including fraternal benefit societies. For the purpose of this regulation, annuity contracts include annuity riders to life insurance policies.

(2) This regulation shall apply to:

(a) Individual deferred annuities and group annuities.

(b) Deposit funds (i.e. arrangements under which amounts to accumulate at interest are paid in addition to life insurance premiums or annuity considerations under provisions of individual life insurance policies or annuity contracts).

(3) This regulation shall not apply to:

(a) Group annuity contracts whose cost is borne in whole or in part by the annuitant's employer or by an association of which the annuitant is a member. The cost of a contract shall be deemed to be borne by an annuitant's employer to the extent the annuitant's salary is reduced or the annuitant forgoes a salary increase;

(b) Immediate annuity contracts;

(c) Policies or contracts issued in connection with employee benefit plans as defined by Section 3(3) of the federal Employee Retirement Income Security Act of 1974 (ERISA) as amended from time to time;

(d) Individual retirement accounts and individual retirement annuities as described in Section 408 of the federal Internal Revenue Code;

(e) A single advance payment of specific premiums equal to the discounted value of such premiums;

(f) A policyholder's deposit account established primarily to facilitate payment of regular premiums and where the anticipated balance of such account does not exceed twice the sum of the premiums payable in one year on all policies for which premiums are being paid from such account.

Cite as Ga. Comp. R. & Regs. R. 120-2-73-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-6-12.
History. Original Rule entitled "Scope" adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.
Amended: F. Oct. 8, 2014; eff. Jan. 1, 2015, as specified by the Agency.

Rule 120-2-73-.03. Buyer's Guide to Annuities.

For purposes of this regulation, "Buyer's Guide to Annuities" means the document which contains, and is limited to, the language set forth in the Appendix to this regulation or language approved by the Commissioner of Insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-73-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-6-12.
History. Original Rule entitled "Buyer's Guide to Annuities" adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.

Rule 120-2-73-.04. Contract Summary.

(1) The Contract Summary must be a separate document. All information required to be disclosed must be set out in such a manner as not to minimize or render any portion thereof obscure. Any amounts which remain level for two or more contract years may be represented by a single number if it is clearly indicated what amounts are applicable for each contract year. Amounts in subparagraphs (2)(f), (g), (i) and (k)3 of this section shall, in the Case of flexible premium annuity contracts, be determined either according to an anticipated pattern of consideration payments or on the assumption that considerations payable will be $100 a month or $1,000 per year. If not specified in the contract, annuity payments shall be assumed to commence at age sixty-five or ten years from issue, whichever is later. Zero amounts shall be displayed as zero and shall not be displayed as blank spaces.

(2) For purposes of this regulation, "Contract Summary" means a written statement describing the elements of the annuity contract and deposit fund, including but not limited to, where applicable, the following:

(a) A prominently placed title as follows: "Contract Summary" (This shall be followed by an identification of the annuity contract or deposit fund, or both, to which the summary applies);

(b) The name and address of the insurance agent or, if no agent is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the Contract Summary;

(c) The full name and home office or administrative office address of the insurer which will issue the annuity contract or administer the deposit fund;

(d) One of the options under the contract available for annuity payout. This form of annuity payout should be used for providing information in subparagraphs (2)(f), (g) and (i) of this section;

(e) A prominent statement that the contract does not provide cash surrender values if such is the case;

(f) The amount of the guaranteed annuity payments at the scheduled commencement of the annuity, based on the assumption that all scheduled considerations are paid and there are no prior withdrawals from or partial surrender of the contract and no indebtedness to the insurer on the contract;

(g) On the same basis as for subparagraph (2)(f) of this section except for guarantees, illustrative annuity payments not greater in amount than those based on

1. the current dividend scale and the interest rate currently used to accumulate dividends under such contracts, or the current excess interest rate credited by the insurer, and

2. current annuity purchase rates.

   A dividend scale or excess interest rate which has been publicly declared by the insurer with an effective date not more than two months subsequent to the date of declaration shall be considered a current dividend scale or current excess interest rate;

(h) For annuity contracts or deposit funds for which guaranteed cash surrender values at any duration are less than the total considerations paid, a prominent statement that such contract or fund may result in loss if kept for only a few years, together with a reference to the schedule of guaranteed cash surrender values required by subparagraph (2)(i)3. of this section;

(i) The following amounts, where applicable, for the first ten contract years and representative contract years thereafter sufficient to clearly illustrate the patterns of considerations and benefits, including but not limited to, the twentieth contract year and at least one age from 60-70 and at the scheduled commencements of annuity payments:

1. The gross annual or single consideration for the annuity contract. Any additional considerations for optional benefits, such as disability premium waiver, should be shown separately;

2. Scheduled annual or single deposit for the deposit fund, if any;

3. The total guaranteed death benefit and cash surrender value at the end of the year; or, if no guaranteed cash surrender values are provided, the total guaranteed paid-up annuity at the end of the year. Values for a deposit fund must be shown separately from those for a basic contract;

4. The total illustrative death benefit and cash surrender value or paid-up annuity at the end of the year, not greater in amount than that based on:

   (i) the current dividend scale and the interest rate currently used to accumulate dividends under such contracts or the current excess interest rate credited by the insurer, and

   (ii) current annuity purchase rates.

   A dividend scale or excess interest rate which has been publicly declared by the insurer with an effective date not more than two months subsequent to the date of declaration shall be considered a current dividend scale or current excess interest rate.

(j) For a Contract Summary which includes values based on the current dividend scale or the current dividend accumulation or excess interest rate, a statement that such values are illustrations and are not guaranteed.

(k) The following should be shown with regard to the consideration for the basic annuity contract or deposit fund. Considerations applicable to optional benefits, such as disability premium waiver, should be excluded.

1. A statement of all fees, charges and loading amounts that are or may be deducted from initial or subsequent considerations paid or that are or may be deducted from the contract or fund values prior to or at contract maturity, including but not limited to any surrender penalties, discontinuance fees, partial surrender or withdrawal penalties or fees, transaction fees, and account maintenance fees.

2. A statement of the interest rates used in calculating the guaranteed and illustrative contract or fund values.

3. The yield on gross considerations at the end of ten years (if the annuity payments have not yet commenced) and at the scheduled commencement of annuity payments. For contracts without surrender values, only the yield at the scheduled commencement of annuity payments need be shown. The yield shall be figured on the basis of the contract value used to determine the annuity payments. These yield figures shall be shown on both a guaranteed and illustrative basis. They represent the effective annual interest rates at which the accumulation of 100% of all gross considerations would be equal to the guaranteed and illustrative cash surrender values at the points specified. For contracts without surrender values the yields shall be figured on the basis of the contract values used to determine annuity payments at the points specified.

(l) The date on which the Contract Summary is prepared.

Cite as Ga. Comp. R. & Regs. R. 120-2-73-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-6-12.
History. Original Rule entitled "Contract Summary" adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.

Rule 120-2-73-.05. Disclosure Requirements.

(1) The insurer shall provide to all prospective purchasers a Buyer's Guide to Annuities and a Contract Summary prior to accepting the applicant's initial consideration for the annuity contract, or in the case of a deposit fund, prior to acceptance of the applicant's initial consideration for the associated life insurance policy or annuity contract, unless the annuity contract or associated life insurance policy for which application is made

provides for an unconditional refund period of at least ten days or unless the Contract Summary contains such an unconditional refund offer, in which event the Buyer's Guide to Annuities and the Contract Summary must be delivered with or prior to the delivery of the annuity contract or associated life insurance policy.

(2) The insurer shall provide a Buyer's Guide to Annuities and a Contract Summary to any prospective purchaser or present policyholder upon request.

Cite as Ga. Comp. R. & Regs. R. 120-2-73-.05
Authority: O.C.G.A Secs. 33-2-9, 33-6-12.
History. Original Rule entitled "Disclosure Requirements" adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.

Rule 120-2-73-.06. General Rules.

(1) Each insurer shall maintain at its home office or principal office, a complete file containing one copy of each document authorized by the insurer for use pursuant to this regulation. Such file shall contain one copy of each authorized form for a period of at least three years following the date of its last authorized use.

(2) An agent shall inform the prospective purchaser, prior to commencing a sales presentation, that the agent is acting as a life insurance agent and shall inform the prospective purchaser of the full name of the insurance company which the agent is representing to the buyer. In sales situations in which an agent is not involved, the insurer shall identify its full name.

(3) Terms such as financial planner, investment advisor, financial consultant or financial counseling shall not be used in such a way as to imply that the insurance agent is generally engaged in an advisory business in which compensation is unrelated to sales, unless such is actually the case.

(4) Any reference to dividends or to excess interest credits must include a statement that such dividends or excess interest credits are not guaranteed.

(5) A presentation of benefits shall not display guaranteed and nonguaranteed benefits as a single sum unless guaranteed benefits are shown separately in close proximity thereto and with equal prominence.

(6) Sales promotion literature and contract forms shall not state or imply that annuity contracts or deposit funds are the same as savings accounts or deposits in banking or savings institutions. The use of passbooks which resemble savings bank passbooks is prohibited.

Cite as Ga. Comp. R. & Regs. R. 120-2-73-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-6-12.

History. Original Rule entitled "General Rules" adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.

Rule 120-2-73-.07. Failure to Comply.

Failure of an insurer to provide or deliver a Buyer's Guide to Annuities and a Contract Summary as provided in Section 120-2-72-.05 shall constitute an omission which misrepresents the benefits, advantages, conditions or terms of an annuity contract or of an insurance policy.

Cite as Ga. Comp. R. & Regs. R. 120-2-73-.07
Authority: O.C.G.A Secs. 33-2-9, 33-6-12.
History. Original Rule entitled "Failure to Comply" adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.

Rule 120-2-73-.08. Severability.

If any section or portion of a section of this Regulation or application thereof to any insurer, producer, or circumstances is held invalid by a court of competent jurisdiction, the remainder of the rules or the applicability of such provisions to other insurers, producers, or circumstances, shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-2-73-.08
Authority: O.C.GA Sec. 33-2-9.
History. Original Rule entitled "Severability" adopted. F. Nov. 25, 1996; eff. Dec. 15, 1996.

Appendix (120-2-73) Buyer's Guide to Annuities

The "Buyer's Guide to Annuities" exists in three versions. Those versions are titled "Buyer's Guide for Deferred Annuities - Fixed," "Buyer's Guide for Deferred Annuities - Variable," and simply "Buyer's Guide for Deferred Annuities." The last of these three versions addresses both fixed and variable deferred annuity products. The annuity salesperson (the agent, producer, broker, or advisor) is required to provide the consumer with at least one of these three versions appropriate to the consumer's interests.

The information in the Buyer's Guide is meant to be helpful to consumers but does not constitute legal, financial, or tax advice. Consumers may want to consult independent advisors that specialize in those areas.

The information in the Buyer's Guide focuses on some of the most common features of annuity products. An annuity selected may have unique features that are not covered by the information provided.

It is important that consumers carefully read the material provided and ask their annuity salesperson questions. Each version of the Buyer's Guide contains questions that consumers should ask their annuity salesperson. Consumers should be satisfied with their salesperson's

answers before purchasing annuity products. This overview of the Buyer's Guide is not required to be distributed to consumers.

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What Is an Annuity?

An annuity is a contract with an insurance company. All annuities have one feature in common, and it makes annuities different from other financial products. With an annuity, the insurance company promises to pay you income on a regular basis for a period of time you choose-including the rest of your life.

When Annuities Start to Make Income Payments

Some annuities begin paying income to you soon after you buy it (an immediate annuity). Others begin at some later date you choose (a deferred annuity).

How Deferred Annuities Are Alike

There are ways that most deferred annuities are alike.

* They have an accumulation period and a payout period. During the accumulation period, the value of your annuity changes based on the type of annuity. During the payout period, the annuity makes income payments to you.

* They offer a basic death benefit. If you die during the accumulation period, a deferred annuity with a basic death benefit pays some or all of the annuity's value to your survivors (called beneficiaries) either in one payment or multiple payments over time. The amount is usually the greater of the annuity account value or the minimum guaranteed surrender value. If you die after you begin to receive income payments (annuitize), your chosen survivors may not receive anything unless: 1) your annuity guarantees to pay out at least as much as you paid into the annuity, or 2) you chose a payout option that continues to make payments after your death. For an extra cost, you may be able to choose enhanced death benefits that increase the value of the basic death benefit.

* You usually have to pay a charge (called a surrender or withdrawal charge) if you take some or all of your money out too early (usually before a set time period ends). Some annuities may not charge if you withdraw small amounts (for example, 10% or less of the account value) each year.

* Any money your annuity earns is tax deferred. That means you won't pay income tax on earnings until you take them out of the annuity.

* You can add features (called riders) to many annuities, usually at an extra cost.

* An annuity salesperson must be licensed by your state insurance department. A person selling a variable annuity also must be registered with FINRA [1] as a representative of a broker/dealer that's a FINRA member. In some states, the state securities department also must license a person selling a variable annuity.

* Insurance companies sell annuities. You want to buy from an insurance company that's financially sound. There are various ways you can research an insurance company's financial strength. You can visit the insurance company's website or ask your annuity salesperson for more information. You also can review an insurance company's rating from an independent rating agency. Four main firms currently rate insurance companies. They are A.M. Best Company, Standard and Poor's Corporation, Moody's Investors Service, and Fitch Ratings. Your insurance department may have more information about insurance companies. An easy way to find contact information for your insurance department is to visit www.naic.org and click on "States and Jurisdictions Map."

* Insurance companies usually pay the annuity salesperson after the sale, but the payment doesn't reduce the amount you pay into the annuity. You can ask your salesperson how they earn money from the sale.

Sources of Information

Contract: *The legal document between you and the insurance company that binds both of you to the terms of the agreement.*

Disclosure:*A document that describes the key features of your annuity, including what is guaranteed and what isn't, and your annuity's fees and charges. If you buy a variable annuity, you'll receive a prospectus that includes detailed information about investment objectives, risks, charges, and expenses.*

Illustration: *A personalized document that shows how your annuity features might work. Ask what is guaranteed and what isn't and what assumptions were made to create the illustration.*

How Deferred Annuities Are Different

There are differences among deferred annuities. Some of the differences are:

* Whether you pay for the annuity with one or more than one payment (called a premium).

* The types and amounts of the fees, charges, and adjustments. While almost all annuities have some fees and charges that could reduce your account value, the types and amounts can be different among annuities. Read the Fees, Charges, and Adjustments section in this Buyer's Guide for more information.

* Whether the annuity is a fixed annuity or a variable annuity. How the value of an annuity changes is different depending on whether the annuity is fixed or variable.

Fixed annuities guarantee your money will earn at least a minimum interest rate. Fixed annuities may earn interest at a rate higher than the minimum but only the minimum rate is guaranteed.

The insurance company sets the rates.

Fixed indexed annuities are a type of fixed annuity that earns interest based on changes in a market index, which measures how the market or part of the market performs. The interest rate is guaranteed to never be less than zero, even if the market goes down.

Variable annuities earn investment returns based on the performance of the investment portfolios, known as "subaccounts," where you choose to put your money. The return earned in a variable annuity isn't guaranteed. The value of the subaccounts you choose could go up or down.

If they go up, you could make money. But, if the value of these subaccounts goes down, you could lose money. Also, income payments to you could be less than you expected.

* Some annuities offer a premium bonus, which usually is a lump sum amount the insurance company adds to your annuity when you buy it or when you add money. It's usually a set percentage of the amount you put into the annuity. Other annuities offer an interest bonus, which

is an amount the insurance company adds to your annuity when you earn interest. It's usually a set percentage of the interest earned. You may not be able to withdraw some or all of your premium bonus for a set period of time. Also, you could lose the bonus if you take some or all of the money out of your annuity within a set period of time.

How Does the Value of a Deferred Annuity Change?

Fixed Annuities

Money in a fixed deferred annuity earns interest at a rate the insurer sets. The rate is fixed (won't change) for some period, usually a year. After that rate period ends, the insurance company will set another fixed interest rate for the next rate period. That rate could be higher or lower than the earlier rate .

Fixed deferred annuities do have a guaranteed minimum interest rate-the lowest rate the annuity can earn. It's stated in your contract and disclosure and can't change as long as you own the annuity. Ask about:

* The initial interest rate - What is the rate? How long until it will change?

* The renewal interest rate - When will it be announced? How will the insurance company tell you what the new rate will be?

Fixed Deferred Indexed Formulas

Annual Point-to-Point - *Change in index calculated using two dates one year apart.*

Multi-Year Point-to-Point - *Change in index calculated using two dates more than one year apart.*

Monthly or Daily Averaging - *Change in index calculated using multiple dates (one day of every month for monthly averaging, every day the market is open for daily averaging). The average of these values is compared with the index value at the start of the index term.*

Monthly Point-to-Point - *Change in index calculated for each month during the index term. Each monthly change is limited to the "cap rate" for positive changes, but not when the change is negative. At the end of the index term, all monthly changes (positive and negative) are added. If the result is positive, interest is added to the annuity. If the result is negative or zero, no interest (0%) is added.*

Fixed Indexed Annuities

Money in a fixed indexed annuity earns interest based on changes in an index. Some indexes are measures of how the overall financial markets perform (such as the S&P 500 Index or Dow Jones Industrial Average) during a set period of time (called the index term). Others measure how a specific financial market performs (such as the Nasdaq) during the term. The insurance

company uses a formula to determine how a change in the index affects the amount of interest to add to your annuity at the end of each index term. Once interest is added to your annuity for an index term, those earnings usually are locked in and changes in the index in the next index term don't affect them. If you take money from an indexed annuity before an index term ends, the annuity may not add all of the index-linked interest for that term to your account.

Insurance companies use different formulas to calculate the interest to add to your annuity. They look at changes in the index over a period of time. See the box "Fixed Deferred Indexed Formulas" that describes how changes in an index are used to calculate interest.

The formulas insurance companies use often mean that interest added to your annuity is based on only part of a change in an index over a set period of time. Participation rates, cap rates, and spread rates (sometimes called margin or asset fees) all are terms that describe ways the amount of interest added to your annuity may not reflect the full change in the index. But if the index goes down over that period, zero interest is added to your annuity. Then your annuity value won't go down as long as you don't withdraw the money.

When you buy an indexed annuity, you aren't investing directly in the market or the index. Some indexed annuities offer you more than one index choice. Many indexed annuities also offer the choice to put part of your money in a fixed interest rate account, with a rate that won't change for a set period.

How Insurers Determine Indexed Interest

Participation Rate- *Determines how much of the increase in the index is used to calculate index-linked interest. A participation rate usually is for a set period. The period can be from one year to the entire term. Some companies guarantee the rate can never be lower (higher) than a set minimum (maximum). Participation rates are often less than 100%, particularly when there's no cap rate.*

Cap Rate- *Typically, the maximum rate of interest the annuity will earn during the index term. Some annuities guarantee that the cap rate will never be lower (higher) than a set minimum (maximum). Companies often use a cap rate, especially if the participation rate is 100%.*

Spread Rate - *A set percentage the insurer subtracts from any change in the index. Also called a "margin or asset fee." Companies may use this instead of or in addition to a participation or cap rate.*

Variable Annuities

Money in a variable annuity earns a return based on the performance of the investment portfolios, known as "subaccounts," where you choose to put your money. Your investment choices likely will include subaccounts with different types and levels of risk. Your choices will affect the return you earn on your annuity. Subaccounts usually have no guaranteed return, but you may have a choice to put some money in a fixed interest rate account, with a rate that won't change for a set period.

The value of your annuity can change every day as the subaccounts' values change. If the subaccounts' values increase, your annuity earns money. But there's no guarantee that the values of the subaccounts will increase. If the subaccounts' values go down, you may end up with less money in your annuity than you paid into it .

An insurer may offer several versions of a variable deferred annuity product. The different versions usually are identified as share classes. The key differences between the versions are the fees you'll pay every year you own the annuity. The rules that apply if you take money out of the annuity also may be different. Read the prospectus carefully. Ask the annuity salesperson to explain the differences among the versions.

What Other Information Should You Consider?

Fees, Charges, and Adjustments

Fees and charges reduce the value of your annuity. They help cover the insurer's costs to sell and manage the annuity and pay benefits. The insurer may subtract these costs directly from your annuity's value. Most annuities have fees and charges but they can be different for different annuities. Read the contract and disclosure or prospectus carefully and ask the annuity salesperson to describe these costs.

A surrender or withdrawal charge is a charge if you take part or all of the money out of your annuity during a set period of time. The charge is a percentage of the amount you take out of the annuity. The percentage usually goes down each year until the surrender charge period ends. Look at the contract and the disclosure or prospectus for details about the charge. Also look for any waivers for events (such as a death) or the right to take out a small amount (usually up to 10%) each year without paying the charge. If you take all of your money out of an annuity, you've surrendered it and no longer have any right to future income payments.

Some annuities have a Market Value Adjustment (MVA). An MVA could increase or decrease your annuity's account value, cash surrender value, and/or death benefit value if you withdraw money from your account. In general, if interest rates are lower when you withdraw money than they were when you bought the annuity, the MVA could increase the amount you could take from your annuity. If interest rates are higher than when you bought the annuity, the MVA could reduce the amount you could take from your annuity. Every MVA calculation is different. Check your contract and disclosure or prospectus for details.

Annuity Fees and Charges

Contract fee - *A flat dollar amount or percentage charged once or annually.*

Percentage of purchase payment *-A front-end sales load or other charge deducted from each premium paid. The percentage may vary over time.*

Premium tax - *A tax some states charge on annuities. The insurer may subtract the amount of the tax when you pay your premium, when you withdraw your contract value, when you start to receive income payments, or when it pays a death benefit to your beneficiary.*

Transaction fee -*A charge for certain transactions, such as transfers or withdrawals.*

* * *

Mortality and expense (M&E) risk charge -*A fee charged on* **variable annuities.** *It's a percentage of the account value invested in subaccounts.*

Underlying fund charges -*Fees and charges on a***variable** *annuity's subaccounts; may include an investment management fee, distribution and service (12b-1) fees, and other fees.*

How Annuities Make Payments

Annuitize

At some future time, you can choose to annuitize your annuity and start to receive guaranteed fixed income payments for life or a period of time you choose. After payments begin, you can't take any other money out of the annuity. You also usually can't change the amount of your payments. For more information, see "Payout Options" in this Buyer's Guide. If you die before the payment period ends, your survivors may not receive any payments, depending on the payout option you choose.

Full Withdrawal

You can withdraw the cash surrender value of the annuity in a lump sum payment and end your annuity. You'll likely pay a charge to do this if it's during the surrender charge period. If you withdraw your annuity's cash surrender value, your annuity is cancelled. Once that happens, you can't start or continue to receive regular income payments from the annuity.

Partial Withdrawal

You may be able to withdraw some of the money from the annuity's cash surrender value without ending the annuity. Most annuities with surrender charges let you take out a certain amount (usually up to 10%) each year without paying surrender charges on that amount. Check your contract and disclosure or prospectus. Ask your annuity salesperson about other ways you can take money from the annuity without paying charges.

Living Benefits for Fixed Annuities

Some fixed annuities, especially fixed indexed annuities, offer a guaranteed living benefits rider, usually at an extra cost. A common type is called a guaranteed lifetime withdrawal benefit that guarantees to make income payments you can't outlive. While you get payments, the money still in your annuity continues to earn interest. You can choose to stop and restart the payments or

you might be able to take extra money from your annuity. Even if the payments reduce the annuity's value to zero at some point, you'll continue to get payments for the rest of your life. If you die while receiving payments, your survivors may get some or all of the money left in your annuity.

Payout Options

You'll have a choice about how to receive income payments. These choices usually include:

** For your lifetime*

** For the longer of your lifetime or your spouse's lifetime*

** For a set time period*

** For the longer of your lifetime or a set time period*

Living Benefits for Variable Annuities

Variable annuities may offer a benefit at an extra cost that guarantees you a minimum account value, a minimum lifetime income, or minimum withdrawal amounts regardless of how your subaccounts perform. See "Variable Annuity Living Benefit Options" at right. Check your contract and disclosure or prospectus or ask your annuity salesperson about these options.

Variable Annuity Living Benefit Options

Guaranteed Minimum Accumulation Benefit (GMAB) - *Guarantees your account value will equal some percentage (typically 100%) of premiums less withdrawals, at a set future date (for example, at maturity). If your annuity is worth less than the guaranteed amount at that date, your insurance company will add the difference.*

Guaranteed Minimum Income Benefit (GMIB) - *Guarantees a minimum lifetime income. You usually must choose this benefit when you buy the annuity and must annuitize to use the benefit. There may be a waiting period before you can annuitize using this benefit.*

Guaranteed Lifetime Withdrawal Benefit (GLWB) - *Guarantees you can make withdrawals for the rest of your life, up to a set maximum percentage each year.*

How Annuities Are Taxed

Ask a tax professional about your individual situation. The information below is general and should not be considered tax advice.

Current federal law gives annuities special tax treatment. Income tax on annuities is deferred. That means you aren't taxed on any interest or investment returns while your money is in the

annuity. This isn't the same as tax-free. You'll pay ordinary income tax when you take a withdrawal, receive an income stream, or receive each annuity payment. When you die, your survivors will typically owe income taxes on any death benefit they receive from an annuity.

There are other ways to save that offer tax advantages, including Individual Retirement Accounts (IRAs). You can buy an annuity to fund an IRA, but you also can fund your IRA other ways and get the same tax advantages. When you take a withdrawal or receive payments, you'll pay ordinary income tax on all of the money you receive (not just the interest or the investment return). You also may have to pay a 10% tax penalty if you withdraw money before you're age 59 1/2.

Finding an Annuity That's Right for You

An annuity salesperson who suggests an annuity must choose one that they think is right for you, based on information from you. They need complete information about your life and financial situation to make a suitable recommendation. Expect a salesperson to ask about your age; your financial situation (assets, debts, income, tax status, how you plan to pay for the annuity); your tolerance for risk; your financial objectives and experience; your family circumstances; and how you plan to use the annuity. If you aren't comfortable with the annuity, ask your annuity salesperson to explain why they recommended it. Don't buy an annuity you don't understand or that doesn't seem right for you.

Within each annuity, the insurer may guarantee some values but not others. Some guarantees may be only for a year or less while others could be longer. Ask about risks and decide if you can accept them. For example, it's possible you won't get all of your money back or the return on your annuity may be lower than you expected. It's also possible you won't be able to withdraw money you need from your annuity without paying fees or the annuity payments may not be as much as you need to reach your goals. These risks vary with the type of annuity you buy. All product guarantees depend on the insurance company's financial strength and claims-paying ability.

Questions You Should Ask

* Do I understand the risks of an annuity? Am I comfortable with them?

* How will this annuity help me meet my overall financial objectives and time horizon?

* Will I use the annuity for a long-term goal such as retirement? If so, how could I achieve that goal if the income from the annuity isn't as much as I expected it to be?

* What features and benefits in the annuity, other than tax deferral, make it appropriate for me?

* Does my annuity offer a guaranteed minimum interest rate? If so, what is it?

* If the annuity includes riders, do I understand how they work?

* Am I taking full advantage of all of my other tax-deferred opportunities, such as 401(k)s, 403(b)s, and IRAs?

* Do I understand all of the annuity's fees, charges, and adjustments?

* Is there a limit on how much I can take out of my annuity each year without paying a surrender charge? Is there a limit on the total amount I can withdraw during the surrender charge period?

* Do I intend to keep my money in the annuity long enough to avoid paying any surrender charges?

* Have I consulted a tax advisor and/or considered how buying an annuity will affect my tax liability?

* How do I make sure my chosen survivors (beneficiaries) will receive any payment from my annuity if I die?

If you don't know the answers or have other questions, ask your annuity salesperson for help.

When You Receive Your Annuity Contract

When you receive your annuity contract, carefully review it. Be sure it matches your understanding. Also, read the disclosure or prospectus and other materials from the insurance company. Ask your annuity salesperson to explain anything you don't understand. In many states, a law gives you a set number of days (usually 10 to 30 days) to change your mind about buying an annuity after you receive it. This often is called a free look or right to return period. Your contract and disclosure or prospectus should prominently state your free look period. If you decide during that time that you don't want the annuity, you can contact the insurance company and return the contract. Depending on the state, you'll either get back all of your money or your current account value.

[1] . FINRA (Financial Industry Regulatory Authority) regulates the companies and salespeople who sell variable annuities.

Cite as Ga. Comp. R. & Regs. R. 120-2-73 app Appendix (120-2-73) Buyer's Guide to Annuities

Subject 120-2-74. ACTUARIAL OPINION AND MEMORANDUM REGULATION.

Rule 120-2-74-.01. Purpose.

The purpose of this regulation is to prescribe:

(1) requirements for statements of actuarial opinion that are to be submitted in accordance with O.C.G.A. § 33-10-13(b.1), and for memoranda in support thereof;

(2) rules applicable to the appointment of an appointed actuary; and

(3) guidance as to the meaning of "adequacy of reserves."

Cite as Ga. Comp. R. & Regs. R. 120-2-74-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-2-10, 33-10-13.
History. Original Rule entitled "Purpose" adopted. F. Jul. 9, 1997; eff. Jul. 29, 1997.
Repealed: New Rule of the same title adopted. F. Dec. 17, 2010; eff. Jan. 6, 2011.

Rule 120-2-74-.02. Authority.

This regulation is issued pursuant to the authority vested in the Commissioner of Insurance of the State of Georgia under O.C.G.A. §§ 33-2-9 and 33-10-13. This Regulation will take effect for annual statements for the year 2010.

Cite as Ga. Comp. R. & Regs. R. 120-2-74-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13.
History. Original Rule entitled "Authority" adopted. F. Jul. 9, 1997; eff. Jul. 29, 1997.
Repealed: New Rule of the same title adopted. F. Dec. 17, 2010; eff. Jan. 6, 2011.

Rule 120-2-74-.03. Scope.

(1) This regulation shall apply to all life insurance companies and fraternal benefit societies doing business in this State and to all life insurance companies and fraternal benefit societies that are authorized to reinsure life insurance, annuities or accident and health insurance business in this State. This regulation shall be applied in a manner that allows the appointed actuary to utilize his or her professional judgment in performing the asset analysis and developing the actuarial opinion and supporting memoranda, consistent with relevant actuarial standards of practice. However, the Commissioner shall have the authority to specify specific methods of actuarial analysis and actuarial assumptions when, in the Commissioner's judgment, these specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items.

(2) This regulation shall be applicable to all annual statements filed with the office of the Commissioner after the effective date of this regulation. A statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with 120-2-74-.06 of this regulation, and a memorandum in support thereof in accordance with 120-2-74-.07 of this regulation, shall be required each year.

Cite as Ga. Comp. R. & Regs. R. 120-2-74-.03
Authority: O.C.G.A. Secs. 33.2-9, 33-10-13.
History. Original Rule entitled "Scope" adopted. F. Jul. 9, 1997; eff. Jul. 29, 1997.
Repealed: New Rule of the same title adopted. F. Dec. 17, 2010; eff. Jan. 6, 2011.

Rule 120-2-74-.04. Definitions.

(1) "Actuarial Opinion" means the opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with 120-2-74-.06 of this regulation and with applicable Actuarial Standards of Practice.

(2) "Actuarial Standards Board" means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

(3) "Annual statement" means that statement required by O.C.G.A. § 33-3-21 to be filed by the company with the office of the Commissioner annually.

(4) "Appointed actuary" means an individual who is appointed or retained in accordance with the requirements set forth in 120-2-74-.05(3) of this regulation to provide the actuarial opinion and supporting memorandum as required by O.C.G.A. § 33-10-13(b.1).

(5) "Asset adequacy analysis" means an analysis that meets the standards and other requirements referred to in 120-2-74-.05(4) of this regulation.

(6) "Commissioner" means the Insurance Commissioner of this State.

(7) "Company" means a life insurance company, fraternal benefit society or reinsurer subject to the provisions of this regulation.

(8) "Qualified actuary" means an individual who meets the requirements set forth in 120-2-74-.05 B of this regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-74-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13.
History. Original Rule entitled "Definitions" adopted. F. Jul. 9, 1997; eff. Jul. 29, 1997.
Repealed: New Rule of the same title adopted. F. Dec. 17, 2010; eff. Jan. 6, 2011.

Rule 120-2-74-.05. General Requirements.

(1) Submission of Statement of Actuarial Opinion.

(a) There is to be included on or attached to Page 1 of the annual statement for each year beginning with the year in which this regulation becomes effective the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with 120-2-74-.06 of this regulation.

(b) Upon written request by the company, the Commissioner may grant an extension of the date for submission of the statement of actuarial opinion.

(2) Qualified Actuary. A "qualified actuary" is an individual who:

(a) Is a member in good standing of the American Academy of Actuaries;

(b) Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements;

(c) Is familiar with the valuation requirements applicable to life and health insurance companies;

(d) Has not been found by the Commissioner (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing to have:

1. Violated any provision of, or any obligation imposed by, the Insurance Law or other law in the course of his or her dealings as a qualified actuary;

2. Been found guilty of fraudulent or dishonest practices;

3. Demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary;

4. Submitted to the Commissioner during the past five (5) years, pursuant to this regulation, an actuarial opinion or memorandum that the Commissioner rejected because it did not meet the provisions of this regulation including standards set by the Actuarial Standards Board; or

5. Resigned or been removed as an actuary within the past five (5) years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and

6. Has not failed to notify the Commissioner of any action taken by any Commissioner of any other state similar to that under Paragraph (4) above.

(3) Appointed Actuary. An "appointed actuary" is a qualified actuary who is appointed or retained to prepare the Statement of Actuarial Opinion required by this regulation, either directly by or by the authority of the board of directors through an executive officer of the company other than the qualified actuary. The company shall give the Commissioner timely written notice of the name, title (and, in the case of a consulting actuary, the name of the firm) and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in the notice that the person meets the requirements set forth in Subsection B. Once notice is furnished, no further notice is required with respect to this person, provided that the company shall give the Commissioner timely written notice in the event the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set forth in Subsection B. If

any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall so state and give the reasons for replacement.

(4) Standards for Asset Adequacy Analysis. The asset adequacy analysis required by this regulation:

(a) Shall conform to the Standards of Practice as promulgated from time to time by the Actuarial Standards Board and on any additional standards under this regulation, which standards are to form the basis of the statement of actuarial opinion in accordance with this regulation; and

(b) Shall be based on methods of analysis as are deemed appropriate for such purposes by the Actuarial Standards Board.

(5) Liabilities to be Covered.

(a) Under authority of 33-10-13(b.1), the statement of actuarial opinion shall apply to all in force business on the statement date, whether directly issued or assumed, regardless of when or where issued, e.g., reserves of Exhibits 8, 9 and 10, and claim liabilities in Exhibit 11, Part 1 and equivalent items in the separate account statement or statements.

(b) If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with methods set forth in the Standard Valuation Law, the company shall establish the additional reserve.

(c) Additional reserves established under Paragraph (2) above and deemed not necessary in subsequent years may be released. Any amounts released shall be disclosed in the actuarial opinion for the applicable year. The release of such reserves would not be deemed an adoption of a lower standard of valuation.

Cite as Ga. Comp. R. & Regs. R. 120-2-74-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13.
History. Original Rule entitled "General Requirements" adopted. F. Jul. 9, 1997; eff. Jul. 29, 1997.
Repealed: New Rule of the same title adopted. F. Dec. 17, 2010; eff. Jan. 6, 2011.

Rule 120-2-74-.06. Statement of Actuarial Opinion Based On an Asset Adequacy Analysis.

(1) General Description. The statement of actuarial opinion submitted in accordance with this section shall consist of:

(a) A paragraph identifying the appointed actuary and his or her qualifications (see Subsection (2)(a));

(b) A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items that have been analyzed for asset adequacy and the method of analysis, (see Subsection (2)(b)) and identifying the reserves and related actuarial items covered by the opinion that have not been so analyzed;

(c) A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions, (e.g., anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios (see Subsection (2)(c)), supported by a statement of each such expert in the form prescribed by Subsection (5); and

(d) An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities (see Subsection (2)(f)).

(e) One or more additional paragraphs will be needed in individual company cases as follows:

1. If the appointed actuary considers it necessary to state a qualification of his or her opinion;

2. If the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion;

3. If the appointed actuary must disclose whether additional reserves as of the prior opinion date are released as of this opinion date, and the extent of the release;

4. If the appointed actuary chooses to add a paragraph briefly describing the assumptions that form the basis for the actuarial opinion.

(2) Recommended Language. The following paragraphs are to be included in the statement of actuarial opinion in accordance with this section. Language is that which in typical circumstances should be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary should use language that clearly expresses his or her professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in this section.

(a) The opening paragraph should generally indicate the appointed actuary's relationship to the company and his or her qualifications to sign the opinion. For a company actuary, the opening paragraph of the actuarial opinion should include a statement such as:

"I, [name], am [title] of [insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said insurer to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies." For a consulting actuary, the opening paragraph should include a statement such as:

"I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors of [name of company] to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

(b) The scope paragraph should include a statement such as:

"I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 20[]. Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis.

Asset Adequacy Tested Amounts-Reserves and Liabilities					
Statement Item	**Formula Reserves (1)**	**Additional Actuarial Reserves (a) (2)**	**Analysis Method (b)**	**Other Amount (3)**	**Total Amount (1)+(2)+(3) (4)**
Exhibit 8 A Life Insurance					
B Annuities					
Exhibit 9 A Active Life Reserve					
B Claim Reserve					
Total (Exhibit 9 Item 2, Page 3)					

C Supplementary Contracts Involving Life Contingencies					
D Accidental Death Benefit					
E Disability-Active					
F Disability-Disabled					
G Miscellaneous					
Total (Exhibit 8 Item 1, Page 3)					
Exhibit 10 Premium and Other Deposit Funds (Column 5, Line 14)					
Guaranteed Interest Contracts (Column 2, Line 14)					
Other (Column 6, Line 14)					
Supplemental Contracts and Annuities Certain (Column 3, Line 14)					
Dividend Accumulations or Refunds (Column 4, Line 14)					
Total Exhibit 10 (Column 1, Line 14)					
Exhibit 11 Part 1 1 Life (Page 3, Line 4.1)					
2 Health (Page 3, Line 4.2)					
Total Exhibit 11, Part 1					

Separate Accounts (Page 3 of the Annual Statement of the Separate Accounts, Lines 1, 2, 3.1, 3.2, 3.3)					
TOTAL RESERVES					

IMR (General Account, Page ___ Line ___)	
(Separate Accounts, Page ___ Line ___)	
AVR (Page ___ Line ___)	(c)
Net Deferred and Uncollected Premium	

Notes:

(a) The additional actuarial reserves are the reserves established under 120-2-74-.05 E(2).

(b) The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in Section 120-2-74-.05(4) of this regulation, by means of symbols that should be defined in footnotes to the table.

(c) Allocated amount of Asset Valuation Reserve (AVR).

(3) If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph should include a statement such as:

"I have relied on [name], [title] for [e.g., "anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios" or "certain critical aspects of the analysis performed in conjunction with forming my opinion"], as certified in the attached statement. I have reviewed the information relied upon for reasonableness." A statement of reliance on other experts should be accompanied by a statement by each of the experts in the form prescribed by Subsection 6E.

(4) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph should include a statement such as:

"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary. I also reconciled the underlying basic

asset and liability records to [exhibits and schedules listed as applicable] of the company's current annual statement."

(5) If the appointed actuary has not examined the underlying records, but has relied upon data (e.g., listings and summaries of policies in force or asset records) prepared by the company, the reliance paragraph should include a statement such as:

"In forming my opinion on [specify types of reserves] I relied upon data prepared by [name and title of company officer certifying in force records or other data] as certified in the attached statements. I evaluated that data for reasonableness and consistency. I also reconciled that data to [exhibits and schedules to be listed as applicable] of the company's current annual statement. In other respects, my examination included review of the actuarial assumptions and actuarial methods used and tests of the calculations I considered necessary."

The section shall be accompanied by a statement by each person relied upon in the form prescribed by Subsection E.

(6) The opinion paragraph should include a statement such as:

"In my opinion the reserves and related actuarial values concerning the statement items identified above:

(a) Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;

(b) Are based on actuarial assumptions that produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;

(c) Meet the requirements of the Insurance Law and regulation of the state of [state of domicile]; and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

(d) Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below); and

(e) Include provision for all actuarial reserves and related statement items which ought to be established.

The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on the assets, and the considerations

anticipated to be received and retained under the policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company. (At the discretion of the Commissioner, this language may be omitted for an opinion filed on behalf of a company doing business only in this state and in no other state.) The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion.

This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which should be considered in reviewing this opinion.

Or

The following material changes which occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion: (Describe the change or changes.)

Note: Choose one of the above two paragraphs, whichever is applicable. The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis.

_____

Signature of Appointed Actuary

_____

Address of Appointed Actuary

_____

Telephone Number of Appointed Actuary

_____

Date"

C. Assumptions for New Issues

The adoption for new issues or new claims or other new liabilities of an actuarial assumption that differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this Section 6.

D. Adverse Opinions

If the appointed actuary is unable to form an opinion, then he or she shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, then he or she shall issue an adverse or qualified actuarial opinion explicitly stating the reasons for the opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

E. Reliance on Information Furnished by Other Persons

If the appointed actuary relies on the certification of others on matters concerning the accuracy or completeness of any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion should so indicate the persons the actuary is relying upon and a precise identification of the items subject to reliance. In addition, the persons on whom the appointed actuary relies shall provide a certification that precisely identifies the items on which the person is providing information and a statement as to the accuracy, completeness or reasonableness, as applicable, of the items. This certification shall include the signature, title, company, address and telephone number of the person rendering the certification, as well as the date on which it is signed.

F. Alternate Option

(1) The Standard Valuation Law gives the Commissioner broad authority to accept the valuation of a foreign insurer when that valuation meets the requirements applicable to a company domiciled in this state in the aggregate. As an alternative to the requirements of Subsection B(6)(c), the Commissioner may make one or more of the following additional approaches available to the opining actuary:

(a) A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and the formal written standards and conditions of this state for filing an opinion based on the law of the state of domicile." If the Commissioner chooses to allow this

alternative, a formal written list of standards and conditions shall be made available. If a company chooses to use this alternative, the standards and conditions in effect on July 1 of a calendar year shall apply to statements for that calendar year, and they shall remain in effect until they are revised or revoked. If no list is available, this alternative is not available.

(b) A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have verified that the company's request to file an opinion based on the law of the state of domicile has been approved and that any conditions required by the Commissioner for approval of that request have been met." If the Commissioner chooses to allow this alternative, a formal written statement of such allowance shall be issued no later than March 31 of the year it is first effective. It shall remain valid until rescinded or modified by the Commissioner. The rescission or modifications shall be issued no later than March 31 of the year they are first effective. Subsequent to that statement being issued, if a company chooses to use this alternative, the company shall file a request to do so, along with justification for its use, no later than April 30 of the year of the opinion to be filed. The request shall be deemed approved on October 1 of that year if the Commissioner has not denied the request by that date.

(c) A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have submitted the required comparison as specified by this state."

(i) If the Commissioner chooses to allow this alternative, a formal written list of products (to be added to the table in Item

(ii) below) for which the required comparison shall be provided will be published. If a company chooses to use this alternative, the list in effect on July 1 of a calendar year shall apply to statements for that calendar year, and it shall remain in effect until it is revised or revoked. If no list is available, this alternative is not available.

(ii) If a company desires to use this alternative, the appointed actuary shall provide a comparison of the gross nationwide reserves held to the gross nationwide reserves that would be held under NAIC codification standards. Gross nationwide reserves are the total reserves calculated for the total company in force business directly sold and assumed, indifferent to the state in which the risk resides, without reduction for reinsurance ceded. The information provided shall be at least:

(1) Product Type	(2) Death Benefit or Account Value	(3) Reserves Held	(4) Codification Reserves	(5) Codification Standard

(iii) The information listed shall include all products identified by either the state of filing or any other states subscribing to this alternative.

(iv) If there is no codification standard for the type of product or risk in force or if the codification standard does not directly address the type of product or risk in force, the appointed actuary shall provide detailed disclosure of the specific method and assumptions used in determining the reserves held.

(v) The comparison provided by the company is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

(2) Notwithstanding the above, the Commissioner may reject an opinion based on the laws and regulations of the state of domicile and require an opinion based on the laws of this state. If a company is unable to provide the opinion within sixty (60) days of the request or such other period of time determined by the Commissioner after consultation

with the company, the Commissioner may contract an independent actuary at the company's expense to prepare and file the opinion.

Cite as Ga. Comp. R. & Regs. R. 120-2-74-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13.
History. Original Rule entitled "Required Opinions" adopted. F. Jul. 9, 1997; eff. Jul. 29, 1997.
Repealed: New Rule entitled "Statement of Actuarial Opinion Based On an Asset Adequacy Analysis" adopted. F. Dec. 17, 2010; eff. Jan. 6, 2011.

Rule 120-2-74-.07. Description of Actuarial Memorandum Including an Asset Adequacy and Regulatory Asset Adequacy Issues.

(1) General.

(a) In accordance with O.C.G.A. § 33-10-13(b.1), the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves. The memorandum shall be made available for examination by the Commissioner upon his or her request but shall be returned to the company after such examination and shall not be considered a record of the insurance department or subject to automatic filing with the Commissioner.

(b) In preparing the memorandum, the appointed actuary may rely on, and include as a part of his or her own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of 120-2-74-.05(2) of this regulation, with respect to the areas covered in such memoranda, and so state in their memoranda.

(c) If the Commissioner requests a memorandum and no such memorandum exists or if the Commissioner finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this regulation, the Commissioner may designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the Commissioner.

(d) The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company and the work papers and documentation of the reviewing actuary shall be retained by the Commissioner; provided, however, that any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the Commissioner and shall be kept confidential to the same extent as is prescribed by

law with respect to other material provided by the company to the Commissioner pursuant to the statute governing this regulation. The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this regulation for any one of the current year or the preceding three (3) years.

(e) In accordance with O.C.G.A. § 33-10-13(b.1), the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in Subsection C. The regulatory asset adequacy issues summary will be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. The regulatory asset adequacy issues summary is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

(2) Details of the Memorandum Section Documenting Asset Adequacy Analysis.

When an actuarial opinion is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in 120-2-74-.05(4) of this regulation and any additional standards under this regulation. It shall specify:

(a) For reserves:

1. Product descriptions including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary deems significant;

2. Source of liability in force;

3. Reserve method and basis;

4. Investment reserves;

5. Reinsurance arrangements;

6. Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis;

7. Documentation of assumptions to test reserves for the following:

(i) Lapse rates (both base and excess);

(ii) Interest crediting rate strategy;

(iii) Mortality;

(iv) Policyholder dividend strategy;

(v) Competitor or market interest rate;

(vi) Annuitization rates;

(vii) Commissions and expenses; and

(viii) Morbidity.

(b) The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

(c) For assets:

1. Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets;

2. Investment and disinvestment assumptions;

3. Source of asset data;

4. Asset valuation bases; and

5. Documentation of assumptions made for:

   (i) Default costs;

   (ii) Bond call function;

   (iii) Mortgage prepayment function;

   (iv) Determining market value for assets sold due to disinvestment strategy; and

   (v) Determining yield on assets acquired through the investment strategy.

6. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

(d) For the analysis basis:

1. Methodology;

2. Rationale for inclusion or exclusion of different blocks of business and how pertinent risks were analyzed;

3. Rationale for degree of rigor in analyzing different blocks of business (include in the rationale the level of "materiality" that was used in determining how rigorously to analyze different blocks of business);

4. Criteria for determining asset adequacy (include in the criteria the precise basis for determining if assets are adequate to cover reserves under "moderately adverse conditions" or other conditions as specified in relevant actuarial standards of practice); and

5. Whether the impact of federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis;

   (i) Summary of material changes in methods, procedures, or assumptions from prior year's asset adequacy analysis;

   (ii) Summary of results; and

   (ii) Conclusions.

(3) Details of the Regulatory Asset Adequacy Issues Summary

(a) The regulatory asset adequacy issues summary shall include:

1. Descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force.

2. The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different than the assumptions used in the previous asset adequacy analysis;

3. The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion;

4. Comments on any interim results that may be of significant concern to the appointed actuary. For example, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods;

5. The methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested; and,

6. Whether the actuary has been satisfied that all options whether explicit or embedded, in any asset or liability (including but not limited to those affecting cash flows embedded in fixed income securities) and equity-like features in any investments have been appropriately considered in the asset adequacy analysis.

(b) The regulatory asset adequacy issues summary shall contain the name of the company for which the regulatory asset adequacy issues summary is being supplied and shall be signed and dated by the appointed actuary rendering the actuarial opinion.

(4) Conformity to Standards of Practice. The memorandum shall include a statement:

"Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum."

(5) Use of Assets Supporting the Interest Maintenance Reserve and the Asset Valuation Reserve.

(a) An appropriate allocation of assets in the amount of the interest maintenance reserve (IMR), whether positive or negative, shall be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the asset valuation reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support.

(b) The amount of the assets used for the AVR shall be disclosed in the table of reserves and liabilities of the opinion and in the memorandum. The method used

for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.

(6) Documentation. The appointed actuary shall retain on file, for at least seven (7) years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.

Cite as Ga. Comp. R. & Regs. R. 120-2-74-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13.
History. Original Rule entitled "Statement of Actuarial Opinion Not Including an Asset Adequacy Analysis" adopted. F. Jul. 9, 1997; eff. Jul. 29, 1997.
Repealed: New Rule entitled "Description of Actuarial Memorandum Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary" adopted. F. Dec. 17, 2010; eff. Jan. 6, 2011.

Rule 120-2-74-.08. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-74-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13.
History. Original Rule entitled "Statement of Actuarial Opinion Based on an Asset Adequacy Analysis" adopted. F. Jul. 9, 1997; eff. Jul. 29, 1997.
Repealed: New Rule entitled "Severability" adopted. F. Dec. 17, 2010; eff. Jan. 6, 2011.

Rule 120-2-74-.09. Penalties.

Any insurer, or any agent, counselor, representative, officer, or employee of such insurer failing to comply with the requirements of this Regulation Chapter shall be subject to such penalties as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-74-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13.
History. Original Rule entitled "Description of Actuarial Memorandum Including an Adequacy Analysis" adopted. F. Jul. 9, 1997; eff. Jul. 29, 1997.
Repealed: New Rule entitled "Penalties" adopted. F. Dec. 17, 2010; eff. Jan. 6, 2011.

Rule 120-2-74-.10. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-74-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13.
History. Original Rule entitled "Additional Considerations for Analysis" adopted. F. Jul. 9, 1997; eff. Jul. 29, 1997.

Repealed: F. Dec. 17, 2010; eff. Jan. 6, 2011.

Rule 120-2-74-.11. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-74-.11
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13.
History. Original Rule entitled "Severability" adopted. F. Jul. 9, 1997; eff. Jul. 29, 1997.
Repealed: F. Dec. 17, 2010; eff. Jan. 6, 2011.

Rule 120-2-74-.12. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-2-74-.12
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13.
History. Original Rule entitled "Penalties" adopted. F. Jul. 9, 1997; eff. Jul. 29, 1997.
Repealed: F. Dec. 17, 2010; eff. Jan. 6, 2011.

Subject 120-2-75. REGULATION OF PROVIDER SPONSORED HEALTH CARE CORPORATIONS.

Rule 120-2-75-.01. Authority.

This Regulation Chapter is adopted and promulgated by the Commissioner of Insurance pursuant to authority set forth in O.C.G.A. §§ 33-2-9, 33-20-5 and 33-20-32.

Cite as Ga. Comp. R. & Regs. R. 120-2-75-.01
Authority: O.C.G.A. Secs. 31-2-9, 33-20-5, 33-20-32.
History. Original Rules entitled "Authority" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-75-.02. Intent and Purpose.

The intent of this Regulation is to set forth those requirements for provider sponsored health care corporations which are established in accordance with the provisions of Chapter 20 of Title 33 of the Official Code of Georgia Annotated for the purpose of providing medical services to citizens of this State. This Regulation is intended to protect the interests of the enrolled public and to ensure the fiscal stability of such organizations.

Cite as Ga. Comp. R. & Regs. R. 120-2-75-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-20-2, 33-20-5, 33-20-13.
History. Original Rules entitled "Intent and Purpose" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-75-.03. Definitions.

Unless otherwise provided, terms referenced in this Regulation are used as defined in O.C.G.A. §§ 33-1-2 and 33-20-3. Other terms are used in accordance with the Georgia Insurance Code and the Rules and Regulations of the Office of Commissioner of Insurance.

(a) "Basic Rates" is defined as rates for various categories of individuals that are calculated by or certified by a qualified actuary using reasonable assumptions as to expected medical expenses, administrative expenses and margins for contingencies;

(b) "Commissioner" is defined as the Commissioner of Insurance;

(c) "Enrollee" is defined as an individual who has been enrolled in a health care plan;

(d) "Provider sponsored health care corporation" ("PSHCC") is defined as a corporation formed pursuant to O.C.G.A. § 33-20-5 and which provides medical services to enrollees or subscribers;

(e) "Subscriber" is defined as a person to whom a subscriber's certificate is issued by a health care corporation;

(f) "Subscriber's Certificate" is defined as the certificate issued to a subscriber which sets forth the kinds and extent of the health care services which may be all or part of the total health care services used by or provided to a subscriber for which the corporation is liable to make total or partial payment.

Cite as Ga. Comp. R. & Regs. R. 120-2-75-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-20-5.
History. Original Rules entitled "Definitions" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-75-.04. Authorization for Health Care Corporations.

A provider sponsored health care corporation may be established by providers for the purpose of providing health care services to enrollees or subscribers in this State under the provisions of Chapter 20 of Title 33 of the Official Code of Georgia Annotated. Such entity may be a licensed hospital, physician or other provider sponsored entity as the Commissioner may consider. Pursuant to O.C.G.A. §§ 33-1-2 and 33-20-32, provider sponsored health care corporations are insurers and are subject to all provisions of Title 33 which are not in conflict with Chapter 20 of Title 33.

Cite as Ga. Comp. R. & Regs. R. 120-2-75-.04
Authority: O.C.G.A Secs. 33-1-2, 33-2-9, 33-20-2, 33-20-13, 33-20-32.
History. Original Rules entitled "Authorization for Health Care Corporations" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-75-.05. Participation in Fund.

(1) Each provider sponsored health care corporation shall obtain a certificate of authority from the Commissioner prior to establishing, maintaining and operating a health care plan in this State. In addition to the documents and information set forth in O.C.G.A. § 33-20-8, each provider sponsored health care corporation must also accompany its application for a certificate of authority with the following documents and information:

(a) A copy of the applicant's Charter or Articles of Incorporation, and all amendments thereto;

(b) A copy of the Applicant's Bylaws or other similar document regulating the conduct of the internal affairs of the applicant;

(c) A list of the names, addresses, official positions and biographical information of the persons who are to be responsible for the conduct of affairs and day-to-day operations of the applicant, including all members of the Board of Directors or the governing body or committee and the principal officers of the applicant and the names and addresses of each person entitled to cast five percent (5%) or more of the votes for selection of members of applicant's governing body;

(d) A copy of any contract form made or to be made between any provider, facility, class or providers and the applicant, and a copy of any contract made or to be made between the applicant and persons listed in subparagraph (c) above;

(e) A detailed description of the type of benefits to be furnished, including information concerning division of benefits into classes or kinds and reasons for division of benefits into classes and kinds;

(f) Every contract, policy, certificate or evidence of coverage, rider, endorsement, application or outline of coverage which it intends to use prior to use;

1. Basic rates and rating methodology accompanied by an actuarial certification, including assumptions upon which proposed levels and methods of reimbursement or other considerations for the health care services are based. The Actuarial Certification should state that the consideration for services is adequate, and makes provision for expected medical expenses, administrative expenses and margins for contingencies.

(g) Financial and other statements showing the applicant's assets, liabilities, sources of financial support, and sources of ability to cause health care services to be delivered to its enrollees, subscribers and covered dependents;

(h) A statement or map reasonably describing the counties or geographic area or areas to be served; listings of the providers by category and specialty within those counties or areas and such other detail as the Commissioner may reasonably require to ensure that services are available and accessible and to ensure continuity of service;

(i) A description of the internal grievance procedures to be utilized for the investigation and resolution of complaints and grievances by enrollees or subscribers and covered dependents;

(j) A description of the proposed quality assurance program, including the formal organizational structure, methods for developing criteria, and procedures for comprehensive evaluation of the quality of care rendered to enrollees, subscribers and covered dependents;

(k) A security deposit in the amount of at least $100,000.00 as required pursuant to O.C.G.A. § 33-3-8(b)(1);

(l) Form GID-3 Appointment of Attorney for Service of Process naming a natural person who is a resident of the State of Georgia, giving business and home address;

(m) A signed agreement stating that the provider sponsored health care corporation shall distribute certain information on a periodic basis to enrollees and subscribers regarding wellness services and preventive care offered by the provider sponsored health care corporation. Such information shall be submitted to the Office of Commissioner of Insurance for approval at least ninety (90) days before it is expected to be distributed to enrollees and subscribers.

(2) Within one hundred eighty (180) days of receipt of the completed application and a fee of $600.00, the Commissioner shall issue a certificate of authority; deny said application; or provide a written description of deficiencies in the application to the applicant.

(3) Before a certificate of authority can be issued, the Commissioner must be satisfied that:

(a) The persons responsible for the conduct of the affairs of the applicant are competent and trustworthy;

(b) The provider sponsored health care corporation has medical, administrative and financial capability to effectively provide the range of health care services as proposed in its application on a prepaid basis, except for copayments and/or deductibles; and

(c) The provider sponsored health care corporation is in compliance with the applicable provisions of the Georgia Insurance Code and the Rules and Regulations of the Georgia Insurance Department.

(4) The burden of proving compliance with the requirements necessary for issuance of a certificate of authority shall be and remain on the applicant at all times.

Cite as Ga. Comp. R. & Regs. R. 120-2-75-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-20-8.

History. Original Rules entitled "Certificate of Authority" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-75-.06. Protection Against Insolvency.

(1) Subscriber Surplus Requirements.

(a) A provider sponsored health care corporation shall have an initial net worth of at least one million dollars ($1,000,000) and shall thereafter maintain the minimum subscriber surplus required pursuant to O.C.G.A. § 33-20-13(d).

(b) The Commissioner may require additional subscriber surplus of provider sponsored health care corporations, which in the Commissioner's opinion is warranted by the volume of business written or such other factors as the Commissioner may deem relevant.

(c) In determining subscriber surplus, debt which is fully subordinated according to the terms applicable to domestic stock and mutual insurers as stipulated by O.C.G.A. § 33-14-15 shall not be considered on the financial statements of the corporation as a legal liability. Any interest obligation relating to the repayment of any subordinated debt must be similarly subordinated.

(2) Reinsurance Requirements. In order to further protect against insolvency and protect the subscribers of provider sponsored health care corporations, each provider sponsored health care corporation shall obtain and thereafter maintain an aggregate excess reinsurance policy that is acceptable to the Commissioner. Such policy must be procured from a company licensed and authorized to transact business in this State and must have a retention amount that is commensurate with the financial strength of the provider sponsored health care corporation.

(3) Assets and Investments. In determining the financial condition of provider sponsored health care corporations, admitted assets will be limited to those assets described in O.C.G.A. § 33-10-1. Pursuant to O.C.G.A. § 33-20-22, provider sponsored health care corporations shall invest their funds in the same manner as domestic life insurers pursuant to O.C.G.A. § 33-11-1*et seq.*

(4) Liabilities. Every provider sponsored health care corporation shall, when determining liabilities, include an amount estimated in the aggregate to provide for any unearned premium or subscription fees and reserves for the payment of all claims for health care expenditures which have been incurred, whether reported or unreported, which are unpaid and for which the health care corporation is or may be liable, and to provide for the expense of adjustment or settlement of such claims.

(5) Hold Harmless.

(a) Every contract between a provider sponsored health care corporation and a participating provider shall be in writing and shall set forth that in the event the

health care corporation fails to pay for health care service as set forth in the contract, the enrollee or subscriber shall not be liable to the provider for any sums owed by the provider sponsored health care corporation.

(b) In the event that the participating provider contract has not been reduced to writing as required by this subsection or that the contract fails to contain the required prohibition, the participating provider shall not collect or attempt to collect from the enrollee or subscriber sums owed by the provider sponsored health care corporation.

(6) Continuation of Benefits. Each provider sponsored health care corporation shall have a plan satisfactory to the Commissioner for handling insolvency which guarantees the continuation of benefits to enrollees or subscribers who are confined on the date of insolvency in an inpatient facility until the earlier of their discharge or expiration of benefits.

Cite as Ga. Comp. R. & Regs. R. 120-2-75-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-20-13.
History. Original Rules entitled "Protection Against Insolvency" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-75-.07. Financial Reports.

Any provider sponsored health care corporation issued a license shall file annual and quarterly financial statements using forms prescribed by the Commissioner pursuant to O.C.G.A. § 33-20-24. The annual financial report is due March 1 each year and the quarterly statements are due 45 days after the end of each calendar quarter. The Commissioner may also require additional financial reports as are required of other insurers including but not limited to an annual audit from a certified public accountant.

Cite as Ga. Comp. R. & Regs. R. 120-2-75-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-20-24.
History. Original Rules entitled "Financial Reports" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-75-.08. Regulation of Agents.

(1) An agent representing a provider sponsored health care corporation must comply with all of the requirements for a life, accident and sickness agent in O.C.G.A. § 33-23-1*et seq.* and have a current license and certificate of authority to represent the health care corporation.

(2) The provider sponsored health care corporation must comply with the provisions of O.C.G.A. § 33-23-26 with regard to obtaining a certificate of authority for each agent representing the provider sponsored health care corporation as required by O.C.G.A. §

33-23-26(d), filing a certified listing of agents whose certificates of authority are to be renewed along with the appropriate fees, and maintaining a list of authorized agents as required in O.C.G.A. § 33-23-26(d).

(3) All provider sponsored health care corporation agents shall act in a fiduciary capacity in regard to monies collected or held by such agent.

Cite as Ga. Comp. R. & Regs. R. 120-2-75-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-23-26.
History. Original Rules entitled "Regulation of Agents" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-75-.09. Holding Company System.

Any provider sponsored health care corporation which is part of an insurance company holding system must make all required filings and disclosures mandated by Chapter 13 of Title 33.

Cite as Ga. Comp. R. & Regs. R. 120-2-75-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-13-1, 33-13-4.
History. Original Rules entitled "Holding Company System" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-75-.10. Amendments and Continuing Filing Requirements.

Any changes to the name, address, legal structure, provider contracts, rates, services area(s), enrollee contracts, composition and identity of directors and principal officers must be filed with the Commissioner at least thirty (30) days prior to the intended effective date of the change.

Cite as Ga. Comp. R. & Regs. R. 120-2-75-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-20-5, 33-20-8.
History. Original Rules entitled "Amendments and Continuing Filing Requirements" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-75-.11. Penalties.

Any person failing to comply with the requirements of this Regulation Chapter shall be subject to penalties and other enforcement action as may be appropriate under the insurance laws of the State of Georgia as well as any other applicable Georgia law.

Cite as Ga. Comp. R. & Regs. R. 120-2-75-.11
Authority: O.C.G.A. Secs. 33-2-9, 33-20-26, 33-20-27.
History. Original Rules entitled "Penalties" adopted. F. Jul. 19, 1996; eff. Aug. 8, 1996.

Rule 120-2-75-.12. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-75-.12
Authority: O.C.G.A. Secs. 33-2-9.
History. Original Rules entitled "Severability" adopted. F. Jul. 19, 1996; eff Aug. 8, 1996.

Subject 120-2-76. SALE OF INSURANCE BY FINANCIAL INSTITUTIONS.

Rule 120-2-76-.01. Sale of Insurance by Financial Institutions.

(1) Insurance may be sold by certain lending institutions, bank holding companies, or subsidiaries or affiliates of either of the foregoing doing business in this State. However, insurance is underwritten by insurers and sold by insurance agents. Therefore, the purpose of this Regulation Chapter is to specify the requirements for the sale of insurance products by lending institutions, bank holding companies, and their subsidiaries and affiliates.

(2) Nothing in this Regulation Chapter shall authorize any of the following activities by a lending institution, bank holding company, or subsidiary or affiliate of either:

(a) The sale of any insurance product that is not underwritten by an insurer which has a certificate of authority to transact business in Georgia;

(b) Failure to comply with the licensing requirements for agents and agencies;

(c) Failure to comply with any other provisions of this Regulation Chapter with respect to the sale of insurance.

(d) Failure to comply with Title 33 of the Official Code of Georgia Annotated or the Rules and Regulations of the Commissioner of Insurance of the State of Georgia.

(e) Failure to comply with Title 7 of the Official Code of Georgia or the Rules and Regulations of the Department of Banking and Finance.

(3) These regulations do not negate or affect the following: exceptions set out in O.C.G.A. § 33-3-23 such as sale and underwriting of credit insurance (O.C.G.A. § 33-3-23(b)); sale of products regulated by O.C.G.A. § 33-23-12(b)(3); and insurance sold pursuant to Regulation § 120-2-11, all of which are otherwise regulated by the Office of Commissioner of Insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Sale of Insurance by Financial Institutions" adopted. F. Feb. 18, 1997; eff. Mar. 10,

1997.

Rule 120-2-76-.02. Definitions.

As used in this Regulation Chapter, the term:

(a) "Agency" means a person, including corporations, subsidiary corporations, partnerships, non-natural persons, etc., associated with or in the form of a financial institution who represents one or more insurers and is engaged in the business of soliciting or procuring or accepting applications for insurance or countersigning, issuing, or delivering contracts of insurance for one or more insurers;

(b) "Agent" means an individual appointed or employed by an insurer who solicits or procures applications for insurance; who in any way, directly or indirectly, makes or causes to be made any insurance contract for or on account of an insurer; or who as a representative of an insurer receives money for transmission to the insurer for an insurance contract, anything in the application or contract to the contrary notwithstanding, and who has on file with the Commissioner a certificate of authority from each insurer with whom the agent places insurance;

(c) "Financial Institution" means a domestic state bank, national bank, building and loan or savings and loan association or other federally insured depository institution which is authorized to accept deposits in the State of Georgia; a bank holding company; or a subsidiary or affiliate of any of the above;

(d) "Insurance Agent" means an individual appointed or employed by a financial institution who solicits or procures applications for insurance; who in any way, directly or indirectly, makes or causes to be made any insurance contract for or on account of an insurer; and who has on file with the Commissioner a certificate of authority from each insurer with whom the agent places insurance;

(e) "Insurance" means a contract which is an integral part of a plan for distributing individual losses whereby one undertakes to indemnify another or to pay a specified amount or benefits upon determinable contingencies. The term does not include credit insurance products referenced in O.C.G.A. § 33-23-12(b).

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Definitions" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.03. Notification to Department of Intent to Sell Insurance In or Through Financial Institutions; Registration of Bank Holding Company with the Department of Banking and Finance.

(1) Prior to marketing insurance products, a financial institution shall provide notification to the Department of Insurance on Form GID 423FI and file a copy with the Department of Banking and Finance (DBF). Such report shall:

(a) Identify any financial institution location where an insurance agent will be physically present. Each branch must be identified specifically in the registration;

(b) Acknowledge that the financial institution has read and understands these rules; and

(c) Identify any insurance company and the policy form numbers of the insurance which will be marketed in association with the financial institution.

(2) An Amended Form shall be filed within 15 days after the end of the month in which it learns of each change or addition.

(3) Any financial institution with a holding company, which is marketing or selling insurance products in this state, shall register said holding company with the Department of Banking and Finance pursuant to DBF Regulation § 80-5-4-.02.

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Notification to Department of Intent to Sell Insurance In or Through Financial Institutions; Registration of Bank Holding Company with the Department of Banking and Finance" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.04. Financial Institutions Registering as an Agency.

(1) The conduct of insurance transactions in association with a financial institution shall be subject to the requirements of O.C.G.A. § 33-23-3 and Georgia Insurance Department Regulation 120-2-3-.05.

(2) Each financial institution where a licensed and appointed insurance agent is engaged in transactions with respect to insurance products shall be considered an insurance agency for purposes of O.C.G.A. § 33-23-3 and must register with this Department pursuant to Georgia Regulation Chapter 120-2-3-.05 using Form GID 130FI.

(3) GID Form 423FI must identify all locations or branches from which insurance will be sold.

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23, 33-23-3.
History. Original Rule entitled "Financial Institutions Registering as an Agency" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.05. Licensure of Agents.

(1) Any individual soliciting, selling or marketing insurance products to individuals permanently or temporarily residing in this state must be licensed and appointed as an insurance agent in accordance with the provisions of the Georgia Insurance Code and Georgia Insurance Department Regulation Chapter 120-2-22-.07.

(2) No licensed and appointed insurance agent shall, while working from within and on behalf of a financial institution, market or sell insurance, except to the extent permitted by O.C.G.A. § 33-3-23.

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Licensure of Agents" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.06. Underwriting of Insurance.

Nothing in this Regulation Chapter shall authorize a state or federally chartered bank or other federally insured lending institution to itself directly assume the obligation to provide the benefits of an insurance contract or otherwise undertake to perform the obligations of an insurance contract.

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-3-2, 33-3-23.
History. Original Rule entitled "Underwriting of Insurance" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.07. Location for the Sale of Insurance.

(1) If insurance is sold on the premises of a financial institution, the area utilized by an insurance agent for such transactions must be sufficiently segregated and distinct from areas utilized by the financial institution for accepting insured deposits so as to avoid confusion as to the separate identities and activities of the financial institution and the licensed agent.

(2) No insurance agent or employee of the financial institution shall under any circumstances conduct insurance transactions from the teller area. The acceptance of mortgage payments which include insurance escrow payments will not be considered to be conducting an insurance transaction. See DBF Regulation 80-5-4-.05.

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.07
Authority: O.C.G.A Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Location for the Sale of Insurance" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.08. Insurer Notification to the Office of Commissioner of Insurance.

(1) Any insurer marketing insurance in association with one or more financial institutions shall notify the Office of Commissioner of Insurance in writing of the existence of such program(s).

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Insurer Notification to the Office of Commissioner of Insurance" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.09. Agent Activities.

(1) Only a licensed and appointed agent shall:

(a) solicit the sale of insurance or describe the benefits of the insurance contract or otherwise describe the terms of coverage including premiums or rates of return;

(b) provide an application, enrollment form or other document by which a purchaser effectuates coverage; or

(c) accept an initial premium payment from the insurance purchaser.

(2) In connection with the marketing of insurance, employees of a financial institution who are not licensed and appointed as insurance agents shall not:

(a) make general or specific recommendations as to insurance products;

(b) qualify or screen a purchaser for such products;

(c) respond to questions from prospective purchasers regarding insurance products. Any individual seeking general or specific information about insurance products shall be advised as to the location of the licensed agent or otherwise advised as to how the agent may be contacted; or

(d) refer to insurance products as any type of deposit product or insured deposit.

(3) The licensed and appointed insurance agent shall be identified as an insurance agent on stationery and business cards utilized by the licensee, on other materials provided to the purchaser as well as in any verbal discussions with the purchaser. If the agent is licensed as a securities broker, the additional license may be disclosed on the materials as well as in any verbal discussions with the purchaser regarding insurance products, provided the marketer is also identified as an insurance agent.

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-6-23, 33-6-12.
History. Original Rule entitled "Agent Activities" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.10. Disclosure of Employment Status for Agents Employed by Financial Institutions.

If employees of the financial institution that have contact with the general public or financial institution customers with respect to lending, checking, deposit taking, or trust activities are licensed as insurance agents to sell insurance, in addition to the other disclosures required by this section, the employee shall disclose verbally at the time a solicitation is made or an application is taken that the employee is acting as an insurance agent representing one or more specifically identified insurance companies, and that the insurance product is not issued or guaranteed by the financial institution.

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23, 33-6-12.
History. Original Rule entitled "Disclosure of Employment Status for Agents Employed by Financial Institutions" adopted F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.11. Premium Collection.

(1) Only a licensed agent or insurance agent may accept the initial premium paid for an insurance contract.

(2) A financial institution or affiliate may, at the request of the purchaser, send premium billings or notices to purchasers and debit the purchaser's account or credit arrangement for the payment of insurance premiums subsequent to the initial payment. Upon the written request of the purchaser or insurer to discontinue this form of premium payment, the financial institution shall immediately discontinue such debits.

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.11
Authority: O.C.G.A Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Premium Collection" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.12. Utilization of Independent Agents in Financial Institutions.

(1) Any financial institution may contract with agents or an insurance agency on a full-time or part-time basis for the sale of insurance products from bank locations. Such agents shall be appointed by the licensed insurers issuing and underwriting the insurance product. Commissions shall be paid to the agent or agency and may be paid to the financial institution subject to the conditions of paragraphs (2) and (3) of this section.

(2) An insurance agent or agency may not share any commissions with the financial institution and the financial institution shall not accept any such commission unless it has registered as an agency using the GID Form 130FI.

(3) Any lease of space by a financial institution to an insurance agent under which the amount of the rent is based directly or indirectly on the volume of premium written by the insurance agent entails the sharing of commission.

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.12
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23, 33-23-4.
History. Original Rule entitled "Utilization of Independent Agents in Financial Institutions" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.13. Compensation of Agents.

Licensed independent agents may be paid by an insurer for their activities in connection with the sale of insurance. The insurer and agent shall independently determine the terms of the agent contract including compensation.

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.13
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23, 33-23-4.
History. Original Rule entitled "Compensation of Agents" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.14. Access to Records and Premises.

(1) An insurance agent marketing insurance is responsible for maintaining such records as are necessary to enable the Department to determine that transactions under his or her license comply with all applicable requirements of the insurance code and for making such records available to the Georgia Insurance Department.

(2) If the licensed insurance agent markets other products, provides other services, or maintains other information regarding the customer which relate to other than insurance transactions, all records relating to insurance transactions shall be separately maintained.

(3) The Commissioner of Insurance shall have access to the books and records relating to the sale of insurance irrespective of the physical location of such books and records.

(4) A contract or agreement regarding the sale of insurance between the financial institution and any independent insurance agent or other person conducting insurance transactions shall be in writing and available for inspection by the Georgia Insurance Department.

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.14
Authority: O.C.G.A. Secs. 33-2-9, 33-2-11, 33-3-23.

History. Original Rule entitled "Access to Records and Premises" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.15. Advertising.

(1) Advertisements of insurance products marketed pursuant to this regulation shall be subject to the provisions of O.C.G.A. § 33-6-1*et seq.* and other applicable Georgia law and Insurance Department and Department of Banking and Finance regulations.

(2) No licensed or unlicensed person shall in connection with the marketing of insurance refer to coverage available by the Georgia Life and Health Insurance Guaranty Association, Georgia Insurers' Insolvency Pool, or any other guaranty association, unless specifically asked by the purchaser.

(3) If insurance product advertisements directed to prospective purchasers are included in mailings of bank statements or other documents generated by the financial institution relating to products or services provided by the financial institution, the mailings shall clearly identify the sources of the materials.

(4) If the product or program name under which an insurance product is marketed includes the name of a financial institution or the name of a program associated with the financial institution, the product or program name must also identify the insurance company which is issuing and underwriting the product.

(5) Premiums shall not be referred to as "deposits". Terminology used in connection with insurance must be sufficiently different than that used in connection with traditional banking products and services so as to avoid confusion.

(6) Advertisements of insurance are the responsibility of the insurer and subject to review by the Georgia Insurance Department. If an advertisement describes insurance products and other types of financial services or investments, the entire advertisement must be submitted to the Georgia Insurance Department in the form in which it will be communicated to consumers.

(7) An unlicensed employee of a financial institution may distribute an advertisement describing an insurance product to a prospective purchaser or may refer a customer to a display containing such advertisements. However, that employee shall not recommend the purchase of an insurance product, describe the features of an insurance product, or respond to questions regarding the content of the advertisement. In response to any questions, the employee must indicate that the consumer should pose that question to the licensed agent.

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.15
Authority: O.C.G.A. Sec. 33-2-9, 33-3-23, 33-6-1*et seq.*, 33-38-21.
History. Original Rule entitled "Advertising" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.16. Communication with Customers.

(1) Premium notices, notices of cancellation, renewal notices, statements of values or other communications relating to in-force insurance shall be separated from financial institution account information.

(2) A financial institution shall not provide to an affiliated insurance agency or an insurance agent, insurance policy specific information to be used to solicit or sell the same line or type of insurance to a financial institution customer, unless the customer has authorized such use in writing on a document independent of any other information provided to the customer. This prohibition shall not be applicable to renewal business nor shall it apply when the financial institution must use the information to insure its collateral because the customer has failed to keep the policy in force. A customer's name, address and telephone number shall not be considered insurance policy specific information.

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.16
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23, 33-6-1.
History. Original Rule entitled "Communication with Customers" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.17. Disclosures to Prospective and Existing Customers.

Disclosures to the customer must be made in accordance with Department of Banking and Finance Regulation 80-5-4-.08.

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.17
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Disclosures to Prospective and Existing Customers" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.18. Joint Announcements.

Endorsements, announcements, or advertisements regarding insurance by a financial institution in conjunction with an agent or insurer, communicated to financial institution customers or prospective customers by direct mail or otherwise shall be subject to the requirements of O.C.G.A. § 33-6-1*et seq.*

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.18
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23, 33-6-1*et seq.*
History. Original Rule entitled "Joint Announcements" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.19. Prohibition Against Tying; Prohibition Against Rebating and Impermissible Discounting.

(1) Tying availability of credit, establishment or maintenance of a trust account or deposit account, or the provision of other traditional bank products from a lending institution to the purchase of insurance from that lending institution is not permitted. Federal bank on these activities.

(2) If insurance is marketed in connection with or in conjunction with any activities described in this section, any marketing to a loan applicant on bank premises shall not occur until the financial institution discloses both verbally and in writing that the purchase of an insurance product is unrelated to and not a condition to the provision or term of any banking service or activity and has committed to such banking service or activity. The written disclosure required by this section shall be a part of the disclosures required by the Department of Banking and Finance Regulation § 80-5-4-.08.

(3) No rebating of premiums or discounting except in accordance with an applicable rate filing, rating plan, or rating system filed with and approved by the Commissioner of Insurance shall be permitted.

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.19
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23, 33-6-1*et seq.*
History. Original Rule entitled "Prohibition Against Typing, Prohibition Against Rebating and Impermissible Discounting" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.20. Related Laws and Rules.

In addition to the statutes and rules referenced herein products and transactions addressed by these Rules shall be subject to all applicable provisions of Title 33 and Title 7 of the Official Code of Georgia Annotated.

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.20
Authority: O.C.G.A. Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Related Laws and Rules" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.21. Penalties.

Any person, insurer, agent, agency, or financial institution violating the provisions of this Regulation Chapter shall be subject to the administrative actions and procedures, including but not limited to suspension, fine, revocation of license, as provided to the Commissioner of Insurance and/or the Commissioner of Banking and Finance pursuant to O.C.G.A. § 33-23-21 and § 7-1-91.

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.21
Authority: O.C.G.A Secs. 33-2-9, 33-3-23.
History. Original Rule entitled "Penalties" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Rule 120-2-76-.22. Severability.

If any provision of this Regulation Chapter or the application of it to any person or circumstance is held invalid, such invalidity shall not affect the provisions or applications of the rules herein which can be given effect without the invalid portion. To that end, the provisions of this rule are declared to be severable.

Cite as Ga. Comp. R. & Regs. R. 120-2-76-.22
Authority: O.C.G.A. Secs, 33-2-9, 33-3-23.
History. Original Rule entitled "Severability" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Subject 120-2-77. LARGE COMMERCIAL INSURANCE RISK RATING.

Rule 120-2-77-.01. Purpose.

The purpose and intent of this Regulation Chapter is to specifically recognize that the adherence to manual rules may not adequately service the unique needs of certain large commercial insurance risks and to permit, but not mandate, negotiated departure from manual rates for certain large commercial insurance risks. Nothing contained herein authorizes noncompliance with the rate making standards codified in O.C.G.A. § 33-9-4.

Cite as Ga. Comp. R. & Regs. R. 120-2-77-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-9-3, 33-9-4.
History. Original Rule entitled "Purpose" adopted. F. Dec. 22, 1998; eff. Jan. 11, 1999.

Rule 120-2-77-.02. Compliance.

Classifications, rates, and premiums developed in full compliance with this Regulation Chapter shall not be considered as filed and approved for the purpose of interpreting O.C.G.A. § 33-6-5(6)(B).

Cite as Ga. Comp. R. & Regs. R. 120-2-77-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-6-5, 33-9-3.
History. Original Rule entitled "Compliance" adopted. F. Dec. 22, 1998; eff. Jan. 11, 1999.

Rule 120-2-77-.03. Definitions.

For purposes of this Regulation Chapter:

(1) "Commissioner" shall mean the Commissioner of Insurance of the State of Georgia.

(2) "Large Commercial Risk" shall mean a single legal entity (or a combination of legal entities controlled by the same person or group of persons by majority interest in such entities) that meets all of the following criteria:

(a) 25 or more full-time employees at the time of application;

(b) assets in excess of $1,500,000 at the time of application;

(c) annual revenues in excess of $2,500,000; and

(d)

(i) annual property and casualty premium threshold from Georgia operations in excess of $50,000; or

(ii) an annual written property and casualty premium threshold for risks having multistate locations or operations in excess of $250,000.

Cite as Ga. Comp. R. & Regs. R. 120-2-77-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-9-3, 33-9-4.
History. Original Rule entitled "Definitions" adopted. F. Dec. 22, 1998; eff. Jan. 11, 1999.
Amended: F. Aug. 25, 2000; eff. Sept. 14, 2000.

Rule 120-2-77-.04. Determining Premium Threshold.

(1) When determining annual premium threshold, all premiums shall be calculated by the use of filed manual rates or rating systems including all objective discounts (credits) or surcharges (debits), but not including any discretionary rating.

(2) When determining the thresholds referred to in Section 120-2-77-.03(2)(d)(i) and (ii), the following premiums shall be excluded:

(a) premiums written by unauthorized insurers;

(b) primary and/or excess workers compensation premiums, including all premiums derived from policies which lawfully satisfy O.C.G.A. § 34-9-1*et seq.*;

(c) premiums from any type of coverage which lawfully utilizes uncontrolled rates including certain inland marine, ocean marine, and aviation;

(d) employee benefits premiums;

(e) premiums from errors and omissions coverages including medical malpractice;

(f) accident and sickness premiums; and

(g) any premiums for coverage provided by residual market mechanisms.

Cite as Ga. Comp. R. & Regs. R. 120-2-77-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-9-3, 33-9-4.
History. Original Rule entitled "Determining Premium Threshold" adopted. F. Dec. 22, 1998; eff. Jan. 11, 1999.

Rule 120-2-77-.05. Filed Manual Rates, Rating Plans, Rating Systems or Underwriting Rules.

(1) Insurers are not required to adhere to filed manual rates, rating plans, rating systems, or underwriting rules to price a large commercial risk. However, this section shall not apply with respect to:

(a) primary or excess workers compensation, including any alternative products which lawfully satisfy O.C.G.A. § 34-9-1*et seq.*, and

(b) all errors and omissions insurance including medical malpractice.

Cite as Ga. Comp. R. & Regs. R. 120-2-77-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-9-3, 33-9-4.
History. Original Rule entitled "Filed Manual Rates, Rating Plans, Ratings Systems or Underwriting Rules" adopted. F. Dec. 22, 1998; eff. Jan. 11, 1999.

Rule 120-2-77-.06. Statistical Reporting Requirement.

(1) Each insurer shall maintain records concerning all data, statistics, or underwriting rules so that the Commissioner is able to determine whether that insurer is in compliance with applicable laws and Rules and Regulations. Such information shall also be reported through a recognized statistical agency or advisory organization pursuant to O.C.G.A. § 33-9-20. As a minimum requirement, an insurer shall maintain annual experience on number of risks, written premiums, written premiums at manual level, paid losses, and outstanding losses.

(2) The Commissioner may request an insurer to provide the data referenced in paragraph (1) at any time. Any insurer which fails to produce the data within thirty (30) days of such request shall forfeit the privilege afforded by this Regulation for a period of no less than eighteen (18) months.

(3) Reports submitted to demonstrate compliance with the Rules and Regulation of the Office of Commissioner of Insurance Chapter 120-2-41 shall omit the premiums written pursuant to this Regulation Chapter.

(4) Information collected pursuant to this Rule may be requested at any time in connection with a rate filing.

Cite as Ga. Comp. R. & Regs. R. 120-2-77-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-9-3, 33-9-20, 33-9-21.
History. Original Rule entitled "Statistical Reporting Requirement" adopted. F. Dec. 22, 1998; eff. Jan. 11, 1999.

Rule 120-2-77-.07. Finding by the Commissioner.

With respect to large commercial risks, upon a finding by the Commissioner that a sufficient degree of competition does not exist for a particular line, class or type of insurance, he or she may suspend all or part of this Regulation Chapter.

Cite as Ga. Comp. R. & Regs. R. 120-2-77-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-9-4.
History. Original Rule entitled "Finding by the Commissioner" adopted. F. Dec. 22, 1998; eff. Jan. 11, 1999.

Rule 120-2-77-.08. Disclaimer.

Each policy issued to a large commercial risk rated in accordance with this Regulation Chapter shall include a disclaimer with language similar to the following: "The rates, rating plans, or resulting premiums provided for in this policy are exempt from the filing and approval requirements of the Office of Commissioner of Insurance."

Cite as Ga. Comp. R. & Regs. R. 120-2-77-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-9-4.
History. Original Rule entitled "Disclaimer" adopted. F. Dec. 22, 1998; eff. Jan. 11, 1999.

Rule 120-2-77-.09. Penalties.

Any insurer, or any agent, counselor, representative, officer, or employee of such insurer failing to comply with the requirements of this Regulation Chapter shall be subject to such penalties as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-77-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-9-4.
History. Original Rule entitled "Penalties" adopted. F. Dec. 22, 1998; eff. Jan. 11, 1999.

Rule 120-2-77-.10. Severability.

If any provision of this Regulation Chapter or the application of it to any person or circumstance is held invalid, such invalidity shall not affect the provisions or applications of the rules herein which can be given effect without the invalid portion. To that end, the provisions of this rule are declared to be severable.

Cite as Ga. Comp. R. & Regs. R. 120-2-77-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-9-4.

History. Original Rule entitled "Severability" adopted. F. Dec. 22, 1998; eff. Jan. 11, 1999.

Subject 120-2-78. CREDIT FOR REINSURANCE.

Rule 120-2-78-.01. Authority.

This regulation is promulgated pursuant to the authority granted by O.C.G.A. §§ 33-2-9 and 33-7-14.

Cite as Ga. Comp. R. & Regs. R. 120-2-78-.01
Authority: O.C.G.A. § 33-2-9 and O.C.G.A Chapter 33-63.
History. Original Rule entitled "Authority" adopted. F. Jul. 9, 1997; eff. Jul. 29, 1997.
Repealed: New Rule of same title adopted. F. May 23, 2013; eff. Jun. 12, 2013.

Rule 120-2-78-.02. Purpose.

The purpose of this regulation is to set forth rules and procedural requirements that the commissioner deems necessary to carry out the provisions of O.C.G.A. § 33-7-14. The actions and information required by this regulation are declared to be necessary and appropriate in the public interest and for the protection of the ceding insurers in this state.

Cite as Ga. Comp. R. & Regs. R. 120-2-78-.02
Authority: O.C.G.A. § 33-2-9 and O.C.G.A Chapter 33-63.
History. Original Rule entitled "Purpose" adopted F. Jul. 9, 1997; eff. Jul. 29, 1997.
Repealed: New Rule of same title adopted. F. May 23, 2013; eff. Jun. 12, 2013.

Rule 120-2-78-.03. Severability.

If any provision of this regulation, or the application of the provision to any person or circumstance, is held invalid, the remainder of the regulation, and the application of the provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

Cite as Ga. Comp. R. & Regs. R. 120-2-78-.03
Authority: O.C.G.A. § 33-2-9 and O.C.G.A Chapter 33-63.
History. Original Rule entitled "Trust Agreements" adopted. F. Jul. 9, 1997; eff. Jul. 29, 1997.
Repealed: New Rule entitled "Severability" adopted. F. May 23, 2013; eff. Jun. 12, 2013.

Rule 120-2-78-.04. Credit for ReinsuranceReinsurer Licensed in this State.

Pursuant to O.C.G.A. § 33-7-14(a), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that was licensed in this state as of any date on which statutory financial statement credit for reinsurance is claimed.

Cite as Ga. Comp. R. & Regs. R. 120-2-78-.04
Authority: O.C.G.A. § 33-2-9 and O.C.G.A Chapter 33-63.
History. Original Rule entitled "Letters of Credit" adopted. F. Jul. 9, 1997; eff. Jul. 29, 1997.
Repealed: New Rule entitled "Credit for Reinsurance-Reinsurer Licensed in this State" adopted. F. May 23, 2013; eff. Jun. 12, 2013.

Rule 120-2-78-.05. Credit for ReinsuranceAccredited Reinsurers.

(1) Pursuant to O.C.G.A. § 33-7-14(a)(2), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is accredited as a reinsurer in this state as of the date on which statutory financial statement credit for reinsurance is claimed. An accredited reinsurer must:

(a) File a properly executed Form AR-1 (attached as an exhibit to this regulation) as evidence of its submission to this state's jurisdiction and to this state's authority to examine its books and records;

(b) File with the commissioner a certified copy of a certificate of authority or other acceptable evidence that it is licensed to transact insurance or reinsurance in at least one state, or, in the case of a U.S. branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

(c) File annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement; and

(d) Maintain a surplus as regards policyholders in an amount not less than $20,000,000, or obtain the affirmative approval of the commissioner upon a finding that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers.

(2) If the commissioner determines that the assuming insurer has failed to meet or maintain any of these qualifications, the commissioner may upon written notice and opportunity for hearing, suspend or revoke the accreditation. Credit shall not be allowed a domestic ceding insurer under this section if the assuming insurer's accreditation has been revoked by the commissioner, or if the reinsurance was ceded while the assuming insurer's accreditation was under suspension by the commissioner.

Credit for Reinsurance Regulation

FORM AR-1

CERTIFICATE OF ASSUMING INSURER

I, _____,
_____

(name of officer) (title of officer)

of _____, the
assuming insurer (name of assuming insurer)

under a reinsurance agreement with one or more insurers domiciled in

_____,
hereby certify that (name of state)

_____("Assuming
Insurer"):

(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in_____

   (ceding insurer's state of domicile)

   for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the Insurance Commissioner of
   _____

   (ceding insurer's state of domicile)

   as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Submits to the authority of the Insurance Commissioner of
   _____ to examine

(ceding insurer's state of domicile)

its books and records and agrees to bear the expense of any such examination.

4. Submits with this form a current list of insurers domiciled in
_____

(ceding insurer's state of domicile)

reinsured by Assuming Insurer and undertakes to submit additions to or deletions from the list to the Insurance Commissioner at least once per calendar quarter.

Dated: _____
_____

(name of assuming insurer)

BY: _____

(name of officer)

_____

(title of officer)

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Cite as Ga. Comp. R. & Regs. R. 120-2-78-.05
Authority: O.C.G.A. § 33-2-9 and O.C.G.A Chapter 33-63.
History. Original Rule entitled "Other Security" adopted. F. Jul. 9, 1997; eff. Jul. 29, 1997.
Repealed: New Rule entitled "Credit for Reinsurance-Accredited Reinsurers" adopted. F. May 23, 2013; eff. Jun. 12, 2013.

Rule 120-2-78-.06. Credit for ReinsuranceReinsurer Domiciled and Licensed in Another State.

(1) Pursuant to O.C.G.A. § 33-7-14(a)(3), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that as of any date on which statutory financial statement credit for reinsurance is claimed:

(a) Is domiciled in (or, in the case of a U.S. branch of an alien assuming insurer, is entered through) a state that employs standards regarding credit for reinsurance substantially similar to those applicable under the Act and this regulation;

(b) Maintains a surplus as regards policyholders in an amount not less than $20,000,000; and

(c) Files a properly executed Form AR-1 with the commissioner as evidence of its submission to this state's authority to examine its books and records.

2. The provisions of this section relating to surplus as regards policyholders shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system. As used in this section, "substantially similar" standards means credit for reinsurance standards that the commissioner determines equal or exceed the standards of the Act and this regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-78-.06
Authority: O.C.G.A. § 33-2-9 and O.C.G.A Chapter 33-63.
History. Original Rule entitled "Reinsurance Contract" adopted. F. Jul. 9, 1997; eff Jul. 29, 1997.
Repealed: New Rule entitled "Credit for Reinsurance-Reinsurer Domiciled and Licensed in Another State" adopted. F. May 23, 2013; eff. Jun. 12, 2013.

Rule 120-2-78-.07. Credit for ReinsuranceReinsurers Maintaining Trust Funds.

(1) Pursuant to O.C.G.A. § 33-7-14(a)(4), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which, as of any date on which statutory financial statement credit for reinsurance is claimed, and thereafter for so long as credit for reinsurance is claimed, maintains a trust fund in an amount prescribed below in a qualified U.S. financial institution as defined in O.C.G.A. § 33-7-14(c)(2), for the payment of the valid claims of its U.S. domiciled ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the commissioner substantially the same information as that required to be reported on the National Association of Insurance Commissioners (NAIC) annual statement form by licensed insurers, to enable the commissioner to determine the sufficiency of the trust fund.

(2) The following requirements apply to the following categories of assuming insurer:

(a) The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by U.S. domiciled insurers, and in addition, the assuming insurer shall maintain a trusteed surplus of not less than $20,000,000, except as provided in paragraph (2) of this subsection.

(b) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trusteed surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of U.S. ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusteed surplus may not be reduced to an amount less than thirty percent (30%) of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers covered by the trust.

(c)

(1) The trust fund for a group including incorporated and individual unincorporated underwriters shall consist of:

(i) For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after January 1, 1993, funds in trust in an amount not less than the respective underwriters' several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any underwriter of the group;

(ii) For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this regulation, funds in trust in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and

(iii) In addition to these trusts, the group shall maintain a trusteed surplus of which $100,000,000 shall be held jointly for the benefit of the U.S. domiciled ceding insurers of any member of the group for all the years of account.

(2) The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members. The group shall, within ninety (90) days after its financial statements are due to be filed with the group's domiciliary regulator, provide to the commissioner:

(i) An annual certification by the group's domiciliary regulator of the solvency of each underwriter member of the group; or

(ii) If a certification is unavailable, a financial statement, prepared by independent public accountants, of each underwriter member of the group.

(d) (1) The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of $10,000,000,000 (calculated and reported in substantially the same manner as prescribed by the annual statement instructions and *Accounting Practices and Procedures Manual* of the NAIC) and which has continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation, shall:

(i) Consist of funds in trust in an amount not less than the assuming insurers' several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group;

(ii) Maintain a joint trusteed surplus of which $100,000,000 shall be held jointly for the benefit of U.S. domiciled ceding insurers of any member of the group; and

(iii) File a properly executed Form AR-1 as evidence of the submission to this state's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination.

(2) Within ninety (90) days after the statements are due to be filed with the group's domiciliary regulator, the group shall file with the commissioner an annual certification of each underwriter member's solvency by the member's domiciliary regulators, and financial statements, prepared by independent public accountants, of each underwriter member of the group.

(3) (a) Credit for reinsurance shall not be granted unless the form of the trust and any amendments to the trust have been approved by either the commissioner of the state where the trust is domiciled or the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust. The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that:

(1) Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty (30) days after entry of the final order of any court of competent jurisdiction in the United States;

(2) Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's U.S. ceding insurers, their assigns and successors in interest;

(3) The trust shall be subject to examination as determined by the commissioner;

(4) The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust; and

(5) No later than February 28 of each year the trustee of the trust shall report to the commissioner in writing setting forth the balance in the trust and listing the trust's investments at the preceding year-end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the following December 31.

(b)

(1) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by this subsection or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight over the trust or other designated receiver all of the assets of the trust fund.

(2) The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled applicable to the liquidation of domestic insurance companies.

(3) If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the U.S. beneficiaries of the trust, the commissioner with regulatory oversight over the trust shall return the assets, or any part thereof, to the trustee for distribution in accordance with the trust agreement.

(4) The grantor shall waive any right otherwise available to it under U.S. law that is inconsistent with this provision.

(4) For purposes of this section, the term "liabilities" shall mean the assuming insurer's gross liabilities attributable to reinsurance ceded by U.S. domiciled insurers excluding liabilities that are otherwise secured by acceptable means, and, shall include:

(a) For business ceded by domestic insurers authorized to write accident and health, and property and casualty insurance:

(1) Losses and allocated loss expenses paid by the ceding insurer, recoverable from the assuming insurer;

(2) Reserves for losses reported and outstanding;

(3) Reserves for losses incurred but not reported;

(4) Reserves for allocated loss expenses; and

(5) Unearned premiums.

(b) For business ceded by domestic insurers authorized to write life, health and annuity insurance:

(1) Aggregate reserves for life policies and contracts net of policy loans and net due and deferred premiums;

(2) Aggregate reserves for accident and health policies;

(3) Deposit funds and other liabilities without life or disability contingencies; and

(4) Liabilities for policy and contract claims.

(5) Assets deposited in trusts established pursuant to O.C.G.A. § 33-7-14(a) and this section shall be valued according to their current fair market value and shall consist only of cash in U.S. dollars, certificates of deposit issued by a U.S. financial institution as defined in O.C.G.A. § 33-7-14(c)(1), clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified U.S. financial institution, as defined in O.C.G.A. § 33-7-14(c)(1), and investments of the type specified in this subsection, but investments in or issued by an entity controlling, controlled by or under common control with either the grantor or beneficiary of the trust shall not exceed five percent (5%) of total investments. No more than twenty percent (20%) of the total of the investments in the trust may be foreign investments authorized under Paragraphs (a)(5), (c), (f)(2) or (g) of this subsection, and no more than ten percent (10%) of the total of the investments in the trust may be securities denominated in foreign currencies. For purposes of applying the

preceding sentence, a depository receipt denominated in U.S. dollars and representing rights conferred by a foreign security shall be classified as a foreign investment denominated in a foreign currency. The assets of a trust established to satisfy the requirements of O.C.G.A. § 33-7-14(a)shall be invested only as follows:

(a) Government obligations that are not in default as to principal or interest, that are valid and legally authorized and that are issued, assumed or guaranteed by:

(1) The United States or by any agency or instrumentality of the United States;

(2) A state of the United States;

(3) A territory, possession or other governmental unit of the United States;

(4) An agency or instrumentality of a governmental unit referred to in Subparagraphs (2) and (3) of this paragraph if the obligations shall be by law (statutory of otherwise) payable, as to both principal and interest, from taxes levied or by law required to be levied or from adequate special revenues pledged or otherwise appropriated or by law required to be provided for making these payments, but shall not be obligations eligible for investment under this paragraph if payable solely out of special assessments on properties benefited by local improvements; or

(5) The government of any other country that is a member of the Organization for Economic Cooperation and Development and whose government obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;

(b) Obligations that are issued in the United States, or that are dollar denominated and issued in a non-U.S. market, by a solvent U.S. institution (other than an insurance company) or that are assumed or guaranteed by a solvent U.S. institution (other than an insurance company) and that are not in default as to principal or interest if the obligations:

(1) Are rated A or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC, or if not so rated, are similar in structure and other material respects to other obligations of the same institution that are so rated;

(2) Are insured by at least one authorized insurer (other than the investing insurer or a parent, subsidiary or affiliate of the investing insurer) licensed to insure obligations in this state and, after considering the insurance, are rated AAA (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC; or

(3) Have been designated as Class One or Class Two by the Securities Valuation Office of the NAIC;

(c) Obligations issued, assumed or guaranteed by a solvent non-U.S. institution chartered in a country that is a member of the Organization for Economic Cooperation and Development or obligations of U.S. corporations issued in a non-U.S. currency, provided that in either case the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;

(d) An investment made pursuant to the provisions of Paragraph (a), (b) or (c) of this subsection shall be subject to the following additional limitations:

(1) An investment in or loan upon the obligations of an institution other than an institution that issues mortgage-related securities shall not exceed five percent (5%) of the assets of the trust;

(2) An investment in any one mortgage-related security shall not exceed five percent (5%) of the assets of the trust;

(3) The aggregate total investment in mortgage-related securities shall not exceed twenty-five percent (25%) of the assets of the trust; and

(4) Preferred or guaranteed shares issued or guaranteed by a solvent U.S. institution are permissible investments if all of the institution's obligations are eligible as investments under Paragraphs (b)(1) and (b)(3) of this subsection, but shall not exceed two percent (2%) of the assets of the trust.

(e) As used in this regulation:

(1) "Mortgage-related security" means an obligation that is rated AA or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC and that either:

(i) Represents ownership of one or more promissory notes or certificates of interest or participation in the notes (including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of the notes, certificates, or participation of amounts payable under, the notes, certificates or participation), that:

(I) Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in 42 U.S.C.A. Section 5402(6), whether the manufactured home is considered real or personal property under the laws of the state in which it is located; and

(II) Were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution that is supervised and examined by a federal or state housing authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to 12 U.S.C.A. Sections 1709 and 1715 -b, or, where the notes involve a lien on the manufactured home, by an institution or by a financial institution approved for insurance by the Secretary of Housing and Urban Development pursuant to 12 U.S.C.A. Section 1703; or

(ii) Is secured by one or more promissory notes or certificates of deposit or participations in the notes (with or without recourse to the insurer of the notes) and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, or notes meeting the requirements of Items (i)(I) and (i)(II) of this subsection;

(2) "Promissory note," when used in connection with a manufactured home, shall also include a loan, advance or credit sale as evidenced by a retail installment sales contract or other instrument.

(f) Equity interests

(1) Investments in common shares or partnership interests of a solvent U.S. institution are permissible if:

(i) Its obligations and preferred shares, if any, are eligible as investments under this subsection; and

(ii) The equity interests of the institution (except an insurance company) are registered on a national securities exchange as provided in the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a to 78kk or otherwise registered pursuant to that Act, and if otherwise registered, price quotations for them are furnished through a nationwide automated quotations system approved by the Financial Industry Regulatory Authority, or successor organization. A trust shall not invest in equity interests under this paragraph an amount exceeding one percent (1%) of the assets of the trust even though the equity interests are not so registered and are not issued by an insurance company;

(2) Investments in common shares of a solvent institution organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development, if:

(i) All its obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC; and

(ii) The equity interests of the institution are registered on a securities exchange regulated by the government of a country that is a member of the Organization for Economic Cooperation and Development;

(3) An investment in or loan upon any one institution's outstanding equity interests shall not exceed one percent (1%) of the assets of the trust. The cost of an investment in equity interests made pursuant to this paragraph, when added to the aggregate cost of other investments in equity interests then held pursuant to this paragraph, shall not exceed ten percent (10%) of the assets in the trust;

(g) Obligations issued, assumed or guaranteed by a multinational development bank, provided the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC.

(h) Investment companies

(1) Securities of an investment company registered pursuant to the Investment Company Act of 1940, 15 U.S.C. § 80 a, are permissible investments if the investment company:

(i) Invests at least ninety percent (90%) of its assets in the types of securities that qualify as an investment under Paragraph (a), (b) or (c) of this subsection or invests in securities that are determined by the commissioner to be substantively similar to the types of securities set forth in Paragraph (a), (b) or (c) of this subsection; or

(ii) Invests at least ninety percent (90%) of its assets in the types of equity interests that qualify as an investment under Paragraph (f)(1) of this subsection;

(2) Investments made by a trust in investment companies under this paragraph shall not exceed the following limitations:

(i) An investment in an investment company qualifying under Subparagraph (1)(i) of this paragraph shall not exceed ten percent

(10%) of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall not exceed twenty-five percent (25%) of the assets in the trust; and

(ii) Investments in an investment company qualifying under Subparagraph (1)(ii) of this paragraph shall not exceed five percent (5%) of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall be included when calculating the permissible aggregate value of equity interests pursuant to Paragraph (f)(1) of this subsection.

(i) Letters of Credit

(a) In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the commissioner), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

(b) The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.

(6) A specific security provided to a ceding insurer by an assuming insurer pursuant to Regulation 120-2-78-.09 shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this section.

Cite as Ga. Comp. R. & Regs. R. 120-2-78-.07
Authority: O.C.G.A. § 33-2-9 and O.C.G.A Chapter 33-63.
History. Original Rule entitled "Contracts Affected" adopted. F. Jul. 9, 1997; eff. Jul. 29, 1997.
Repealed: New Rule entitled "Credit for Reinsurance- Reinsurers Maintaining Trust Funds" adopted. F. May 23, 2013; eff. Jun. 12, 2013.

Rule 120-2-78-.08. Credit for ReinsuranceCertified Reinsurers.

(1) Pursuant to O.C.G.A. § 33-7-14(a)(5), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer

in this state at all times for which statutory financial statement credit for reinsurance is claimed under this section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the commissioner. The security shall be in a form consistent with the provisions of O.C.G.A. §§ 33-7-14(a)(5) and 33-7-14(b) and Sections 11, 12 or 13 of this Regulation. The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

(a)

Ratings	Security Required
Secure - 1	0%
Secure - 2	10%
Secure - 3	20%
Secure - 4	50%
Secure - 5	75%
Vulnerable - 6	100%

(b) Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.

(c) The commissioner shall require the certified reinsurer to post one hundred percent (100%), for the benefit of the ceding insurer or its estate, security upon the entry of an order of rehabilitation, liquidation or conservation against the ceding insurer.

(d) In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the commissioner. The one year deferral period is contingent upon the certified reinsurer continuing to pay claims in compliance with its contractual terms and obligations as set forth in the reinsurance agreement under which the claims are ceded. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:

1. Line 1: Fire
2. Line 2: Allied Lines
3. Line 3: Farmowners multiple peril
4. Line 4: Homeowners multiple peril
5. Line 5: Commercial multiple peril

6. Line 9: Inland Marine

7. Line 12: Earthquake

8. Line 21: Auto physical damage

(e) Credit for reinsurance under this section shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer.

(f) Nothing in this section shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this section.

(2) Certification Procedure.

(a) The commissioner shall post notice on the insurance department's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The commissioner may not take final action on the application until at least thirty (30) days after posting the notice required by this paragraph.

(b) The commissioner shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with Subsection (1) of this section. The commissioner shall publish a list of all certified reinsurers and their ratings.

(c) In order to be eligible for certification, the assuming insurer shall meet the following requirements:

(1) The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a Qualified Jurisdiction, as determined by the commissioner pursuant to Subsection (3) of this section.

(2) The assuming insurer must maintain capital and surplus, or its equivalent, of no less than $250,000,000 calculated in accordance with Subparagraph (d)(8) of this subsection. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least $250,000,000 and a central fund containing a balance of at least $250,000,000.

(3) The assuming insurer must maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner. These

ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the commissioner in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:

(i) Standard & Poor's;

(ii) Moody's Investors Service;

(iii) Fitch Ratings;

(iv) A.M. Best Company; or

(v) Any other Nationally Recognized Statistical Rating Organization.

(4) The certified reinsurer must comply with any other requirements reasonably imposed by the commissioner.

(d) Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following:

(1) The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The commissioner shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification:

Ratings	Best	S&P	Moody's	Fitch
Secure - 1	A++	AAA	Aaa	AAA
Secure - 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
Secure - 3	A	A+, A	A1, A2	A+, A
Secure - 4	A-	A-	A3	A-
Secure - 5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-

Vulnerable - 6	B, B- C++, C+, C, C-, D, E, F	BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD

(2) The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations;

(3) For certified reinsurers domiciled in the U.S., a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers);

(4) For certified reinsurers not domiciled in the U.S., a review annually of Form CR-F (for property/casualty reinsurers) or Form CR-S (for life and health reinsurers) (attached as exhibits to this regulation);

(5) The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than ninety (90) days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership;

(6) Regulatory actions against the certified reinsurer;

(7) The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in paragraph (8) below;

(8) For certified reinsurers not domiciled in the U.S., audited financial statements (audited U.S. GAAP basis if available, audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or, with the permission of the state insurance commissioner, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the non-U.S. jurisdiction supervisor). Upon the initial application for certification, the commissioner will consider audited financial statements for the last three (3) years filed with its non-U.S. jurisdiction supervisor;

(9) The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding;

(10) A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves U.S. ceding insurers. The commissioner shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and

(11) Any other information deemed relevant by the commissioner.

(e) Based on the analysis conducted under Subparagraph (d)(5) of a certified reinsurer's reputation for prompt payment of claims, the commissioner may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to U.S. ceding insurers, provided that the commissioner shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under Subparagraph (d)(1) if the commissioner finds that:

(1) more than fifteen percent (15%) of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of ninety (90) days or more which are not in dispute and which exceed $100,000 for each cedent; or

(2) the aggregate amount of reinsurance recoverables on paid losses which are not in dispute that are overdue by ninety (90) days or more exceeds $50,000,000.

(f) The assuming insurer must submit a properly executed Form CR-1 (attached as an exhibit to this regulation) as evidence of its submission to the jurisdiction of this state, appointment of the commissioner as an agent for service of process in this state, and agreement to provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment. The commissioner shall not certify any assuming insurer that is domiciled in a jurisdiction that the commissioner has determined does not adequately and promptly enforce final U.S. judgments or arbitration awards.

(g) The certified reinsurer must agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers which are not otherwise public information subject to disclosure shall be exempted from disclosure under O.C.G.A. § 50-18-70, *et. seq.* and shall be withheld from public disclosure. The applicable information filing requirements are, as follows:

(1) Notification within ten (10) days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefore;

(2) Annually, Form CR-F or CR-S, as applicable.

(3) Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in Subsection (4) below;

(4) Annually, audited financial statements (audited U.S. GAAP basis if available, audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or, with the permission of the state insurance commissioner, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor). Upon the initial certification, audited financial statements for the last three (3) years filed with the certified reinsurer's supervisor;

(5) At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers;

(6) A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level; and

(7) Any other information that the commissioner may reasonably require.

(h) Change in Rating or Revocation of Certification.

(1) In the case of a downgrade by a rating agency or other disqualifying circumstance, the commissioner shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of Regulation 120-2-78-.08(2)(d).

(2) The commissioner shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the commissioner to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations.

(3) If the rating of a certified reinsurer is upgraded by the commissioner, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the commissioner shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the commissioner, the commissioner shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

(4) Upon revocation of the certification of a certified reinsurer by the commissioner, the assuming insurer shall be required to post security in accordance with Regulation 120-2-78-.10 in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with Regulation 120-2-78-.07, the commissioner may allow additional credit equal to the ceding insurer's *pro rata* share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three (3) months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the commissioner to be at high risk of uncollectibility.

(3) Qualified Jurisdictions.

(a) If, upon conducting an evaluation under this section with respect to the reinsurance supervisory system of any non-U.S. assuming insurer, the commissioner determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the commissioner shall publish notice and evidence of such recognition in an appropriate manner. The commissioner may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.

(b) In order to determine whether the domiciliary jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the reinsurance supervisory system of the non-U.S. jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the U.S. The commissioner shall determine the appropriate approach for evaluating the qualifications of such jurisdictions, and create and publish a list of jurisdictions whose reinsurers may be approved by the commissioner as eligible for certification. A qualified jurisdiction must agree, in

writing, to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the commissioner, include but are not limited to the following:

(1) The framework under which the assuming insurer is regulated.

(2) The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.

(3) The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.

(4) The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.

(5) The domiciliary regulator's willingness to cooperate with U.S. regulators in general and the commissioner in particular.

(6) The history of performance by assuming insurers in the domiciliary jurisdiction.

(7) Any documented evidence of substantial problems with the enforcement of final U.S. judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the commissioner has determined that it does not adequately and promptly enforce final U.S. judgments or arbitration awards.

(8) Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization.

(9) Any other matters deemed relevant by the commissioner.

(c) The Commissioner shall consider any publicized list of jurisdictions that may be published through the NAIC Committee Process. If the commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification with respect to the criteria provided under Regulation Subsections 120-2-78-.08(3)(b)(1) to (9).

(d) U.S. jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

(4) Recognition of Certification Issued by an NAIC Accredited Jurisdiction.

(a) Ifan applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the commissioner has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR-1 and such additional information as the commissioner requires. The assuming insurer shall be considered to be a certified reinsurer in this State.

(b) Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in this State as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the commissioner of any change in its status or rating within 10 days after receiving notice of the change.

(c) The commissioner may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with Subparagraph 2(g)(1) of this section.

(d) The commissioner may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer. Unless the commissioner suspends or revokes the certified reinsurer's certification in accordance with Subparagraph (2)(g)(2) of this section, the certified reinsurer's certification shall remain in good standing in this State for a period of three (3) months, which shall be extended if additional time is necessary to consider the assuming insurer's application for certification in this State.

(5) Mandatory Funding Clause. In addition to the clauses required under Regulation 120-2-78.-14, reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

(6) The commissioner shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

Credit for Reinsurance Regulation

FORM CR-1

CERTIFICATE OF CERTIFIED REINSURER

I, _____,
_____

(name of officer) (title of officer) of
_____, the assuming insurer

(name of assuming insurer)

under a reinsurance agreement with one or more insurers domiciled in
_____, in order to be considered for approval in this state, hereby certify that (name of state)

_____("Assuming Insurer"):

(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in
_____ (ceding insurer's state of domicile) for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the Insurance Commissioner of
_____

(ceding insurer's state of domicile) as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Agrees to provide security in an amount equal to 100% of liabilities attributable to U.S. ceding insurers if it resists enforcement of a final U.S. judgment or properly enforceable arbitration award.

4. Agrees to provide notification within 10 days of any regulatory actions taken against it, any change in the provisions of its domiciliary license or any change in its rating by an approved rating agency, including a statement describing such changes and the reasons therefore.

5. Agrees to annually file information comparable to relevant provisions of the NAIC financial statement for use by insurance markets in accordance with [cite relevant provision of the state equivalent of the Credit for Reinsurance Model Regulation].

6. Agrees to annually file the report of the independent auditor on the financial statements of the insurance enterprise.

7. Agrees to annually file audited financial statements, regulatory filings, and actuarial opinion in accordance with [cite relevant provision of the state equivalent of the Credit for Reinsurance Model Regulation].

8. Agrees to annually file an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers.

9. Is in good standing as an insurer or reinsurer with the supervisor of its domiciliary jurisdiction.

Dated: _____ _____

(name of assuming insurer)

BY: _____

(name of officer)

_____

(title of officer)

Form CR-F - PART 1

Assumed Reinsurance as of December 31, Current Year (000 Omitted)

1	2	3	4	5	Reinsura	
Company Code or ID Number		Name of Reinsured	Domiciliary Jurisdiction	Assumed Premium	6 Paid Losses and Loss Adjustment Expenses	7 Known C Losses a
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9999999 Totals						

Form CR-F - PART 2

Ceded Reinsurance as of December 31, Current Year (000 Omitted)

1	2	3	4	5	6			
Company Code or ID Number		Name of Reinsurer	Domiciliary Jurisdiction	Reinsurance Contracts Ceding 75% or More of Direct Premiums Written	Reinsurance Premiums Ceded	7 Paid Losses	8 Paid LAE	9 Know Case Reser
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9999999 Totals								

Form CR-S - PART 1 - SECTION 1

Reinsurance Assumed Life Insurance, Annuities, Deposit Funds and Other Liabilities Without Life or Disability Contingencies, and Related Benefits Listed by Reinsured Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Reinsured	5 Location
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Totals				

Form CR-S - PART 1 - SECTION 2

Reinsurance Assumed Accident and Health Insurance Listed by Reinsured Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Reinsured	5 Domiciliary Jurisdictio
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Totals				

Form CR-S - PART 2

Reinsurance Recoverable on Paid and Unpaid Losses Listed by Reinsuring Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location
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Totals-Life, Annuity and Accident and Health				

Form CR-S - PART 3 - SECTION 1

Reinsurance Ceded Life Insurance, Annuities, Deposit Funds and Other Liabilities Without Life or Disability Contingencies, and Related Benefits Listed by Reinsuring Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location
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Totals				

Form CR-S - PART 3 - SECTION 2

Reinsurance Ceded Accident and Health Insurance Listed by Reinsuring Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location
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Totals				

Cite as Ga. Comp. R. & Regs. R. 120-2-78-.08
Authority: O.C.G.A. § 33-2-9 and O.C.G.A Chapter 33-63.
History. Original Rule entitled "Severability" adopted. F. Jul. 9, 1997; eff. Jul. 29, 1997.
Repealed: New Rule entitled "Credit for Reinsurance--Certified Reinsurers" adopted. F. May 23, 2013; eff. Jun. 12, 2013.

Rule 120-2-78-.09. Credit for Reinsurance Required by Law.

Pursuant to O.C.G.A. § 33-7-14(a)(6), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of O.C.G.A. § 33-7-14(a)(1) - (5) but only as to the insurance of risks located in jurisdictions where the reinsurance is required by the applicable law or regulation of that jurisdiction. As used in this section,

"jurisdiction" means state, district or territory of the United States and any lawful national government.

Cite as Ga. Comp. R. & Regs. R. 120-2-78-.09
Authority: O.C.G.A. § 33-2-9 and O.C.G.A Chapter 33-63.
History. Original Rule entitled "Penalties" adopted. F. Jul. 9, 1997; eff. Jul. 29, 1997.
Repealed: New Rule entitled "Credit for Reinsurance Required by Law" adopted. F. May 23, 2013; eff. Jun. 12, 2013.

Rule 120-2-78-.10. Asset or Reduction from Liability for Reinsurance Ceded to Unauthorized Assuming Insurer Not Meeting.

(1) Pursuant to O.C.G.A. § 33-7-14(b), the commissioner shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of O.C.G.A. § 33-7-14(a)in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations under the reinsurance contract. The security shall be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in O.C.G.A. § 33-7-14(c)(2). This security may be in the form of any of the following:

(a) Cash;

(b) Securities listed by the Securities Valuation Office of the NAIC, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets;

(c) Clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified United States institution, as defined in O.C.G.A. § 33-7-14(c), effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs; or

(d) Any other form of security acceptable to the commissioner.

(2) An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to this section shall be allowed only when the requirements of

Section 14 and the applicable portions of Sections 11, 12 or 13 of this regulation have been satisfied.

Cite as Ga. Comp. R. & Regs. R. 120-2-78-.10
Authority: O.C.G.A. § 33-2-9 and O.C.G.A Chapter 33-63.
History. Original Rule entitled "Asset or Reduction from Liability for Reinsurance Ceded to an Unauthorized Assuming Insurer not Meeting the Requirements of Sections 4 Through 9" adopted. F. May 23, 2013; eff. Jun. 12, 2013.

Rule 120-2-78-.11. Trust Agreements Qualified Under Section 10.

(1) As used in this section:

(a) "Beneficiary" means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator).

(b) "Grantor" means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.

(c) "Obligations," as used Subsection (2)(k) of this section means:

(1) Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;

(2) Reserves for reinsured losses reported and outstanding;

(3) Reserves for reinsured losses incurred but not reported; and

(4) Reserves for allocated reinsured loss expenses and unearned premiums.

(2) Required conditions.

(a) The trust agreement shall be entered into between the beneficiary, the grantor and a trustee, which shall be a qualified United States financial institution as defined in O.C.G.A. § 33-7-14(c)(2).

(b) The trust agreement shall create a trust account into which assets shall be deposited.

(c) All assets in the trust account shall be held by the trustee at the trustee's office in the United States.

(d) The trust agreement shall provide that:

(1) The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;

(2) No other statement or document is required to be presented to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;

(3) It is not subject to any conditions or qualifications outside of the trust agreement; and

(4) It shall not contain references to any other agreements or documents except as provided for in Paragraphs (k) and (l) of this subsection.

(e) The trust agreement shall be established for the sole benefit of the beneficiary.

(f) The trust agreement shall require the trustee to:

(1) Receive assets and hold all assets in a safe place;

(2) Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;

(3) Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;

(4) Notify the grantor and the beneficiary within ten (10) days, of any deposits to or withdrawals from the trust account;

(5) Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and

(6) Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.

(g) The trust agreement shall provide that at least thirty (30) days, but not more than forty-five (45) days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

(h) The trust agreement shall be made subject to and governed by the laws of the state in which the trust is domiciled.

(i) The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying commission to, or reimbursing the expenses of, the trustee. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the commissioner), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

(j) The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.

(k) Notwithstanding other provisions of this regulation, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

(1) To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

(2) To make payment to the assuming insurer of any amounts held in the trust account that exceed 102 percent of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or

(3) Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified U.S. financial institution as defined in O.C.G.A. § 33-7-14(c)(2) apart from its general assets, in trust for such uses and purposes specified in Subparagraphs (1) and (2) above as may

remain executory after such withdrawal and for any period after the termination date.

(l) Notwithstanding other provisions of this regulation, when a trust agreement is established to meet the requirements of Regulation 120-2-78-.10 in conjunction with a reinsurance agreement covering life, annuities or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

(1) To pay or reimburse the ceding insurer for:

(i) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the policies; and

(ii) The assuming insurer's share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurer, under the terms and provisions of the policies reinsured under the reinsurance agreement;

(2) To pay to the assuming insurer amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; or

(3) Where the ceding insurer has received notification of termination of the trust and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer, and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified U.S. financial institution apart from its general assets, in trust for the uses and purposes specified in Subparagraphs (1) and (2) of this paragraph as may remain executory after withdrawal and for any period after the termination date.

(m) Either the reinsurance agreement or the trust agreement must stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of

deposit issued by a United States bank and payable in United States dollars, and investments permitted by the Insurance Code or any combination of the above, provided investments in or issued by an entity controlling, controlled by or under common control with either the grantor or the beneficiary of the trust shall not exceed five percent (5%) of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities or accident and health risks, then the provisions required by this paragraph must be included in the reinsurance agreement.

(3) Permitted conditions.

(a) The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than ninety (90) days after the beneficiary and grantor receive the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than ninety (90) days after the trustee and the beneficiary receive the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

(b) The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.

(c) The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions that the trustee determines are at least equal in current fair market value to the assets withdrawn and that are consistent with the restrictions in Subsection (4)(a)(2) of this section.

(d) The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

(e) The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

(4) Additional conditions applicable to reinsurance agreements:

(a) A reinsurance agreement may contain provisions that:

(1) Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover;

(2) Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;

(3) Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and

(4) Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:

(i) To pay or reimburse the ceding insurer for:

(I) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;

(II) The assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement; and

(III) Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer;

(ii) To make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit

or reduction from liability for reinsurance taken by the ceding insurer.

(b) The reinsurance agreement also may contain provisions that:

(1) Give the assuming insurer the right to seek approval from the ceding insurer, which shall not be unreasonably or arbitrarily withheld, to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:

(i) The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a current fair market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount; or

(ii) After withdrawal and transfer, the current fair market value of the trust account is no less than 102 percent of the required amount.

(2) Provide for the return of any amount withdrawn in excess of the actual amounts required for Paragraph (a)(4) of this subsection, and for interest payments at a rate not in excess of the prime rate of interest on such amounts;

(3) Permit the award by any arbitration panel or court of competent jurisdiction of:

(i) Interest at a rate different from that provided in Subparagraph (2) of this paragraph;

(ii) Court or arbitration costs;

(iii) Attorney's fees; and

(iv) Any other reasonable expenses.

(5) Financial reporting. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department in compliance with the provisions of this regulation when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

(6) Existing agreements. Notwithstanding the effective date of this regulation, any trust agreement or underlying reinsurance agreement in existence prior to such effective date will continue to be acceptable until July 1, 2013 at which time the agreements will have to fully comply with this regulation for the trust agreement to be acceptable.

(7) The failure of any trust agreement to specifically identify the beneficiary as defined in Subsection (1) of this section shall not be construed to affect any actions or rights that the commissioner may take or possess pursuant to the provisions of the laws of this state.

Cite as Ga. Comp. R. & Regs. R. 120-2-78-.11
Authority: O.C.G.A. § 33-2-9 and O.C.G.A Chapter 33-63.
History. Original Rule entitled "Trust Agreements Qualified under Section 10" adopted. F. May 23, 2013; eff. Jun. 12, 2013.

Rule 120-2-78-.12. Letters of Credit Qualified Under Section 10.

(1) The letter of credit must be clean, irrevocable, unconditional and issued or confirmed by a qualified United States financial institution as defined in O.C.G.A. § 33-7-14(c)(1). The letter of credit shall contain an issue date and expiration date and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit also shall indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in Subsection (8)(a) of this section. As used in this section, "beneficiary" means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator).

(2) The heading of the letter of credit may include a boxed section containing the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

(3) The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

(4) The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" that prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of no less than thirty (30) days notice prior to expiration date or nonrenewal.

(5) The letter of credit shall state whether it is subject to and governed by the laws of this state or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600 (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98), or any successor publication, and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

(6) If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 500), or any successor publication, then the letter of credit shall specifically address and provide for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 17 of Publication 500 or any other successor publication, occur.

(7) If the letter of credit is issued by a financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in Subsection (1) of this section, then the following additional requirements shall be met:

(a) The issuing financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts; and

(b) The "evergreen clause" shall provide for thirty (30) days notice prior to expiration date for nonrenewal.

(8) Reinsurance agreement provisions.

(a) The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions that:

(1) Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover;

(2) Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

(i) To pay or reimburse the ceding insurer for:

(I) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;

(II) The assuming insurer's share, under the specific reinsurance agreement, of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance agreement; and

(III) Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer;

(ii) Where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount and where the assuming insurer's entire obligations under the reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified U.S. financial institution apart from its general assets, in trust for such uses and purposes specified in Subsection (8)(a)(2)(i) of this section as may remain after withdrawal and for any period after the termination date.

(3) All of the provisions of Paragraph (a) of this subsection shall be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

(b) Nothing contained Paragraph (a) of this subsection shall preclude the ceding insurer and assuming insurer from providing for:

(1) An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to Subparagraph (a)(2) of this subsection; or

(2) The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or any amounts that are subsequently determined not to be due.

Cite as Ga. Comp. R. & Regs. R. 120-2-78-.12
Authority: O.C.G.A. § 33-2-9 and O.C.G.A Chapter 33-63.
History. Original Rule entitled "Letters of Credit Qualified under Section 10" adopted. F. May 23, 2013; eff. Jun. 12, 2013.

Rule 120-2-78-.13. Other Security.

A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

Cite as Ga. Comp. R. & Regs. R. 120-2-78-.13
Authority: O.C.G.A. § 33-2-9 and O.C.G.A Chapter 33-63.
History. Original Rule entitled "Other Security" adopted. F. May 23, 2013; eff. Jun. 12, 2013.

Rule 120-2-78-.14. Reinsurance Contract.

Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of Sections 4, 5, 6, 7, 8 or 9 of this regulation or otherwise in compliance with O.C.G.A. § 33-7-14(a)after the adoption of this regulation unless the reinsurance agreement:

(1) Includes a proper insolvency clause, which stipulates that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company, pursuant to O.C.G.A. § 33-37-31;

(2) Includes a provision pursuant to O.C.G.A. § 33-7-14(a)whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give the court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of the court or panel; and

(3) Includes a proper reinsurance intermediary clause, if applicable, which stipulates that the credit risk for the intermediary is carried by the assuming insurer.

Cite as Ga. Comp. R. & Regs. R. 120-2-78-.14
Authority: O.C.G.A. § 33-2-9 and O.C.G.A Chapter 33-63.
History. Original Rule entitled "Reinsurance Contract" adopted. F. May 23, 2013; eff. Jun. 12, 2013.

Rule 120-2-78-.15. Contracts Affected.

All new and renewal reinsurance transactions entered into after July 1, 2013 shall conform to the requirements of the Act and this regulation if credit is to be given to the ceding insurer for such reinsurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-78-.15
Authority: O.C.G.A. § 33-2-9 and O.C.G.A Chapter 33-63.
History. Original Rule entitled "Contracts Affected" adopted. F. May 23, 2013; eff. Jun. 12, 2013.

Subject 120-2-79. HEALTH PLAN PURCHASING COOPERATIVES.

Rule 120-2-79-.01. Statutory Authority.

This Regulation applies to any health plan purchasing cooperative as defined in O.C.G.A. § 33-30A-1.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-1*et seq.*
History. Original Rule entitled "Statutory Authority" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Rule 120-2-79-.02. Scope and Purpose.

(1) This Regulation applies to any health plan purchasing cooperative as defined in O.C.G.A. § 33-30A-1.

(2) The purposes of this Regulation include:

  (a) Providing disclosure of contracts between insurance carriers and health plan purchasing cooperatives, both to potential insureds and to the Commissioner;

  (b) Promoting the overall responsibility of health plan purchasing cooperatives;

  (c) Subjecting persons administering health plan purchasing cooperatives to the jurisdiction of the Commissioner of Insurance; and

  (d) Regulating health plan purchasing cooperatives in conformity with the general purposes of the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-5, 33-30A-9.
History. Original Rule entitled "Scope and Purpose" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Rule 120-2-79-.03. Definitions.

As used in this Regulation Chapter, the term:

(1) "Employer-sponsored Health Benefit Arrangement" means any program of delivery, funding, or sponsorship of major medical, hospital, or medical and hospital expense coverage, or any type of coverage considered a health benefit plan as defined by O.C.G.A. § 33- 30A-1(3) offered by an employer for the benefit of its eligible employees and dependents

(2) "Market Type" means any one of the following types of entities:

(a) small employers as defined in O.C.G.A. § 33-30A-1(7);

(b) large employers, which shall mean all employers which do not meet the definition of small employer in O.C.G.A. § 33-30A-1(7)because such employers employed more than 50 eligible employees during 50 percent or more of its working days during the previous calendar quarter; or

(c) individuals offered membership in the health plan purchasing cooperative pursuant to O.C.G.A. § 33-30A-4(a)(4).

(3) "Member" means any employer (or individual pursuant to O.C.G.A. § 33-30A-4(a)(4)) which has entered into a contract with a health plan purchasing cooperative, has met the membership criteria of the health plan purchasing cooperative, including payment of any applicable membership fees, and maintains at least one health benefit plan offered through the health plan purchasing cooperative as its employer-sponsored health benefit arrangement for its employees.

(4) "Participating Carrier" means any insurer or carrier as defined in O.C.G.A. § 33-30A-1(2), with a certificate of authority to issue insurance in the State of Georgia, which has entered into a con- tract or agreement with a health plan purchasing cooperative to offer one or more health benefit plans to members of such purchasing cooperative.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-9.
History. Original Rule entitled "Definitions" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Rule 120-2-79-.04. Application and Issuance of Certificate of Authority.

(1) It is unlawful for any person or entity to act as or hold itself out to be a health plan purchasing cooperative in this State without a valid certificate of authority issued by the Commissioner of Insurance. To qualify for and hold a certificate of authority to act as a health plan purchasing cooperative in this State, a health plan purchasing cooperative must otherwise be in compliance with O.C.G.A. § 33-30A-1*et seq.*, this Regulation Chapter, and the bylaws of the health plan purchasing cooperative.

(2) The health plan purchasing cooperative shall file with the Commissioner an application for a certificate of authority upon a form to be furnished by the Commissioner. The application shall include or have attached the following information and documents:

(a) All basic organizational documents of the health plan purchasing cooperative including certificate of existence, the articles of incorporation, and other applicable documents, and all amendments to those documents;

(b) The bylaws, rules and regulations, statements of policy or similar documents regulating the conduct or the internal affairs of the health plan purchasing cooperative;

(c) The names, addresses, official positions, and professional qualifications of the individuals who are responsible for the conduct of the affairs of the health plan purchasing cooperative, including all members of the board of directors, board of trustees, executive committee, or other governing board or committee, the principal officers of the corporation, the membership of any advisory group or groups, and any other person who exercises control or influence over the affairs of the health plan purchasing cooperative;

(d) Audited annual statements or reports for each of the three most recent years, compiled by a certified public accountant, or such other information as the Commissioner may require in order to review the current financial condition of the applicant which ultimately reflects a minimum net worth amount of $200,000;

(e) If the applicant is not currently acting as a health plan purchasing cooperative, a statement of the amounts and sources of the funds available for organizational expenses and the proposed arrangements for reimbursement and compensation of incorporators or other principals;

(f) Fees required of a health plan purchasing cooperative as provided in the application materials;

(g) A business plan detailing the operation of the health plan purchasing cooperative in Georgia that includes the applicant's method(s) of solicitation, names of insurers and insurance products offered through the cooperative and the geographic area(s) the health plan purchasing cooperative is intending to serve;

(h) A copy of the guarantee of uninterrupted coverage as stipulated by O.C.G.A. § 33-30A-8(c); and

(i) Copies of all agreements between the health plan purchasing cooperative and the carrier(s) as stipulated by O.C.G.A. § 33-30A-4(f)as well as any administrator agreement(s) and/or agent agreement(s) used in the operations of the applicant.

(3) The applicant shall make available for inspection by the Commissioner or his or her authorized representative copies of all contracts with participating carriers or members of the health plan purchasing cooperative.

(4) The Commissioner may not issue a certificate of authority if he or she determines that the health plan purchasing cooperative, or any principal thereof is not competent, trustworthy, financially responsible, has worked as a responsible officer of an insurer whose certificate of authority was refused, revoked, or suspended, has had an agent's license refused, revoked, or suspended by any state, or, pursuant to O.C.G.A. § 33-30A-

7(d), has or had a financial interest in the operations of the health plan purchasing cooperative. As partial verification, the applicant is required to submit an investigative background report, supplied by any outside agency, directly to the department to support individual biographical affidavit(s) submitted by all directors, officers and/or principals representing the applicant. The report must include 10 years of data with specific review of all local, state and federal courts in areas where the individual has resided. Furthermore, the report should contain a credit report on the individual.

(5) A certificate of authority issued under this section shall remain valid, unless suspended or revoked by the Commissioner, so long as the health plan purchasing cooperative continues in business in this state in compliance with O.C.G.A. Title 33, Chapter 30A and this Regulation Chapter, and annually renews its certificate of authority in a timely manner.

(6) A health plan purchasing cooperative shall, as part of its application for licensure, disclose its written conditions of membership referred to in O.C.G.A. § 33-30A-4(b)(1) to the Commissioner for approval. Any material change to such conditions shall also be filed with the Commissioner for approval at least sixty (60) days prior to use.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-4, 33-30A-5, 33-30A-7, 33-30A-8, 33-30A-9.
History. Original Rule entitled "Application and Issuance of Certificate of Authority" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Rule 120-2-79-.05. Health Plan Purchasing Cooperatives Surety Bond and Insurance.

(1) At application and renewal every health plan purchasing cooperative shall file with the Commissioner a surety bond executed by a corporate surety insurer authorized to transact insurance in this state in favor of the Commissioner of Insurance of the State of Georgia, continuous in form and in an amount equal to at least ten percent of the amount of the funds handled or managed annually by the health plan purchasing cooperative, or if no funds were handled during the preceding year, ten percent of the amount of funds reasonably estimated to be handled during the current calendar year. In no event will the surety bond be less than $100,000.

(2) The bond shall inure to the benefit of any person damaged by any fraudulent act or conduct of the health plan purchasing cooperative and must be conditioned upon faithful accounting and application of all money coming into the health plan purchasing cooperative's possession in connection with its activities as a health plan purchasing cooperative.

(3) The bond remains in force until released by the Commissioner or canceled by the insurer. Without prejudice to any liability previously incurred, the insurer may cancel the bond

upon advanced written notice to the health plan purchasing cooperative and by certified mail to the Commissioner (Attn: Regulatory Services Division). A health plan purchasing cooperative's certificate of authority shall be suspended if it does not file with the Commissioner a replacement bond before the date of cancellation of the previous bond. A replacement bond must meet all requirements of this section for the initial bond.

(4) Each health plan purchasing cooperative shall obtain and maintain surety bond coverage or other appropriate liability insurance, written by an insurer carrier authorized to transact insurance in this state, in an amount of at least $100,000. A copy of this policy must be filed with the Commissioner at application and renewal.

(5) Any policy written in accordance with paragraph (4) 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 or certified mail to the other party to the policy and to the Commissioner (Attn: Regulatory Services Division); and

(b) the policy is automatically renewable at the expiration of the policy period except upon sixty (60) days written notice by registered or certified mail by the party not renewing the policy to the other party to the policy and to the Commissioner (Attn: Regulatory Services Division).

(6) Upon written approval by the Commissioner, an eligible surplus lines carrier may write bonds or policies required by this Rule.

(7) Compliance by the health plan purchasing cooperative with this Rule is a prerequisite to approval by the Commissioner of its application for a certificate of authority.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-5, 33-30A-9.
History. Original Rule entitled "Health Plan Purchasing Cooperatives Surety Bond and Insurance" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Rule 120-2-79-.06. Written Agreement Necessary.

No health plan purchasing cooperative shall act as such without a written agreement between the health plan purchasing cooperative and each participating carrier, and such written agreement shall be retained as part of the official records of the carrier and the health plan purchasing cooperative for the duration of the agreement and five years thereafter. Such written agreement shall contain provisions that comply with the requirements of this Regulation Chapter as they pertain to agreements between the health plan purchasing cooperative and participating carriers.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-5, 33-30A-9.

History. Original Rule entitled "Written Agreement Necessary" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Rule 120-2-79-.07. Maintenance of Information; Books and Records; Annual Report to the Carrier(s); Return Credits.

(1) Every health plan purchasing cooperative shall maintain at its principal administrative office for the duration of the written agreement referred to in § 120-2-79-.06 and five years thereafter books and records of all transactions between it, carriers and insured persons. The Commissioner shall have access to such books and records for the purpose of examination, audit and inspection. Any trade secrets contained therein, including but not limited to the identity and addresses of policyholders and certificate holders, shall be confidential, except the Commissioner may use such information in any proceedings instituted against the health plan purchasing cooperative. The participating carrier shall retain the right to continuing access to such books and records of the health plan purchasing cooperative sufficient to permit the carrier to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement between the carrier and health plan purchasing cooperative on the proprietary rights of the parties in such books and records.

(2) Health plan purchasing cooperatives shall maintain detailed books and records that reflect all transactions specifically in regard to premiums, premium taxes, agent commissions, fees, contributions received and deposited.

(3) The detailed preparation, journalizing, and posting of such books and records shall be made in accordance with the terms and conditions of the service agreement or contract between the health plan purchasing cooperative and the carrier, and in accordance with the "Employee Retirement and Income Security Act of 1974," 88 Stat. 829, 29 U.S.C. § 1001*et seq.*, as amended and to enable the carrier to complete the National Association of Insurance Commissioners' (NAIC) annual financial statement.

(4) Health plan purchasing cooperatives shall maintain a cash receipts register of all premiums or contributions received. The minimum detail required in the register shall be date received and deposited, the mode of payment, the policy number, name of policyholder and names of certificate-holders and individual premium amounts and agent.

(5) The description of a disbursement shall be in sufficient detail to identify the source document substantiating the purpose of the disbursement, and shall include all of the following:

   (a) The check number;

   (b) The date of disbursement;

   (c) The person to whom the disbursement was made;

(d) The amount disbursed, provided that if the amount disbursed does not agree with the amount billed or authorized, the health plan purchasing cooperative shall prepare a written record as to the application for the disbursement; and

(e) Ledger account number.

(6) If the disbursement is for the earned fee or commission, a written record reflecting the identifying deposit from which the fee was matched shall support the disbursement.

(7) Evidential matter shall support all journal entries for receipts and disbursements. The evidential matters must be referenced in the journal entry so that it may be traced for verification.

(8) The health plan purchasing cooperative shall prepare and maintain monthly financial institution account reconciliations if such service is requested by a participating carrier as provided in the agreement by and between the health plan purchasing cooperative and the carrier.

(9) The health plan purchasing cooperative shall prepare an annual report to be filed with each participating carrier within ninety days of the end of the fiscal year of the plan, which discloses at least all of the following:

(a) The total premiums or contributions received from the member employers, covered persons, or beneficiaries;

(b) The total fees withdrawn by the health plan purchasing cooperative pursuant to the written service agreement or contract; and

(c) Any additional information required by the written agreement or contract.

(10) A copy of the annual report described in paragraph (9) shall be retained as part of the official record of the health plan purchasing cooperative for at least five (5) years.

(11) Return premiums or contributions shall be paid to the participating carrier, or credited to the account of the participating carrier within thirty (30) days after receipt by the health plan purchasing cooperative. If the return premium or contribution is credited to the carrier, the credit must be shown and applied to the next billing statement sent by the carrier.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-5, 33-30A-9.
History. Original Rule entitled "Maintenance of Information; Books and Records; Annual Report to the Carrier(s); Return Credits" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Rule 120-2-79-.08. Payment to Health Plan Purchasing Cooperative.

Payment to the health plan purchasing cooperative of any premiums or charges for a health benefit plan by or on behalf of the insured or member shall be deemed to have been received by the participating carrier, and the payment of return premiums or claims by the carrier to the health plan purchasing cooperative shall not be deemed payment to the insured or claimant. Nothing herein shall permit or authorize purchasing cooperatives to process or administer claims or to accept claims payments, nor limit any right of a participating carrier to take action against the health plan purchasing cooperative resulting from its failure to make payments to the participating carrier.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-5, 33-30A-9.
History. Original Rule entitled "Payments to Health Plan Purchasing Cooperative" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Rule 120-2-79-.09. Premium Collection.

(1) All insurance charges, fees, or premiums collected by a health plan purchasing cooperative on behalf of or for a participating carrier, and return premiums received from such carrier, shall be held by the health plan purchasing cooperative in a fiduciary capacity. Such funds shall be immediately remitted to the person or persons entitled thereto, or shall be deposited promptly in a fiduciary bank account established and maintained by the health plan purchasing cooperative. If charges or premiums so deposited have been collected on behalf of or for more than one carrier, the health plan purchasing cooperative shall cause the bank in which such fiduciary account is maintained to keep records clearly recording the deposits in and withdrawals from such account on behalf of or for each carrier. The health plan purchasing cooperative shall promptly obtain and keep copies of all such records and, upon request of a participating carrier, shall furnish such carrier with copies of such records pertaining to deposits and withdrawals on behalf of or for such carrier. Withdrawals from such account shall be made, as provided in the written agreement or contract between the health plan purchasing cooperative and a participating carrier, for:

    (1) remittance to a carrier, entitled thereto;

    (2) deposit in an account maintained in the name of such carrier;

    (3) payment to a policyholder for remittance to the carrier entitled thereto; or

    (4) remittance of return premiums to the person or persons entitled thereto.

(2) In collecting premiums, a health plan purchasing cooperative must bill separately and explicitly to distinguish premium charges from administrative fees collected for the operation of the health plan purchasing cooperative. Any funds collected as premiums shall be held separately and accounted for or reported separately from funds collected from membership or administrative fees charged to members by the health plan purchasing cooperative.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-5, 33-30A-9.
History. Original Rule entitled "Premium Collection" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Rule 120-2-79-.10. Renewal; Annual Report; Semi-annual Financial Statements; Membership Reporting.

(1) Each authorized health plan purchasing cooperative shall file with the Commissioner a full and true report of its financial condition, transactions, and affairs. The report shall be filed annually on or before May 1 or within such extension of time therefore as the Commissioner for good cause may have granted and shall be for the preceding calendar year. The report shall be in such form and contain such matters as the Commissioner prescribes and shall be verified by at least two officers of the health plan purchasing cooperative filing the report. The second financial condition filing shall be filed on or before October 1 or within such extension of time therefore as the Commissioner for good cause may have granted and shall be for the second quarter for the current calendar year.

(2) Each authorized health plan purchasing cooperative shall file with the Commissioner a semiannual financial statement in such form as the Commissioner prescribes. Such statement shall be verified by at least two officers of the health plan purchasing cooperative filing the report.

(3) Each authorized health plan purchasing cooperative shall file with the Commissioner an annual independent audit by a certified public accountant in accordance with O.C.G.A. § 33-30A-4(d)(2).

(4) The annual report shall include the complete names, addresses, NAIC company and NAIC group number of all participating carriers with which the health plan purchasing cooperative had a contract or service agreement during the preceding fiscal year.

(5) The annual report shall show a detailed accounting of the specific services offered as well as evidence of proper handling of premium collection and record keeping in accordance with O.C.G.A. § 33-30A-4(d)(3).

(6) The annual report shall provide verification of the continuation of the surety bond or other appropriate liability coverage, as stipulated in this regulation.

(7) Along with the annual report shall be a written disclosure relating to paragraphs (a) through (I) of § 120-2-79-.04. This disclosure must include copies of any changes in documentation that occurred during the previous year's operation.

(8) Each health plan purchasing cooperative shall file with the Commissioner of Insurance on or before May 1st in each year, a certification executed by an authorized officer of the health plan purchasing cooperative wherein it is stated that the advertisements disseminated by the health plan purchasing cooperative during the preceding calendar

year complied, or were made to comply in all respects, with the advertising laws, rules and regulations of this State.

(9) Fees shall be required for the renewal of the health plan purchasing cooperative as provided in the application materials.

(10) In addition, the health plan purchasing cooperative shall maintain information on members of the health plan purchasing cooperative on an annual basis, by market type, total individuals enrolled in coverage through the health plan purchasing cooperative, broken down by total employees, total dependents, and total individuals in each category by health benefit plan, or any other reporting information deemed appropriate by the Commissioner. The Commissioner shall prescribe a reporting format for such information. All purchasing cooperatives shall disclose such information in the prescribed format no later than May 1st of every year for every previous year's operations.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-8-1, 33-30A-4, 33-30A-5, 33-30A-9.
History. Original Rule entitled "Renewal; Annual Report; Semi-annual Financial Statements; Membership Reporting" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Rule 120-2-79-.11. Approval of Advertising and Enrollment Materials.

(1) A health plan purchasing cooperative shall file any enrollment or marketing materials which provide the standardized information on each health benefit plan as specified in O.C.G.A. § 33-30A-4(b)(2) for distribution to cooperative members at least ninety (90) days prior to their use. Such materials shall include, but are not limited to, information distributed to members on how to file or appeal grievances with participating carriers or the health plan purchasing cooperative, and any comparisons between health benefit plans using measures of performance such as medical outcomes and consumer satisfaction which clearly describe the indicators of comparison and the approved methodology used for such comparison.

(2) Each health plan purchasing cooperative shall maintain at its principal administrative office a complete file of all advertisements and enrollment materials, regardless of who wrote or developed them, created or designed, which are used in the course of the health plan purchasing cooperative's business in this state, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to inspection by the Office of Commissioner of Insurance. All such advertisements shall be maintained in said file for a period of not less than five (5) years.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.11
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-5, 33-30A-9.
History. Original Rule entitled "Approval of Advertising and Enrollment Materials" adopted. F. Feb. 23, 2000; eff.

Mar. 14, 2000.

Rule 120-2-79-.12. Delivery of Policies and Notices.

Any policies, certificates, booklets, termination notices, or other written communications delivered by the participating carrier to the health plan purchasing cooperative for delivery to its policyholders or certificate holders shall be delivered by the health plan purchasing cooperative promptly after receipt of instructions from the carrier to deliver them.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.12
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-5, 33-30A-9.
History. Original Rule entitled "Delivery of Policies and Notices" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Rule 120-2-79-.13. Notification Required.

The health plan purchasing cooperative shall provide, upon enrollment, a written notice approved by the participating carrier, to individuals covered by such carrier, advising them of the identity of and relationship between the health plan purchasing cooperative, the member employer, and the carrier. Where a health plan purchasing cooperative collects funds, it must identify and state separately in writing to the member or person paying any charge or premium for health benefit plan coverage, the amount of any such charge or premium specified by the carrier for such coverage, and separately, the amount charged for administrative fees by the health plan purchasing cooperative.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.13
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-5, 33-30A-9.
History. Original Rule entitled "Notification Required" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Rule 120-2-79-.14. Areas of Service.

(1) As part of its application for a certificate of authority, a health plan purchasing cooperative shall file with the Commissioner a description of the entire service area of the health plan purchasing cooperative. All changes to a service area shall be filed for approval with the Commissioner at least sixty (60) days prior to such effective change.

(2) A health plan purchasing cooperative serving any part of a single metropolitan statistical area in Georgia, as most recently defined and established by the U.S. Office of Management and Budget, shall serve every county which is either entirely or partially located within such single metropolitan statistical area. A health plan purchasing cooperative may serve contiguous counties outside of the single metropolitan statistical area; however:

(a) If such contiguous county is located in another single metropolitan service area not served by the health plan purchasing cooperative (regardless of whether or not it is part of a consolidated metropolitan statistical area), the health plan purchasing cooperative may not serve such county unless it serves the entire single metropolitan statistical area in which it is located; and

(b) If such contiguous county is partially located in the single metropolitan service area served by the health plan purchasing cooperative, and partially located in another single metropolitan service area not served by the health plan purchasing cooperative, the health plan purchasing cooperative may then serve only the entire contiguous county that is partially in each single metropolitan service area.

(3) Nothing in this section shall prevent a health plan purchasing cooperative from serving a consolidated metropolitan statistical area in the state (as defined by the U.S. Office of Management and Budget), or two or more entire single metropolitan statistical areas.

(4) All references to metropolitan statistical area in this Rule shall equally apply to a primary metropolitan statistical area as defined by the U.S. Office of Management and Budget.

(5) A health plan purchasing cooperative may offer coverage in one or more counties in adjoining states contiguous to the borders of Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.14
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-5, 33-30A-9.
History. Original Rule entitled "Areas of Service" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Rule 120-2-79-.15. Choice of Health Benefit Plans; Enrollment.

(1) A health plan purchasing cooperative shall contract with at least two (2) unaffiliated carriers with Certificates of Authority from the Commissioner for participation in the health plan purchasing cooperative to ensure that employers and enrollees have a choice from among a reasonable number of competing carriers and types of health benefit plans. The Commissioner may, upon a demonstration of good cause by the health plan purchasing cooperative, waive the requirement to have at least two (2) unaffiliated participating carriers throughout any or all portions of the health plan purchasing cooperative's service area.

(2) A health plan purchasing cooperative may establish criteria relating to choice of health benefit plans offered by the health plan purchasing cooperative. Provided that the criteria is consistent and uniform with regard to market type, a health plan purchasing cooperative may require each member of a specific market type to choose one plan for all eligible employees, or may permit all eligible employees of all members of a specific market type to choose one plan out of all plans offered by the health plan purchasing cooperative, or may permit any additional limitations by members on employee choice of

health benefit plans, provided that such limitations apply consistently to all members in a specific market type without regard to health status related factors.

(3) Criteria described in paragraph (2) of this Rule shall include procedures for annual or rolling open enrollment periods in which members or employees may elect to enroll in any health benefit plan available through the health plan purchasing cooperative. Such criteria shall describe enrollment procedures for newly eligible employees and late entrants, and shall demonstrate compliance with Rule 120-2-67 regarding crediting of prior coverage.

(4) Health plan purchasing cooperatives, subject to any written agreement with a participating carrier or licensed third-party administrator to the contrary, shall be responsible for the issuance of certifications of creditable coverage pursuant to Rule 120-2-67-.12.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.15
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-5, 33-30A-9.
History. Original Rule entitled "Choice of Health Benefit Plans; Enrollment" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Rule 120-2-79-.16. Additional Powers of and Restrictions on Purchasing Cooperative.

(1) A health plan purchasing cooperative may do any of the following:

(a) Set reasonable fees, which may vary by employer size, for membership in the health plan purchasing cooperative that will finance reasonable and necessary costs incurred in administering the health plan purchasing cooperative;

(b) Contract with independent third parties licensed by the Commissioner for any service necessary to carry out the powers and duties authorized or required by Title 33, Chapter 30A of the Official Code of Georgia and this Regulation Chapter;

(c) Contract with licensed insurance agents to market and service health benefit plans made available through the health plan purchasing cooperative to its members, provided that compensation for agents shall not vary based on the actual or expected experience or health status of the member or persons to which coverge is sold;

(d) Establish written standards to be met by participating carriers, including but not limited to benefit design, access, quality assurance, data collection, and cost, and accept or reject proposals from carriers for participation in the health plan purchasing cooperative based on such articulated standards, provided that carriers

shall be responsible for determining the benefits, rates and underwriting criteria applicable to health benefit plans and for securing reinsurance, if any;

(e) Negotiate with participating carriers the administrative expense component of the premium rates charged for coverage offered through the health plan purchasing cooperative;

(f) Provide other services to members pursuant to O.C.G.A. § 33- 30A-2(b) provided that any insurance coverage offered by the health plan purchasing cooperative shall have complied with all applicable requirements of Title 33 of the Official Code of Georgia; and

(g) Establish written standards with participating carriers for the intake, processing, and resolution of member grievances pertaining to a health benefit plan and addressed or appealed to the health plan purchasing cooperative.

(2) A health plan purchasing cooperative shall not:

(a) Exclude from membership, or prevent continuation of membership for, a small employer who has met the conditions of membership established pursuant to O.C.G.A. § 33-30A-4(b)(1), agrees to pay and in fact does pay fees for membership and the premium for health benefit plan coverage through the health plan purchasing cooperative, and abides by the bylaws and rules of the health plan purchasing cooperative;

(b) The event that a health plan purchasing cooperative elects to accept other classes of membership pursuant to O.C.G.A. § 33-30A- 4(3) or (4), exclude any employer or individual in such a class from membership, or prevent continuation of membership, in the health plan purchasing cooperative, provided that the employer or individual has met the conditions of membership established pursuant to O.C.G.A. § 33-30A-4(b)(1), agrees to pay fees for membership and the premium for health benefit plan coverage through the health plan purchasing cooperative, and abides by the bylaws and rules of the health plan purchasing cooperative;

(c) Exclude from coverage or decline for coverage an eligible employee or dependent of an eligible employee;

(d) Place any insurance coverage on behalf of a member with a carrier that is not authorized or approved by the Commissioner to do business in Georgia;

(e) Provide for any self-insurance or reinsurance of benefits provided to any member, or collection of members or eligible individuals, or any other arrangement covering health care expenses which is not through a health benefit plan from an insurer, health maintenance organization, or health care corporation holding an appropriate certificate of authority from the Commissioner;

(f) Charge a fee not directly related to the operation of the health plan purchasing cooperative;

(g) Engage in any unfair trade practice defined in Chapter 6 of Title 33 of the Official Code of Georgia;

(h) Fail to submit requested documentation to the Office of Commissioner of Insurance that pertains to this Regulation Chapter, or applicable provisions of the Official Code of Georgia, or any complaints or inquiries regarding the business practices of a health plan purchasing cooperative within a reasonable time frame as determined by the Commissioner; and

(i) Intentionally misrepresent or withhold any data or information that has been provided by the member and is pertinent to the lawful underwriting criteria of a health benefit plan, or intentionally misrepresent the terms or existence of any such health benefit plan in any way.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.16
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-5, 33-30A-9.
History. Original Rule entitled "Additional Powers of and Restrictions on Purchasing Cooperative" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Rule 120-2-79-.17. Rating.

(1) Small Employer Rating Requirements. Participating carriers offering coverage to small employers through a health plan purchasing cooperative must comply with the rating requirements of Rule 120-2-10-.12(5) and must consistently use the same set of rating factors otherwise used for small group health insurance coverage issued outside of a health plan purchasing cooperative in developing rates for health benefit plans issued or renewed through the health plan purchasing cooperative. Small employer members shall be considered small groups, and experience from health benefit plans issued by a participating carrier to small employer members of a health plan purchasing cooperative shall be part of that carrier's small group pool. Participating carriers shall adhere to every provision of Rule 120-2-10-.12(5) in the following manner, unless specifically directed otherwise by the following:

(a) Every small employer member covered by a participating carrier shall be treated as a small group for purposes of Rule 120-2-10-.12(5), in which premiums for small employers are based on pool rates and deviated by any of the allowable factors, and individual employees are subject to premium quotes made for each small employer; or

(b) In lieu of subparagraph (a), all rates for use with all employees and dependents of employees of small employer members in a health plan purchasing cooperative

may be developed on a composite basis for factors specified in Rule 120-2-10-.12(5)(b), provided that:

(2) A participating carrier may use small group rating factors for age, sex, and family size or composition to apply to composite rates on an individual or family basis, in standard age ranges approved by the health plan purchasing cooperative, with which employees and dependents may then be quoted standard rates on age, sex, or family characteristics;

(3) A participating carrier shall develop composite rates by calculating a single, standard deviation from the small group pool rate for the actual or anticipated experience of all employees and dependents of employees of all small employer members covered or expected to be covered by the participating carrier in the health plan purchasing cooperative which is not greater than plus or minus 25 percent of the small group rate (or plus or minus 35 percent if the small group pool is rated in accordance with Rule 120-2-10-.12(5)(h)(1));

(4) A participating carrier not subject to Rule 120-2-10-.12(5)(h)(1) may use select and substandard rating related to new entrants to the participating carrier's health benefit plan in accordance with Rule 120-2-10-.12(5)(f) and must apply such rating uniformly and consistently to all individuals covered by that participating carrier through the health plan purchasing cooperative and consistent with the select and substandard rating methodology applied to its entire small group pool;

(5) If a participating carrier uses select and substandard rating as in subparagraph (1)(b)3 of this Rule, it may impose a waiting period for coverage of new entrants pursuant to Rule 120-2-10-.12(5)(a) if permitted by the health plan purchasing cooperative; and

(6) If a participating carrier is not permitted by the health plan purchasing cooperative to impose a waiting period as otherwise permitted in subparagraph (1)(b)(4) of this Rule, the carrier may not impose a select or substandard rate on any purchasing cooperative health benefit plan.

(a) For the purposes of Rule 120-2-10-.12(5)(g), the anticipated group premiums from health benefit plans issued by a participating carrier in one or more purchasing cooperatives using the methodology in either subparagraph (a) or (b) shall be included in the determination of anticipated pool premiums. Premium deviations related to coverage issued to a health plan purchasing cooperative shall be considered in offsetting upward and downward deviations resulting from the application of rating factors to all small groups.

(b) The health plan purchasing cooperative and a participating carrier may negotiate only the administrative expense component of the small group pool rate in determining the rate or rates charged for health benefit plans in the health plan purchasing cooperative, where the carrier can demonstrate net administrative cost savings for its health plan purchasing cooperative business. For the purposes of this paragraph, administrative expenses are limited to marketing expenses,

acquisition expenses, the cost of paying claims, commissions, profits, and maintenance expenses.

(7) Large Employer Rating Requirements. All large employers members covered in a health plan purchasing cooperative shall be considered as separate from the participating carrier's small group pool for compliance with Rule 120-2-10-.12, and may be considered separate from small employer members in the health plan purchasing cooperative for rating purposes. In particular:

(a) If employees are permitted to select a health benefit plan, employees of all large employer members may be rated on composite basis adjusted on by age, sex, and family characteristics, provided that a health plan purchasing cooperative may permit each participating carrier to adjust composite rates applicable to a particular large employer for the specific risk characteristics and expected experience of the large employer, or

(b) If an employer selects a health benefit plan on behalf of all eligible employees, each large employer member may be experience rated as otherwise permitted by state law.

(8) In the event a health plan purchasing cooperative permits enrollment of individuals as permitted in O.C.G.A. § 33-30-4(a)(4), such individuals shall be subject to Rule 120-2-10-.12(8) and shall be rated as a small group, except that carriers subject to subparagraph (1)(b) of this Rule shall offer coverage to such individuals at the same composite rates (adjusted for age, sex, and family size) offered to other employees.

(9) With regard to compliance with Rule 120-2-10-.12 in any respect, a participating carrier offering a health benefit plan in a health insurance purchasing cooperative shall determine compliance based on final rates certified to and accepted by the health plan purchasing cooperative for the duration of the rate guarantee period agreed to by the carrier and purchasing cooperative. A participating carrier may only adjust rates during the negotiated rate guarantee period in accordance with Rule 120-2-10-.12(5)(a)1. Nothing in this Regulation Chapter shall prevent a health plan purchasing cooperative from negotiating any specific rate guarantee period with participating carriers, provided that such periods are at least six months and are established consistently for all participating carriers.

(10) In the event a health insurance purchasing cooperative and participating carriers agree to apply a different rating methodology from that established by this Rule, or a risk adjustment mechanism to adjust payments to participating carriers based on disproportionate shares of high- or low-risk enrollees, the health plan purchasing cooperative shall file with the Commissioner such proposal, along with certifications from the participating carriers party to such proposal, for approval. The proposal shall demonstrate compliance with the provisions of Rule 120-2-10-.12 with regard to rating of small employer members, or employees in small employer members, and assure consistent application of such mechanism to all members of the health plan purchasing

cooperative within each market type. The proposal shall be developed and certified by a qualified actuary. Any risk adjustment mechanism shall be based on valid data from participating carriers and shall utilize factors actuarially related to risk.

(11) The health insurance purchasing cooperative shall keep all documentation pertaining to choice of benefits, materials used to instruct members of such choices, premium tables and other rating disclosures, and any rating mechanism developed in conjunction with participating carriers, for review by the Commissioner upon request. Such documentation must include rating materials demonstrating compliance with this Rule.

(12) Upon application and renewal for its certificate of authority, a health plan purchasing cooperative shall provide a certification by a responsible officer of the health plan purchasing cooperative as to compliance with the rating provisions of this Rule. Such certification shall include documentary evidence or certifications from participating carriers that such carriers are also complying with the provisions of this Rule as they apply to small employer members. Additionally, the certification submitted by the health plan purchasing cooperative shall designate whether the health plan purchasing cooperative complies, in its arrangements with participating carriers, with either subparagraph (1)(a) or (1)(b) of this Rule as they apply to small employer members, and shall designate the method of compliance with paragraphs (2) and (3) of this Rule as they apply to members of other market types (if applicable). A health plan purchasing cooperative subject to paragraph (5) of this Rule shall amend its certification as appropriate pursuant to its proposal upon application, and shall certify continued compliance with its originally approved rating proposal upon renewal.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.17
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-5, 33-30A-9.
History. Original Rule entitled "Rating" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Rule 120-2-79-.18. Contribution and Participation Rules.

(1) A health plan purchasing cooperative may set contribution rules for members in each market type served by the cooperative, which require a minimum percentage of premium contribution from each member for each eligible employee or dependent. A health plan purchasing cooperative may set separate minimum contribution rules for employees and dependents.

(2) A health plan purchasing cooperative may set minimum employee participation rules for members of each market type served by the cooperative, and shall consistently require such minimum participation levels for members of each market type. In any case, the minimum participation rule for small employers shall meet the requirements of Rule 120-2-10-.12(9).

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.18
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-9.

History. Original Rule entitled "Contribution and Participation Rules" adopted. F. Feb. 23, 2000; eff Mar. 14, 2000.

Rule 120-2-79-.19. Contracts with Members and Participating Carriers.

(1) Contracts or written service agreements between the health plan purchasing cooperative and a participating carrier shall:

(a) Establish, on a consistent and uniform basis, a policyholder, which shall be either the health plan purchasing cooperative or each of its members;

(b) Provide that the participating carrier will issue a certificate of coverage, or equivalent document, specifying the essential features of coverage under the health benefit plan to each enrolled employee; and

(c) Specify how all premiums will be transmitted, applicable penalties and grace periods for payments, and underwriting criteria or other standards pertaining to the business underwritten by such carrier in the health plan purchasing cooperative.

(2) On a consistent basis for all members, contracts between the health plan purchasing cooperative and a member shall:

(a) For administrative purposes, establish, on a uniform basis for each market type, either the health plan purchasing cooperative, in trust, or the member as the policyholder of the health benefit plan on behalf of eligible employees and dependents;

(b) Provide that the participating carrier will issue a certificate of coverage, or equivalent document, specifying the essential features of coverage under the health benefit plan to each enrolled eligible employee;

(c) Provide that the member must establish an employer-sponsored health benefit arrangement for its employees (or, in the case of an individual member, obtain coverage for himself or herself) only through health benefit plans offered by the health plan purchasing cooperative;

(d) Establish applicable penalties and grace periods for a member to make premium payments to the health plan purchasing cooperative, guidelines on how all premiums will be transmitted, and standards for the collection of membership or administrative fees for the operation of the health plan purchasing cooperative; and

(e) Describe the terms of membership and renewal of membership and coverage under a health benefit plan.

(3) A health plan purchasing cooperative shall file with the Commissioner for approval a sample of each type of contract proposed for use with members and carriers.

(4) Participating carriers shall file with the Commissioner for approval any contract or policy of insurance to be delivered to a health plan purchasing cooperative or its members as a health benefit plan or as an additional insurance benefit, unless such policy has previously been approved by the Commissioner for use. Any amendments, riders, or exclusions added to a previously approved policy or contract applicable to health plan purchasing cooperative members shall be filed for approval.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.19
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-5, 33-30A-9.
History. Original Rule entitled "Contracts with Members and Participating Carriers" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Rule 120-2-79-.20. Renewability; Termination of Agreement.

(1) For purposes of renewability, health plan purchasing cooperatives, members, and participating carriers shall be subject to Rule 120-2-67-.09 with regard to renewability and non-termination of coverage, and coverage under a health plan purchasing cooperative shall be considered coverage under a true association for such purposes. In particular:

(a) With respect to Rule 120-2-67-.09, the health plan purchasing cooperative shall be considered the policyholder;

(b) The written agreement or contract between the health plan purchasing cooperative and participating carriers shall specify the terms of renewal and shall define the date of renewal; and

(c) The health plan purchasing cooperative is responsible for assuring continuity and renewal of coverage for members under Rule 120-2-67-.09 in the event a participating insurer no longer participates in a health plan purchasing cooperative, and shall not exclude a member from coverage under any health benefit plan at any time.

(2) A member of a health plan purchasing cooperative may have its coverage under a health benefit plan nonrenewed, canceled, or terminated pursuant to the written agreement or contract between the health plan purchasing cooperative and a participating carrier, only if:

(a) The member has failed to pay premiums, contributions, membership or administrative fees, as applicable, in accordance with the terms of membership or the health benefit plan, including any timeliness requirements, subject to applicable State law;

(b) The member has performed an act or practice that constitutes fraud or intentional misrepresentation of material fact in applying for or procuring coverage under the terms of membership or the health benefit plan;

(c) The member has violated the applicable minimum contribution or participation rules as set by the health plan purchasing cooperative, provided that the health plan purchasing cooperative or participating carrier submits written notice to each affected member and provides such member sixty (60) days in which to bring the member into compliance prior to cancellation; or

(d) None of the member's employees or enrollees live, reside, or work in the service area of the provider network, only if the health benefit plan is issued by a health maintenance organization or a provider-sponsored health care corporation, unless there is at least one insured employee or enrollee who has agreed to return to the service area of a health maintenance organization in accordance with the Rule 120-2-33-.06(5).

(3) If a health plan purchasing cooperative, because of insolvency or nonrenewal, suspension, or revocation of its certificate of authority, fails to continue to make coverage available to member small employers through participating carriers, all participating carriers at the time of such failure shall, subject to guidelines established by the Commissioner for the assumption, rehabilitation, or liquidation of the particular health plan purchasing cooperative, or in any decision to revoke or suspend the certificate of authority, do one of the following:

(a) In the event of a health plan purchasing cooperative which allowed employer choice, continue covering and renewing each member as a policyholder pursuant to Rule 120-2-67-.09; or

(b) In the event of a health plan purchasing cooperative which allowed employee choice, not discontinue coverage until the renewal date that otherwise would have applied to the health plan purchasing cooperative or to each member, and then

(1) With regard to every small employer member, offer the option to purchase all group policies currently being offered to or renewed by small employers in this State;

(2) With regard to every large employer member, offer the option to purchase any other group policy from the carrier currently being offered to or renewed by a large employer in this State; or

(3) With regard to every individual member pursuant to O.C.G.A. § 33-30A-4(4), offer the option to purchase any other individual policy most similar to the group policy under which the individual was covered, or any other similar group policy currently being offered to or renewed by small employers in this State.

(4) With regard to compliance with subparagraph (3)(b), a participating carrier which is a health maintenance organization or provider- sponsored health care corporation shall not be required to offer coverage to a member without any employees who live, work, or reside in the service area of the carrier, or offer coverage to an individual member who does not live, work, or reside in the service area of the carrier.

(5) In the event the participating carrier completes its obligation to issue a health benefit plan under the terms of an agreement with a health plan purchasing cooperative which opts not to renew the agreement, the participating carrier shall:

(a) Provide notice of the decision at least 180 days prior to the nonrenewal of any health benefit plan (or the first nonrenewal of any member under such health benefit plan) to the members and enrollees;

(b) Not terminate coverage prior to the renewal date of the health benefit plan, or the renewal date of any member covered under the health benefit plan provided that such renewal date is at least 180 days after the date of notice stipulated in subparagraph (5)(a) of this Rule; and

(c) Be prohibited from writing new business through the health plan purchasing cooperative consistent with the Portability and Renewability requirements in the federal Health Insurance Portability and Accountability Act of 1996 and applicable laws and Rules and Regulations of the State of Georgia.

(5) Upon such time as notice is sent by a carrier in accordance with subparagraph (5)(a) of this Rule, the health plan purchasing cooperative shall make available through all other participating carriers any other coverage to affected members and enrollees to assure continuity of coverage within the health plan purchasing cooperative.

(6) Subject to paragraphs (3) and (4), no health plan purchasing cooperative shall have the unilateral authority to move the coverage of a member group to a new carrier.

(7) Any individual in this state, insured through a health benefit plan offered by a health plan purchasing cooperative and whose coverage under such plan terminates as a result of termination of employment or cessation of membership or the employer's membership in the health plan purchasing cooperative without replacement group coverage, regardless of the situs of the group policy, shall be entitled to continuation and conversion rights as required under O.C.G.A. § 33-24-21.1, Rules 120-2-10-.11 and 120-2-10-.11 A, and under the federal Consolidated Omnibus Budget Reconciliation Act of 1986.

(8) Where a health benefit plan is discontinued and replaced, the individual carriers shall be entitled to all takeover rights provided under Rule 120-2-10-.10.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.20
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-5, 33-30A-9.
History. Original Rule entitled "Renewability; Termination of Agreement" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Rule 120-2-79-.21. Examination by Commissioner; On-Site Visits.

(1) A health plan purchasing cooperative shall, at the request of the Commissioner, respond in writing within fifteen (15) working days to any complaint received by the Commissioner concerning the health plan purchasing cooperative. If, in the Commissioner's discretion, the frequency or severity of such complaints or infractions justify an examination of the health plan purchasing cooperative's practices and procedures, any such examination by the Commissioner, or any person designated by the Commissioner, shall be at the expense of the health plan purchasing cooperative. In addition to any other remedy available to the Commissioner, failure by the health plan purchasing cooperative to willingly and fully cooperate with this rule may result in either suspension, revocation or refusal to renew a certificate of authority by the Commissioner.

(2) The Commissioner or his or her designated representative is authorized to make a complete on-site examination of the affairs of each health plan purchasing cooperative as often as is deemed necessary. Whenever the Commissioner shall deem it expedient, he or she shall examine, by use of an examiner duly authorized by him or her, the affairs, transactions, accounts, records, documents, assets, liabilities, of a health plan purchasing cooperative and any other facts relative to its business methods, management, and dealings with policyholders, certificate holders, and members.

(3) Any health plan purchasing cooperative being examined shall provide to the Commissioner or his or her designee convenient and free access, at all reasonable hours at their offices, to all books, records, documents and other papers relating to the health plan purchasing cooperative's business affairs.

(4) At the direction of the Commissioner, the health plan purchasing cooperative shall pay the fees and expenses of the examination. The examiner shall file a consolidated account for the examination with the Commissioner.

(5) Nothing in this Rule shall limit or abridge any other investigatory powers of the Commissioner vested in him or her by Title 33 of the Official Code of Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.21
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-5, 33-30A-9.
History. Original Rule entitled "Examination by Commissioner; On-Site Visits" adopted. F. Feb. 23, 2000; eff. Mar.

14, 2000.

Rule 120-2-79-.22. Penalties.

Any health plan purchasing cooperative, carrier, agent, representative, officer or employee of such carrier, failing to comply with the requirements of this Regulation Chapter shall be subject to such penalties as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.22
Authority: O.C.G.A. Secs. 33-2-9.
History. Original Rule entitled "Penalties" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Rule 120-2-79-.23. Severability.

If any rule or portion of a Rule in this chapter or the applicability thereof to any particular circumstances is held invalid by a court of competent jurisdiction, the remainder of the Rules or the applicability of such provision to other persons or circumstances shall not be affected.

Cite as Ga. Comp. R. & Regs. R. 120-2-79-.23
Authority: O.C.G.A. Secs. 33-2-9, 33-30A-5, 33-30A-9.
History. Original Rule entitled "Severability" adopted. F. Feb. 23, 2000; eff. Mar. 14, 2000.

Subject 120-2-80. PATIENT PROTECTION ACT.

Rule 120-2-80-.01. Scope.

(1) This Regulation Chapter shall apply to licensed insurers, including, but not limited to, health maintenance organizations and health care corporations offering managed care plans in this State.

(2) Insurers with approved or proposed policy contracts containing preferred provider arrangements subject to O.C.G.A. Title 33, Chapter 30, Article Two, shall be subject to this Regulation Chapter and shall be considered managed care entities. Preferred Provider Organization plans shall be subject to the provisions of this Regulation Chapter as may be reasonably applied to covered benefits and services offered through a managed care entity's contracting, participating preferred providers.

(3) Where enrollees of managed care plans choose to obtain covered benefits or services outside the panel of contracting or preferred providers, a managed care entity shall not be held responsible for access, credentialing, quality of care or other issues not under the insurer's control because of lack of provider contracting status. Managed care entities should disclose plan provisions and limitations regarding benefits, access and quality issues in these instances.

(4) Nothing in this Regulation Chapter shall be construed to permit any person other than a licensed insurer to offer a managed care plan or other insurance product or allow an entity or person to transact insurance in this State without a Certificate of Authority as provided in O.C.G.A. Title 33, Chapter 3.

(5) Nothing in this Regulation Chapter or O.C.G.A. Title 33, Chapter 20A shall be construed to create new classes of insurance pursuant to O.C.G.A. § 33-3-5 or new lines of insurance pursuant to Title 33, Chapter 7.

Cite as Ga. Comp. R. & Regs. R. 120-2-80-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-3-2, 33-3-5, 33-20A-3, 33-20A-4, 33-20A-5.
History. Original Rule entitled "Scope" adopted. F. Mar. 20, 1998; eff. Apr. 9, 1998.

Rule 120-2-80-.02. Definitions.

Definitions under this Regulation Chapter shall have the meaning as set forth in the Georgia Insurance Code or the Rules and Regulations of the Office of Commissioner of Insurance, unless indicated below:

(a) "Appeal" shall mean a formal request, either orally, or in writing or by electronic transmission, to reconsider a determination not to certify an admission, extension of stay, or other health care service or procedure, and shall include both formal standard appeals and expedited appeals.

(b) "Complaint" shall mean a communication from the enrollee or member either orally, in writing or by electronic transmission concerning dissatisfaction by the enrollee or member with the health plan or its providers.

(c) "Grievance Procedure" shall mean a hearing provided to the enrollee, pursuant to O.C.G.A. § 33-20A-5(3)(B)(ii), regarding denial of payment in whole or in part for a health care service, treatment or claim, following exhaustion of all standard appeals requirements contained in O.C.G.A. Title 33, Chapter 46 or the Rules and Regulations of the Office of Commissioner of Insurance Chapter 120-2-58.

(d) "Managed Care Contractor" shall have the meaning set forth at O.C.G.A. § 33-20A-3(5) and shall include entities unaffiliated with a managed care entity providing network administrative, credentialling, utilization review or medical management services for the operation of one or more managed care plans.

(e) "Managed Care Entity" shall have the meaning set forth at § 33-20A-3(6) and shall include all insurers, health maintenance organizations, health care corporations, multiple employer welfare arrangements, or other entities which are subject to licensure by the Commissioner.

(f) "Stabilize", with respect to an emergency medical condition, shall mean to provide such medical treatment of the condition necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual to or from a facility.

Cite as Ga. Comp. R. & Regs. R. 120-2-80-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-20A-2, 33-20A-4, 33-20A-5.
History. Original Rule entitled "Definitions" adopted. F. Mar. 20, 1998; eff. Apr. 9, 1998.

Rule 120-2-80-.03. Application.

(1) Managed care entities may make application for a managed care plan or plans to be certified under this Regulation Chapter by submitting Form GID PPA-1 with a filing fee of $500.00.

(2) The Commissioner shall have ninety (90) days after receipt of the application in which to review the application. During this period the Commissioner may request additional information as necessary. The Commissioner may extend the time in which to review an application by contacting the applicant in writing and he or she is not required to act on an incomplete application.

(3) Managed care entities with previously approved managed care plans in use in this state as of the effective date of this Regulation Chapter must submit applications for certification no later than ninety (90) days after the effective date of this Regulation Chapter. Managed care entities making timely filing of an application for certification of previously approved managed care plans may continue to offer such plans until the Commissioner determines such plans do not comply with the requirements of the Patient Protection Act or this Regulation Chapter.

(4) Managed care entities making application for certification of managed care plans which are not yet approved may not offer such managed care plans until the application for certification under this Regulation Chapter is approved and the managed care product is approved in accordance with other requirements under O.C.G.A. § 33-24-9 as well as any other applicable laws and Regulation Chapters. This requirement for prior certification shall apply to all managed care plans not offered by the effective date of this Regulation Chapter.

(5) Within the discretion of the Commissioner, managed care entities which have attained accreditation or which use managed care contractors accredited by national boards, committees or other accepted industry standard setting organizations may satisfy some or all of the requirements for certification.

Cite as Ga. Comp. R. & Regs. R. 120-2-80-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-20A-2, 33-20A-4, 33-20A-5.

History. Original Rule entitled "Applications" adopted. F. Mar. 20, 1998; eff. Apr. 9, 1998 .

Rule 120-2-80-.04. Modification of Operation of Plan after Certification.

(1) A managed care entity shall file supporting documentation for any substantial modification of its managed care plan or plans with the Commissioner. Such documentation shall describe changes in operations and update any previous filings made by the managed care entity for the affected managed care plan or plans. Substantial modification includes, but is not limited to, the following:

(a) Broad substitution, merger or other change in hospital, physician network or ancillary services provider or network;

(b) Changes in subcontracting providers for utilization review or administrative services; or

(c) Other changes affecting the content, rules or procedures of any of the above entities.

(2) All proposed substantial modifications which are voluntary must be submitted for the Commissioner's approval at least sixty (60) days prior to proposed changes, and must clearly indicate the nature, level and scope of changes. Managed care entities may not adopt substantial modifications which are voluntary prior to receiving approval from the Commissioner.

(3) Modifications reflecting changes not under the control of the managed care entity should be filed with the Commissioner as soon as possible.

Cite as Ga. Comp. R. & Regs. R. 120-2-80-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-20A-2, 33-20A-4, 33-20A-5.
History. Original Rule entitled "Modification of Operation of Plan after Certification" adopted. F. Mar. 20, 1998; eff. Apr. 9, 1998.

Rule 120-2-80-.05. Reporting Requirements.

(1) Managed care entities with annual and quarterly statement requirements which report premiums and claims, enrollment, utilization of services, numbers of contracting providers and numbers of complaints and grievances shall continue to capture and report this information on standard financial and other required reporting formats as they relate to managed care plans under this Regulation Chapter.

(2) Managed care entities not subject to specific reporting requirements for their managed care plans shall gather and prepare such information on a quarterly and annual basis as is necessary to capture and report, including, but not limited to:

(a) premiums and claims;

(b) enrollment;

(c) utilization of services; and

(d) numbers of contracting providers; and

(e) numbers of complaints and grievances.

These reports shall be marked as "Patient Protection Act Statistical Reports" and shall bear the name and NAIC number of the reporting entity, and shall be submitted as supplements to normal quarterly and annual financial reports presently required. The Commissioner, at his or her discretion, may specify additional reporting requirements for managed care plans.

Cite as Ga. Comp. R. & Regs. R. 120-2-80-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-20A-2, 33-20A-4, 33-20A-5.
History. Original Rule entitled "Reporting Requirements" adopted. F. Mar. 20, 1998; eff. Apr. 9, 1998.

Rule 120-2-80-.06. Emergency Services, Stabilization.

(1) As used in this section, the term "emergency services" or "emergency condition" shall have the same meaning as set forth in O.C.G.A. § 33-20A-3(2).

(2) No managed care plan may require, as a condition of receiving emergency services, that a covered person seek prospective authorization. This prohibition against prior authorization extends to such time as the covered person is stabilized for such emergency condition.

(3) A managed care entity shall include provisions in its managed care plans describing:

(a) Coverage for emergency services;

(b) Any out of pocket, copayment, or other expenses which may accrue to a covered person;

(c) Provisions for out of network and out of service area emergency services;

(d) The terms "authorization" or "prospective authorization" as they relate to the covered person, including how such authorization procedures will apply and be administered if sought by the covered person in an emergency even though not required; and

(e) A covered person's or provider's review or appeal rights in accordance with O.C.G.A. Title 33, Chapter 46 and the Rules and Regulations of the Office of Commissioner of Insurance Chapter 120-2-58, in the event that the managed care entity does not pay for emergency services obtained by the covered person.

(4) A managed care entity shall include provisions in its provider contracts defining and describing prospective authorization or other authorization as they relate to a contracting or participating provider.

(5) A managed care entity which authorizes the delivery of emergency services for evaluation, diagnostic testing or treatment provided as a part of intervention, whether for evaluation or stabilization purposes, shall not subsequently deny payment in accordance with the coverage of the managed care plan.

(6) A managed care entity may review delivery of emergency services for purposes of payment or reimbursement only if:

(a) there is reason to believe, pursuant to subsequent evidence, such services were not medically necessary nor appropriate in accordance with established medical criteria and the requirements of Title 33, Chapter 46 and the Rules and Regulations of the Office of Commissioner of Insurance Chapter 120-2-58; or

(b) the individual receiving such care should have known, as a prudent layperson, possessing an average knowledge of medicine and health, that an emergency medical condition did not exist.

(7) If a participating provider or other authorized representative of a managed care entity authorizes emergency services as permitted by the terms of the managed care plan or the terms of the provider contract, the managed care entity shall not subsequently review such emergency services for purposes of payment or reimbursement or retract its authorization after the emergency services have been provided, unless the authorization was based on a material misrepresentation about the covered person's health condition which was made by the covered person or the provider of emergency services.

Cite as Ga. Comp. R. & Regs. R. 120-2-80-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-20A-2, 33-20A-4, 33-20A-5, 33-20A-9, 33-46-2, 33-46-4.
History. Original Rule entitled "Emergency Services, Stabilization" adopted. F. Mar. 20, 1998; eff. Apr. 9, 1998.

Rule 120-2-80-.07. Utilization Review.

(1) All managed care entities offering managed care plans in this state shall have a utilization review program which complies with the requirements of Title 33, Chapter 46 and the Rules and Regulations of the Office of Commissioner of Insurance Chapter 120-2-58. Any managed care entity or contractor providing utilization review services for a

managed care plan must be certified as a Private Review Agent in accordance with Chapter 120-2-58, or otherwise deemed compliant by the Commissioner only if such entity or contractor is an applicant that has been accredited by the Utilization Review Accreditation Commission and is operating as permitted by § 120-2-58-.03(2).

(2) A managed care entity which conducts its own utilization review program, as part of its corporate structure or through another corporation owned and operated by the entity, for the purposes of utilization review of its managed care plans exclusively, must submit a separate application for certification as a Private Review Agent no later than six (6) months from the effective date of this Regulation Chapter to be deemed compliant. A managed care entity must notify the Commissioner in both its managed care plan certification application and its Private Review Agent application that it is conducting its own utilization review program, and must disclose in such notice the corporate arrangement under which such utilization review is occurring. All managed care entities are required to comply with state laws and Regulation Chapters regarding utilization review as of the effective date of this Regulation Chapter, and must obtain certification in order to continue providing utilization review services.

(3) A managed care entity which uses a managed care contractor or contractors for its utilization review program must notify the Commissioner in its managed care plan certification application of all such contractors for all its managed care plans, and the extent to which each contractor conducts utilization review. The managed care entity must attest that each contractor is either certified as a Private Review Agent or is deemed compliant as a Private Review Agent by the Commissioner.

(4) A managed care entity must submit materials which inform applicable insureds and providers of the requirements of the utilization review plan to the Commissioner. Such materials shall include, but are not limited to, certificates, policies, member handbook excerpts, and provider contract provisions. The description of the utilization review plan must be clear and comprehensive and include the rights and responsibilities of covered persons and providers. The ultimate responsibility for requesting certification of utilization of health care services must be described in accordance with the terms of coverage. The information must include requirements pertaining to emergency, urgent, or out-of-network services, if applicable.

(5) A managed care entity conducting utilization review as permitted in paragraph (2) must submit an application for certification as a Private Review Agent no later than the filing date for certification as a managed care plan under the Patient Protection Act. Such managed care entities shall be deemed to have a compliant utilization review program until such time as the Commissioner has made a formal determination on certification as a Private Review Agent.

Cite as Ga. Comp. R. & Regs. R. 120-2-80-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-20A-2, 33-20A-4, 33-20A-5, 33-46-2, 33-46-4.
History. Original Rule entitled "Utilization Review" adopted. F. Mar. 20, 1998; eff. Apr. 9, 1998.
Amended: F. June 5, 2002; eff. June 25, 2002.

Rule 120-2-80-.08. Quality Assurance.

(1) A managed care entity shall disclose the quality assurance program in effect with documentation specified in Form GID PPA-1.

(2) The managed care entity must demonstrate, to the satisfaction of the Commissioner, that its quality assurance program includes organizational arrangements and ongoing procedures for the identification, evaluation, resolution and follow up of potential and actual problems in health care administration and delivery to enrollees. The program should include, but not be limited to procedures to:

(a) monitor and resolve complaints;

(b) monitor provider performance;

(c) monitor patient satisfaction;

(d) establish appropriate quality indicators based on current standards of the relevant health care profession;

(e) meet reasonable thresholds with regard to quality indicators;

(f) credential network providers according to established standards;

(g) ensure access to network providers by maintaining sufficient numbers of primary care physicians and other types of providers within the managed care entity's service area; and

(h) detect both under utilization and over utilization of services.

Cite as Ga. Comp. R. & Regs. R. 120-2-80-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-20A-2, 33-20A-4, 33-20A-5.
History. Original Rule entitled "Quality Assurance" adopted. F. Mar. 20, 1998; eff. Apr. 9, 1998.

Rule 120-2-80-.09. Confidentiality.

A managed care entity shall demonstrate, as provided in Form GID PPA-1, that it has in place procedures designed to assure compliance with all applicable state and federal laws regarding the confidentiality of patient information and reporting requirements.

Cite as Ga. Comp. R. & Regs. R. 120-2-80-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-20A-2, 33-20A-4, 33-20A-5, 33-20A-8.
History. Original Rule entitled "Confidentiality" adopted. F. Mar. 20, 1998; eff. Apr. 9, 1998.

Rule 120-2-80-.10. Examination.

The Commissioner is authorized to examine insurers and other entities in matters related to managed care plans under the Patient Protection Act and this Regulation Chapter.

Cite as Ga. Comp. R. & Regs. R. 120-2-80-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-2-11, 33-20A-2, 33-20A-4, 33-20A-5.
History. Original Rule entitled "Examination" adopted. F. Mar. 20, 1998; eff. Apr. 9, 1998 .

Rule 120-2-80-.11. Penalties.

Any person failing to comply with the requirements of this Regulation Chapter shall be subject to such penalties as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-80-.11
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Penalties" adopted. F. Mar. 20, 1998; eff. Apr. 9, 1998.

Rule 120-2-80-.12. Severability.

If any section or portion of a section of this rule or the applicability thereof to any person or circumstance is held invalid by a court, the remainder of the rule or the applicability of such portion to other persons or circumstances shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-2-80-.12
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Severability" adopted. F. Mar. 20, 1998; eff. Apr. 9, 1998.

Subject 120-2-81. INDIVIDUAL HEALTH INSURANCE ASSIGNMENT SYSTEMS.

Rule 120-2-81-.01. Authority.

This Regulation Chapter is issued pursuant to the authority vested in the Commissioner of Insurance by O.C.G.A. §§ 33-2-9 and 33-29A-1et seq.

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-29A-, *et seq.*
History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.
Amended: Permanent Rule entitled "Authority" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Rule 120-2-81-.02. Purpose.

The purpose of this Regulation Chapter is to implement O.C.G.A. § 33-29A-1et seq. and related provisions of the federal Health Insurance Portability and Accountability Act of 1996.

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-29A-1, *et seq.*
History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.
Amended: Permanent Rule entitled "Purpose" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Rule 120-2-81-.03. Definitions.

(1) For the purpose of this Regulation Chapter, the following definitions shall apply:

(a) "Assignment System" shall mean the Georgia Health Insurance Assignment System (GHIAS) and the Georgia Health Benefits Assignment System (GHBAS) as established by O.C.G.A. § 33-29A-1et seq. and this Regulation Chapter.

(b) "Continuation Coverage" shall mean any coverage under the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA).

(c) "Eligible Dependent" shall mean a dependent of a qualifying eligible individual, including a spouse, covered under the qualifying eligible individual's most recent group health plan, or continuation coverage thereof, who meets the requirements of subparagraphs (f)(1) through (6) below. Eligible dependents shall include any dependents who would otherwise not qualify for coverage because they have less than eighteen (18) months previous creditable coverage, provided:

(1) they were born, adopted, or placed for adoption during coverage under the most recent group health plan or continuation coverage of the qualifying eligible individual; and

(2) were enrolled under such coverage within 31 days of birth, adoption, or placement for adoption.

(d) "Group Health Plan" shall mean creditable coverage under an employer sponsored health benefit arrangement which does not provide benefits through a group health insurance policy or contract, or a group health insurance policy or contract subject to the laws of another state and not required to issue conversion policies pursuant to O.C.G.A. § 33-24-21.1.

(e) "Individual Health Insurance" or "Individual Health Benefits" shall mean any creditable coverage offered by a health insurer or managed care organization in the individual market as defined in Section 2791(e)(1) of the federal Public Health Service Act, issued or actively marketed to an individual in Georgia through a policy or certificate of coverage approved by the Commissioner or otherwise

permitted by state law or the Rules and Regulations of the Office of Commissioner of Insurance, and as determined by the Commissioner pursuant to O.C.G.A. 33-29A-1*et seq.* and Rule 120-2-81-.17, but, in any case, not including:

(1) limited benefit insurance as defined in O.C.G.A. § 33-24-21.1(I) or excepted benefits pursuant to 45 CFR 148.220; and

(2) certificates issued to individuals through a true association as defined in O.C.G.A. § 33-30-1(b).

(f) "Qualifying Eligible Individual" shall mean any Georgia domiciliary who meets all of the following:

(1) As of the date on which the individual seeks coverage under this section, the aggregate period of previous creditable coverage is 18 months or more;

(2) The individual's most recent coverage was under a group health plan, or continuation coverage thereof;

(3) The individual's insurance under the group health plan has been terminated for any reason, including discontinuance of the group health plan in its entirety or with respect to a class, except for non-payment of premium contribution pertaining to the qualifying eligible individual;

(4) With regard to such an individual's coverage under a group health plan or continuation thereof, a qualifying event has occurred on or after October 30, 1997;

(5) The individual is not eligible for, or has not declined, any of the following:

(a) Coverage under a group health insurance policy or contract, or other group health plan, including continuation coverage under COBRA or O.C.G.A. §§ 33-24-21.1 or 33-24-21.2;

(b) Medicare;

(c) The state plan under Medicaid or any successor program; or

(d) Enhanced conversion coverage offered in accordance with O.C.G.A. § 33-24-21.1 and the Rules and Regulations of the Office of Commissioner of Insurance;

(6) The individual is not enrolled in or covered under any other creditable health insurance coverage, including individual health insurance policies or blanket accident and sickness insurance pertaining to student health coverage; and

(7) The individual is one of the following:

(a) A current or former employee, member, or enrollee covered under the group health plan or continuation coverage thereof, if applicable;

(b) The surviving spouse, if any, of a deceased covered employee, member, or enrollee, with or without dependents;

(c) The spouse, or a former spouse, with or without dependents, of a covered employee, member, or enrollee upon a qualifying event of the spouse while the employee, member, or enrollee remains insured under the group health plan or continuation thereof, by ceasing to be a qualified family member under the group health plan, such as a result of a valid decree of divorce; or

(d) An otherwise eligible dependent upon reaching limiting age or otherwise losing dependent status under the group health plan or continuation thereof, or under coverage issued to another qualifying eligible individual in the assignment system.

(g) "Qualifying Event" shall mean loss of creditable coverage resulting from either:

(1) Exhaustion of continuation coverage to the maximum extent eligible under federal law; or

(2) Termination of coverage under a group health plan, in the event such a qualifying eligible individual is not eligible for continuation coverage.

(h) "Schedule of Benefits" shall mean the outline of benefit levels for a policy or plan, including but not limited to the types of benefits covered and associated cost-sharing provisions.

(2) All other terms shall have the same meaning as in O.C.G.A. § 33-29A-1et seq. and Section 2791 of the Federal Public Health Service Act.

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-29A-1, *et seq.*
History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.
Amended: Permanent Rule entitled "Definitions" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Rule 120-2-81-.04. Georgia Health Insurance Assignment System.

(1) The standard benefit schedules developed by the Commissioner in accordance with O.C.G.A. § 33-29A-4 shall be designated as Plan A and Plan B respectively. The model policy form template for Plans A and B is designated as Form GHIAS-1, and schedule of benefits for Plans A and B is designated as Form GHIAS-S .

(2) A health insurer who participates in the Georgia Health Insurance Assignment System (GHIAS) must file policy forms necessary for providing the coverage required by the GHIAS no later than thirty (30) days following either the effective date of this Regulation Chapter, or the date of notice from the Commissioner that the health insurer is subject to the provisions of O.C.G.A. § 33-29A-1et seq., whichever is later. Coverage provided pursuant to assignment by the GHIAS that is effective prior to the approval of the policy form shall be subject to the requirements of this Regulation Chapter and shall be amended pursuant to any modifications required by the Commissioner for approval of the filing. Such coverage made effective prior to approval of filing shall not be in violation if the policy form is filed within thirty (30) days as required.

(3) Methods of Filing.

(a) A participating health insurer may file policy forms prepared in accordance with Form GHIAS-1 and the schedule of benefits in Form GHIAS-S . Such policy forms shall be deemed approved upon the date the Commissioner receives the filing, provided they conform to the template form; or

(b) A participating health insurer may file policy forms with contractual language substantially similar to the model policy form template for approval, but must include the same benefits prescribed in the model policy form template and the same schedule of benefits prescribed in Forms GHIAS-1 and GHIAS-S . Such filings must include a description which specifically outlines the variances in language between the model policy form template and the filed form. A policy form filing with variances from the model policy form template prescribed in Form GHIAS-1 may not contain any provisions which are less beneficial than the relevant template provisions with regard to qualifying eligible individuals or eligible dependents.

(4) Special Rules for Preferred Provider Arrangements.

(a)

(a) A participating health insurer which issues health insurance policies with preferred provider arrangements in this state as approved by the Commissioner may offer standard policies with preferred provider arrangements. The out-of-network benefit levels must be at least as comprehensive as the schedule of benefits prescribed in Form GHIAS-S for Plans A and B.

(b)

(b) Health insurers may offer preferred provider arrangements with gatekeeper provisions if such provisions are typically included in health insurance policies approved by the Commissioner and issued by the health insurer in this state outside of the assignment system.

(c)

(c) Policy forms including preferred provider arrangements may be filed utilizing the model policy form template for preferred provider arrangements described in Form GHIAS-2 . Such policy forms shall be deemed approved upon the date the Commissioner receives the filings, provided they conform to the template form. Otherwise, the health insurer must file for approval a policy form that is substantially similar to the preferred provider model policy form template. The health insurer may submit a revised schedule of benefits for approval which reflects in-network and out-of-network benefit levels for Plans A and B.

(d)

(d) A policy form filing with variances from the model policy form template prescribed in Form GHIAS-1 may not contain any provisions which are less beneficial than the relevant template provisions with regard to qualifying eligible individuals or eligible dependents.

(5) A health insurer shall file with the Commissioner for approval any and all materials used to offer coverage to a qualifying eligible individual and eligible dependents through the GHIAS. These materials include enrollment forms, forms describing or soliciting an election of benefit options, disclosures regarding coverage under standard and optional policies, and any other documentation issued to qualifying eligible individuals for enrollment in standard or optional policies offered by the health insurer.

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-29A-1, *et seq.*
History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.
Amended: Permanent Rule entitled "Georgia Health Insurance Assignment System" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Rule 120-2-81-.05. Georgia Health Benefits Assignment System.

(1) The standard health benefit plans developed by the Commissioner in accordance with O.C.G.A. § 33-29A-5 shall be designated as Plan C and Plan D respectively. The model policy form template for Plans C and D are designated as Form GHBAS-1, and the schedule of benefits for Plans C and D is designated as Form GHBAS-S .

(2) A managed care organization who participates in the Georgia Health Benefits Assignment System (GHBAS) must file policy forms necessary for providing the coverage required by the GHBAS no later than thirty (30) days following either the effective date of this Regulation Chapter, or the date of notice from the Commissioner that the managed care organization is subject to the provisions of O.C.G.A. § 33-29A-1et seq., whichever is later. Coverage provided pursuant to assignment by the GHBAS that is effective prior to the approval of the policy form shall be subject to the requirements of this Regulation Chapter and shall be amended pursuant to any modifications required by the Commissioner for approval of the filing. Such coverage made effective prior to approval of filing shall not be in violation if the policy form is filed within thirty (30) days as required.

(3) Methods of Filing.

(a) A participating managed care organization may file policy forms prepared in accordance with Form GHBAS-1 and the schedule of benefits in Form GHBAS-S . Such policy forms shall be deemed approved upon the date the Commissioner receives the filing, provided they conform to the template form; or

(b) A participating managed care organization may file policy forms with contractual language substantially similar to the model policy form template for approval, but must include the same benefits prescribed in the model policy form template and the same schedule of benefits prescribed in Forms GHBAS-1 and GHBAS-S . Such filings must include a description which specifically outlines the variances in language between the model policy form template and the filed form. A policy form filing with variances from the model policy form template prescribed in Form GHIAS-1 may not contain any provisions which are less beneficial than the relevant template provisions with regard to qualifying eligible individuals or eligible dependents.

(4) A managed care organization shall file with the Commissioner for approval any and all materials used to offer coverage to a qualifying eligible individual and eligible dependents through the GHBAS. These materials include enrollment forms, forms describing or soliciting an election of benefit options, disclosures regarding coverage under standard and optional plans, and any other documentation issued to qualifying eligible individuals for enrollment in standard or optional plans offered by the managed care organization.

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-29A-1, *et seq.*
History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.
Amended: Permanent Rule entitled "Georgia Health Benefits Assignment System" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Rule 120-2-81-.06. Optional Policies or Plans.

(1) A health insurer or managed care organization may offer, in addition to the standard policies or plans, other additional individual health insurance policies or plans approved by the Commissioner for use in this state. A health insurer or managed care organization may also offer additional policies or plans with benefit options based on the standard plans but with different benefit schedules, provided such policies are filed with the Commissioner for approval. In the event a health insurer or managed care organization elects to offer such optional plans to qualifying eligible individuals and eligible dependents, the health insurer or managed care organization must assure that:

(a) both the standard and optional policies or plans are presented in a written offer of coverage and there is no unfair inducement to persuade the applicant in his or her selection;

(b) all optional policies or plans are made available to all qualifying eligible individuals and eligible dependents applying for coverage under the assignment system and assigned to the health insurer or managed care organization;

(c) all optional policies or plans comply with Rules 120-2-81-.11, .12, .13, .14, .15, .18, and .19; and

(d) all optional policies or plans are accompanied by a certification from the health insurer or managed care organization which asserts the following:

"This policy option is not a standard plan developed by the Commissioner of Insurance of the State of Georgia. Unlike the standard plans, it may not contain maximum rate limitations and benefits as guaranteed by state law and regulation. Should you have questions regarding any differences between this policy and the standard plan, you may contact [name of health insurer or managed care organization] at [phone number]".

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-29A-1, *et seq.*
History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.
Amended: Permanent Rule entitled "Optional Policies or Plans" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Rule 120-2-81-.07. Premium Rates for Standard Policies or Plans.

(1) Maximum premium rates are specified in Form GHIAS-R for Plans A and B, and in Form GHBAS-R for Plans C and D. All premium rates utilized by the health insurer or managed care organization for standard policies or plans must be filed for approval and shall include premium modes available. All participating health insurers and managed

care organizations shall offer a monthly premium mode and may offer additional, less frequent, modes.

(2) Actual premiums charged to any eligible individual may not exceed the maximum premium rates specified in Forms GHIAS-R and GHBAS-R . If premium modes that are less frequent than monthly are offered, the actual premiums charged through such modes may not exceed the maximum premium rates specified in Forms GHIAS-R and GHBAS-R discounted by the modal factors that the health insurer or managed care organization would typically apply to other policies for that premium mode.

(3) If a health insurer offers standard policies with preferred provider arrangements as permitted by this Regulation Chapter, the maximum rate charged may not exceed the maximum premium rates specified in Form GHIAS-R for Plans A and B discounted by the same factor that the health insurer would typically apply to other policies with preferred provider arrangements.

(4) Premium rates shall reflect, at a minimum, single male and female rating tiers and one family tier for any number of dependents. The Commissioner may prescribe additional tiers on Forms GHIAS-R and GHBAS-R if deemed necessary for the effective maintenance of the GHIAS and GHBAS.

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-29A-1, *et seq.*
History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.
Amended: Permanent Rule entitled "Premium Rates for Standard Policies or Plans" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Rule 120-2-81-.08. Individual Applications and Assignments.

(1) Applications for coverage must be submitted to the Commissioner, or to a designated administrator appointed by the Commissioner, prior to assignment to a participating health insurer or managed care organization. Certificates of creditable coverage sufficient to establish status as a qualified eligible individual shall be submitted with the application if available.

(2) Qualifying eligible individuals must use application forms for assignment included in Form APP-ASSIGN . The Commissioner, or the Commissioner's designated administrator, shall furnish such applications to licensed insurance agents or to other individuals upon request.

(3) An application form may be completed and submitted either by a licensed insurance agent or directly by the applicant. If the application for coverage in GHIAS or GHBAS using Form APP-ASSIGN is prepared and submitted by a licensed insurance agent, the

participating health insurer or managed care organization to which the applicant is assigned and who issues a health insurance policy or benefit plan as a result of that assignment shall compensate that agent only for the procurement, preparation, and submission of such application at a commission rate of not less than 3 percent of the premiums received by the issuing health insurer or managed care organization for coverage issued to the applicant.

(4) After initial review, the Commissioner, or the designated administrator, shall enter the application into either the GHIAS or the GHBAS as appears appropriate.

(5) An applicant entered into the GHIAS will be assigned to a participating health insurer using a randomized assignment selection process established and maintained by the Commissioner, or an alternate method as deemed necessary by the Commissioner, that is based on the pro rata premium volume of individual health insurance business done in Georgia by each such health insurer. Assignments shall become final, and credited to the health insurer's share, upon final determination of eligibility and payment of the initial premium.

(6) An applicant entered into the GHBAS will be assigned to a participating managed care organization using a randomized assignment selection process established and maintained by the Commissioner, or an alternate method as deemed necessary by the Commissioner, that is based on the pro rata premium volume of individual health benefits business done in Georgia by each such managed care organization. Assignments shall become final, and credited to the health insurer's share, upon final determination of eligibility and payment of the initial premium. If the applicant does not reside within a geographic area normally served by a participating managed care organization to which the applicant is initially assigned, the assignment selection process shall be repeated until a participating managed care organization is selected that serves the area in which the applicant resides. If no participating managed care organization serves the area in which the applicant resides, the applicant will be entered into the GHIAS and assigned to a participating health insurer.

(7) The Commissioner or designated administrator shall notify the participating health insurer or managed care organization of an assignment and shall deliver the application to the assigned participating health insurer or managed care organization. The participating health insurer or managed care organization to which the applicant is assigned shall be responsible for verification of the information contained in the application and determining whether the applicant is an eligible individual. Upon determination that the applicant is an eligible individual, the participating health insurer or managed care organization to which the applicant is assigned shall, in writing, promptly offer the applicant a choice of the standard policies or plans (and optional policies or plans, if applicable). A participating health insurer or managed care organization shall make such determination and written offer no later than ten (10) business days after the health insurer or managed care organization is notified by the Commissioner of such assignment.

(8) If the participating health insurer or managed care organization determines that the applicant is not an eligible individual, the determination, along with a detailed explanation for the decision, must be furnished to the applicant, and to the Commissioner or the designated administrator, no later than ten business (10) days after the health insurer or managed care organization is notified by the Commissioner of such assignment.

(9) The written offer of coverage by a participating health insurer or managed care organization to an assigned applicant shall include copies of the appropriate schedule of benefits for each standard policy or plan as indicated on Form GHIAS-S or GHBAS-S, as well as a premium rate table for each policy or plan, as found in Forms GHIAS-R or GHBAS-R . The health insurer or managed care organization shall use the enrollment form prescribed in Form GHIAS-E or GHBAS-E for enrolling the applicant. The applicant must select the desired policy or plan and pay the initial premium within thirty (30) days of receiving such offer. Upon selection by the applicant and payment of the initial premium, the policy or plan shall be promptly issued and shall be made effective on the date specified by this Regulation Chapter.

(10) Upon issuance of each health insurance policy or benefit plan, the participating health insurer or managed care organization shall notify the Commissioner, or the designated administrator, in writing and provide a copy of the completed enrollment form. Assignments will then be adjusted as policies are actually issued to assure that no participating health insurer or managed care organization issues coverage to a significantly disproportionate share of assigned applicants. Failure to promptly process applications, issue policies or benefit plans, and notify the Commissioner, could result in a disproportionate share of applicants being assigned to the participating health insurer or managed care organization. The participating health insurer or managed care organization shall promptly notify the Commissioner when it is determined that no policy or benefit plan will be purchased by the applicant.

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-29A-1, *et seq.*
History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.
Amended: Permanent Rule entitled "Eligibility for Benefits; Time Limit for Application" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Rule 120-2-81-.09. Administration.

(1) The Commissioner shall administer the GHIAS and the GHBAS or may designate an administrator to perform any specific tasks necessary for the administration of the GHIAS and the GHBAS.

(2) The Commissioner may require that costs associated with administration of the GHIAS and the GHBAS be reimbursed by the participating health insurers and managed care organizations. The amount of such reimbursement and method of payment shall be specified by the Commissioner and may be included as a share of premium payments made to health insurers or managed care organizations participating in GHIAS or GHBAS.

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-29A-1, *et seq.*
History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.
Amended: Permanent Rule entitled "Administration" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Rule 120-2-81-.10. Eligibility for Benefits; Time Limit for Application.

(1) Coverage issued through the assignment system shall cover the qualifying eligible individual and any eligible dependents if coverage for all such individuals is elected pursuant to application as provided for in this Regulation Chapter.

(2) A qualifying eligible individual or a spouse or former spouse who is an eligible dependent shall have a choice of individual coverage or family coverage to include any or all eligible dependents.

(3) An election of assignment system coverage by a qualifying eligible individual shall be deemed to be an election on behalf of any eligible dependents covered under the qualifying eligible individual's continuation coverage, unless the application indicates an election of the qualifying eligible individual otherwise. Election shall not be contingent on identical election of any other family member with regard to individual or family coverage.

(4) The Commissioner or administrator may at any time request additional information from the applicant for initial review of eligibility, and may delegate any part of the eligibility review and solicitation of additional information to health insurers and managed care organizations participating in GHIAS or GHBAS. The qualifying eligible individual must comply with a request for additional information and verification of eligibility to the fullest extent possible. Health insurers and managed care organizations are subject to the provisions of the Rules and Regulations of the Office of Commissioner of Insurance § 120-2-67-.12 with regard to accepting attestations and other evidence of coverage during verification if a certification of creditable coverage is not available.

(5) A substantially completed application for coverage under the assignment system shall be filed with the Commissioner or the delegated administrator not later than sixty-three (63) consecutive days after a qualifying event. Such filing shall toll the sixty-three (63) consecutive day election period for the qualifying eligible individual and all other eligible

dependents for whom coverage is elected, provided that eligibility is ultimately verified and initial premium is paid.

(6) Notwithstanding paragraph (5), qualified eligible individuals with qualifying events on or after October 30, 1997, but before January 1, 1998, may file a substantially completed application no later than March 3, 1998.

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-29A-1, *et seq.*
History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.
Amended: Permanent Rule entitled "Eligibility for Benefits; Time Limit for Application" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Rule 120-2-81-.11. Effective Date of Coverage.

All coverage issued through the assignment system, upon application and payment of premium, shall become effective on the date of a qualifying event. In no case shall a participating health insurer or managed care organization be required to make such coverage effective prior to January 1, 1998.

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.11
Authority: O.C.G.A. Secs. 33-2-9, 33-29A-1, *et seq.*
History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.
Amended: Permanent Rule entitled "Effective Date of Coverage" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Rule 120-2-81-.12. Initial Premium.

A participating health insurer or managed care organization may require payment for any retroactive periods of coverage commencing with the date of a qualifying event as part of the initial premium in order to effectuate coverage. However, such initial premium shall not exceed the sum total of such retroactive payment, a pro-rated premium for the remaining month, and the next full calendar month if a monthly payment mode is selected.

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.12
Authority: O.C.G.A. Secs. 33-2-9, 33-29A-1, *et seq.*
History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.
Amended: Permanent Rule entitled "Initial Premium" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Rule 120-2-81-.13. Preexisting Conditions and Health Status.

(1) All policies or plans issued through the assignment system shall not exclude any preexisting condition or maintain any preexisting condition limitation.

(2) Health insurers or managed care organizations participating in the assignment system may not take into account health status related factors, claims experience, or evidence of insurability with regard to eligibility for coverage or benefit choices in the assignment system.

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.13
Authority: O.C.G.A. Secs. 33-2-9, 33-29A-1, *et seq.*
History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.
Amended: Permanent Rule entitled "Preexisting Conditions and Health Status" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Rule 120-2-81-.14. Reduction of Coverage.

(1) Any assignment system policy or plan may provide for a reduction or coordination of coverage on any person upon eligibility for coverage under Medicare.

(2) No assignment system policy or plan may provide for a reduction or coordination of coverage based upon a person's eligibility for coverage under the Medicaid program of the State of Georgia.

(3) The benefits under the assignment system policy or plan shall be secondary to any group or blanket accident and sickness contract covering any person insured under the assignment system policy.

(4) The assignment system policy or plan may provide that any hospital, surgical or medical benefits payable thereunder may be reduced by the amount of any such benefits payable under the continuation coverage after the termination of the individual's insurance thereunder.

(5) A health insurer or managed care organization may request information in advance of any premium due date of such policy or plan of any person covered thereunder only as to whether:

   (a) The insured is covered for similar benefits under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis; or

   (b) Similar benefits are provided for or available to such person, pursuant to or in accordance with the requirements of Medicare.

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.14
Authority: O.C.G.A. Secs. 33-2-9, 33-29A-1, *et seq.*

History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.
Amended: Permanent Rule entitled "Reduction of coverage" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Rule 120-2-81-.15. Renewability.

(1) All assignment system policies and plans must provide that the health insurer or managed care organization may refuse to renew the coverage of any person insured thereunder only as permitted in the Rules and Regulations of the Office of Commissioner of Insurance § 120-2-67-.10(b)(1), (2), (3), and (5) with regard to renewability of individual health insurance policies or contracts.

(2) Any refusal to renew shall be without prejudice to any valid claim commencing while the policy or plan is in force.

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.15
Authority: O.C.G.A. Secs. 33-2-9, 33-29A-1, *et seq.*
History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.
Amended: Permanent Rule entitled "Renewability" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Rule 120-2-81-.16. Notification.

All insurers issuing accident and sickness insurance coverage in this state, managed care organizations, and third party administrators licensed by the Commissioner and engaged in the business of health insurance in this state may issue any notices or other information regarding coverage under the assignment system produced by the Commissioner for Georgia citizens to employers and employer sponsored health benefit arrangements for whom administrative services are rendered. The Commissioner may require any or all such insurers, managed care organizations, or third party administrators to distribute such notices or information to agents and other individuals for dissemination to potential eligible individuals.

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.16
Authority: O.C.G.A. Secs. 33-2-9, 33-29A-1, *et seq.*
History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.
Amended: Permanent Rule entitled "Notification" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Rule 120-2-81-.17. Maintenance.

(1) As deemed necessary, the Commissioner may survey all insurers and managed care organizations issuing or renewing accident and sickness coverage in this state to determine the health insurers and managed care organizations eligible to participate in GHIAS and GHBAS, the pro-rata volume of business in the individual health insurance market issued by each health insurer and managed care organization for the purpose of making fair and equitable assignments, and for any other purpose necessary for the continued implementation and maintenance of GHIAS and GHBAS. The Commissioner may use all authority granted to him or her by law to enforce disclosure of information solicited by this survey. The survey may require disclosure of information pertaining to the following:

(a) Premium volume under individual health insurance coverage issued in this state;

(b) Premium rates charged;

(c) Information regarding the marketing activity of insurers and managed care organizations in the individual health insurance market in this state;

(d) Policy form, benefit, and enrollment data for individual health insurance coverage sold or renewed in this state; and

(e) Any other information deemed appropriate by the Commissioner for the continued implementation and maintenance of O.C.G.A. § 33-29A-1et seq.

(2) In lieu of a survey, the Commissioner may require all insurers and managed care organizations issuing or renewing accident and sickness insurance coverage (pursuant to annual reporting data formally collected by the Commissioner) to submit to the Commissioner a supplement to the annual report, designed by the Commissioner, which requires disclosure of certain information for purposes of determining participation in the assignment system.

(3) The Commissioner may periodically revise and update the standardized policy forms, benefit schedules, and rate tables used for the assignment system based on data collected from insurers and managed care organizations issuing or renewing individual health insurance coverage in this state. The Commissioner shall have discretion in determining fair and equitable methodologies for such revisions in compliance with O.C.G.A. § 33-29A-1et seq. Additionally, the Commissioner may establish periods for which revisions shall take place and notify participating health insurers and managed care organizations of such revisions.

(4) The assignment selection methodology for assigning qualifying eligible individuals to the GHIAS and GHBAS shall be determined by the Commissioner, shall provide for a reasonable randomized order of assignments based on market share, and shall be revised periodically to assure fair and equitable distribution of assignments among participating health insurers or managed care organizations based on data collected pursuant to this Rule.

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.17
Authority: O.C.G.A. Secs. 33-2-9, 33-29A-1, *et seq.*
History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.
Amended: Permanent Rule entitled "Maintenance" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Rule 120-2-81-.18. Subsequent Optional Choices.

(1) Any qualifying eligible individual shall have the option of switching from Plan B to Plan A, or from Plan D to Plan C, or to any other optional policy or plan offered by the participating health insurer or managed care organization after enrolling and purchasing coverage under Plan B or Plan D in the assignment system. The participating health insurer or managed care organization shall also permit the privilege of switching form Plan A or Plan C to any other optional policy or plan offer under this Rule after the qualifying eligible individual enrolls for coverage. The participating health insurer or managed care organization may limit such choice to the following events:

(a) Once a year within 31 days of the policy anniversary date, with coverage becoming effective on the policy anniversary date;

(b) Upon notification of premium increase, with coverage becoming effective on the effective date of the premium increase; and

(c) Within 31 days of divorce or marriage, with coverage becoming effective on the first day of the following calendar month.

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.18
Authority: O.C.G.A. Sec. 33-29A-1, *et seq*.
History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.
Amended: Permanent Rule entitled "Subsequent Optional Choices" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Rule 120-2-81-.19. Penalties.

Any health insurer or managed care organization failing to comply with the requirements of this Regulation Chapter shall be subject to penalties and other enforcement actions as may by appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.19
Authority: O.C.G.A. Secs. 33-2-9, 33-29A-1, *et seq.*
History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.

Amended: Permanent Rule entitled "Penalties" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Rule 120-2-81-.20. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-81-.20
Authority: O.C.G.A. Secs. 33-2-9, 33-29A-1, *et seq.*
History. ER. 120-2-81-0.8 adopted. F. Dec. 31, 1997; eff. Jan. 2, 1998, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding the ER, is adopted, as specified by the Agency.
Amended: Permanent Rule entitled "Severability" adopted. F. Apr. 29, 1998; eff. May 19, 1998.

Subject 120-2-82. COVERAGE FOR MANAGEMENT AND TREATMENT OF DIABETES.

Rule 120-2-82-.01. Authority.

This Regulation Chapter is issued pursuant to the authority vested in the Commissioner of Insurance by O.C.G.A. §§ 33-2-9 and 33-24-59.2.

Cite as Ga. Comp. R. & Regs. R. 120-2-82-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-24-59.2.
History. Original Rule entitled "Authority" adopted. F. Nov. 12, 1999; eff. Dec. 2, 1999.
Repealed: New Rule of same title adopted. F. Oct. 8, 2002; eff. Oct. 28, 2002 .

Rule 120-2-82-.02. Purpose.

The purpose of this Regulation Chapter is to implement O.C.G.A. Section 33-24-59.2 regarding minimum coverage provisions for medically necessary diabetes related equipment, supplies, pharmacologic agents, and outpatient self-management training and education including medical nutrition therapy, for individuals with insulin-dependent diabetes, insulin-using diabetes, gestational diabetes and non-insulin using diabetes.

Cite as Ga. Comp. R. & Regs. R. 120-2-82-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-24-59.2.
History. Original Rule entitled "Purpose" adopted. F. Nov. 12, 1999; eff. Dec. 2, 1999.
Repealed: New Rule of same title adopted. F. Oct. 8, 2002; eff. Oct. 28, 2002.

Rule 120-2-82-.03. Applicability and Scope.

On or after July 1, 2002 health insurance policies and plans, except limited benefit insurance policies, shall provide coverage for medically necessary equipment, supplies, pharmacologic agents, and outpatient self-management training and education including medical nutrition therapy for individuals with insulin-dependent diabetes, insulin-using diabetes, gestational diabetes, and non-insulin-diabetes who adhere to the prognosis and treatment regimen prescribed by a physician licensed to practice medicine pursuant to Title 43.

Cite as Ga. Comp. R. & Regs. R. 120-2-82-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-24-59.2.
History. Original Rule entitled "Applicability and Scope" adopted. F. Nov. 12, 1999; eff. Dec. 2, 1999.
Repealed: New Rule of same title adopted. F. Oct. 8, 2002; eff. Oct. 28, 2002.

Rule 120-2-82-.04. Definitions.

For the purposes of this Regulation Chapter, the following definitions shall apply:

(1) "ADA" means the American Diabetes Association;

(2) "Certification" means the review, approval and assignment of a program site number of an outpatient diabetes education program that meets minimum standards;

(3) "Certified Diabetes Educator" means a person currently certified by the National Certification Board of Diabetes Educators;

(4) "Certified, Registered, or Licensed Health Care Professional" means those individuals who make up an interdisciplinary team, including professionals with skills specific to each content area. This team may include any individual of any health care profession, but must include at least:

  (a) a licensed Dietitian; and

  (b) a Registered Nurse or other health care professional who is a Certified Diabetes Educator.

(5) "Diabetes Outpatient Self-Management Training and Education" means a program that sets forth proper self-management and treatment of diabetes, including information on diet.

(6) "Diabetes Mellitus" includes the following:

  (a) "Insulin-dependent diabetes," known as Type 1 Diabetes, and characterized by beta cell destruction, usually leading to absolute insulin deficiency and requiring insulin injections to sustain life;

  (b) "Type 2 Diabetes," characterized by insulin resistance and relative insulin deficiency. Type 2 Diabetes is managed by food plan, exercise, weight control,

and in some instances, oral medications and/or insulin. Type 2 Diabetes has previously been defined as "noninsulin dependent diabetes;"

(c) "Gestational diabetes" which is diagnosed during pregnancy;

(d) "Non-insulin using diabetes" which is controlled by food/meal planning and exercise.

(7) "Dietitian" means an individual licensed pursuant to the applicable statutes and Rules and Regulations of the State of Georgia;

(8) "Pharmacist" means an individual licensed pursuant to the applicable statutes and Rules and Regulations of the State of Georgia;

(9) "Physician" means an individual licensed pursuant to the applicable statutes and Rules and Regulations of the State of Georgia and practicing within the scope of such licensure;

(10) "Registered Nurse" means an individual who qualifies under the applicable statutes or administrative rules of the licensing or registry board of the state.

Cite as Ga. Comp. R. & Regs. R. 120-2-82-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-24-59.2.
History. Original Rule entitled "Definitions" adopted. F. Nov. 12, 1999; eff. Dec. 2, 1999.
Repealed: New Rule of same title adopted. F. Oct. 8, 2002; eff. Oct. 28, 2002.

Rule 120-2-82-.05. Pharmacologic Agent Coverage Defined.

Health insurance policies and plans, except limited benefit insurance policies, shall provide coverage for the following pharmacologic agents when prescribed by a physician licensed to practice medicine pursuant to Title 43:

(1) Insulin of each class approved by the federal Food and Drug Administration (FDA) including formulations available either in a vial or cartridge;

(2) Prescription insulin of each class approved by the federal Food and Drug Administration (FDA) including formulations available either in a vial or cartridge formulation;

(3) Prescription oral medications of each class approved by the federal Food and Drug Adminstration (FDA) for the management of diabetes;

(4) Oral products approved by the federal Food and Drug Administration (FDA) for the management of diabetes;

(5) Glucagon kits;

(6) Pharmacologic agents approved by the federal Food and Drug Administration (FDA) for the management of diabetes and its complications.

Cite as Ga. Comp. R. & Regs. R. 120-2-82-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-24-59.2.
History. Original Rule entitled "Coverage for Treatment of Diabetes" adopted. F. Nov. 12, 1999; eff. Dec. 2, 1999.
Repealed: New Rule entitled "Pharmacologic Agent Coverage Defined" adopted. F. Oct. 8, 2002; eff. Oct. 28, 2002.

Rule 120-2-82-.06. Minimum Standards for Equipment Coverage Defined.

Health insurance policies and plans, except limited benefit insurance policies, shall provide coverage for the following medical equipment, non-disposable and durable medical equipment when prescribed by a physician licensed to practice medicine pursuant to Title 43:

(1) Blood glucose monitors and glucose monitors, including commercially available blood glucose monitors designed for patients' use and for persons who have been diagnosed with diabetes;

(2) Blood glucose monitors and glucose monitors for the legally blind or visually impaired due to diabetes which includes commercially available blood glucose monitors designed for patient use with adaptive devices and for persons who are legally blind and have been diagnosed with diabetes, or are visually impaired due to diagnosed diabetes;

(3) Injection aids, including those adaptable to meet the needs of the legally blind, to assist with insulin injection;

(4) Insulin pumps, which includes insulin infusion pumps;

(5) Medical supplies for use with or without insulin pumps and insulin infusion pumps to include durable devices to assist with the injection of insulin and infusion sets;

(6) Therapeutic shoes, custom fitted inserts and related orthopedic footwear associated with the prevention and treatment of diabetes and diabetes related complications;

(7) Pen-like insulin injection devices designed for multiple use;

(8) Lancing devices associated with the drawing of blood samples for use with blood glucose monitors; and

(9) Such other medical equipment, non-disposable and durable medical equipment that is medically necessary and consistent with the current standards of care of the American Diabetes Association.

Education, Training, and Medical Nutrition Therapy" adopted. F. Nov. 12, 1999; eff. Dec. 2, 1999. **Repealed:** New Rule entitled "Minimum Standards for Equipment Coverage Defined" adopted. F. Oct. 8, 2002; eff. Oct. 28,

Cite as Ga. Comp. R. & Regs. R. 120-2-82-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-24-59.2.
History. Original Rule entitled "Diabetes Outpatient Self-Management 2002.

Rule 120-2-82-.07. Minimum Standards for Single-Use Medical Supply Coverage Defined.

Health insurance policies and plans, except limited benefit insurance policies, shall provide coverage for the following single-use medical supplies when prescribed by a physician licensed to practice medicine pursuant to Title 43:

(1) Test strips for glucose monitors, which include test strips whose performance achieved clearance by the federal Food and Drug Administration (FDA) for marketing;

(2) Visual reading and urine testing strips, which includes visual reading strips for glucose, urine testing strips for ketones, or urine test strips for both glucose and ketones. Using urine test strips for glucose only is not acceptable as the sole method of monitoring blood glucose levels;

(3) Lancets and single use lancing devices used in conjunction with the monitoring of glycemic control;

(4) Syringes, which includes insulin syringes, insulin injection needles for use with pen-like insulin injection devices and other disposable parts required for insulin injection aids;

(5) Medical supplies for use with insulin pumps and insulin infusion pumps to include infusion sets, cartridges, syringes, skin preparation, batteries and other disposable supplies needed to maintain insulin pump therapy;

(6) Medical supplies for use with or without syringes, insulin pumps and insulin infusion pumps to include disposable devices to assist with the injection of insulin and infusion sets, alcohol swabs and related preparations and other similar compounds associated with the cleansing of injection sites prior to the administration of insulin; and

(7) Such other single-use medical supplies that are medically necessary and consistent with the current standards of care of the American Diabetes Association.

Cite as Ga. Comp. R. & Regs. R. 120-2-82-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-24-59.2.
History. Original Rule entitled "Penalties" adopted. F. Nov. 12, 1999; eff. Dec. 2, 1999.

Repealed: New Rule entitled "Minimum Standards for Single-Use Medical Supply Coverage Defined" adopted. F. Oct. 8, 2002; eff. Oct. 28, 2002.

Rule 120-2-82-.08. Minimum Standards for Diabetes Self-Management Training Defined.

Health insurance policies and plans, except limited benefit insurance policies, shall provide coverage for diabetes self-management training and medical nutrition therapy when prescribed by a physician licensed to practice medicine pursuant to Title 43. Minimum standards for diabetes self-management training and medical nutrition therapy shall conform to the following:

(1) Diabetes self-management training and medical nutrition therapy services must be provided by a diabetes self-management training program that meets the following criteria:

(a) The program has been recognized by the federal Centers for Medicare & Medicaid Services (CMS), or

(b) Obtains or receives approval, accreditation or certification by a national organization assessing standards of quality in the provision of diabetes self-managment education.

(2) Diabetes self-management training programs shall be provided when any of the following criteria are met and when the service is prescribed by a physician licensed to practice medicine pursuant to Title 43.

(a) Upon a physician's diagnosis that an insured or dependent has diabetes;

(b) Upon a significant change in a health care insurance policyholder's/ dependent's diabetes related condition;

(c) Upon a change in a health care insurance policyholder's/dependent's diagnostic levels;

(d) Upon a change in treatment regimen;

(e) Upon a patient's initiation of insulin therapy;

(f) Upon identification of inadequate diabetes control as evidenced by diagnostic laboratory tests falling outside of acceptable ranges;

(g) Upon determination that a patient is at high risk for complications based on inadequate glycemic control documented by acute episodes of severe hypoglycemia or acute severe hyperglycemia occurring in the patient's history during which the insured needed emergency room visits or hospitalization;

(h) Upon determination that a patient is at high risk based on at least one of the documented diabetes related complications including:

1. Lack of feeling in the foot or other foot complications such as foot ulcers, deformities or amputation;

2. Pre-proliferative or proliferative retinopathy or prior laser treatment of the eye;

3. Kidney complications related to diabetes, when manifested by albuminuria without other cause, or elevated creatinine.

(3) Medical nutrition therapy services shall be provided in addition to diabetes self-management training when prescribed by a physician licensed to practice medicine pursuant to Title 43 when the following criteria are met:

(a) Upon a physician's diagnosis that an insured or dependent has diabetes;

(b) Upon a significant change in a health care insurance policyholder's/ dependent's diabetes related condition;

(c) Upon a change in a health care insurance policyholder's/dependent's diagnostic level;

(d) Upon a change in treatment regimen;

(e) Upon a patient's initiation of insulin therapy;

(f) Upon identification of inaequate diabetes control as evidenced by diagnostic laboratory tests falling outside of acceptable ranges;

(g) Upon determination that a patient is at high risk for complications based on inadequate glycemic control documented by acute episodes of severe hypoglycemia or acute severe hyperglycemia occurring in the patient's history during which the insured needed and received emergency room visits or hospitalization;

(h) Upon determination that a patient is at high risk based on at least one of the documented diabetes related complications including:

1. Lack of feeling in the foot or other foot complications such as foot ulcers, deformities or amputation;

2. Pre-proliferative or proliferative retinopathy or prior laser treatment of the eye;

3. Kidney complications related to diabetes, when manifested by albuminuria without other cause, or elevated creatinine.

(4) Instructions in diabetes self-management training shall be provided by healthcare professionals meeting any or all of the following criteria:

(a) Certified diabetes educator;

(b) A certified, registered or licensed health professional with expertise in diabetes satisfying criteria for Medicare coverage for diabetes education and training pursuant to 42 CFR Part 410.

(5) Instruction in medical nutrition therapy shall be provided by healthcare professionals meeting any or all of the following criteria:

(a) Registered dietitian;

(b) A certified, registered or licensed health professional with expertise in medical nutrition therapy satisfying criteria for Medicare coverage for medical nutrition therapy pursuant to 42 CFR Part 410.

(6) Primary or initial diabetes self-management training and medical nutrition therapy services shall be provided in group settings for a total of 10 hours in the initial year after diagnosis unless the following criteria are met:

(a) A group session is not available within 2 months of the date diabetes self-management training or medical nutrition therapy are ordered; or

(b) The insured's physician documents that the insured has special needs that will hinder effective participation in a group training session.

(7) Secondary or follow-up diabetes self-management training and medical nutrition therapy shall be provided during individual patient meetings or sessions within the first 12 months after a primary or initial diabetes self-management training or medical nutrition therapy group session.

Cite as Ga. Comp. R. & Regs. R. 120-2-82-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-24-59.2.
History. Original Rule entitled "Severability" adopted. F. Nov. 12, 1999; eff. Dec. 2, 1999.
Repealed: New Rule entitled "Minimum Standards for Diabetes Self-Management Training Defined" adopted. F. Oct. 8, 2002; eff. Oct. 28, 2002.

Rule 120-2-82-.09. Penalties.

Any insurer failing to comply with the requirements of this Regulation Chapter shall be subject to penalties and enforcement actions as may be appropriate under the insurance laws of the state of Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-82-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-24-59.2.
History. Original Rule entitled "Penalties" adopted. F. Oct. 8, 2002; eff. Oct. 28, 2002.

Rule 120-2-82-.10. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-82-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-24-59.2.
History. Original Rule entitled "Severability" adopted. F. Oct. 8, 2002; eff. Oct. 28, 2002.

Subject 120-2-83. CONSUMER CHOICE OPTION.

Rule 120-2-83-.01. Authority and Purpose.

This Regulation Chapter is adopted and promulgated pursuant to the authority granted to the Commissioner of Insurance pursuant to O.C.G.A. §§ 33-2-9 and 33-20A-9.1. The purpose and intent of this Regulation Chapter is to provide for the implementation of the consumer choice option as defined in O.C.G.A. § 33-20A-9.1(b).

Cite as Ga. Comp. R. & Regs. R. 120-2-83-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-20A-9.1.
History. Original Rule entitled "Authority and Purpose" was f. as ER. 120-2-83-0.10-.01. F. and eff. on Nov. 24, 1999, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of the same title adopted. F. Mar. 3, 2000; eff. Mar. 23, 2000.

Rule 120-2-83-.02. Definitions.

(a) For purposes of this Regulation Chapter and O.C.G.A. § 33- 20A-9.1:

(1) "Accepted provider" shall mean a provider that has been nominated by an enrollee and either accepted by a managed care entity which has chosen not to credential nominated providers or accepted by a managed care entity following credentialing in accordance with Rule 120-2-83-.05.

(2) "Deselected provider" shall mean a provider that has been nominated by an enrollee and provisionally accepted by the managed care entity, but later disapproved for reimbursement because the provider fails to meet one of the criteria for participation set forth in O.C.G.A. § 33-20A-9.1(c).

(3) "Enrollee" shall mean an enrollee of a managed care entity required to offer the consumer choice option pursuant to O.C.G.A. § 33- 20A-9.1(b).

(4) "Nominated provider" shall mean an out of network provider nominated by an enrollee.

(5) "Option" shall mean the consumer choice option as defined in O.C.G.A. § 33-20A-9.1(b).

(6) "Managed Care Entity" shall mean any entity identified pursuant to O.C.G.A. § 33-20A-3(6) and required to offer the option pursuant to O.C.G.A. § 33-20A-9.1(c).

(7) "Provider" shall mean a health care provider as defined in O.C.G.A. § 33-20A-3(3) or a hospital.

(8) "Provisionally accepted provider" shall mean a provider that has been nominated by an enrollee and provisionally accepted by the managed care entity upon receipt of the nominating form.

(9) "Rejected provider" shall mean a provider that has been nominated by an enrollee and disapproved because the provider fails to meet one of the criteria for participation set forth in O.C.G.A. § 33- 20A-9.1(c) by a managed care entity which has chosen not to credential nominated providers.

(10) "Similarly situated provider" shall mean an in network provider located in the same geographic area and providing the same or similar services as the nominated provider.

Cite as Ga. Comp. R. & Regs. R. 120-2-83-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-20A-9.1.
History. Original Rule entitled "Definitions" was f. as ER 120-2-83- 0.10-.02. F. and eff. on Nov. 24, 1999, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Mar. 3, 2000; eff. Mar. 23, 2000.

Rule 120-2-83-.03. Notification and Disclosure.

(a) Notification of the option's availability and explanatory materials regarding the option shall be provided to enrollees at least annually at open enrollment, renewal, time of

solicitation or by direct mail advertising, or upon request. Such information shall be provided to prospective enrollees upon request. Such information shall also be provided to newly eligible employees. Information shall include, but shall not be limited to:

(1) A one page form to be completed and signed by the enrollee and the nominated provider containing the enrollee's name, identification number, group number, address, date of birth, and telephone number. The form shall also include the provider's name, group name (if applicable), State of Georgia license number, tax identification number, address, identity of the hospital(s) where the provider has privileges, telephone number, and facsimile number;

(2) Pricing (including information that allows the enrollee to compare pricing with and without the option so that the enrollee may make an informed choice);

(3) The nomination process in accordance with Rule 120-2-83-.04; and

(4) The credentialing process in accordance with Rule 120-2-83-.05.

(b) Only the enrollee may elect the option on behalf of him/herself and his/her eligible dependents.

(c) The Commissioner may create a disclosure form for managed care entities to provide to each prospective enrollee or enrollee with the information required in paragraphs (a) and (b) of this Rule. Said form may be changed from time to time as the Commissioner deems necessary.

(d) Enrollees shall have the right to withdraw from the option in limited situations where their nominated provider is rejected, deselected or declines to participate, effective the first day of the month following written notice to the managed care entity. In the event of withdrawal, the managed care entity shall provide the enrollee with a commensurate decrease in premium for the remainder of the plan year. However, due to federal taxation consequences, the enrollee's right to withdraw shall not apply to cafeteria benefit plans qualified under § 125 of the Internal Revenue Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-83-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-20A-9.1.
History. Original Rule entitled "Notification and Diclosure" was f. as ER 120-2-83-0.10-.03. F. and eff. on Nov. 24, 1999, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Mar. 3, 2000; eff. Mar. 23, 2000.

Rule 120-2-83-.04. Provider Nomination.

(a) Managed care entities shall create, and make readily available to nominated providers, a nomination package which shall include, if applicable:

(1) Information regarding credentialing procedures pursuant to Rule 120-2-83-.05. This includes, but is not limited to, all forms required to be completed by the provider for the purpose of credentialing; and

(2) A compensation schedule specific to the nominated provider's area of practice.

(b) Managed care entities shall accept the nomination form referenced in Rule 120-2-83-.03(a) by any means that evidences the date and time of receipt.

(c) Submission of the nomination form by the enrollee shall not constitute acceptance of the nominated provider by the managed care entity.

(d) Within three (3) business days of receipt of the nomination form by the insurer, the managed care entity shall provide notice in writing, to the provider and the enrollee, of the provisional acceptance (in the case of managed care entities which will implement a credentialing process in accordance with Rule 120-2-83-.05), final acceptance (in the case of managed care entities which choose not to implement a credentialing process in accordance with Rule 120-2-83-.05), or the rejection of the nominated provider. In addition, the managed care entity shall make a good faith effort to provide the notice required by this paragraph by facsimile where practicable.

(e) For deselected or rejected providers, the notice referred to in paragraph (d) shall contain specific statutory, medical, professional or ethical reasons for deselection or rejection. The provider may not be re-nominated by the enrollee unless the nomination form contains materially different information as determined by the provider or the managed care entity.

(f) Nothing in this Rule shall be construed to limit the enrollee's right to emergency care as set forth in O.C.G.A. §§ 33-20A-3 and 33- 20A-9.

(g) Accepted or provisionally accepted providers and enrollees shall be required to adhere to generally accepted rules of the managed care entity.

(h) Accepted or provisionally accepted providers shall be reimbursed at the average contractual rate paid to similarly situated providers and such rates may differ from plan to plan offered by a managed care entity.

(i) If a nominated provider will not be providing services at a hospital within the managed care entity's network, the enrollee must submit an additional nomination form for the hospital where services will be provided. Managed care entities shall include information regarding this requirement with the material supplied pursuant to Rule 120-2-83-.03(a). Nothing in this Rule shall require a provider to perform services only at hospitals within the managed care entity's network. Pursuant to O.C.G.A. § 33-20A-9.1(c)(1)(d), out of network hospitals must meet all other reasonable criteria as required by the managed care plan of in network hospitals.

(j) Where a managed care entity provisionally accepts a nominated provider and then later deselects that provider based on the credentialing process in accordance with Rule 120-2-83-.05, the managed care entity is responsible for payment for covered services provided during the credentialing review period and before notice of the deselection of the nominated provider is received by the enrollee and the provider.

(k) Nothing in this Rule shall prohibit a managed care entity from implementing alternate measures which are more beneficial to the enrollee as agreed to by the enrollee and managed care entity, providing the minimum requirements of this Rule are met.

Cite as Ga. Comp. R. & Regs. R. 120-2-83-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-20A-9.1.
History. Original Rule entitled "Provider Nomination" was f. as ER 120-2-83-0.10-.04. F. and eff. on Nov. 24, 1999, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Mar. 3, 2000; eff. Mar. 23, 2000.

Rule 120-2-83-.05. Credentialing.

(a) Nothing in this Regulation Chapter shall require managed care entities to credential as to nominated providers.

(b) As provided for in O.C.G.A. § 33-20A-9.1(c)(1)(C), managed care entities are permitted to implement credentialing procedures that meet minimum requirements set forth by recognized credentialing bodies.

(c) Within ninety (90) days of receipt of all necessary information as required by the managed care entity and provided with the nomination form in accordance with Rule 120-2-83-.04(a)(l), the managed care entity shall provide notice in writing, to the provider and the enrollee, of the credentialing decision.

(d) For deselected providers, this notice shall contain the specific statutory, medical, professional or ethical reasons for deselection.

Cite as Ga. Comp. R. & Regs. R. 120-2-83-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-20A-9.1.
History. Original Rule entitled "Credentialing" was f. as ER 120-2-83-0.10-.05. F. and eff. on Nov. 24, 1999, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Mar. 3, 2000; eff. Mar. 23, 2000.

Rule 120-2-83-.06. Form Filings; Examination Authority.

(a) Rate and form filings for the option shall be deemed original filings.

(b) Managed care entities may seek approval of acceptable group master contract language which describes administrative procedures and limits changes to or withdrawals from the option election by an enrollee, consistent with Rule 120-2-83-.03(d).

(c) The requirements for offering the option pursuant to this Regulation Chapter shall be satisfied if a managed care entity meets all requirements set forth in O.C.G.A. § 33-20A-9.1(d)(2)(C). Compliance with this paragraph shall be applicable on a product and option specific basis, including different cost sharing levels.

(d) Nothing in this Regulation Chapter shall affect the Commissioner's examination authority pursuant to Title 33 of the Official Code of Georgia Annotated.

Cite as Ga. Comp. R. & Regs. R. 120-2-83-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-20A-9.1.
History. Original Rule entitled "Form Filings; Examination Authority" was f. as ER 120-2-83-0.10-.06. F. and eff. on Nov. 24, 1999, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Mar. 3, 2000; eff. Mar. 23, 2000.

Rule 120-2-83-.07. Penalties.

Any insurer, or any agent, counselor, representative, officer, or employee of such insurer failing to comply with the requirements of this Regulation Chapter shall be subject to such penalties as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-83-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-20A-9.1.
History. Original Rule entitled "Penalties" was f. as ER 120-2-83- 0.10-.07. F. and eff. on Nov. 24, 1999, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Mar. 3, 2000; eff. Mar. 23, 2000.

Rule 120-2-83-.08. Severability.

If any provision of this Regulation Chapter or the application of it to any person or circumstance is held invalid, such invalidity shall not affect the provisions or applications of the rules herein which can be given effect without the invalid portion. To that end, the provisions of this Rule are declared to be severable.

Cite as Ga. Comp. R. & Regs. R. 120-2-83-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-20A-9.1.
History. Original Rule entitled "Severability" adopted as ER. 120-2-83-0.10-.08. F. and eff. Nov. 24, 1999, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Mar. 3, 2000; eff. Mar. 23, 2000.

Subject 120-2-87. REGULATIONS GOVERNING THE COLLECTION, USE, AND DISCLOSURE OF INFORMATION GATHERED IN CONNECTION WITH INSURANCE TRANSACTIONS.

Rule 120-2-87-.01. Purpose.

The purpose of this regulation is to implement the provisions of Chapter 39 of Title 33 of the Official Code of Georgia Annotated and to provide an interpretive ruling to carry out the responsibilities of the Office of the Commissioner concerning the collection, use, and disclosure of personal information in connection with insurance transactions in Georgia pursuant to Title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801*et seq.*).

Cite as Ga. Comp. R. & Regs. R. 120-2-87-.01
Authority: O.C.G.A. Sec. 33-2-9, 15 U.S.C. Sec. 6805.
History. Original Rule entitled "Purpose" adopted. F. July 24, 2001; eff. Aug. 13, 2001.

Rule 120-2-87-.02. Applicability.

This regulation applies to all insurance institutions, agents, insurance support organizations, producers, unauthorized insurers who place business through a licensed excess line broker in this state pursuant to Chapter 5 of Title 33, and other persons or entities licensed or required to be licensed, authorized or required to be authorized, registered or required to be registered pursuant to the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-87-.02
Authority: O.C.G.A. Sec. 33-2-9, 15 U.S.C. Sec. 6805.
History. Original Rule entitled "Applicability" adopted. F. July 24, 2001; eff. Aug. 13, 2001.

Rule 120-2-87-.03. Authority.

This regulation is issued pursuant to the authority vested in the Commissioner of Insurance under O.C.G.A. § 33-2-9 to implement Chapter 39 of Title 33 and to provide an interpretive ruling to carry out the responsibilities of his office under Sections 505 and 507 of Subtitle A of Title V of the Gramm-Leach-Bliley Act. Section 505 of the Gramm-Leach-Bliley Act specifically reserves functional regulation of all insurance activities to the States and directs State insurance authorities to enforce Title V privacy standards, and Section 507 permits the enforcement of any State provisions that offer greater protections and standards than may be set forth in Title V of the Gramm-Leach-Bliley Act.

Cite as Ga. Comp. R. & Regs. R. 120-2-87-.03
Authority: O.C.G.A. Sec. 33-2-9, 15 U.S.C. Secs. 6805, 6807.
History. Original Rule entitled "Authority" adopted. F. July 24, 2001; eff. Aug. 13, 2001.

Rule 120-2-87-.04. Requirements.

Any person or entity subject to this regulation shall comply with Chapter 39 of Title 33 and all other applicable Georgia laws; and shall further comply with Title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801*et seq.*) and other applicable federal laws to the extent said federal laws set forth standards that are either in addition to, or stricter than, the consumer protections in Georgia law.

Cite as Ga. Comp. R. & Regs. R. 120-2-87-.04
Authority: O.C.G.A. Sec. 33-2-9, 15 U.S.C. Secs. 6805, 6807.
History. Original Rule entitled "Requirements" adopted. F. July 24, 2001; eff. Aug. 13, 2001.

Rule 120-2-87-.05. Enforcement.

The Commissioner of Insurance has the authority to enforce Title V of the Gramm-Leach-Bliley Act (15 U.S.C. § 6801*et seq.*) and has all of the enforcement powers otherwise available to the Commissioner under Chapter 39 of Title 33 and all other applicable Georgia laws.

Cite as Ga. Comp. R. & Regs. R. 120-2-87-.05
Authority: O.C.G.A. Sec. 33-2-9, 15 U.S.C. Sec. 6805.
History. Original Rule entitled "Enforcement" adopted. F. July 24, 2001; eff. Aug. 13, 2001.

Rule 120-2-87-.06. Severability.

If any regulation or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the regulation herein and the applicability of such provisions to other circumstances shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-2-87-.06
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Severability" adopted. F. July 24, 2001; eff. Aug. 13, 2001.

Subject 120-2-89. SURPLUS LINES INSURANCE REGULATION.

Rule 120-2-89-.01. Statutory Authority.

This Regulation is made and promulgated by the Insurance Commissioner pursuant to the authority set forth in Section 33-2-9 and Section 33-5-26 of the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-89-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-5-26.
History. Original Rule entitled "Statutory Authority" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-89-.02. Purpose.

The purpose of this Regulation is to establish rules for the delivery of a standard disclosure form or brochure explaining surplus lines coverage, which shall be attached to or made a part of any surplus line policy in which the policy premium is $5,000.00 per annum or less.

Cite as Ga. Comp. R. & Regs. R. 120-2-89-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-5-26.
History. Original Rule entitled "Purpose" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-89-.03. Delivery of Standard Disclosure Brochure.

Pursuant to Code Section 33-5-26(b), no surplus lines policy or certificate with an annual premium of $5,000.00 per annum or less, shall be delivered in this state without being accompanied by a standard form explaining surplus lines insurance.

(a) The standard form referred to in this Section shall be identical in format and content to the document attached hereto as Appendix A.

(b) It shall be the responsibility of the licensed surplus lines broker to ensure that a copy of the standard disclosure brochure is delivered to the policyholder with the policyholder's copy of the policy.

Cite as Ga. Comp. R. & Regs. R. 120-2-89-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-5-26.
History. Original Rule entitled "Delivery of Standard Disclosure Brochure" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-89-.04. Penalties.

Any insurer or surplus lines broker failing to comply with the requirements of this Regulation Chapter shall be subject to such penalties as may be appropriate under the insurance laws of this State.

Cite as Ga. Comp. R. & Regs. R. 120-2-89-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-5-26.
History. Original Rule entitled "Penalties" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Rule 120-2-89-.05. Severability.

If any provision of this Regulation Chapter or the application of it to any person or circumstance is held invalid, such invalidity shall not affect the provisions or applications of the rules herein which can be given effect without the invalid portion. To that end, the provisions of this Rule are declared to be severable.

Cite as Ga. Comp. R. & Regs. R. 120-2-89-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-5-26.
History. Original Rule entitled "Severability" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Appendix (120-2-89) A. .

FREQUENTLY ASKED QUESTIONS

ABOUT YOUR SURPLUS LINES POLICY

Your broker has placed the insurance you requested in the "surplus lines market" with one or more surplus lines insurers. By definition, such surplus lines insurers are not licensed in the state, but this does not mean that the transaction is not regulated. The surplus lines market is an insurance marketplace that is established for the purpose of insuring unique or hard to place risks. Some of the rules that apply to surplus lines insurance policies and surplus lines insurance companies differ from those that govern coverage obtained from insurance companies licensed in your state. In order for you to better understand the surplus lines market and the rights you have in a surplus lines transaction, the following material is provided.

Please read this brochure carefully, and should you have any questions after reading the material, do not hesitate to ask your broker. If you wish further information, please contact the Regulatory Services Division, Room 604 West Tower, 2 Martin Luther King, Jr. Drive, Atlanta, Georgia 30334 or (404) 656-2074 or toll free at (800) 656-2298 (request Regulatory Services Division).

WHAT IS A SURPLUS LINES POLICY?

A surplus lines policy is a policy placed with an insurer that is not licensed (or 'admitted') in this state, but is nonetheless eligible to provide insurance on property or liability insurance protection to citizens of this state through specially licensed agents or brokers known as surplus lines brokers.

WHY AM I GETTING COVERAGE FROM A SURPLUS LINES INSURER?

Your agent or broker may have been unable to obtain the coverage you requested from insurance companies licensed in this state, but was able to obtain coverage from an eligible surplus lines insurance company. The reason for your agent or broker's action is that the risk or property for which you sought coverage may be unique or have certain risk characteristics that caused licensed insurers to decline to write the policy. In circumstances where licensed insurers will not write the risk, your broker is authorized by state law or regulation to obtain the coverage from a "surplus lines" insurer.

SINCE THE SURPLUS LINES INSURER IS UNLICENSED, IS THE TRANSACTION UNREGULATED?

Surplus lines transactions are regulated by state law that require that surplus lines policies be procured only by specially licensed brokers. These are called surplus lines brokers and they are

authorized to transact business with certain unlicensed insurers that meet financial and other eligibility standards set by the state. These insurers are known as surplus lines insurers. Your agent may have worked with a licensed surplus lines broker in securing your policy. Alternatively, your agent may hold a surplus lines broker's license.

IS MY SURPLUS LINES POLICY COVERED BY THE STATE GUARANTY OR INSOLVENCY FUND?

No. There is no guaranty fund for coverage for surplus lines policies. The guaranty fund, which provides payments in the event that your insurance company becomes insolvent, only covers policies of licensed insurers.

HOW IS THE RATE OR PRICE OF A SURPLUS LINES POLICY DETERMINED?

The rate or premium charged for a surplus lines policy is determined by the surplus lines insurer. As unlicensed insurers, surplus lines insurers do not file their rates or premiums with the state for review or approval.

DOES THE GEORGIA DEPARTMENT OF INSURANCE REVIEW OR APPROVE THE TERMS AND CONDITIONS OF THIS POLICY?

Pursuant to O.C.G.A. § 33-5-21.1, policies of surplus lines insurers are not reviewed or approved by the Georgia Department of Insurance.

CAN MY POLICY BE RENEWED OR EXTENDED?

Your surplus lines policy may or may not be renewed or extended when the policy expires. An extension of the policy coverage will be dependent upon the continued unavailability of the policy coverage from insurers licensed in this state and the willingness of the surplus lines insurer to continue to accept the risk. Since a surplus lines policy is generally not subject to the same notice requirements as a policy issued by a licensed insurer, notice of a premium increase for a new policy term or the company's intent not to extend the policy at the same terms and conditions might not be provided until close to the date the policy expires. Therefore, you should keep in contact with your agent or broker, particularly as the expiration of the policy term nears, to ascertain the status of the policy and to assure continuity of coverage.

Cite as Ga. Comp. R. & Regs. R. 120-2-89 app (120-2-89) A

Subject 120-2-90. STANDARD NONFORFEITURE AND VALUATION FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES AND NONFORFEITURE BENEFITS REGULATION.

Rule 120-2-90-.01. Authority.

This regulation is promulgated by the Commissioner of Insurance pursuant to O.C.G.A. §§ 33-2-9, 33-10-13(b.1)(2), 33-10-13(d)(1)(B)(iii) and 33-25-4(e)(8)(F).

Cite as Ga. Comp. R. & Regs. R. 120-2-90-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13, 33-25-4.
History. Original Rule entitled "Authority" adopted. F. Jan. 28, 2005; eff. Feb. 17, 2005.
Repealed: New Rule of same title adopted. F. Dec. 11, 2006; eff. Jan. 1, 2007, as specified by the Agency.

Rule 120-2-90-.02. Purpose.

The purpose of this regulation is to recognize, permit and prescribe the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with O.C.G.A. §§ 33-10-13(d)(1)(B)(iii) and 33-25-4(e)(8)(F) and Georgia Insurance Department Regulation Chapter 120-2-90 and to recognize and permit the use of mortality tables that reflect differences in mortality between Preferred and Standard lives in determining minimum reserve liabilities for life insurance pursuant to O.C.G.A. § 33-10-13(d)(1)(B)(iii) and Georgia Insurance Department Regulation Chapter 120-2-90.

Cite as Ga. Comp. R. & Regs. R. 120-2-90-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13, 33-25-4.
History. Original Rule entitled "Purpose" adopted. F. Jan. 28, 2005; eff. Feb. 17, 2005.
Repealed: New Rule of same title adopted. F. Dec. 11, 2006; eff. Jan. 1, 2007, as specified by the Agency.

Rule 120-2-90-.03. Definitions.

(1) As used in this regulation:

(a) "2001 CSO Mortality Table" means that mortality table, consisting of separate rates for mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the Proceedings of the NAIC (2nd Quarter 2002) and supplemented by the 2001 CSO Preferred Class Structure Mortality Table defined below in subsection (d). Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

(b) "2001 CSO Mortality Table (F)" means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

(c) "2001 CSO Mortality Table (M)" means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

(d) "2001 CSO Preferred Class Structure Mortality Table" means mortality tables with separate rates of mortality for Super Preferred Nonsmokers, Preferred

Nonsmokers, Residual Standard Nonsmokers, Preferred Smokers, and Residual Standard Smoker splits of the 2001 CSO Nonsmoker and Smoker tables as adopted by the NAIC at the September, 2006 national meeting and published in the *NAIC Proceedings {3rd Quarter 2006}*. Unless the context indicates otherwise, the "2001 CSO Preferred Class Structure Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table. It includes both the smoker and nonsmoker mortality tables. It includes both the male and female mortality tables and the gender composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality table.

(e) "Composite mortality tables" means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

(f) "Smoker and nonsmoker mortality tables" means mortality tables with separate rates of mortality for smokers and nonsmokers.

(g) "Appendix A-830" means Appendix A-830 of the NAIC Accounting Practices and Procedures Manual.

(h) "Statistical agent" means an entity with proven systems for protecting the confidentiality of individual insured and insurer information; demonstrated resources for and history of ongoing electronic communications and data transfer ensuring data integrity with insurers, which are its members or subscribers; and a history of and means for aggregation of data and accurate promulgation of the experience modifications in a timely manner.

(2) In addition to the other requirements of this regulation, a company shall use Appendix A-830 for the valuation of life insurance policies. This regulation does not expand the applicability of Appendix A-830 to include life insurance policies otherwise exempt under Appendix A-830.

Cite as Ga. Comp. R. & Regs. R. 120-2-90-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13, 33-25-4.
History. Original Rule entitled "Definitions" adopted. F. Jan. 28, 2005; eff. Feb. 17, 2005.
Repealed: New Rule of same title adopted. F. Dec. 11, 2006; eff. Jan. 1, 2007, as specified by the Agency.

Rule 120-2-90-.04. 2001 CSO Mortality Table and 2001 CSO Preferred Class Structure Mortality Table.

(1) At the election of the company for any one of more specified plans of insurance and subject to the conditions stated in this regulation, the 2001 CSO Mortality Table may be used as the minimum standard for policies issued on or after the effective date of this regulation and before the date specified in subsection (2) to which O.C.G.A. §§ 33-10-

13(d)(1)(B)(iii) and 33-25-4(e)(8)(F) and Appendix A-830 are applicable. If the company elects to use the 2001 CSO Mortality Table, it shall do so for both valuation and nonforfeiture purposes.

(2) Subject to the conditions stated in this regulation, the 2001 CSO Mortality Table shall be used in determining minimum standards for policies issued on and after January 1, 2009, to which O.C.G.A. §§ 33-10-13(d)(1)(B)(iii) and 33-25-4(e)(8)(F) and Appendix A-830 are applicable.

(3) At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this regulation, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007. No such election shall be made until the company demonstrates at least 20% of the business to be valued on this table is in one or more of the preferred classes. A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this rule, will be treated as part of the 2001 CSO Mortality Table only for purposes of reserve valuation.

Cite as Ga. Comp. R. & Regs. R. 120-2-90-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13, 33-25-4.
History. Original Rule entitled "2001 CSO Mortality Table" adopted. F. Jan. 28, 2005; eff. Feb. 17, 2005.
Repealed: New Rule entitled "2001 CSO Mortality Table and 2001 CSO Preferred Class Structure Mortality Table" adopted. F. Dec. 11, 2006; eff. Jan. 1, 2007, as specified by the Agency.

Rule 120-2-90-.05. Conditions.

(1) For each plan of insurance with separate rates for smokers and nonsmokers an insurer may use:

(a) Composite mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits;

(b) Smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by O.C.G.A. § 33-10-13(j) and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or

(c) Smoker and nonsmoker mortality to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

(2) For each plan of insurance with separate rates for Preferred and Standard Nonsmoker lives, an insurer may use the Super Preferred Nonsmoker, Preferred Nonsmoker, and Residual Standard Nonsmoker tables to substitute for the Nonsmoker mortality table

found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, except for business valued under the Residual Standard Nonsmoker Table, the appointed actuary shall certify that:

(a) The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

(b) The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

(3) For plans of insurance without separate rates for smokers and nonsmokers the composite mortality tables shall be used.

(4) For each plan of insurance with separate rates for Preferred and Standard Smoker lives, an insurer may use the Preferred Smoker and Residual Standard Smoker tables to substitute for the Smoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, for business valued under the Preferred Smoker Table, the appointed actuary shall certify that:

(a) The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker valuation basic table corresponding to the valuation table being used for that class.

(b) The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker valuation basic table.

(5) For the purpose of determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits, the 2001 CSO Mortality Table may, at the option of the company for each plan of insurance, be used in its ultimate or select and ultimate form, subject to the restrictions of § 120-2-90-.06 and Appendix A-830 relative to use of the select and ultimate form.

(6) When the 2001 CSO Mortality Table is the minimum reserve standard for any plan for a company, the actuarial opinion in the annual statement filed with the commissioner shall be based on an asset adequacy analysis as specified in Georgia Insurance Department Regulation Chapter 120-2-74-.05. A commissioner may exempt a company from this requirement if it only does business in this state and in no other state.

(7) Unless exempted by the commissioner, every authorized insurer using the 2001 CSO Preferred Class Structure Table shall annually file with the commissioner, with the NAIC, or with a statistical agent designated by the NAIC and acceptable to the commissioner, statistical reports showing mortality and such other information as the commissioner may deem necessary or expedient for the administration of the provisions of this regulation. The form of the reports shall be established by the commissioner or the commissioner may require the use of a form established by the NAIC or by a statistical agent designated by the NAIC and acceptable to the commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-90-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13, 33-25-4.
History. Original Rule entitled "Conditions" adopted. F. Jan. 28, 2005; eff. Feb. 17, 2005.
Repealed: New Rule of same title adopted. F. Dec. 11, 2006; eff. Jan. 1, 2007, as specified by the Agency.

Rule 120-2-90-.06. Applicability of the 2001 CSO Mortality Table and 2001 CSO Preferred Class Structure Mortality Table to Life Insurance Policies Valued Pursuant to Appendix A-830 of the NAIC Accounting Practices and Procedures Manual.

(1) The 2001 CSO Mortality Table and 2001 CSO Preferred Class Structure Mortality Table may be used in valuing a life policy pursuant to Appendix A-830 in the following manner, subject to the transition dates for use of the 2001 CSO Mortality Table in § 120-2-90-04;

(a) In determining the applicability of Appendix A-830 to any universal life policy, the net level reserve premium for the secondary guarantee period is based on the ultimate mortality rates in the 2001 CSO Mortality Table or the ultimate mortality rates in the 2001 CSO Preferred Class Structure Mortality Table.

(b) All calculations under the contract segmentation method are made using the 2001 CSO Mortality Rate, and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in 120-2-90-.06(1)(d) of this regulation. The value of "qx+k+t-1" is the valuation mortality rate for deficiency reserves in policy year k+t, but using the unmodified select mortality rates if modified select mortality rates are used in the computation of deficiency reserves.

(c) For purposes of general calculation requirements for basic reserves, the 2001 CSO Mortality Table or 2001 CSO Preferred Class Structure Mortality Table is the minimum standard.

(d) For purposes of general calculation requirements for deficiency reserves, the 2001 CSO Mortality Table or 2001 CSO Preferred Class Structure Mortality Table is the minimum standard. If select mortality rates are used, they may be multiplied by X percent for durations in the first segment, subject to the conditions specified

in § 17c of Appendix A-830. In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO Mortality Table with those tests that utilize the 2001 CSO Mortality Table or 2001 CSO Preferred Class Structure Mortality Table, unless the combination is explicitly required by regulation or necessary to be in compliance with relevant Actuarial Standards of Practice.

(e) For calculating the minimum value of basic reserves for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies), the valuation mortality table used in determining the tabular cost of insurance shall be the ultimate mortality rates in the 2001 CSO Mortality Table or 2001 CSO Preferred Class Structure Mortality Table.

(f) For determining the optional exemption for yearly renewable term reinsurance for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies), the calculations shall use the maximum valuation interest rate and the ultimate mortality rates in the 2001 CSO Mortality Table or 2001 CSO Preferred Class Structure Mortality Table.

(g) For determining the optional exemption for attained-age-based yearly renewable term life policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies), the calculations shall use the maximum valuation interest rate and the ultimate mortality rates in the 2001 CSO Mortality Table or 2001 CSO Preferred Class Structure Mortality Table.

(h) For determining the exemption for unitary reserves for certain n-year renewable term life polices with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies), the calculations shall use the ultimate mortality rates in the 2001 CSO Mortality Table or 2001 CSO Preferred Class Structure Mortality Table.

(i) For flexible premium and fixed premium universal life policies that contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period, the one-year valuation premium for purposes of identifying policies with a secondary guarantee shall be calculated using the ultimate mortality rates in the 2001 CSO Mortality Table or 2001 CSO Preferred Class Structure Mortality Table.

(2) Nothing in this section shall be construed to expand the applicability of Appendix A-830 to include the life insurance policies otherwise exempted under Appendix A-830.

Cite as Ga. Comp. R. & Regs. R. 120-2-90-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13, 33-25-4.
History. Original Rule entitled "Applicability of the 2001 CSO Mortality Table to Life Insurance Policies Valued Pursuant to Appendix A-830 of the NAIC Accounting Practices and Procedures Manual" adopted. F. Jan. 28, 2005; eff. Feb. 17, 2005.

Repealed: New Rule entitled "Applicability of the 2001 CSO Mortality Table and 2001 CSO Preferred Class Structure Mortality Table to Life Insurance Policies Valued Pursuant to Appendix A-830 of the NAIC Accounting Practices and Procedures Manual" adopted. F. Dec. 11, 2006; eff. Jan. 1, 2007, as specified by the Agency.

Rule 120-2-90-.07. Gender-Blended Tables.

(1) For any ordinary life insurance policy delivered or issued for delivery in this state on and after the effective date of this regulation, that utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO Mortality Table (M) and the 2001 CSO Mortality Table (F) may, at the option of the company for each plan of insurance, be substituted for the 2001 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this subsection of the regulation.

(2) The company may choose from among the blended tables developed by the American Academy of Actuaries CSO Task Force and adopted by the NAIC in December 2002.

Cite as Ga. Comp. R. & Regs. R. 120-2-90-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13, 33-25-4.
History. Original Rule entitled "Gender-Blended Tables" adopted. F. Jan. 28, 2005; eff. Feb. 17, 2005.
Repealed: New Rule of same title adopted. F. Dec. 11, 2006; eff. Jan. 1, 2007, as specified by the Agency.

Rule 120-2-90-.08. Severability.

If any provision of this regulation or its application to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of the provision to other persons or circumstances shall not be affected.

Cite as Ga. Comp. R. & Regs. R. 120-2-90-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13, 33-25-4.
History. Original Rule entitled "Severability" adopted. F. Jan. 28, 2005; eff. Feb. 17, 2005.
Repealed: New Rule of same title adopted. F. Dec. 11, 2006; eff. Jan. 1, 2007, as specified by the Agency.

Rule 120-2-90-.09. Effective Date.

The effective date of this regulation regarding the recognition of the use of the 2001 CSO Preferred Class Structure Mortality Table in determining reserve liabilities shall be January 1, 2007.

Cite as Ga. Comp. R. & Regs. R. 120-2-90-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-10-13, 33-25-4.
History. Original Rule entitled "Effective Date" adopted. F. Dec. 11, 2006; eff. Jan. 1, 2007, as specified by the

Agency.

Subject 120-2-91. MINIMUM NONFORFEITURE VALUES FOR INDIVIDUAL DEFERRED ANNUITIES.

Rule 120-2-91-.01. Authority.

This Regulation is adopted and promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. Sections 33-2-9 and 33-28-3.

Cite as Ga. Comp. R. & Regs. R. 120-2-91-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-28-3.
History. Original Rule entitled "Authority" adopted as ER. 120-2-91-0.16-.01. F. June 29, 2005; eff. June 28, 2005, the date of adoption.
Amended: Permanent Rule of same title adopted. F. June 24, 2005; eff. July 14, 2005.

Rule 120-2-91-.02. Purpose.

The purpose of this Regulation is to set forth the minimum values of any paid-up annuity, cash surrender, or death benefits available under an annuity contract pursuant to O.C.G.A. Section 33-28-3(e) through (h) and (j).

Cite as Ga. Comp. R. & Regs. R. 120-2-91-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-28-3.
History. Original Rule entitled "Purpose" adopted as ER. 120-2-91-0.16-.02. F. June 29, 2005; eff. June 28, 2005, the date of adoption.
Amended: Permanent Rule of same title adopted. F. June 24, 2005; eff. July 14, 2005.

Rule 120-2-91-.03. Applicability.

The minimum values of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this Regulation Chapter.

Cite as Ga. Comp. R. & Regs. R. 120-2-91-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-28-3.
History. Original Rule entitled "Applicability" adopted as ER. 120-2-91-0.16-.03. F. June 29, 2005; eff. June 28, 2005, the date of adoption.
Amended: Permanent Rule of same title adopted. F. June 24, 2005; eff. July 14, 2005.

Rule 120-2-91-.04. Minimum Values.

(1) The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at rates of interest as indicated in Subsection (3) of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of Paragraphs (a) through (d) below:

(a) Any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as indicated in Subsection (3);

(b) An annual contract charge of $50, accumulated at rates of interest as indicated in Subsection (3);

(c) Any premium tax paid by the company for the contract, accumulated at rates of interest as indicated in Subsection (3); and

(d) The amount of any indebtedness to the company on the contract, including interest due and accrued.

(2) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half percent (87.5%) of the gross considerations credited to the contract during that contract year.

(3) The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of three percent (3%) per annum and the following, which shall be specified in the contract if the interest rate will be reset:

(a) The five-year Constant Maturity Treasury Rate reported by the Federal Reserve as of a date, or average over a period, rounded to the nearest 1/20th of one percent, specified in the contract no longer than fifteen (15) months prior to the contract issue date or redetermination date under Subsection (d);

(b) Reduced by 125 basis points;

(c) Where the resulting interest rate is not less than one percent (1%); and

(d) The interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that produces the value of the five-year Constant Maturity Treasury Rate to be used at each redetermination date.

(4) During the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in Subsection (3)(b) above by up to an additional 100 basis points to reflect the value of the equity index benefit. The present value at the contract issue date, and at each redetermination date thereafter, of the additional reduction shall not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the additional reduction does not

exceed the market value of the benefit. Lacking such a demonstration that is acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.

Cite as Ga. Comp. R. & Regs. R. 120-2-91-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-28-3.
History. Original Rule entitled "Minimum Values" adopted as ER. 120-2-91-0.16-.04. F. June 29, 2005; eff. June 28, 2005, the date of adoption.
Amended: Permanent Rule of same title adopted. F. June 24, 2005; eff. July 14, 2005.

Rule 120-2-91-.05. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-91-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-28-3.
History. Original Rule entitled "Severability" adopted as ER. 120-2-91-0.16-.05. F. June 29, 2005; eff. June 28, 2005, the date of adoption.
Amended: Permanent Rule of same title adopted. F. June 24, 2005; eff. July 14, 2005.

Subject 120-2-92. INDEPENDENT ACCREDITATION OF HEALTH MAINTENANCE ORGANIZATIONS.

Rule 120-2-92-.01. Approved Accrediting Organizations List.

The Commissioner shall establish a list of approved accreditation organizations for purposes of this regulation. A health maintenance organization which is accredited on a continuing basis by an organization on the Approved Accrediting Organizations List and meeting the other requirements of this regulation shall be deemed to have satisfied the requirements of O.C.G.A. § 33-21-3(b.1).

Cite as Ga. Comp. R. & Regs. R. 120-2-92-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-21-3, 33-21-18.
History. Original Rule entitled "Approved Accrediting Organizations List" adopted as ER. 120-2-92-0.13-.01. F. Oct. 4, 2004; eff. Aug. 3, 2004, the date of adoption.
Amended: ER. 120-2-92-0.14-.01 of same title adopted. F. Nov. 29, 2004; eff. Dec. 1, 2004, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Mar. 10, 2005; eff. Mar. 30, 2005.

Rule 120-2-92-.02. Qualifications for Approved Accreditation Organizations.

(1) An organization may become an approved accrediting organization for purposes of this regulation when it meets the following requirements:

(a) The organization has been in existence for a minimum of 10 years. An organization in existence for less than 10 years may petition the Commissioner for a waiver of this requirement;

(b) The organization is not owned or operated by a health maintenance organization and performs its accrediting functions independently from the control of health maintenance organizations;

(c) The organization operates on a national basis;

(d) The organization's board of directors is comprised of diverse health care, business and consumer interests, including but not limited to representatives of the medical profession, hospital industry, consumers, and health maintenance organizations;

(e) The organization has a process for regularly reviewing its own accreditation standards for health maintenance organizations;

(f) The organization has provisions to perform regular on-site reviews of health maintenance organizations;

(g) The organization establishes standards for performance and uses those standards to examine and measure the performance of health maintenance organizations in the following areas:

1. Quality Assurance and Improvement
2. Member Satisfaction
3. Appeals Processes
4. Clinical Oversight
5. Provider Credentialing
6. Utilization Review
7. Delegation Oversight
8. Confidentiality of Member Information
9. Access to Services.

(h) A copy of the organization's standards for accreditation must be made available to the Department of Insurance upon request. Revisions to such standards shall also be communicated to the Department. Such standards may be reviewed by the

Department of Insurance on a triennial basis. The Department may request additional standards to be included within any approved organization's standards for accreditation.

(i) In each accreditation review, the organization must utilize a physician experienced in health maintenance organization quality assurance management;

(j) Upon request, the Department may review the accreditation review files for a licensed health maintenance organization.

(2) An organization seeking approval as an accrediting organization shall submit evidence to the Commissioner of its compliance with the standards in subparagraph (1) of this section. Upon submission of such evidence, the Commissioner, in his or her discretion, may include the organization on the Approved Accrediting Organizations List.

Cite as Ga. Comp. R. & Regs. R. 120-2-92-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-21-3, 33-21-18.
History. Original Rule entitled "Qualifications for Approved Accreditation Organizations" adopted as ER. 120-2-92-0.13-.02. F. Oct. 4, 2004; eff. Aug. 3, 2004, the date of adoption.
Amended: ER. 120-2-92-0.14-.02 of same title adopted. F. Nov. 29, 2004; eff. Dec. 1, 2004, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Mar. 10, 2005; eff. Mar. 30, 2005.

Rule 120-2-92-.03. Certification Pursuant to Accreditation by a National Accrediting Organization.

(1) A health maintenance organization seeking certification for purposes of O.C.G.A. § 33-21-3(b.1) through proof of accreditation by a national accreditation organization shall:

(a) Submit to the Commissioner a copy of the certificate of provisional or final accreditation issued by a national accreditation agency qualified under this regulation; and

(b) Submit evidence that its services are reasonably available and accessible in its service area or proposed service area according to its written standards for establishing and measuring appropriate member access to health care services.

(2) For purposes of subparagraph (1)(a) of this section, a health maintenance organization may submit proof of accreditation of a company with which it is formally affiliated, provided that the affiliated company supervises or performs the services for the Georgia health maintenance organization using the same standards and procedures for which it has received accreditation by an Approved Accrediting Organization.

Cite as Ga. Comp. R. & Regs. R. 120-2-92-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-21-3, 33-21-18.

History. Original Rule entitled "Certification Pursuant to Accreditation by a National Accrediting Organization" adopted as ER. 120-2-92-0.13-.03. F. Oct. 4, 2004; eff. Aug. 3, 2004, the date of adoption.
Amended: ER. 120-2-92-0.14-.03 of same title adopted. F. Nov. 29, 2004; eff. Dec. 1, 2004, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Mar. 10, 2005; eff. Mar. 30, 2005.

Rule 120-2-92-.04. Loss of Accreditation, Review and Action by the Commissioner of Insurance.

(1) A health maintenance organization shall notify the Commissioner of Insurance of the loss of accreditation within 15 days of such occurrence.

(2) Upon receipt of notice of a health maintenance organization's accreditation, the Commissioner of Insurance shall notify the Commissioner of the Department of Human Resources.

(3) The Commissioner of Insurance may investigate and review specific issues relating to access and availability at any time.

Cite as Ga. Comp. R. & Regs. R. 120-2-92-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-21-3, 33-21-18.
History. Original Rule entitled "Loss of Accreditation, Review and Action by the Commissioner of Insurance" adopted as ER. 120-2-92-0.13-.04. F. Oct. 4, 2004; eff. Aug. 3, 2004, the date of adoption.
Amended: ER. 120-2-92-0.14-.04 of same title adopted. F. Nov. 29, 2004; eff. Dec. 1, 2004, as specified by the Agency.
Amended: Permanent Rule of same title adopted. F. Mar. 10, 2005; eff. Mar. 30, 2005.

Rule 120-2-92-.05. Severability.

If any provision of this regulation or its application to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of the provision to other persons or circumstances shall not be affected.

Cite as Ga. Comp. R. & Regs. R. 120-2-92-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-21-3, 33-21-18.
History. Original Rule entitled "Severability" adopted. F. Mar. 10, 2005; eff. Mar. 30, 2005.

Subject 120-2-93. LIFE SETTLEMENTS REGULATION.

Rule 120-2-93-.01. Authority.

This regulation is promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. §§ 33-59-1*et seq.*

Cite as Ga. Comp. R. & Regs. R. 120-2-93-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-59-1*et seq.*
History. Original Rule entitled "Authority" adopted. F. Oct. 14, 2005; eff. Nov. 3, 2005.
Repealed: New Rule of same title adopted. F. Oct. 29, 2009; eff. Nov. 18, 2009.

Rule 120-2-93-.02. Scope and Purpose.

(1) This regulation applies to any Provider of a Life Settlement Contract and any Life Settlement Broker as those terms are defined in O.C.G.A. § 33-59-2 as well as any person who enters into a life settlement contract with an owner of a policy or who facilitates any life settlement contract unless that person is defined as being specifically excluded from registration or licensure by O.C.G.A. § 33-59-2(10) or O.C.G.A. § 33-59-2(18). The purposes of this regulation include:

(a) Providing for required disclosures by the provider or life settlement broker to the owner of the life insurance policy in accordance with O.C.G.A. § 33-59-9;

(b) Providing for the licensure of life settlements providers and registration of a life settlement broker as defined in O.C.G.A. § 33-59-2;

(c) Regulating life settlements providers' and life settlement brokers' practices in conformity with the general purposes of the Georgia Insurance Code;

(d) Regulating the use of forms approved by the Commissioner of Insurance;

(e) Regulating the relationship between all persons involved in the business of life settlements including but not limited to life settlement brokers, providers of life settlement contracts and domestic stock life insurance companies; and

(f) Making it unlawful for a person to engage in the business of life settlements, act as a provider of life settlement contracts or a life settlement broker with an owner or multiple owners who are residents of this state without first having obtained a provider license or acknowledgment of broker registration from the Commissioner or to otherwise commit a fraudulent life settlement act.

Cite as Ga. Comp. R. & Regs. R. 120-2-93-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-59-1*et seq.*
History. Original Rule entitled "Scope and Purpose" adopted. F. Oct. 14, 2005; eff. Nov. 3, 2005.
Repealed: New Rule of same title adopted. F. Oct. 29, 2009; eff. Nov. 18, 2009.

Rule 120-2-93-.03. Definitions.

All terms defined in O.C.G.A. § 33-59-1*et seq.*, hereinafter referred to as the "Life Settlements Act" or "Act" which are used in this Regulation shall have the same meaning as in the Act.

Cite as Ga. Comp. R. & Regs. R. 120-2-93-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-59-1*et seq.*
History. Original Rule entitled "Definitions" adopted. F. Oct. 14, 2005; eff. Nov. 3, 2005.
Repealed: New Rule of same title adopted. F. Oct. 29, 2009; eff. Nov. 18, 2009.

Rule 120-2-93-.04. License; Application and Issuance.

(1) Except as provided for in O.C.G.A. § 33-59-2(18), it is unlawful for any person to enter into a life settlement contract with an owner of a policy or to hold oneself out as a provider in this state without a valid provider license issued by the Commissioner of Insurance. To qualify for and hold a license as a provider in this state, a provider must otherwise be in compliance with Article 3 of Chapter 59 of Title 33 of the Official Code of Georgia Annotated and this Regulation.

(2) The provider shall file with the Commissioner of Insurance an application for a license upon a form to be furnished by the Commissioner of Insurance, which application should include or have attached the following information and documents and any other materials the Commissioner of Insurance deems necessary to adequately assess the merits of the application:

(a) All basic organizational documents of the provider, the articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement, and other applicable documents, and all amendments to those documents;

(b) The bylaws, rules and regulations or similar documents regulating the conduct or the internal affairs of the provider and a detailed plan of operation;

(c) The names, addresses, official positions, and professional qualifications of the individuals who are responsible for the conduct of the affairs of the provider, including all stockholders, partners, officers, members, and employees, with exception to those owning fewer than ten percent (10%) of the provider;

(d) Financial statements certified by the President, Chief Financial Officer or Treasurer or audited reports for the two most recent years, or such other information as the Commissioner may require in order, to review the current financial condition of the provider. The provider must prove that it possesses and maintains a minimum net worth of $300,000; however, the Commissioner may, in his or her discretion, require a higher net worth if he or she deems such higher net worth necessary for the protection of the public. If the Provider is an entity, the minimum net worth must be on the balance sheet of the entity holding the license; letters of credit, backstop guarantees and special corporate structures will not be taken into consideration by the Commissioner in determining the net worth requirement;

(e) Fees as provided in O.C.G.A. §§ 33-59-3(b) and 33-8-1;

(f) A copy of its antifraud plan which shall include but not be limited to the information required under O.C.G.A. § 33-59-14;

(g) A copy of its life settlements contract and disclosure statement, containing the provisions stipulated at O.C.G.A. § 33-59-9, for the Commissioner's review and approval in accordance with O.C.G.A. § 33-59-5; and

(h) A statement that stipulates that its advertisements shall not be misleading, in fact or by implication, shall not suggest that the purchase of a policy is for the sole purpose of life settling the policy, and shall not use the words "free," "no cost," or words of similar meaning in order to entice an individual to purchase a policy for subsequent life settlement.

(3) The Commissioner may not issue a license if he or she determines that the provider or any principal thereof is not competent, trustworthy, financially responsible; has had an insurance license refused, revoked or suspended by any state, or otherwise fails to satisfy the requirements of O.C.G.A. § 33-59-3 and the Commissioner may suspend, revoke, or refuse to renew a provider's license pursuant to O.C.G.A. § 33-59-4(a).

(4) Before becoming registered as a life settlement broker in this state, the person or entity seeking registration must have a current and valid life license in this state or his or her home state for at least one year. Additionally, non-resident producers shall have a valid non-resident producer license in this state.

Cite as Ga. Comp. R. & Regs. R. 120-2-93-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-59-1*et seq.*
History. Original Rule entitled "License; Application and Issuance" adopted. F. Oct. 14, 2005; eff. Nov. 3, 2005.
Repealed: New Rule of same title adopted. F. Oct. 29, 2009; eff. Nov. 18, 2009.

Rule 120-2-93-.05. Annual Statement and Renewal.

(1) Each provider shall file with the Commissioner an annual renewal application by May 1st of every year. The renewal application shall include information and documents and other materials the Commissioner deems necessary to adequately assess the renewal application.

(2) Each provider shall file with the Commissioner an annual statement by May 1 of every year. The statement shall include all of the following information and documents and any other materials the Commissioner deems necessary.

(a) For policies settled during the immediately preceding calendar year, where the insured was a Georgia resident:

1. The total number, aggregate face amount, and life settlement proceeds of those policies, together with a breakdown of the information by policy year;

2. The names of the insurance companies whose policies have been settled;

3. The life settlement brokers receiving compensation related to those policies;

(b) An audited financial statement as of the current year proving that the provider possesses and maintains a minimum net worth of $300,000; unless the Commissioner has required a higher net worth. If the Provider is an entity, the minimum net worth must be on the balance sheet of the entity holding the license. Letters of credit, backstop guarantees and special corporate structures will not be taken into consideration by the Commissioner in determining the net worth requirement; and

(c) A statement that any advertisement by or on behalf of the provider shall comply with O.C.G.A. § 33-59-8.

(2) Any provider that willfully fails to file an annual renewal application and statement shall be subject to fines and other penalties as set forth at O.C.G.A. § 33-59-6(a)(3).

(3) The term of a provider license shall be equal to that of a domestic stock life insurance company and the term of a life settlement broker registration shall be equal to that of an insurance producer license. Licenses or registrations requiring periodic renewal may be renewed on their anniversary date upon payment of the periodic renewal fee as specified in this Chapter. Failure to pay the fees on or before the renewal date shall result in expiration of the license or registration.

Cite as Ga. Comp. R. & Regs. R. 120-2-93-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-59-1*et seq.*
History. Original Rule entitled "Annual Statement and Renewal" adopted. F. Oct. 14, 2005; eff. Nov. 3, 2005.
Repealed: New Rule of same title adopted. F. Oct. 29, 2009; eff. Nov. 18, 2009.

Rule 120-2-93-.06. Examination.

(1) The Commissioner may conduct an examination of the business affairs of any licensee, registrant or applicant under this chapter as often as the Commissioner in his or her sole discretion deems appropriate with all expenses incurred to be paid by the licensee, registrant or applicant. All such examinations shall comply with the requirements of O.C.G.A. § 33-59-7 and all other applicable laws and regulations.

(2) Nothing in this rule shall limit or abridge any other investigatory powers of the Commissioner vested in him or her by Title 33 of the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-93-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-59-1*et seq.*
History. Original Rule entitled "Standards for Evaluation and Examination" adopted. F. Oct. 14, 2005; eff. Nov. 3, 2005.
Repealed: New Rule entitled "Examination" adopted. F. Oct. 29, 2009; eff. Nov. 18, 2009.

Rule 120-2-93-.07. General Rules.

(1) A provider shall comply with the requirements of this Chapter and O.C.G.A. §§ 33-59-1*et seq.* and shall not engage and or deal with any person to perform the functions of a life settlement broker as defined at O.C.G.A. § 33-59-2(10)unless such person holds a current, valid registration as a life settlement broker.

(2) Any person or life settlement broker shall comply with the requirements of this Chapter and O.C.G.A. §§ 33-59-1*et seq.* and shall not present a policy to, solicit bids or offers from, engage and or deal with any person or entity to perform the functions of a provider as defined at O.C.G.A. § 33-59-2(18)unless such person or entity holds a current, valid license as a provider.

(3) Any fee paid by a provider, party, individual, or an owner to a life settlement broker in exchange for services provided to the owner pertaining to a life settlement contract shall be computed as a percentage of the offer obtained, not the face value of the policy.

(4) No person shall enter into a life settlement contract during a two-year period commencing with the date of issuance of the policy unless the owner provides the provider with the certification required under O.C.G.A. § 33-59-11(n)(1) or the owner submits to the provider the independent evidence required pursuant to O.C.G.A. § 33-59-11(n)(2).

   (a) If the owner submits to the provider the independent evidence required pursuant to O.C.G.A. § 33-59-11(n)(2) then the provider shall submit copies of such evidence, accompanied by the provider's letter of attestation that the copies are true and correct copies of the documents received by the provider, to the insurer when the provider submits the request for verification of coverage to the insurer.

(5) It is a violation of this chapter for any person, provider, life settlement broker, or any other party related to the business of life settlements to commit a fraudulent life settlement act, including but not limited to, stranger originated life insurance.

(6) Within three business days after receipt from the owner of documents to effect the transfer of the insurance policy, the provider shall pay the proceeds of the settlement to an escrow or trust account managed by a trustee or escrow agent in a state or federally chartered financial institution pending acknowledgement of the transfer by issuer of the policy. The trustee or escrow agent shall be required to transfer the proceeds due to the owner within three business days of acknowledgement of the transfer from the insurer.

(7) All life settlement contracts shall provide that the owner may rescind the contract on or before 15 days after the date it is executed by all parties thereto. If rescission is exercised by the owner, all proceeds, premiums, loans, etc. must be repaid and notice given within the rescission period. If the owner dies during the rescission period subject to all repayments having been made, the contract is deemed to have been rescinded.

(8) Pursuant to O.C.G.A. § 33-59-14(c)(1), any person engaged in the business of life settlements shall notify the Enforcement Division of the Commissioner's office if he or she has knowledge or a reasonable belief that a fraudulent life settlement act is being, has been or will be committed. Notification can be made by telephone, electronic or written communication.

(9) No person shall engage in the business of life settlements unless they have obtained the appropriate license; applied for, or received the appropriate registration; or have been designated as an authorized representative by a properly licensed or registered entity on a form prescribed by the Commissioner. A violation of this section shall be considered an unfair trade practice and a felony.

Cite as Ga. Comp. R. & Regs. R. 120-2-93-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-59-1*et seq.*
History. Original Rule entitled "General Rules" adopted. F. Oct. 14, 2005; eff. Nov. 3, 2005.
Repealed: New Rule of same title adopted. F. Oct. 29, 2009; eff. Nov. 18, 2009.

Rule 120-2-93-.08. Insurance Company Practices.

(1) Life insurance companies are permitted to ask questions of any life insurance applicant as to whether the proposed owner is intending to finance the premiums with the assistance of financing from a lender that will use the policy as collateral to support the financing. The life insurance company may reject the application if it can be shown that the premium financing provides funds which can be used for a purpose other than paying for the premiums, costs, and expenses associated with obtaining and maintaining the life insurance policy and loan as described in O.C.G.A. § 33-59-10(b). If the financing does not violate O.C.G.A. § 33-59-13, life insurance companies may issue the disclosures and affirmations set forth in O.C.G.A. § 33-59-10(c).

(2) Life insurance companies authorized to do business in this state shall respond to a request for verification of coverage from a provider within 30 days of the date a request is received. The verification of coverage must be on a form prescribed by the Commissioner's office.

(3) A life insurance company shall not unreasonably delay effecting either a change of policy ownership or of a beneficiary under a policy that is subject to a life settlement contract lawfully entered into in this state or with a resident of this state.

Cite as Ga. Comp. R. & Regs. R. 120-2-93-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-59-1*et seq.*
History. Original Rule entitled "Insurance Company Practices" adopted. F. Oct. 14, 2005; eff. Nov. 3, 2005.
Repealed: New Rule of same title adopted. F. Oct. 29, 2009; eff. Nov. 18, 2009.

Rule 120-2-93-.09. Penalties.

(1) Any person failing to comply with the requirements of this Chapter and O.C.G.A. §§ 33-59-1*et seq.* shall be subject to all such penalties and relief as may be appropriate under the laws of this State. Furthermore, a violation of this Chapter shall be considered an unfair trade practice pursuant to state law and subject to such penalties provided by state law.

(2) It is unlawful for any person, other than a licensed provider or a registered life settlement broker, to enter into any life settlement contract with an owner of a policy or facilitate any life settlement contract unless that party is defined as being specifically excluded from registration or licensure by O.C.G.A. § 33-59-2(10) or O.C.G.A. § 33-59-2(18). A violation of this section shall be considered a fraudulent life settlement act and the violator(s) subject to fines and penalties as stipulated at O.C.G.A. § 33-59-15 and O.C.G.A. § 33-59-16.

Cite as Ga. Comp. R. & Regs. R. 120-2-93-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-59-1*et seq.*
History. Original Rule entitled "Penalties" adopted. F. Oct. 14, 2005; eff. Nov. 3, 2005.
Repealed: New Rule of same title adopted. F. Oct. 29, 2009; eff. Nov. 18, 2009.

Rule 120-2-93-.10. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-93-.10
Authority: O.C.G.A. Secs. 33-2-9, 33-59-1*et seq.*
History. Original Rule entitled "Severability" adopted. F. Oct. 14, 2005; eff. Nov. 3, 2005.
Repealed: New Rule of same title adopted. F. Oct. 29, 2009; eff. Nov. 18, 2009.

Subject 120-2-94. SUITABILITY IN ANNUITY TRANSACTIONS.

Rule 120-2-94-.01. Purpose.

(1) The purpose of this regulation is to require insurers to establish a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance

needs and financial objectives of consumers at the time of the transaction are appropriately addressed.

(2) Nothing herein shall be construed to create or imply a private cause of action for a violation of this regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-94-.01
Authority: O.C.G.A. Section 33-2-9.
History. Original Rule entitled "Purpose" adopted. F. Oct. 10, 2006; eff. Oct. 30, 2006.
Repealed: New Rule of same title adopted. F. Aug. 7, 2015; eff. Aug. 27, 2015.

Rule 120-2-94-.02. Scope.

This regulation shall apply to any recommendation to purchase, exchange or replace an annuity made to a consumer by an insurance producer, or an insurer where no producer is involved, that results in the purchase, exchange or replacement recommended.

Cite as Ga. Comp. R. & Regs. R. 120-2-94-.02
Authority: O.C.G.A. Section 33-2-9.
History. Original Rule entitled "Scope" adopted. F. Oct. 10, 2006; eff. Oct. 30, 2006.
Repealed: New Rule of same title adopted. F. Aug. 7, 2015; eff. Aug. 27, 2015.

Rule 120-2-94-.03. Authority.

This regulation is issued under the authority of O.C.G.A. Sections 33-2-9, 33-6-4 and 33-6-12.

Cite as Ga. Comp. R. & Regs. R. 120-2-94-.03
Authority: O.C.G.A. Section 33-2-9.
History. Original Rule entitled "Authority" adopted. F. Oct. 10, 2006; eff. Oct. 30, 2006.
Repealed: New Rule of same title adopted. F. Aug. 7, 2015; eff. Aug. 27, 2015.

Rule 120-2-94-.04. Exemptions.

Unless otherwise specifically included, this regulation shall not apply to transactions involving:

(1) Direct response solicitations where there is no recommendation based on information collected from the consumer pursuant to this regulation;

(2) Contracts used to fund:

(a) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

(b) A plan described by sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code (IRC), as amended, if established or maintained by an employer;

(c) A government or church plan defined in section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under section 457 of the IRC;

(d) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(e) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

(f) Formal prepaid funeral contracts.

Cite as Ga. Comp. R. & Regs. R. 120-2-94-.04
Authority: O.C.G.A. Section 33-2-9.
History. Original Rule entitled "Exemptions" adopted. F. Oct. 10, 2006; eff. Oct. 30, 2006.
Repealed: New Rule of same title adopted. F. Aug. 7, 2015; eff. Aug. 27, 2015.

Rule 120-2-94-.05. Definitions.

(1) "Annuity" means an annuity that is an insurance product under State law that is individually solicited, whether the product is classified as an individual or group annuity.

(2) "Continuing education credit" or "CE credit" means one continuing education credit as described in Rule 120-2-3-.12.

(3) "Continuing education provider" or "CE provider" means an individual or entity that is approved to offer continuing education courses pursuant to Rule 120-2-3-.12.

(4) "FINRA" means the Financial Industry Regulatory Authority or a succeeding agency.

(5) "Insurer" means a company required to be licensed under the laws of this state to provide insurance products, including annuities.

(6) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities.

(7) "Recommendation" means advice provided by an insurance producer, or an insurer where no producer is involved, to an individual consumer that results in a purchase, exchange or replacement of an annuity in accordance with that advice.

(8) "Replacement" means a transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is no producer, that by reason of the transaction, an existing policy or contract has been or is to be:

(a) Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated;

(b) Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

(c) Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

(d) Reissued with any reduction in cash value; or

(e) Used in a financed purchase.

(9) "Suitability information" means information that is reasonably appropriate to determine the suitability of a recommendation, including the following:

(a) Age;

(b) Annual income;

(c) Financial situation and needs, including the financial resources used for the funding of the annuity;

(d) Financial experience;

(e) Financial objectives;

(f) Intended use of the annuity;

(g) Financial time horizon;

(h) Existing assets, including investment and life insurance holdings;

(i) Liquidity needs;

(j) Liquid net worth;

(k) Risk tolerance; and

(l) Tax status.

Cite as Ga. Comp. R. & Regs. R. 120-2-94-.05
Authority: O.C.G.A. Section 33-2-9.
History. Original Rule entitled "Definitions" adopted. F. Oct. 10, 2006; eff. Oct. 30, 2006.
Repealed: New Rule of same title adopted. F. Aug. 7, 2015; eff. Aug. 27, 2015.

Rule 120-2-94-.06. Duties of Insurers and of Insurance Producers.

(1) In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to his or her investments and other insurance products and as to his or her financial situation and needs, including the consumer's suitability information, and that there is a reasonable basis to believe all of the following:

(a) The consumer has been reasonably informed of various features of the annuity, such as the potential surrender period and surrender charge, potential tax penalty if the consumer sells, exchanges, surrenders or annuitizes the annuity, mortality and expense fees, investment advisory fees, potential charges for and features of riders, limitations on interest returns, insurance and investment components and market risk;

(b) The consumer would benefit from certain features of the annuity, such as tax-deferred growth, annuitization or death or living benefit;

(c) The particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable (and in the case of an exchange or replacement, the transaction as a whole is suitable) for the particular consumer based on his or her suitability information; and

(d) In the case of an exchange or replacement of an annuity, the exchange or replacement is suitable including taking into consideration whether:

(i) The consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits (such as death, living or other contractual benefits), or be subject to increased fees, investment advisory fees or charges for riders and similar product enhancements;

(ii) The consumer would benefit from product enhancements and improvements; and

(iii) The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 36 months.

(2) Prior to the execution of a purchase, exchange or replacement of an annuity resulting from a recommendation, an insurance producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain the consumer's suitability information.

(3) Except as permitted under subsection (4), an insurer shall not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information.

(4)

(a) Except as provided under paragraph (b) of this subsection, neither an insurance producer, nor an insurer, shall have any obligation to a consumer under subsection (1) or (3) related to any annuity transaction if:

(i) No recommendation is made;

(ii) A recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer;

(iii) A consumer refuses to provide relevant suitability information and the annuity transaction is not recommended; or

(iv) A consumer decides to enter into an annuity transaction that is not based on a recommendation of the insurer or the insurance producer.

(b) An insurer's issuance of an annuity subject to paragraph (a) shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

(5) An insurance producer or, where no insurance producer is involved, the responsible insurer representative, shall at the time of sale:

(a) Make a record of any recommendation subject to section (.06)(1) of this regulation;

(b) Obtain a customer signed statement documenting a customer's refusal to provide suitability information, if any; and

(c) Obtain a customer signed statement acknowledging that an annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the insurance producer's or insurer's recommendation.

(6)

(a) An insurer shall establish a supervision system that is reasonably designed to achieve the insurer's and its insurance producers' compliance with this regulation, including, but not limited to, the following:

(i) The insurer shall maintain reasonable procedures to inform its insurance producers of the requirements of this regulation and shall incorporate the

requirements of this regulation into relevant insurance producer training manuals;

(ii) The insurer shall establish standards for insurance producer product training and shall maintain reasonable procedures to require its insurance producers to comply with the requirements of section 7 of this regulation;

(iii) The insurer shall provide product-specific training and training materials which explain all material features of its annuity products to its insurance producers;

(iv) The insurer shall maintain procedures for review of each recommendation prior to issuance of an annuity that are designed to ensure that there is a reasonable basis to determine that a recommendation is suitable. Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

(v) The insurer shall maintain reasonable procedures to detect recommendations that are not suitable. This may include, but is not limited to, confirmation of consumer suitability information, systematic customer surveys, interviews, confirmation letters and programs of internal monitoring. Nothing in this subparagraph prevents an insurer from complying with this subparagraph by applying sampling procedures, or by confirming suitability information after issuance or delivery of the annuity; and

(vi) The insurer shall annually provide a report to senior management, including to the senior manager responsible for audit functions, which details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

(b) (i) Nothing in this subsection restricts an insurer from contracting for performance of a function (including maintenance of procedures) required under paragraph (a). An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to section .08 of this regulation regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with subparagraph (ii) of this paragraph.

(ii) An insurer's supervision system under paragraph (a) shall include supervision of contractual performance under this subsection. This includes, but is not limited to, the following:

(A) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

(B) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

(c) An insurer is not required to include in its system of supervision an insurance producer's recommendations to consumers of products other than the annuities offered by the insurer.

(7) An insurance producer shall not dissuade, or attempt to dissuade, a consumer from:

(a) Truthfully responding to an insurer's request for confirmation of suitability information;

(b) Filing a complaint; or

(c) Cooperating with the investigation of a complaint.

(8)

(a) Sales made in compliance with FINRA requirements pertaining to suitability and supervision of annuity transactions shall satisfy the requirements under this regulation. This subsection applies to FINRA broker-dealer sales of annuities if the suitability and supervision is similar to those applied to variable annuity sales. However, nothing in this subsection shall limit the insurance commissioner's ability to enforce (including investigate) the provisions of this regulation.

(b) For paragraph (a) to apply, an insurer shall:

(i) Monitor the FINRA member broker-dealer using information collected in the normal course of an insurer's business; and

(ii) Provide to the FINRA member broker-dealer information and reports that are reasonably appropriate to assist the FINRA member broker-dealer to maintain its supervision system.

Cite as Ga. Comp. R. & Regs. R. 120-2-94-.06
Authority: O.C.G.A. Section 33-2-9.
History. Original Rule entitled "Duties of Insurers and of Insurance Producers" adopted. F. Oct. 10, 2006; eff. Oct. 30, 2006.

Repealed: New Rule of same title adopted. F. Aug. 7, 2015; eff. Aug. 27, 2015.

Rule 120-2-94-.07. Insurance Producer Training.

(1) An insurance producer shall not solicit the sale of an annuity product unless the insurance producer has adequate knowledge of the product to recommend the annuity and the insurance producer is in compliance with the insurer's standards for product training. An insurance producer may rely on insurer-provided product-specific training standards and materials to comply with this subsection.

(a) (i) (A) An insurance producer who engages in the sale of annuity products shall complete a one-time four (4) credit training course approved by the department of insurance and provided by the department of insurance-approved education provider.

(B) Insurance producers who hold a life insurance line of authority on the effective date of this regulation and who desire to sell annuities shall complete the requirements of this subsection within six (6) months after the effective date of this regulation. Individuals who obtain a life insurance line of authority on or after the effective date of this regulation may not engage in the sale of annuities until the annuity training course required under this subsection has been completed.

(ii) The minimum length of the training required under this subsection shall be sufficient to qualify for at least four (4) CE credits, but may be longer.

(iii) The training required under this subsection shall include information on the following topics:

(A) The types of annuities and various classifications of annuities;

(B) Identification of the parties to an annuity;

(C) How product specific annuity contract provisions affect consumers;

(D) The application of income taxation of qualified and non-qualified annuities;

(E) The primary uses of annuities; and

(F) Appropriate sales practices, replacement and disclosure requirements.

(iv) Providers of courses intended to comply with this subsection shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

(v) A provider of an annuity training course intended to comply with this subsection shall register as a CE provider in this State and comply with the rules and guidelines applicable to insurance producer continuing education courses as set forth in Rule 120-2-3-.12.

(vi) Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with Rule 120-2-3-.12.

(vii) Providers of annuity training shall comply with the reporting requirements and shall issue certificates of completion in accordance with Rule 120-2-3-.12.

(viii) The satisfaction of the training requirements of another State that are substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this State.

(ix) An insurer shall verify that an insurance producer has completed the annuity training course required under this subsection before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this subsection by obtaining certificates of completion of the training course or obtaining reports provided by commissioner-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

Cite as Ga. Comp. R. & Regs. R. 120-2-94-.07
Authority: O.C.G.A. Section 33-2-9.
History. Original Rule entitled "Mitigation of Responsibility" adopted. F. Oct. 10, 2006; eff. Oct. 30, 2006.
Repealed: New Rule entitled "Insurance Producer Training" adopted. F. Aug. 7, 2015; eff. Aug. 27, 2015.

Rule 120-2-94-.08. Compliance Mitigation; Penalties.

(1) An insurer is responsible for compliance with this regulation. If a violation occurs, either because of the action or inaction of the insurer or its insurance producer, the commissioner may order: (a) An insurer to take reasonably appropriate corrective action

for any consumer harmed by the insurer's, or by its insurance producer's, violation of this regulation;

(b) A general agency, independent agency or the insurance producer to take reasonably appropriate corrective action for any consumer harmed by the insurance producer's violation of this regulation; and

(c) Appropriate penalties and sanctions.

(2) Any applicable penalty under O.C.G.A. Section 33-2-24 for a violation of this regulation may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice.

Cite as Ga. Comp. R. & Regs. R. 120-2-94-.08
Authority: O.C.G.A. Section 33-2-9.
History. Original Rule entitled "Recordkeeping" adopted. F. Oct. 10, 2006; eff. Oct. 30, 2006.
Repealed: New Rule entitled "Compliance Mitigation; Penalties" adopted. F. Aug. 7, 2015; eff. Aug. 27, 2015.

Rule 120-2-94-.09. Recordkeeping.

(1) Insurers, general agents, independent agencies and insurance producers shall maintain or be able to make available to the commissioner records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for five years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance producer.

(2) Records required to be maintained by this regulation may be maintained in paper, photographic, micro-process, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.

Cite as Ga. Comp. R. & Regs. R. 120-2-94-.09
Authority: O.C.G.A. Sections 33-2-9, 33-23-34.
History. Original Rule entitled "Severability" adopted. F. Oct. 10, 2006; eff. Oct. 30, 2006.
Repealed: New Rule entitled "Recordkeeping" adopted. F. Aug. 7, 2015; eff. Aug. 27, 2015.

Rule 120-2-94-.10. Effective Date.

The amendments to this regulation shall take effect six (6) months after the date the regulation is adopted or on March 1, 2016, whichever is later.

Cite as Ga. Comp. R. & Regs. R. 120-2-94-.10
Authority: O.C.G.A. Section 33-2-9.
History. Original Rule entitled "Effective Date" adopted. F. Oct. 10, 2006; eff. Oct. 30, 2006.

Repealed: New Rule of same title adopted. F. Aug. 7, 2015; eff. Aug. 27, 2015.

Subject 120-2-95. MILITARY SALES PRACTICES.

Rule 120-2-95-.01. Authority.

This Regulation is made and promulgated by the Commissioner of Insurance pursuant to the authority set forth in Sections O.G.G.A. §§ 33-2-9, 33-6-12, and 33-6-4(b)(14.1).

Cite as Ga. Comp. R. & Regs. R. 120-2-95-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-6-4, 33-6-12.
History. Original Rule entitled "Authority" adopted. F. Aug. 8, 2007; eff. Sept. 1, 2007, as specified by the Agency.

Rule 120-2-95-.02. Purpose.

(1) The purpose of this regulation is to set forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be dishonest, unfair, or deceptive.

(2) Nothing herein shall be construed to create or imply a private cause of action for a violation of this regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-95-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-6-4, 33-6-12.
History. Original Rule entitled "Purpose" adopted. F. Aug. 8, 2007; eff. Sept. 1, 2007, as specified by the Agency.

Rule 120-2-95-.03. Scope.

This regulation shall apply only to the solicitation or sale of any life insurance or annuity product by an insurer or insurance producer to an active duty service member of the United States Armed Forces.

Cite as Ga. Comp. R. & Regs. R. 120-2-95-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-6-4, 33-6-12.
History. Original Rule entitled "Scope" adopted. F. Aug. 8, 2007; eff. Sept. 1, 2007, as specified by the Agency.

Rule 120-2-95-.04. Exemptions.

(1) This regulation shall not apply to solicitations or sales involving:

(a) Credit insurance;

(b) Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance producer or where the contract or certificate does not include a side fund;

(c) An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner; or, when a term conversion privilege is exercised among corporate affiliates;

(d) Individual stand-alone health policies, including disability income policies;

(e) Contracts offered by Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI), as authorized by 38 U.S.C. Section 1965*et seq.*, and contracts offered by State Sponsored Life Insurance (SSLI) as authorized by 37 U.S.C. Section 707*et seq.*;

(f) Life insurance contracts offered through or by a non-profit military association, qualifying under Section 501(c)(23) of the Internal Revenue Code (IRC), and which are not underwritten by an insurer; or

(g) Contracts used to fund:

1. An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

2. A plan described by Sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the IRC, as amended, if established or maintained by an employer;

3. A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC;

4. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

5. Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

6. Prearranged funeral contracts.

(2) Nothing herein shall be construed to abrogate the ability of nonprofit organizations (and/or other organizations) to educate members of the United States Armed Forces in accordance with Department of Defense DoD Instruction 1344.07 - Personal Commercial Solicitation on DoD Installations or successor directive.

(3) For purposes of this regulation, general advertisements, direct mail and internet marketing shall not constitute "solicitation." Telephone marketing shall not constitute "solicitation" provided the caller explicitly and conspicuously discloses that the product concerned is life insurance and makes no statements that avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation. Provided however, nothing in this subsection shall be construed to exempt an insurer or insurance producer from this regulation in any in-person, face-to-face meeting established as a result of the "solicitation" exemptions identified in this subsection.

Cite as Ga. Comp. R. & Regs. R. 120-2-95-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-6-4, 33-6-12.
History. Original Rule entitled "Exemptions" adopted. F. Aug. 8, 2007; eff. Sept. 1, 2007, as specified by the Agency.

Rule 120-2-95-.05. Definitions.

(1) "Active Duty" means full-time duty in the active military service of the United States and includes members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training. The term does not include members of the reserve component who are performing active duty or active duty for training under military calls or orders specifying periods of less than 31 calendar days.

(2) "Department of Defense (DoD) Personnel" means all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the Department of Defense.

(3) "Door to Door" means a solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment.

(4) "General Advertisement" means an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of insurance, or the promotion of the insurer or the insurance producer.

(5) "Insurer" means an insurance company required to be licensed under the laws of this state to provide life insurance products, including annuities.

(6) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate life insurance, including annuities.

(7) "Known" or "Knowingly" means, depending on its use herein, the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the act or practice complained of, that the person solicited:

(a) is a service member; or

(b) is a service member with a pay grade of E-4 or below.

(8) "Life Insurance" means insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income and unless otherwise specifically excluded, includes individually issued annuities.

(9) "Military Installation" means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.

(10) "MyPay" is a Defense Finance and Accounting Service (DFAS) web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.

(11) "Service Member" means any active duty officer (commissioned and warrant) or enlisted member of the United States Armed Forces.

(12) "Side Fund" means a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement or other mechanism which accumulates premium or deposits with interest or by other means. The term does not include:

(a) accumulated value or cash value or secondary guarantees provided by a universal life policy;

(b) cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or

(c) a premium deposit fund which:

1. contains only premiums paid in advance which accumulate at interest;

2. imposes no penalty for withdrawal;

3. does not permit funding beyond future required premiums;

4. is not marketed or intended as an investment; and

5. does not carry a commission, either paid or calculated.

(13) "Specific Appointment" means a prearranged appointment agreed upon by both parties and definite as to place and time.

(14) "United States Armed Forces" means all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

Cite as Ga. Comp. R. & Regs. R. 120-2-95-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-6-4, 33-6-12.
History. Original Rule entitled "Definitions" adopted. F. Aug. 8, 2007; eff. Sept. 1, 2007, as specified by the Agency.

Rule 120-2-95-.06. Practices Declared Dishonest, Unfair, or Deceptive on a Military Installation.

(1) The following acts or practices when committed on a military installation by an insurer or insurance producer with respect to the in-person, face-to-face solicitation of life insurance are declared to be dishonest, unfair, or deceptive:

(a) Knowingly soliciting the purchase of any life insurance product "door to door" or without first establishing a specific appointment for each meeting with the prospective purchaser.

(b) Soliciting service members in a group or "mass" audience or in a "captive" audience where attendance is not voluntary.

(c) Knowingly making appointments with or soliciting service members during their normally scheduled duty hours.

(d) Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing or other areas where the installation commander has prohibited solicitation.

(e) Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander's designee.

(f) Posting unauthorized bulletins, notices or advertisements.

(g) Failing to present DD Form 2885, *Personal Commercial Solicitation Evaluation*, to service members solicited or encouraging service members solicited not to complete or submit a DD Form 2885.

(h) Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the United States Armed Forces without first obtaining for the insurer's files a completed copy of any required form which confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives or rules of the DoD or any branch of the Armed Forces.

(2) The following acts or practices when committed on a military installation by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be dishonest, unfair, or deceptive:

(a) Using DoD personnel, directly or indirectly, as a representative or agent in any official or business capacity with or without compensation with respect to the solicitation or sale of life insurance to service members.

(b) Using an insurance producer to participate in any United States Armed Forces sponsored education or orientation program.

Cite as Ga. Comp. R. & Regs. R. 120-2-95-.06
Authority: O.C.G.A. Secs. 33-2-9, 33-6-4, 33-6-12.
History. Original Rule entitled "Practices Declared Dishonest, Unfair or Deceptive on a Military Installation" adopted. F. Aug. 8, 2007; eff. Sept. 1, 2007, as specified by the Agency.

Rule 120-2-95-.07. Practices Declared Dishonest, Unfair, or Deceptive Regardless of Location.

(1) The following acts or practices by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be dishonest, unfair, or deceptive:

(a) Submitting, processing or assisting in the submission or processing of any allotment form or similar device used by the United States Armed Forces to direct a service member's pay to a third party for the purchase of life insurance. The foregoing includes, but is not limited to, using or assisting in using a service member's "MyPay" account or other similar internet or electronic medium for such purposes. This subsection does not prohibit assisting a service member by providing insurer or premium information necessary to complete any allotment form.

(b) Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of this section, a formal banking relationship is established when the depository institution:

1. provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. § 4301*et seq.* and the regulations promulgated thereunder; and

2. permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.

(c) Employing any device or method or entering into any agreement whereby funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's Leave and Earnings Statement or

equivalent or successor form as "Savings" or "Checking" and where the service member has no formal banking relationship as defined in subsection (1)(b) above.

(d) Entering into any agreement with a depository institution for the purpose of receiving funds from a service member whereby the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship.

(e) Using DoD personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity with or without compensation with respect to the solicitation or sale of life insurance to service members who are junior in rank or grade, or to the family members of such personnel.

(f) Offering or giving anything of value, directly or indirectly, to DoD personnel to procure their assistance in encouraging, assisting or facilitating the solicitation or sale of life insurance to another service member.

(g) Knowingly offering or giving anything of value to a service member with a pay grade of E-4 or below for his or her attendance to any event where an application for life insurance is solicited.

(h) Advising a service member with a pay grade of E-4 or below to change his or her income tax withholding or State of legal residence for the sole purpose of increasing disposable income to purchase life insurance.

(2) The following acts or practices by an insurer or insurance producer lead to confusion regarding source, sponsorship, approval or affiliation and are declared to be dishonest, unfair, or deceptive:

(a) Making any representation, or using any device, title, descriptive name or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer or product offered is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, the United States Armed Forces, or any state or federal agency or government entity. Examples of prohibited insurance producer titles include, but are not limited to, "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant" or "Veteran's Benefits Counselor." Nothing herein shall be construed to prohibit a person from using a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning. Such designations include, but are not limited to, Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Master of Science in Financial Services (MSFS), or Masters of Science Financial Planning (MS).

(b) Soliciting the purchase of any life insurance product through the use of or in conjunction with any third party organization that promotes the welfare of or assists members of the United States Armed Forces in a manner that has the tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, or the United States Armed Forces.

(3) The following acts or practices by an insurer or insurance producer lead to confusion regarding premiums, costs or investment returns and are declared to be dishonest, unfair, or deceptive:

(a) Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid.

(b) Excluding individually issued annuities, misrepresenting the mortality costs of a life insurance product, including stating or implying that the product "costs nothing" or is "free."

(4) The following acts or practices by an insurer or insurance producer regarding SGLI or VGLI are declared to be dishonest, unfair, or deceptive:

(a) Making any representation regarding the availability, suitability, amount, cost, exclusions or limitations to coverage provided to a service member or dependents by SGLI or VGLI, which is false, misleading or deceptive.

(b) Making any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations to coverage of SGLI or VGLI to private insurers which is false, misleading or deceptive.

(c) Suggesting, recommending or encouraging a service member to cancel or terminate his or her SGLI policy or issuing a life insurance policy which replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member's separation from the United States Armed Forces.

(5) The following acts or practices by an insurer and or insurance producer regarding disclosure are declared to be dishonest, unfair, or deceptive:

(a) Deploying, using or contracting for any lead generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance.

(b) Failing to disclose that a solicitation for the sale of life insurance will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser.

(c) Excluding individually issued annuities, failing to clearly and conspicuously disclose the fact that the product being sold is life insurance.

(d) Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by Section 10 of the "Military Personnel Financial Services Protection Act," Pub. L. No. 109-290, p.16.

(e) Excluding individually issued annuities, when the sale is conducted in-person face-to-face with an individual known to be a service member, failing to provide the applicant at the time the application is taken:

1. an explanation of any free look period with instructions on how to cancel if a policy is issued; and

2. either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance, the death benefit applied for and its expected first year cost. A basic illustration that meets the requirements of Georgia Regulation 120-2-31-.05(2) shall be deemed sufficient to meet this requirement for a written disclosure.

(6) The following acts or practices by an insurer or insurance producer with respect to the sale of certain life insurance products are declared to be dishonest, unfair, or deceptive:

(a) Excluding individually issued annuities, recommending the purchase of any life insurance product which includes a side fund to a service member in pay grades E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable.

(b) Offering for sale or selling a life insurance product which includes a side fund to a service member in pay grades E-4 and below who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance.

1. "Insurable needs" are the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate and/or survivors or dependents.

2. "Other military survivor benefits" include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor Housing Benefits

and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits.

(c) Excluding individually issued annuities, offering for sale or selling any life insurance contract which includes a side fund:

1. unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;

2. unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at least each policy year from one (1) to ten (10) and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and

3. which by default diverts or transfers funds accumulated in the side fund to pay, reduce or offset any premiums due.

(d) Excluding individually issued annuities, offering for sale or selling any life insurance contract which after considering all policy benefits, including but not limited to endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance.

(e) Selling any life insurance product to an individual known to be an active duty service member that excludes coverage if the insured's death is related to war, declared or undeclared, or any act related to military service except for an accidental death coverage, *e.g.*, double indemnity, which may be excluded.

Cite as Ga. Comp. R. & Regs. R. 120-2-95-.07
Authority: O.C.G.A. Secs. 33-2-9, 33-6-4, 33-6-12.
History. Original Rule entitled "Practices Declared Dishonest, Unfair, or Deceptive Regardless of Location" adopted. F. Aug. 8, 2007; eff. Sept. 1, 2007, as specified by the Agency.

Rule 120-2-95-.08. Severability.

If any provision of these sections or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these sections which can be given effect without the invalid provisions or application. To this end all provisions of these sections are declared to be severable.

Cite as Ga. Comp. R. & Regs. R. 120-2-95-.08
Authority: O.C.G.A. Secs. 33-2-9, 33-6-4, 33-6-12.
History. Original Rule entitled "Severability" adopted. F. Aug. 8, 2007; eff. Sept. 1, 2007, as specified by the Agency.

Rule 120-2-95-.09. Effective Date.

This regulation shall become effective September 1, 2007, and shall apply to acts or practices committed on or after the effective date.

Cite as Ga. Comp. R. & Regs. R. 120-2-95-.09
Authority: O.C.G.A. Secs. 33-2-9, 33-6-4, 33-6-12.
History. Original Rule entitled "Effective Date" adopted. F. Aug. 8, 2007; eff. Sept. 1, 2007, as specified by the Agency.

Subject 120-2-96. GEORGIA AFFORDABLE HSA ELIGIBLE HIGH DEDUCTIBLE HEALTH PLAN.

Rule 120-2-96-.01. Authority and Purpose.

O.C.G.A. Section 33-51-2(1)Authorizes the Commissioner of Insurance to "establish flexible guidelines" for HSA-High Deductible Health Plan filings submitted in connection with products that incorporate health promotion and wellness principles. Within the provisions of Chapter 33-51-4, it is stated that to the extent wellness principles are applied within approved policy contracts, that discounts, refunds, credits or other incentives shall not be considered to be illegal inducements or rebating under applicable provisions of the Georgia Insurance Code, including Unfair Trade Practice provisions. Other provisions of the Act make changes to PPO allowable differentials between classes of providers and product design potential changes. This Rule is intended to amplify and promulgate practical guidelines to carry out the Georgia Affordable HSA Eligible High Deductible Health Plan Act.

Cite as Ga. Comp. R. & Regs. R. 120-2-96-.01
Authority: O.C.G.A. Secs. 33-2-9, 33-51-3.
History. Original Rule entitled "Authority and Purpose" adopted. F. Oct. 20, 2009; eff. Nov. 9, 2009.

Rule 120-2-96-.02. Categories of Products Allowed as High Deductible Health Plan in Wellness Program.

Under this Rule, a health insurance policy, which satisfies Internal Revenue Code requirements for a High Deductible Health Plan, may be used by an insurer in connection with a Wellness Program and with a Health Savings Account program.

Health insurance product categories include, without limitation:

(1) Comprehensive or major medical health insurance products offered by Life, Accident and Sickness Insurers or Property and Casualty Insurers;

(2) Comprehensive or major medical health coverage products styled and appropriately disclosed as health maintenance organization coverage when offered by a licensed HMO;

(3) Preferred Provider Organization comprehensive or major medical health coverage products offered by insurers of any applicable licensure type;

(4) Point of Service comprehensive or major medical health insurance coverage products (when offered by licensed insurers in connection with approved HMO products); or

(5) Other comprehensive or major medical health insurance products which do not violate IRS Rules for High Deductible Health Plans under Section 223 of the Internal Revenue Code or related IRS Rules and Regulations.

Filings of product types described in (1) through (5) above may be reviewed and considered for approval by the Commissioner. Such product filings may also be considered for favorable treatment under Georgia provisions relating to taxation and relief from unfair trade practice provisions regarding rebating or illegal inducements with respect to wellness program benefits under O.C.G.A. Sections 33-51-2 and 33-51-4.

Cite as Ga. Comp. R. & Regs. R. 120-2-96-.02
Authority: O.C.G.A. Secs. 33-2-9, 33-8-8.2, 33-51-3, 33-51-4.
History. Original Rule entitled "Categories of Products Allowed as High Deductible Health Plan in Wellness Program" adopted. F. Oct. 20, 2009; eff. Nov. 9, 2009.

Rule 120-2-96-.03. Special Provisions for Preferred Provider Organization Products Under O.C.G.A. Section 33-51-5, O.C.GA. Section 33-51-6 and This Rule.

(1) Preferred Provider Organization ("PPO") products offered under O.C.G.A. Section 33-51-5 may contain greater percentage differentials between preferred and non-preferred providers than the 30% percentage differential limitations under Rule 120-2-44-.04(5). Notwithstanding O.C.G.A. Section 33-51-5 and Rule 120-2-96-.03(1), plans may not have a coinsurance percentage applicable to benefit levels for services provided by non-preferred providers that is less than 60% of the benefit levels under the policy for such services. This means the maximum coinsurance percentage which may be required by insurers for the enrollee's responsibility for non-preferred provider benefits under PPO products remains at a maximum of 40%.

(2) O.C.G.A. Section 33-51-6 confirms the continuation of the historical requirement under Georgia Law that within PPO coverage, non-preferred dental and/or non-preferred pharmaceutical providers be reimbursed by insurers at the same level as preferred dental

or pharmaceutical providers as stated in O.C.G.A. Section 33-30-23 and O.C.G.A. Section 33-51-6.

Cite as Ga. Comp. R. & Regs. R. 120-2-96-.03
Authority: O.C.G.A. Secs. 33-2-9, 33-51-3.
History. Original Rule entitled "Special Provisions for Preferred Provider Organization Products Under O.C.G.A. Section 33-51-5, O.C.G.A. Section 33-51-6 and This Rule" adopted. F. Oct. 20, 2009; eff. Nov. 9, 2009.

Rule 120-2-96-.04. Categories of Products Not Qualified for Favorable Treatment in Wellness Program.

Examples of plans that will not be allowable or approved under O.C.G.A. Section 33-51-2 would include, but not be limited to:

(1) limited benefit insurance products, as defined in O.C.G.A. Section 33-30-12, where the term "limited benefit insurance" means accident and sickness insurance designed, advertised, and marketed to supplement major medical insurance. The term "limited benefit insurance" includes accident only, CHAMPUS supplement, dental, disability income, fixed indemnity, long term care, Medicare supplement, specified disease, vision, and any other accident and sickness insurance other than basic hospital expense, basic medical-surgical expense, or major medical insurance.

(2) limited duration health insurance products of terms of less than 12 months, regardless of the scope or limitations of benefits within the health insurance coverage.

Cite as Ga. Comp. R. & Regs. R. 120-2-96-.04
Authority: O.C.G.A. Secs. 33-2-9, 33-51-3.
History. Original Rule entitled "Categories of Products Not Qualified for Favorable Treatment in Wellness Program" adopted. F. Oct. 20, 2009; eff. Nov. 9, 2009.

Rule 120-2-96-.05. Product Filing Standards and Procedures.

(1) Insurers proposing products for consideration and potential approval under O.C.G.A. Chapter 33-51 and this Rule shall, in cover letters or their equivalent if filed electronically under SERFF, indicate their intent and shall:

   (a) describe the type of comprehensive or major medical health insurance coverage being proposed,

   (b) make a clear disclosure on the face page of the Master Policy, if group, and on face pages of Certificates, or on the face page of individual policies to this effect.

(c) include a clear and conspicuous disclosure that states, in effect, that the health insurer has designed and constructed the evidence of coverage with the intent of satisfying and qualifying the health insurance coverage as a High Deductible Health Plan under applicable provisions of Section 223 of the Internal Revenue Service laws and rules, but that neither the insurer nor the Office of Commissioner of Insurance of the State of Georgia provides federal tax advice, and that consumers should seek their own private tax advice with respect to federal tax treatment beyond the insurance coverage.

(2) High Deductible Health Plan Policies which contain the appropriate disclosures should receive an expedited review with respect to those coverage issues and the overall filing. All otherwise applicable requirements regarding mandated benefits, limitations, disclosures, notices and other requirements remain in effect to the extent they do not violate IRS Rules for High Deductible Health Plans under Section 223 of the Internal Revenue Code or related IRS Rules and Regulations.

(3) The Commissioner will consider and may accept a statement from the insurer in a cover letter or its electronic equivalent in the case of SERFF or other electronic filing submission modes accompanying a filing for High Deductible Health Plan coverage, signed by an officer of the company, that indicates the insurer has sought and obtained appropriate advice of counsel familiar with Internal Revenue Service Laws and Rules and that to the best of the company's knowledge and belief, the proposed product qualifies as High Deductible Health Plan coverage under all applicable IRS laws and rules.

(4) The Commissioner may accept, but is not required to accept, a statement from an officer of the Insurer that the product is similar to a previously approved health insurance product, if so identified by exact form number, date of original or most recent approval, and if accompanied by documentation of differences from any such prior approved form. Such documentation may take the form of a redline version, markup, summary of differences or other clearly designed instrument which helps the reviewer isolate and identify substantive differences from previously approved versions of similar coverage.

(5)

(a) Wellness or Health Promotion Programs should be adequately disclosed by an insurer, either as an integral component of the health insurance product itself, or by attachment of such wellness or health promotion product as a rider to be sold or offered in connection with allowable high deductible health insurance products under Rule 120-2-96-.02. Insurers shall be required to clearly disclose the relationship between any proposed health promotion or wellness program and the high deductible health product within application materials, within any advertisement or other solicitation materials and within the evidence of coverage, if applicable. Health Promotion or Wellness Programs shall disclose any and all applicable costs in terms of premium, contribution or other costs, as well as clearly and accurately disclose potential incentives, rewards, discounts or other benefits and how enrollees may claim or otherwise earn and receive any such incentives,

rewards or discounts. Such disclosures must be provided by the insurer to any interested party on request.

(b) Health Promotion or Wellness programs that are not designed, controlled, operated by and offered by insurers within their health insurance policies must be filed by insurers wishing to use them in connection with High Deductible Health Plan products seeking protection from rebates, illegal inducements or other unfair trade practices under O.C.G.A. Section 33-51-4.

(6) The Commissioner may post enhanced instructions for insurers to use in making formalized SERFF or other electronic or other expedited filings under O.C.G.A. Section 33-51-2 on Office of Commissioner of Insurance website materials. The Commissioner will continue to apply applicable policy form filing fees on any such expedited filing methods, but insurers are encouraged to utilize such methods of filing and any such methods of Electronic Funds Transfer to pay applicable policy form and rate filing fees whenever possible or as required in the future for all other SERFF filings.

Cite as Ga. Comp. R. & Regs. R. 120-2-96-.05
Authority: O.C.G.A. Secs. 33-2-9, 33-51-3.
History. Original Rule entitled "Product Filing Standards and Procedures" adopted. F. Oct. 20, 2009; eff. Nov. 9, 2009.

Subject 120-2-97. PHARMACY BENEFITS MANAGERS REGULATION.

Rule 120-2-97-.01. Authority.

This Regulation is promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. §§ 33-2-9 and 33-64-1 et seq. All terms defined in O.C.G.A. § 33-64-1, hereinafter referred to as the Pharmacy Benefits Managers Act, which are used in this Regulation, shall have the same meaning as in the Act.

Cite as Ga. Comp. R. & Regs. R. 120-2-97-.01
Authority: O.C.G.A. §§ 33-2-9, 33-64-7.
History. Original Rule entitled "Authority" adopted. F. March 16, 2011; eff. April 5, 2011.
Repealed: New Rule with same titled adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Rule 120-2-97-.02. Scope and purpose.

(1) This Regulation applies to any pharmacy benefits manager as defined in O.C.G.A. § 33-64-1.

(2) The purposes of this Regulation include:

(a) Providing the regulation and licensure of pharmacy benefits managers;

(b) Promoting the financial responsibility of pharmacy benefits managers;

(c) To protect the interests of the enrolled public;

(d) To provide means by which to govern, regulate, and monitor the conduct of pharmacy benefits managers;

(e) Subjecting those business entities defined in O.C.G.A. § 33-64-1 to the jurisdiction of the Commissioner of Insurance; and

(f) Regulating pharmacy benefits managers' practices in conformity with the general purposes of the Georgia Insurance Code.

Cite as Ga. Comp. R. & Regs. R. 120-2-97-.02
Authority: O.C.G.A. §§ 33-2-9, 33-64-7.
History. Original Rule entitled "Scope and Purpose" adopted. F. March 16, 2011; eff. April 5, 2011.
Repealed: New Rule with same titled adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Rule 120-2-97-.03. License; application; issuance; renewal; net worth; probationary license.

(1) It is unlawful for any person, business entity, or other entity to act as or hold itself out to be a pharmacy benefits manager in this State without a valid license issued by the Commissioner of Insurance. To qualify for and hold a license to act as a pharmacy benefits manager in this State, a pharmacy benefits manager must otherwise be in compliance with Chapter 64 of Title 33 of the Official Code of Georgia Annotated and this Regulation.

(2) The pharmacy benefits manager shall file with the Commissioner an application for a license upon a form to be furnished by the Commissioner.

(3) An audited financial statement or such other information as the Commissioner may require that demonstrates that the applicant possesses a minimum net worth of $200,000. Letters of credit, backstop guarantees and special corporate structures will not be taken into consideration by the Commissioner in determining the net worth requirement.

(4) A Bond and proof of Errors and Omissions coverage must be included in the application and maintained by the pharmacy benefits manager.

(5) An application for a pharmacy benefits manager's license shall be accompanied by a fee of $2000.00.

(6) The Commissioner shall not issue a license or renew an existing license if he or she determines that the pharmacy benefits manager has:

(a) Misrepresented or concealed any material fact in the application for the license;

(b) Has obtained or attempted to obtain the license by misrepresentation, concealment, or other fraud;

(c) Has committed fraud;

(d) Has failed to obtain for initial licensure or retain for annual renewal a net worth of at least $200,000; or

(e) Has violated any provision of this chapter while on probation, if for license renewal.

(7) A license issued under this section may be issued on a probationary basis in the discretion of the Commissioner. The probationary license may be issued for not longer than 12 months and not less than 3 months and is subject to revocation without a hearing. The Commissioner, at his or her discretion, shall prescribe the terms of probation, may extend the probationary period, or refuse to grant a license at the end of any probationary period.

Cite as Ga. Comp. R. & Regs. R. 120-2-97-.03
Authority: O.C.G.A. §§ 33-2-9, 33-64-7.
History. Original Rule entitled "License; Application; Issuance; Renewal; Net Worth; Probationary License" adopted. F. March 16, 2011; eff. April 5, 2011.
Repealed: New Rule with same titled adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Rule 120-2-97-.04. Pharmacy benefits managers bond; and errors and omissions coverage.

(1) Every pharmacy benefits manager shall file a bond with the Commissioner. The pharmacy benefits manager shall file a certificate of such bond, in a form acceptable by a corporate surety insurer authorized to transact insurance in this state in favor of Commissioner of Insurance of the state of Georgia, continuous in form and in an amount $100,000.

(2) The bond shall inure to the benefit of any person damaged by any fraudulent act or conduct of the pharmacy benefits manager and must be conditioned upon faithful accounting and application of all money coming into the pharmacy benefits manager's possession in connection with its activities as an pharmacy benefits manager.

(3) The bond remains in force until released by the Commissioner or canceled by the surety. Without prejudice to any liability previously incurred, the surety may cancel the bond upon thirty (30) days' advance notice to the pharmacy benefits manager and the

Commissioner. A pharmacy benefits manager's license shall be suspended if it does not file with the Commissioner a replacement bond before the date of cancellation of the previous bond. A replacement bond must meet all requirements of this section for the initial bond.

(4) Each pharmacy benefits manager shall obtain errors and omissions coverage or other appropriate liability insurance, written by an insurer authorized to transact insurance in this state, in an amount of at least $250,000.

(5) Any policy written in accordance with paragraph (4) 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 or certified 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 or certified mail by the party not renewing the policy to the other party to the policy and to the Commissioner.

(6) Compliance by the pharmacy benefits manager with paragraphs (1) and (4) of this Rule is a prerequisite to approval of its application by the Commissioner.

(7) Any bond and errors and omissions coverage required for licensure and renewal purposes shall be maintained in place by the pharmacy benefits manager for a period of at least one year immediately following the surrender, non-renewal or revocation of the license.

Cite as Ga. Comp. R. & Regs. R. 120-2-97-.04
Authority: O.C.G.A. §§ 33-2-9, 33-64-7.
History. Original Rule entitled "Pharmacy Benefits Managers Bond; and, Errors and Omissions Coverage" adopted. F. March 16, 2011; eff. April 5, 2011.
Repealed: New Rule with same titled adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Rule 120-2-97-.05. Annual renewal.

(1) Each authorized pharmacy benefits manager shall file with the Commissioner an annual renewal of its license on a form prescribed by the Commissioner. The statement shall be filed annually on or before May 1. The annual renewal shall be in such form and contain such matters as the Commissioner prescribes and shall be verified by at least one officer of the pharmacy benefits manager. For good cause shown the Commissioner may extend the time for filing of the annual renewal of the license conditioned upon payment of a late fee of $15.00 per day as prescribed by law at O.C.G.A. § 33-8-1(W). In the event the pharmacy benefits manager does not timely renew its license prior to the expiration of its license, June 30, the pharmacy benefits manager will cease to have a valid license and will need to reapply for a new license prior to commencing its business or initiating new

business in Georgia. If the pharmacy benefits manager fails to renew its license the Commissioner shall provide notice to the pharmacy benefits manager and the pharmacy benefits manager may invoke the right to a hearing.

(2) At the time of filing its annual renewal, the pharmacy benefits manager shall pay a filing fee of $1000.00.

(3) The pharmacy benefits manager shall at all times maintain a net worth of $200,000. If the pharmacy benefits manager fails to maintain a net worth of $200,000 the Commissioner, in his or her discretion, may enter any disciplinary order as he or she deems appropriate pursuant to Title 33. In order to verify the net worth of the pharmacy benefits manager, proof that the applicant possesses a minimum net worth of $200,000 must be included in the annual renewal filing that represents the calendar year end or fiscal year end of the pharmacy benefits manager.

Cite as Ga. Comp. R. & Regs. R. 120-2-97-.05
Authority: O.C.G.A. §§ 33-2-9, 33-64-7.
History. Original Rule entitled "Annual Renewal" adopted. F. March 16, 2011; eff. April 5, 2011.
Repealed: New Rule with same titled adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Rule 120-2-97-.06. Examination by Commissioner; on-site visits; access to records; and expenses.

(1) The Commissioner or his or her designated representative is authorized to conduct financial examinations, compliance audits, and investigate complaints of the affairs of each pharmacy benefits manager as often as is deemed necessary. Whenever the Commissioner shall deem it expedient, he or she shall examine, either directly or by use of an examiner duly authorized by him or her, the affairs, transactions, accounts, records, documents, assets, liabilities, of a pharmacy benefits manager and any other facts relative to its business methods, management, and dealings with a health plan or covered entity.

(2) Any pharmacy benefits manager being examined shall provide to the Commissioner or his or her designee convenient and free access, at all reasonable hours at their offices, to all books, records, documents and other papers relating to such pharmacy benefits manager's business affairs. In addition to on-site access to records, a pharmacy benefit manager shall, upon written request, make its records available to the Commissioner or the Commissioner's designee, unless otherwise directed by the Commissioner.

(3) A pharmacy benefits manager shall pay the fees and expenses of the examination whether conducted by the Commissioner or contracted examiner designated by the Commissioner. A consolidated account for the examination shall be filed by the examiner with the Commissioner. When a pharmacy benefits manager is examined as a result of a complaint filed against it and the Commissioner determines that the complaint was not justified, the

expenses incurred as a result of the examination shall not be levied against the pharmacy benefits manager.

(4) Nothing in this rule shall limit or abridge any other investigatory powers of the Commissioner vested in him or her by Title 33 of the Official Code of Georgia Annotated.

Cite as Ga. Comp. R. & Regs. R. 120-2-97-.06
Authority: O.C.G.A. §§ 33-2-9, 33-64-7.
History. Original Rule entitled "Examination by Commissioner; and, On-Site Visits" adopted. F. March 16, 2011; eff. April 5, 2011.
Repealed: New Rule entitled "Examination by Commissioner; on-site visits; access to records; and expenses" adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Rule 120-2-97-.07. Forms; reports; and required documentation.

(1) Standard pharmacy benefits manager forms are required and will be supplied upon request by the Commissioner's office either in paper form or electronically over the internet. Applicants and licensed pharmacy benefits managers shall utilize all applicable forms in preparing applications, statements, notices of required information, and other required submissions required under Chapter 64 of Title 33 of the Official Code of Georgia Annotated.

(2) A pharmacy benefits manager shall file all methodologies utilized in determining multi-source generic drug pricing reimbursement to pharmacies in this state within 30 days of their use and upon receiving a notice of complaint by the Commissioner in connection with O.C.G.A. § 33-64-9, a pharmacy benefits manager shall within 14 calendar days:

(a) Identify the methodology and source or sources used to determine the multi-source generic drug price for the drug which is the subject of the complaint; and

(b) Identify the reason for the denial of any pharmacy reimbursement appeal and produce relevant documentation in connection with the reimbursement price of the drug the day the claim at issue in the complaint was adjudicated and the preceding 5 days prior to the day the claim was adjudicated including source pricing records as well the national drug code of an equivalent drug product that could have been purchased by the complainant pharmacy at a price at or below the amount the pharmacy was reimbursed;

(3) A pharmacy benefits manager shall annually file a disclosure statement identifying all affiliate pharmacies holding a Georgia license or non-resident pharmacy and upon receiving a notice of complaint by the Commissioner in connection with steering or a mail order mandate, a pharmacy benefits manager shall provide within five business days:

(a) Any and all communications sent to the insured within the previous 12 months advertising, marketing, promoting an affiliate pharmacy or the affiliate pharmacy of another pharmacy benefits manager; any communication ordering an insured to use an affiliate pharmacy benefits manager or indicating that an insured's costs will increase when using a non-affiliate pharmacy; and

(b) Any and all communications sent to a non-affiliate pharmacy when an insured attempted to fill a prescription including any on-screen rejections or other messaging directing an insured to an affiliate pharmacy or affiliate of another pharmacy benefits manager.

(4) As required by O.C.G.A. Section 33-64-9.1(a)(2), a pharmacy benefits manager shall annually file on a form provided by the Commissioner:

(a) The required NADAC report for the months of January through April no later than June 15, for the months May through August no later than October 15, and for the months of September through December no later than February 15 of the following year; and

(b) on or before March 1, the website domain name where the public can access the pharmacy benefits manager's NADAC reports. Any changes to the domain name thereafter shall be filed with the Commissioner within 14 calendar days of the change.

(5) As required by O.C.G.A. Code Section 33-64-10(a), a pharmacy benefits manager shall, for each health plan client, annually, on or before the first day of April, on a form provided by the Commissioner report all rebates and other payments it received in the preceding calendar year from pharmaceutical manufacturers on behalf of the health plan.

(6) As required by O.C.G.A. Code Section 33-64-10(d), a pharmacy benefits manager shall, report for any health plan administered on behalf of a state agency or political subdivision of the state, state department or subdivision of the state, on or before March first, the aggregate difference between what the pharmacy benefits manager reimbursed pharmacies and what the pharmacy benefits managers we paid by the health plan. Nothing herein shall be construed to authorize a pharmacy benefits manager charging a state health plan or political subdivision of the state health plan more for a prescription drug than it reimburses a pharmacy after July of 2021.

(7) As required by O.C.G.A. Section 33-64-12, a pharmacy benefits manager and a person operating a health plan under Title 33 shall:

(a) Annually, on or before March 1, file on a form provided by the Commissioner, an attestation indicating whether or not, in the previous calendar year, it or its contracted pharmacy benefits manager engaged in the practice of steering or imposed point of sale or retroactive fees in connection with its health plans and Georgia insureds; and

(b) Annually, on or before March 1, file a report detailing all prescription drug claims it or its contracted pharmacy benefits manager administered for Georgia insureds on behalf of each health plan including the date each claim was administered, the amount the pharmacy was reimbursed for the claim, and the aggregate dollar amount it reimbursed pharmacies in the previous calendar year for prescriptions drugs for Georgia insureds on behalf of all its health plan clients.

(c) If it has engaged in the practice of steering or has imposed point of sale or retroactive fees, annually, on or before April 1, render to the state of Georgia, a surcharge equal to 10% of the aggregate dollar amount it or its contracted pharmacy benefits manager reimbursed pharmacies in the previous calendar year for prescriptions drugs for Georgia insureds.

(d) Any and all claims administered pursuant to the Medicare program shall be exempt from reporting requirements and shall be exempt from the surcharge calculation. All other claims administered on behalf of a Georgia insured shall be subject to reporting and, when a pharmacy benefits manager has engaged in the practice of steering or has imposed a point of sale or retroactive fee, the surcharge.

(8) upon receiving a notice of complaint by the Commissioner regarding an audit in connection with O.C.G.A. Code Section 26-4-118, a pharmacy benefits manager shall identify within 14 calendar days, on a form provided by the Commissioner, the notice given to the pharmacy, the number of claims audited during the audit at issue, the number of claims audited within the past 12 months, the number of audits of the pharmacy within the past 12 months, the discrepancies identified in the audit at issue, the basis for the denial of any internal appeal, and the basis for recoupment.

Cite as Ga. Comp. R. & Regs. R. 120-2-97-.07
Authority: O.C.G.A. §§ 33-2-9, 33-64-7.
History. Original Rule entitled "Forms" adopted. F. March 16, 2011; eff. April 5, 2011.
Repealed: New Rule entitled "Forms; reports; and required documentation" adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Rule 120-2-97-.08. Penalties; Commissioner actions; and reimbursements.

(1) Any person, business entity, or other entity acting as a pharmacy benefits manager without a license shall be subject to a monetary penalty of up to $2000.00 for each and every transaction in violation of the chapter. Any person, business entity, or other entity willfully acting as a pharmacy benefits manager without a license shall be subject to a monetary penalty of up to $10,000.00 for each and every act in violation.

(2) In addition to all other penalties provided for under this title, the Commissioner shall have the authority to place any pharmacy benefits manager on probation for a period of time not to exceed one year for each and every act in violation of thee chapter and may subject

such pharmacy benefits manager to a monetary penalty of up to $2000.00 for each and every act in violation of this chapter. If the pharmacy benefits manager willfully acted in violation of this chapter the monetary penalty may be increased up to $10,000.00 for each and every act in violation.

(3) In the event a pharmacy benefits manager is in violation of the chapter while on probation, the Commissioner may suspend the license.

(4) When a pharmacy benefits manager is taking or threatening to take action in violation of the chapter the Commissioner may issue a cease and desist order.

(5) When the action of a pharmacy benefits manager is in violation of the chapter the Commissioner may order reimbursement to an insured, pharmacy, or other dispenser for any monetary loss arising as a result of the violation or violations as well as order payment of a fine not to exceed $1,000.00 per violation to an insured, pharmacy, or other dispenser who has been aggrieved. Such a fine shall be in addition to and not to preclude any other penalties pursuant to the chapter.

Cite as Ga. Comp. R. & Regs. R. 120-2-97-.08
Authority: O.C.G.A. §§ 33-2-9, 33-64-7.
History. Original Rule entitled "Penalties" adopted. F. March 16, 2011; eff. April 5, 2011.
Repealed: New Rule entitled "Penalties; Commissioner actions; and reimbursements" adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Rule 120-2-97-.09. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-97-.09
Authority: O.C.G.A. §§ 33-2-9, 33-64-7.
History. Original Rule entitled "Severability" adopted. F. March 16, 2011; eff. April 5, 2011.
Repealed: New Rule with same titled adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Subject 120-2-98. REVIEW OF HEALTH BENEFIT PLAN RATE INCREASES.

Rule 120-2-98-.01. Purpose and Authority.

Section 1003 of the Patient Protection and Affordable Care Act directs the Secretary of the Department of Health and Human Services ("HHS"), in conjunction with the States, to establish a process for the review of unreasonable health insurance rate increases. The federal regulations adopted by HHS at 45 C.F.R. Part 154 set forth criteria for an effective rate review program and

provide that, on and after September 1, 2011, HHS will defer to a State review of certain health insurance rate filings only if that State has been deemed to have an effective rate review program. HHS will assert the authority to review certain health insurance rate filings in States without an effective rate review program. Georgia has been deemed to be an effective rate review State subject to the adoption of the federal rate review criteria on or before September 1, 2011. This Emergency Regulation Chapter is necessary to preserve the Commissioner of Insurance's ability to review certain health insurance rates and preserve the public welfare as contemplated by O.C.G.A. § 33-9-1(a) and other applicable provisions of Title 33 cited herein.

This regulation is issued pursuant to the authority vested in the Commissioner under Chapters 2 and 9 of Title 33 and O.C.G.A. §§ 33-21-13, 33-21-18, and 33-21-28.

Cite as Ga. Comp. R. & Regs. R. 120-2-98-.01
Authority: O.C.G.A. Sections 33-2-9, 33-9-1*et seq.*, 33-21-13, 33-21-18(a), 33-21-28.
History. Rule entitled "Purpose and Authority" adopted. F. Dec. 6, 2011; eff. Dec. 26, 2011.

Rule 120-2-98-.02. Definitions.

(1) "CMS" means the Centers for Medicare & Medicaid Services.

(2) "Health benefit plan" has the same meaning as O.C.G.A. § 33-24-59.5(2)as that term is modified by the provisions of O.C.G.A. § 33-1-2(1.1) but does not include coverage offered by a person not subject to the jurisdiction of the Commissioner pursuant to O.C.G.A. § 33-1-14.

(3) "Individual market" means the market for health benefit plans where the health benefit plan is issued directly to a natural person and not through coverage under a group, blanket or franchise health benefit plan.

(4) "Rate increase" means any increase of the rates for a health benefit plan offered in the individual or small group market.

(5) "Rate increase subject to review" means a rate increase that meets the criteria set forth in 120-2-98-.03.

(6) "Secretary" means the Secretary of the Department of Health and Human Services.

(7) "Small group market" means the market within which small group coverage is sold as that term is defined in O.C.G.A. § 33-30-12(a).

(8) "Unreasonable rate increase" means a rate increase subject to review that violates applicable laws, regulations, and rules.

Cite as Ga. Comp. R. & Regs. R. 120-2-98-.02
Authority: O.C.G.A. Sections 33-2-9, 33-9-1*et seq.*, 33-21-13, 33-21-18(a), 33-21-28.

History. Rule entitled "Definitions" adopted. F. Dec. 6, 2011; eff. Dec. 26, 2011.

Rule 120-2-98-.03. Rate Increases Subject to Review.

Only rate increases for health benefit plans that are equal to or exceed 10% are subject to review under this regulation. The methodology for determining the amount of a rate increase prescribed in 45 C.F.R. § 154.200 shall be used to determine whether a rate increase is equal to or exceeds 10%.

Cite as Ga. Comp. R. & Regs. R. 120-2-98-.03
Authority: O.C.G.A. Sections 33-2-9, 33-9-1*et seq.*, 33-21-13, 33-21-18(a), 33-21-28.
History. Rule entitled "Rate Increases Subject to Review" adopted. F. Dec. 6, 2011; eff. Dec. 26, 2011.

Rule 120-2-98-.04. Rate Filing Requirements.

In addition to other materials that are otherwise required to be filed, each insurer is required to file the following material for a rate increase subject to review:

(1) The preliminary justification required by 45 C.F.R. § 154.215(b);

(2) The documentary support for all assumptions used by the insurer to develop the proposed rate increase, including historical data underlying the assumptions;

(3) The documentary support demonstrating the insurer's consideration of the applicable factors set forth in 120-2-98-.05;

(4) Any documentation requested by the Department to the extent that such documentation is pertinent to the filing under review.

Cite as Ga. Comp. R. & Regs. R. 120-2-98-.04
Authority: O.C.G.A. Sections 33-2-9, 33-9-1*et seq.*, 33-21-13, 33-21-18(a), 33-21-28.
History. Rule entitled "Rate Filing Requirements" adopted. F. Dec. 6, 2011; eff. Dec. 26, 2011.

Rule 120-2-98-.05. Standards of Review.

In addition to standards or criteria of review that are otherwise applicable to a rate increase subject to review under this regulation, the following standards will apply to the review of rates to the extent applicable to the filing under review:

(1) The impact of medical trend changes by major service categories;

(2) The impact of utilization changes by major service categories;

(3) The impact of cost-sharing changes by major service categories;

(4) The impact of benefit changes;

(5) The impact of changes in enrollee risk profile;

(6) The impact of any overestimate or underestimate of medical trend for prior year periods related to the rate increase;

(7) The impact of changes in reserve needs;

(8) The impact of changes in administrative costs related to programs that improve health care quality;

(9) The impact of changes in other administrative costs;

(10) The impact of changes in applicable taxes, licensing or regulatory fees;

(11) Medical loss ratio; and

(12) The health insurance issuer's capital and surplus.

Cite as Ga. Comp. R. & Regs. R. 120-2-98-.05
Authority: O.C.G.A. Sections 33-2-9, 33-9-1*et seq.*, 33-21-13, 33-21-18(a), 33-21-28.
History. Rule entitled "Standards of Review" adopted. F. Dec. 6, 2011; eff. Dec. 26, 2011.

Rule 120-2-98-.06. Access of Public to Rate Increase Process.

The preliminary justification of a proposed rate increase subject to review, filed pursuant to 120-2-98-.04(1), will be published to the Department of Insurance website within five (5) business days of receipt. In addition the Department will accept public comments on any proposed rate increase.

Cite as Ga. Comp. R. & Regs. R. 120-2-98-.06
Authority: O.C.G.A. Sections 33-2-9, 33-9-1*et seq.*, 33-21-13, 33-21-18(a), 33-21-28.
History. Rule entitled "Access of Public to Rate Increase Process" adopted. F. Dec. 6, 2011; eff. Dec. 26, 2011.

Rule 120-2-98-.07. Reporting Final Determination to CMS.

The Department will report its final determination of whether a rate increase subject to review is unreasonable in accordance with 45 C.F.R. § 154.210(b)(2).

Cite as Ga. Comp. R. & Regs. R. 120-2-98-.07
Authority: O.C.G.A. Sections 33-2-9, 33-9-1*et seq.*, 33-21-13, 33-21-18(a), 33-21-28.
History. Rule entitled "Reporting Final Determination to CMS" adopted. F. Dec. 6, 2011; eff. Dec. 26, 2011.

Rule 120-2-98-.08. Rate Filing Guidance.

The Commissioner shall issue guidance for electronic filing of rates subject to this regulation via bulletins. All rate filings subject to this regulation must be filed in accordance with the relevant bulletin.

Cite as Ga. Comp. R. & Regs. R. 120-2-98-.08
Authority: O.C.G.A. Sections 33-2-9, 33-9-1*et seq.*, 33-21-13, 33-21-18(a), 33-21-28.
History. Rule entitled "Rate Filing Guidance" adopted. F. Dec. 6, 2011; eff. Dec. 26, 2011.

Rule 120-2-98-.09. Applicability of Other Regulations.

These regulations apply in addition to other applicable regulations.

Cite as Ga. Comp. R. & Regs. R. 120-2-98-.09
Authority: O.C.G.A. Sections 33-2-9, 33-9-1*et seq.*, 33-21-13, 33-21-18(a), 33-21-28.
History. Rule entitled "Applicability of Other Regulations" adopted. F. Dec. 6, 2011; eff. Dec. 26, 2011.

Rule 120-2-98-.10. Severability.

If any provision of these sections or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these sections which can be given effect without the invalid provisions or application. To this end all provisions of these sections are declared to be severable.

Cite as Ga. Comp. R. & Regs. R. 120-2-98-.10
Authority: O.C.G.A. Sections 33-2-9, 33-9-1*et seq.*, 33-21-13, 33-21-18(a), 33-21-28.
History. Rule entitled "Severability" adopted. F. Dec. 6, 2011; eff. Dec. 26, 2011.

Subject 120-2-99. SALE OF INDIVIDUAL HEALTH INSURANCE PRODUCTS APPROVED IN OTHER STATES.

Rule 120-2-99-.01. Authority and Purpose.

Article 3 of Chapter 29A of Title 33 directs the Commissioner to adopt implementing rules and regulations governing the filing, approval, and sale of individual health insurance products that have been approved for issuance in other states. This regulation is issued pursuant to the authority vested in the Commissioner under Chapter 2 of Title 33 and O.C.G.A. Sections O.C.G.A. 33-29A-30*et seq.*

Cite as Ga. Comp. R. & Regs. R. 120-2-99-.01
Authority: O.C.G.A. §§ 33-2-9 and 33-29A-30*et seq.*
History. Original Rule entitled "Authority and Purpose" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 120-2-99-.02. Individual Health Insurance Products Approved in Other States.

(1) An insurer authorized to transact insurance in this state may file for approval and issuance in this state an individual health insurance product currently approved for issuance by the insurer or its affiliate in another state, provided that such product meets the requirements of Article 3 of Chapter 29A of Title 33, other applicable provisions of Title 33, and the regulations of the Commissioner.

(2) An insurer authorized to transact insurance in this state may offer an individual health insurance product with benefits equivalent to those in any individual health insurance product approved pursuant to Article 3 of Chapter 29A of Title 33.

(3) Any individual health insurance product offered or sold pursuant to Article 3 of Chapter 29A of Title 33 shall comply with O.C.G.A. § 9-9-2(c)(3) and shall not require the insured or his or her beneficiary to arbitrate disputes arising under the terms of the policy.

Cite as Ga. Comp. R. & Regs. R. 120-2-99-.02
Authority: O.C.G.A. §§ 33-2-9 and 33-29A-30*et seq.*
History. Original Rule entitled "Individual Health Insurance Products Approved in Other States" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 120-2-99-.03. Filing Requirements.

(1) All individual health insurance products offered or sold pursuant to Article 3 of Chapter 29A of Title 33 shall be filed for prior review and approval and subject to the applicable SERFF filing and policy form filing fees.

(2) Proof of current approval and product line authority in domicile state is required of foreign insurers.

(3) Proof of current state approval other than Georgia, if different from domicile state should be furnished and referenced in filing.

(4) Outlines of coverage must be prepared and filed for approval with the policy forms filing.

(5) Insurer filings shall conform to applicable actuarial standards set forth by the National Association of Insurance Commissioners or regulations promulgated by the Commissioner including, but not limited to:

   (a) Assumptions and rating processes;

   (b) Presumed loss ratio in the pricing of any such product; and

(c) Any other appropriate actuarial standards of practice under comprehensive major medical coverage for medical and surgical benefits, or for high deductible health plans sold under the applicable provisions of Section 223 of the Internal Revenue Code.

(6) Insurers shall include a cover letter describing the relationship between the insurer making the filing and the affiliate, if any, which currently has approval for the issuance of the individual health insurance product in another state, the original state where the proposed product was approved, and the date of such approval. Any insurer authorized to transact insurance in this state seeking to offer an individual health insurance product with benefits equivalent to those of individual health insurance product already approved pursuant to Article 3 of Chapter 29A of Title 33 shall disclose the name of the insurer, the policy form number of such insurer, and the date approved in this state.

(7) All policies delivered or issued for delivery in Georgia are subject to Georgia jurisdiction and all legal disputes arising under the policy shall be resolved in accordance with applicable Georgia law, including specifically the requirements of Title 9 and Title 33.

Cite as Ga. Comp. R. & Regs. R. 120-2-99-.03
Authority: O.C.G.A. §§ 33-2-9 and 33-29A-30*et seq.*
History. Original Rule entitled "Filing Requirements" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 120-2-99-.04. Required Disclosures.

(1) Each policy application for a product offered or sold pursuant to Article 3 of Chapter 29A of Title 33 shall contain the following language in boldface type at the beginning of the document:

"The benefits of this policy may primarily be governed by the laws of a state other than Georgia; therefore, all of the laws applicable to policies filed in this state may not apply to this policy. Any purchase of individual health insurance should be considered carefully since future medical conditions may make it impossible to qualify for another individual health insurance policy."

(2) Each delivered policy must contain the following language in boldface type at the beginning of the document:

"The benefits of this policy providing your coverage may be governed primarily by the laws of a state other than Georgia. The benefits covered may be different from other policies you can purchase. Please consult your insurance agent or insurer to determine which health benefits are covered under this policy."

(3) Each policy offered or sold pursuant to Article 3 of Chapter 29A of Title 33 shall also contain the following standard forms for the disclosure and comparison of benefits.

(a) **[INSURER NAME AND ADDRESS]**

Standard Form for Disclosure of

Benefits Definition Differences (O.C.G.A Section 33-29A-35)

Georgia Benefits Definitions vs. Non-Georgia Based Product Definitions

Georgia Defined Term and Definition	**[Non-Georgia Product]** **Defined Term and Definition**

(b) **[INSURER NAME, ADDRESS]**

Standard Form for Disclosure of

Benefits Definition Differences (O.C.G.A Section 33-29A-35)

Georgia Benefits Definitions vs. This Non-Georgia based Product Definitions

Georgia **Mandated Benefit**	**Georgia Citation**	**Mandate or** **Mandated Offer or** **Qualifications**	**[Non-Georgia Product]** **Does This Individual Policy Cover this benefit? (reference page**

			and section in policy)
Asthma; Prescription Inhalers	33-24-59.8	Mandated behavior in RX plans	
Autism; non-discrimination in products covering neurological disorders	33-24-59.10	Mandate (subject to policy benefits, limitations consistent with other neurological disorders)	
Bone Marrow Transplants for treatment of breast cancer, Hodgkins Disease	33-29-3.3	Mandated Offer in Major Medical Plans	
Bone Mass Measurement	31-15A	Mandated Offer (availability)	
Breast Cancer Patient Care; Mastectomies	33-24-70-72	Mandate for policies covering surgery, mastectomies	
Child Cancer Clinical Trials	33-24-59.1	Mandate	
Child Deliveries (48 / 96 hour hospital stay)	33-24-58.2	Mandated Benefit for policies covering maternity benefits; Notice requirement on insurers 30 days after insurer learns covered person is pregnant, added in 2002.	
Child Wellness to age 5	33-29-3.4	Mandate	
Chlamydia Screening to certain females, ages	31-14-4.1	Mandate	
Colorectal Cancer Screening Colorectal Cancer Screening (continued)	33-24-56.3	Mandates coverage for Colorectal Cancer Screening, exams, lab tests, along guidelines of American Cancer Society, American College of Gastroenterology & American	

		College of Radiology. Exceptions are limited policies.	
Dental; General Anesthesia	33-24-28.4	Mandate	
Dermatologist Direct Access	33-24-56	Mandates Access (subject to policy benefits)	
Diabetes Outpatient Self Management Training, Equipment	33-24-59.2	Mandate for Major Medical Policies, Managed, Capitated plans	
Human Heart Transplants	33-29-3.1	Mandated Offer (make available on major med plans)	
Mammograms, PAP Smears, PSA Test	33-29-3.2	Mandate	
Mental Disorders	33-24-28.1	Mandated Offer (make available)	
Morbid Obesity	33-24-59.7	Mandated Offer (Georgia policy "may" cover)	
OB / GYN Direct Access	33-24-59	Mandates Access (subject to policy benefits)	
Off-Label Prescription Drugs for insureds with life-threatening or chronic and disabling conditions	33-24-59.11	Mandate (subject to certain conditions and prior authorization of insurer)	
Ovarian Cancer; Surveillance Tests for women at risk	33-24-56.2	Mandates Coverage for certain women over age 35 (subject to same deductibles, coinsurance as other benefits)	
Pregnancy, Complications of	33-24-24	Mandate for Major Medical	
Prescription Contraceptives	33-24-59.6	Mandate for RX plans	
TMJ	33-29-20	Mandate	

Cite as Ga. Comp. R. & Regs. R. 120-2-99-.04
Authority: O.C.G.A. §§ 33-2-9 and 33-29A-30*et seq.*
History. Original Rule entitled "Required Disclosures" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Rule 120-2-99-.05. Severability.

If any provision of these sections or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these sections which can be given effect without the invalid provisions or application. To this end all provisions of these sections are declared to be severable.

Cite as Ga. Comp. R. & Regs. R. 120-2-99-.05
Authority: O.C.G.A. § 33-2-9.
History. Original Rule entitled "Severability" adopted. F. Nov. 18, 2011; eff. Dec. 8, 2011.

Subject 120-2-100. Limited Purpose Subsidiaries.

Rule 120-2-100-.01. Authority.

This regulation is promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. §§ 33-14-100*et seq.*

Cite as Ga. Comp. R. & Regs. R. 120-2-100-.01
Authority: O.C.G.A. §§ 33-2-9, 33-14-100*et seq.*
History. Original Rule entitled "Authority" adopted. F. Nov. 8, 2011; eff. Nov. 28, 2011.

Rule 120-2-100-.02. Scope and Purpose.

(1) This regulation applies to any limited purpose subsidiary as defined in O.C.G.A. § 33-14-100.

(2) The purposes of this regulation include:

(a) Providing requirements for the organization of limited purpose subsidiaries;

(b) Providing for the requirements for the plan of operation for limited purpose subsidiaries;

(c) Providing capital, surplus and risk-based capital requirements for limited purpose subsidiaries;

(d) Providing reporting and notification requirements for limited purpose subsidiaries;

(e) Providing requirements for reserves of limited purpose subsidiaries;

(f) Providing requirements for authorized investments of limited purpose subsidiaries;

(g) Providing requirements with respect to reinsurance ceded or assumed by limited purpose subsidiaries;

(h) Providing requirements and restrictions for Material Transactions of limited purpose subsidiaries;

(i) Providing requirements for dividends and distributions;

(j) Providing requirements for operations of limited purpose subsidiaries;

(k) Providing conditions of, forms for, and approval of the financing of limited purpose subsidiaries;

(l) Providing for other regulation of limited purpose subsidiaries.

Cite as Ga. Comp. R. & Regs. R. 120-2-100-.02
Authority: O.C.G.A. §§ 33-2-9, 33-14-100*et seq.*
History. Original Rule entitled "Scope and Purpose" adopted. F. Nov. 8, 2011; eff. Nov. 28, 2011.

Rule 120-2-100-.03. Definitions.

(1) "NAIC" means the National Association of Insurance Commissioners.

(2) "Material Transaction" means a transaction or series of transactions involving amounts equal to or exceeding 5 percent of a limited purpose subsidiary's admitted assets less any letters of credit, guaranties of a parent, intangible assets and any other assets approved by the Commissioner pursuant to Section 120-2-100-.12(2).

Cite as Ga. Comp. R. & Regs. R. 120-2-100-.03
Authority: O.C.G.A. §§ 33-2-9, 33-14-100*et seq.*
History. Original Rule entitled "Definitions" adopted. F. Nov. 8, 2011; eff. Nov. 28, 2011.

Rule 120-2-100-.04. Organization of Limited Purpose Subsidiary.

(1) A limited purpose subsidiary's organizational documents shall limit the limited purpose subsidiary's authority to transact the business of reinsurance to reinsure only the risks of the organizing domestic reinsurer and shall state that the limited purpose subsidiary shall not otherwise engage in the business of insurance or reinsurance.

(2) A limited purpose subsidiary's organizational documents shall provide that the limited purpose subsidiary shall always be owned by the organizing domestic reinsurer and that the limited purpose subsidiary's stock shall be issued only to the organizing domestic reinsurer.

Cite as Ga. Comp. R. & Regs. R. 120-2-100-.04
Authority: O.C.G.A. §§ 33-2-9, 33-14-100*et seq.*
History. Original Rule entitled "Organization of Limited Purpose Subsidiary" adopted. F. Nov. 8, 2011; eff. Nov. 28, 2011.

Rule 120-2-100-.05. Officers and Directors.

(1) Each limited purpose subsidiary shall have not less than three directors.

(2) At least one-fourth of the directors of a limited purpose subsidiary must be residents of this state. A majority of the directors must be citizens of the United States.

(3) The officers and directors of a limited purpose subsidiary may serve as officers and directors of the organizing domestic reinsurer.

(4) A limited purpose subsidiary shall have the following officers: president; chief financial officer, secretary; and employed appointed actuary. The same individual may simultaneously hold more than one office in a limited purpose subsidiary.

Cite as Ga. Comp. R. & Regs. R. 120-2-100-.05
Authority: O.C.G.A. §§ 33-2-9, 33-14-100*et seq.*
History. Original Rule entitled "Officers and Directors" adopted. F. Nov. 8, 2011; eff. Nov. 28, 2011.

Rule 120-2-100-.06. Certificate of Authority.

(1) No limited purpose subsidiary shall do any reinsurance business in this state unless it first obtains from the Commissioner a certificate of authority.

(2) Before receiving a certificate of authority, a limited purpose subsidiary shall do all of the following:

  (a) File with the Commissioner a copy of its plan of operation.

  (b) File with the Commissioner an affidavit of its president- or chief financial officer that includes all of the following statements, to the best of such person's knowledge and belief, after reasonable inquiry:

1. The proposed organization and operation of the limited purpose subsidiary shall comply with all provisions of O.C.G.A. §§ 33-14-100*et seq.* and this Regulation Chapter.

2. The limited purpose subsidiary's investment policy specifies guidelines as to the quality, maturity, and diversification of investments and other specifications, including investment strategies intended to assure that the investments and investment practices are appropriate for the business conducted by the limited purpose subsidiary, its liquidity needs, and its capital and surplus.

3. Any reinsurance contract and any arrangement for securing the limited purpose subsidiary's obligations under such reinsurance contract including, but not limited to, any agreements or other documentation to implement such arrangement, comply with the provisions of O.C.G.A. §§ 33-14-100*et seq.* and this Regulation Chapter.

(c) File with the Commissioner an opinion of legal counsel, in a form acceptable to the Commissioner, that the offer and sale of any limited purpose subsidiary securities comply with all applicable registration requirements or applicable exemptions from or exceptions to such requirements of the federal securities laws and that the offer and sale of securities by the limited purpose subsidiary itself comply with all registration requirements or applicable exemptions from or exceptions to such requirements of the securities laws of this state. Such opinions shall not be required as part of the application if the limited purpose subsidiary includes a specific statement in its plan of operation that such opinions will be provided to the Commissioner in advance of the offer or sale of any limited purpose subsidiary securities.

(d) Agree to pay the reasonable expenses and costs incurred incident to an examination of the limited purpose subsidiary's application by a qualified third party selected by the Commissioner.

(e) Submit any other statements or documents required by the Commissioner to evaluate the limited purpose subsidiary's application for a certificate of authority.

(3) In the event of any material change in any item required in 120-2-100-.06(2), the limited purpose subsidiary shall notify the Commissioner at least 30 days prior to the change and submit to the Commissioner for approval any revised documents, opinions, or certifications.

(4) The Commissioner may grant a certificate of authority to a limited purpose subsidiary, which shall be valid through the next June 1 following the date of initial issuance and which may be renewed annually thereafter, authorizing the limited purpose subsidiary to

transact reinsurance business as a limited purpose subsidiary in this state upon a finding that:

(a) The proposed plan of operation provides for a viable operation;

(b) The terms of any reinsurance contract and related transactions comply with O.C.G.A. §§ 33-14-100*et seq.* and this Regulation Chapter and all applicable insurance laws and regulations; and

(c) The proposed plan of operation is not hazardous to the organizing domestic reinsurer.

(5) In conjunction with the issuance of a certificate of authority to a limited purpose subsidiary, the Commissioner may issue an order that includes any provisions, terms, and conditions regarding the organization, licensing, and operation of the limited purpose subsidiary that the Commissioner deems appropriate and that are not inconsistent with the provisions of O.C.G.A. §§ 33-14-100*et seq.* and this Regulation Chapter.

(6) A limited purpose subsidiary issued a certificate of authority may reinsure only risks of an organizing domestic reinsurer. A limited purpose subsidiary shall not otherwise engage in the business of insurance or reinsurance. A limited purpose subsidiary may purchase reinsurance to cede all or a portion of its risks subject to the prior approval of the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-100-.06
Authority: O.C.G.A. §§ 33-2-9, 33-14-100*et seq.*
History. Original Rule entitled "Certificate of Authority" adopted. F. Nov. 8, 2011; eff. Nov. 28, 2011.

Rule 120-2-100-.07. Capital and Surplus.

(1) The amount of minimum capital and surplus required for each limited purpose subsidiary shall be determined on an individual basis; however, no limited purpose subsidiary shall be issued a certificate of authority unless it shall possess unimpaired capital and surplus of not less than $10 million. The Commissioner may require additional capital and surplus of any limited purpose subsidiary in an amount he deems appropriate under the circumstances based on the limited purpose subsidiary's plan of operation.

(2) Each limited purpose subsidiary shall maintain a minimum risk-based capital equal to the product of 2.5 and the number determined under the risk-based capital formula in accordance with risk-based capital instructions prescribed by the National Association of Insurance Commissioners.

Cite as Ga. Comp. R. & Regs. R. 120-2-100-.07
Authority: O.C.G.A. §§ 33-2-9, 33-14-100*et seq.*

History. Original Rule entitled "Capital and Surplus" adopted. F. Nov. 8, 2011; eff. Nov. 28, 2011.

Rule 120-2-100-.08. Plan of Operation.

(1) A limited purpose subsidiary shall have a plan of operation approved by its board of directors. The plan of operation shall include all of the following:

(a) A complete description of all reinsurance transactions, reinsurance security arrangements, securitizations, and any other Material Transactions or arrangements.

(b) The source and form of the limited purpose subsidiary's capital and surplus.

(c) The investment policy of the limited purpose subsidiary.

(d) Pro forma financial statements and risk-based capital projections illustrating one or more adverse case scenarios, as determined under criteria required by the Commissioner, for the performance of the limited purpose subsidiary under all reinsurance contracts. Pro forma financial statements and risk-based capital projections shall be in the format prescribed by the NAIC's Uniform Certificate of Authority Application.

(e) Copies of all contracts between the limited purpose subsidiary and affiliated companies.

(2) Any change in the limited purpose subsidiary's plan of operation shall require prior approval of the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-100-.08
Authority: O.C.G.A. §§ 33-2-9, 33-14-100*et seq.*
History. Original Rule entitled "Plan of Operations" adopted. F. Nov. 8, 2011; eff. Nov. 28, 2011.

Rule 120-2-100-.09. Dividends and Distributions.

No limited purpose subsidiary shall pay any dividend or make any other distribution to the organizing domestic reinsurer until 30 days after the Commissioner has received notice of the declaration thereof and has not within such period disapproved such payment or other distribution, or the Commissioner shall have approved such payment within such 30 day period. The notice required by this section shall include the amount of the dividend or distribution and a certification signed by an officer of the limited purpose subsidiary stating that the dividend or distribution would not jeopardize the ability of the limited purpose subsidiary to fulfil the limited purpose subsidiary's obligations.

Cite as Ga. Comp. R. & Regs. R. 120-2-100-.09
Authority: O.C.G.A. §§ 33-2-9, 33-14-100*et seq.*

History. Original Rule entitled "Dividends and Distribution" adopted. F. Nov. 8, 2011; eff. Nov. 28, 2011.

Rule 120-2-100-.10. Reports and Notifications.

(1) A limited purpose subsidiary shall file on or before March 1 of each year a financial report of its business and affairs as of December 31 of the calendar year immediately preceding. Such report shall be filed on the life and accident and health blank adopted by the NAIC. The financial reports required by this rule shall be prepared in accordance with the NAIC's Annual Statement Instructions and the NAIC Accounting Practices and Procedures Manual unless otherwise prescribed by the Commissioner.

(2) A limited purpose subsidiary shall file quarterly financial reports on the life and accident and health blank adopted by the NAIC. Such reports shall be as of March 31, June 30 and September 30 and shall be due May 15, August 15 and November 15 respectively.

(3) All limited purpose subsidiaries shall have an annual audit by an independent certified public accountant and shall file an audited financial report with the Commissioner on or before June 1 for the year ended December 31 immediately preceding. Extensions of the June 1 filing date may be granted by the Commissioner for thirty (30) day periods upon a showing by the insurer and its independent certified public accountant the reasons for requesting such extension and determination by the Commissioner of good cause for an extension. The request for extension must be submitted in writing not less than ten (10) days prior to the due date in sufficient detail to permit the Commissioner to make an informed decision with respect to the extension.

(4) A limited purpose subsidiary shall provide the Commissioner with a copy of a complete set of executed documentation of an insurance securitization no later than 45 days after the closing of the transactions for such securitization.

(5) In the event of any material change in the financial condition or any change in the officers or directors of a limited purpose subsidiary, the limited purpose subsidiary shall notify the Commissioner in writing within two business days of any such change.

(6) A limited purpose subsidiary shall file annually with the Commissioner an actuarial opinion, in compliance with O.C.G.A. § 33-10-13 and Regulation 120-2-74, on reserves for all risks retained by the limited purpose subsidiary. The actuarial opinion shall be provided by an appointed actuary that meets the qualification standards prescribed by Regulation 120-2-74-.05.(2).

(7) A limited purpose subsidiary shall file annually with the Commissioner a report of the limited purpose subsidiary's risk-based capital level as of the end of the calendar year immediately preceding containing the information required by the risk-based capital instructions adopted by the NAIC.

(8) A limited purpose subsidiary shall notify the Commissioner immediately of any action by an organizing domestic reinsurer or any other person to foreclose on or otherwise take possession of collateral provided by the limited purpose subsidiary to secure any obligation of the limited purpose subsidiary.

Cite as Ga. Comp. R. & Regs. R. 120-2-100-.10
Authority: O.C.G.A. §§ 33-2-9, 33-14-100*et seq.*
History. Original Rule entitled "Reports and Notifications" adopted. F. Nov. 8, 2011; eff. Nov. 28, 2011.

Rule 120-2-100-.11. Material Transactions.

(1) In addition to the reporting requirements prescribed by O.C.G.A. §§ 33-55-1*et seq.*, a limited purpose subsidiary shall not take any of the following actions unless the limited purpose subsidiary provides the Commissioner at least 30 days' prior written notice and the Commissioner expressly approves the action:

(a) Any assignment, pledge or other transfer or granting of a security interest in over 30 percent of the assets of the limited purpose subsidiary.

(b) Any incurrence of material indebtedness by the limited purpose subsidiary.

(c) The termination of all or any part of a limited purpose subsidiary's business.

(2) This Rule shall not apply when a limited purpose subsidiary takes any action in accordance with the limited purpose subsidiary's plan of operation.

Cite as Ga. Comp. R. & Regs. R. 120-2-100-.11
Authority: O.C.G.A. §§ 33-2-9, 33-14-100*et seq.*
History. Original Rule entitled "Material Transactions" adopted. F. Nov. 8, 2011; eff. Nov. 28, 2011.

Rule 120-2-100-.12. Investments.

(1) The limited purpose subsidiary's investment policy and its investments shall comply with Article 2 of Chapter 11 of Title 33 of the Official Code of Georgia Annotated unless otherwise specified in this Rule or approved by the Commissioner in the limited purpose subsidiary's plan of operation or an amendment to the limited purpose subsidiary's plan of operation.

(2) In addition to assets permitted by O.C.G.A. § 33-10-1, admitted assets of the limited purpose subsidiary shall include letters of credit, guaranties of a parent, and any other assets approved by the Commissioner, which shall be deemed to be, and reported as, admitted assets of the limited purpose subsidiary. The Commissioner shall have the authority to reduce the value of admitted assets, other than assets already covered by the

Accounting Practices and Procedures Manual of the NAIC, if the Commissioner determines that the value of those assets has decreased. At least 30 days prior to reducing the value of such admitted assets, the Commissioner shall notify the limited purpose subsidiary and provide the limited purpose subsidiary an opportunity to remedy the issues identified by the Commissioner.

(3) A limited purpose subsidiary shall not make a loan to or an investment in any person, other than as permitted in the limited purpose subsidiary's plan of operation, without prior written approval of the Commissioner, and any such loan or investment must be evidenced by documentation approved by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-100-.12
Authority: O.C.G.A. §§ 33-2-9, 33-14-100*et seq.*
History. Original Rule entitled "Investments" adopted. F. Nov. 8, 2011; eff. Nov. 28, 2011.

Rule 120-2-100-.13. Securities.

(1) A limited purpose subsidiary securitization, the security-offering memorandum or other document issued to prospective investors regarding the offer and sale of a surplus note or other security shall include a disclosure that all or part of the proceeds of such insurance securitization or surplus note transaction will be used to fund the limited purpose subsidiary's obligations to the organizing domestic reinsurer.

(2) A security issued by a limited purpose subsidiary shall not be subject to regulation as an insurance or reinsurance contract. An investor in such a security or a holder of such a security shall not be considered to be transacting the business of insurance or reinsurance in this state solely by reason of having an interest in the security. The underwriter's placement or selling agents and their partners, commissioners, officers, members, managers, employees, agents, representatives, and advisors involved in an insurance securitization by a limited purpose subsidiary shall not be considered to be insurance producers or brokers or to be conducting business as an insurance or reinsurance company or as an insurance agency, brokerage, intermediary, advisory, or consulting business solely by virtue of their underwriting activities in connection with such securitization.

Cite as Ga. Comp. R. & Regs. R. 120-2-100-.13
Authority: O.C.G.A. §§ 33-2-9, 33-14-100*et seq.*
History. Original Rule entitled "Securities" adopted. F. Nov. 8, 2011; eff. Nov. 28, 2011.

Rule 120-2-100-.14. Permitted Reinsurance and Credit for Reinsurance.

(1) A limited purpose subsidiary may reinsure only the risks of the organizing domestic reinsurer.

(2) Unless otherwise approved in advance by the Commissioner, a reinsurance contract shall not contain any provision for payment by the limited purpose subsidiary in discharge of its obligations as a reinsurer under the reinsurance contract to any person other than the organizing domestic reinsurer or any receiver of the organizing domestic reinsurer.

(3) A limited purpose subsidiary may cede risks to one or more reinsurers approved by the Commissioner.

(4) Credit for reinsurance shall be allowed limited purpose subsidiary as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurance transaction has been approved by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-100-.14
Authority: O.C.G.A. §§ 33-2-9, 33-14-100*et seq.*
History. Original Rule entitled "Permitted Reinsurance and Credit for Reinsurance" adopted. F. Nov. 8, 2011; eff. Nov. 28, 2011.

Rule 120-2-100-.15. Contracts and Other Commercial Activities.

A limited purpose subsidiary may enter into contracts and conduct other commercial activities related or incidental to and necessary to fulfil the purposes of a reinsurance contract, an insurance securitization, and this Regulation Chapter, provided such contracts and activities are included in the limited purpose subsidiary's plan of operation or are otherwise approved in advance by the Commissioner. Such contracts and activities may include but are not limited to: entering into reinsurance contracts; issuing limited purpose subsidiary securities; complying with the terms of these contracts or securities; entering into trust, guaranteed investment contract, swap, derivative, tax, administration, services reimbursement, or fiscal agent transactions; complying with trust indentures, or reinsurance or retrocession contracts; or entering into other agreements necessary or incidental to effect a reinsurance contract or an insurance securitization in compliance with this chapter and the limited purpose subsidiary's plan of operation.

Cite as Ga. Comp. R. & Regs. R. 120-2-100-.15
Authority: O.C.G.A. §§ 33-2-9, 33-14-100*et seq.*
History. Original Rule entitled "Contracts and Other Commercial Activities" adopted. F. Nov. 8, 2011; eff. Nov. 28, 2011.

Rule 120-2-100-.16. Severability.

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

Cite as Ga. Comp. R. & Regs. R. 120-2-100-.16
Authority: O.C.G.A. §§ 33-2-9, 33-14-100*et seq.*

History. Original Rule entitled "Severability" adopted. F. Nov. 8, 2011; eff. Nov. 28, 2011.

Subject 120-2-101. CHILD ONLY INDIVIDUAL HEALTH COVERAGE.

Rule 120-2-101-.01. Authority.

This regulation is promulgated under authority of O.C.G.A. § 33-29B-8(a) and O.C.G.A. § 33-2-9.

Cite as Ga. Comp. R. & Regs. R. 120-2-101-.01
History. Original Rule entitled "Authority" Adopted. F. Dec. 7, 2012; eff. Dec. 27, 2012.

Rule 120-2-101-.02. Definitions.

Definitions used in this regulation shall have the same meaning as set forth in O.C.G.A. § 33-29B-2.

Cite as Ga. Comp. R. & Regs. R. 120-2-101-.02
History. Original Rule entitled "Definitions" Adopted. F. Dec. 7, 2012; eff. Dec. 27, 2012.

Rule 120-2-101-.03. Child Only Policy Forms.

(1) To satisfy the requirements set forth in O.C.G.A. § 33-29B-3(a), an indemnity insurer should submit at least one policy of child-only individual health coverage that follows Regulation 120-2-81-.04. That coverage form should be updated by the insurer to comply with current federal Patient Protection and Affordable Care Act ("ACA") requirements, including, but not limited to the removal of lifetime limits.

(2) To satisfy the requirements set forth in O.C.G.A. § 33-29B-3(a), a Health Maintenance Organization insurer should submit at least one policy of child-only individual health coverage that follows Rule 120-2-81-.05. That coverage form should be updated by the Health Maintenance Organization insurer to comply with current federal ACA requirements, including, but not limited to the removal of lifetime limits.

(3) Notwithstanding the requirements set forth in subparagraphs (1) and (2) of this section, an insurer may, at its option submit one or more other, previously approved and presently available individual comprehensive or major medical health insurance coverages as alternative products to comply with this regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-101-.03
History. Original Rule entitled "Child Only Policy Forms" Adopted. F. Dec. 7, 2012; eff. Dec. 27, 2012.

Rule 120-2-101-.04. Child Only Premium Rates.

(1) Pursuant to O.C.G.A. § 33-29B-3(g), insurers shall submit proposed health insurance rates that include current 2012 actuarial supporting assumptions on relevant plan design, benefits and limitations and that are reasonably related to contemporary plan designs and rates on file with and approved by this Office for the subject insurer. Insurers may, but are not required to obtain rate approval, if such rates are currently filed and approved by the Commissioner.

(2) An insurer may impose a surcharge on any individual who enrolls in a child-only policy and has not had prior creditable coverage in the 63 day period preceding the date of the application. The amount of the surcharge may be up to, but shall not exceed, 50 percent of the premium rate that would be charged to an individual who did have prior credible coverage in the 63 day period preceding the date of the application.

Cite as Ga. Comp. R. & Regs. R. 120-2-101-.04
History. Original Rule entitled "Child Only Premium Rates" Adopted. F. Dec. 7, 2012; eff. Dec. 27, 2012.

Rule 120-2-101-.05. Policy Form and Rate Submissions in SERFF.

(1) Insurers are required to submit all proposed form and rate filings in the SERFF filing system for advance approval.

(2) Insurers shall pay all appropriate policy form and rate filing fees, as normally required.

(3) Insurers shall mark such SERFF policy form and rate filings in cover letter materials as child-only coverage and prominently reference "child-only" in appropriate descriptions to ensure the recognition and timely attention necessary for compliance with these product offering requirements.

(4) Insurers should include specialized child-only application and enrollment forms with policy form and rate filings. Such applications should make appropriate provisions for parent or guardian authorization and completion of applicant identifying and other relevant information by parent or guardian on behalf of any minor applicant.

   (a) Applications shall include a prominent disclosure about the 2013 duration of this child-only Georgia coverage program. Such application disclosures should reference evidence of coverage material provisions as to term and termination of the program as provided in O.C.G.A. § 33-29B-8.

   (b) The Commissioner may approve a modification of previously approved forms, provided the changes are clearly marked on the documents submitted to the Commissioner and are consistent with the provisions of this regulation.

(5) Policy form filed materials should make appropriate reference to the temporary nature of the 2013 child-only Georgia individual health coverage program. Insurers should pay specific attention to and address the following issues:

(a) Enrollment;

(b) Special Enrollment;

(c) Limited coverage term of policy during 2013;

(d) Provisions regarding termination not prejudicing any existing claim and providing a reasonable proposed extension of benefits for covered persons disabled at the end of term of coverage;

(e) Disclosure about lack of renewability (if applicable); and

(f) Any provisions about transition to other insurance after 2013 (if applicable).

The items above are appropriate provisions to include in proposed policy materials, endorsements and other parts of the individual health coverage contract for this program.

(6) Specimen Notices as required in O.C.G.A. 33-29B-6 regarding open enrollment opportunity, open enrollment dates, qualifying event references and the proposed plan to display these on the insurer's website should be submitted as part of the policy form and rate filings.

Cite as Ga. Comp. R. & Regs. R. 120-2-101-.05
History. Original Rule entitled "Policy Form and Rate Submissions in SERFF" Adopted. F. Dec. 7, 2012; eff. Dec. 27, 2012.

Rule 120-2-101-.06. Child-Only Program Reporting due in 2014.

Insurers that are active in the individual health insurance market in Georgia in 2013 and comply with requirements to make child-only health products available shall report as required in O.C.G.A. § 33-29B-7 by March 1, 2014.

The report submitted on March 1, 2014 for the child-only 2013 coverage program shall include this information and follow this reporting format:

2013 Georgia Child-Only Individual Health Insurance Program Report

Name of Insurer: _____ NAIC# _____

Total Number of Applicants that applied during Open Enrollment Period	Number of Applicants that enrolled during Open Enrollment Period	Number of Applicants that were declined during Open Enrollment Period	Reason(s) for Denial of Applicants
			(Include limited identifying details for each applicant case so denied, respecting potential privacy concerns)

Contact Person preparing this Report: _____Ph: _____

Email: _____

Certification by Responsible Officer of the Insurer:

I hereby affirm that the information included in this report of 2013 activities of the company is correct and complete.

Signed: _____

Printed Name: _____ Title: : _____

Date: _____

Cite as Ga. Comp. R. & Regs. R. 120-2-101-.06
History. Original Rule entitled "Child-Only Program Reporting Due in 2014" Adopted. F. Dec. 7, 2012; eff. Dec. 27, 2012.

Subject 120-2-102. GUARANTEED ASSET PROTECTION WAIVERS.

Rule 120-2-102-.01. Authority.

This regulation is adopted and promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. Sec. 33-2-9 and O.C.G.A. Chapter 33-63.

Cite as Ga. Comp. R. & Regs. R. 120-2-102-.01
Authority: O.C.G.A. Sec. 33-2-9 and O.C.G.A. Chapter 33-63.
History. Original Rule entitled "Authority" adopted. F. Apr. 17, 2013; eff. May 7, 2013.

Rule 120-2-102-.02. Purpose and Applicability.

The purpose of this regulation is to set forth rules and procedural requirements which the Commissioner deems necessary to carry out the provisions of O.C.G.A. Chapter 33-63 relating to guaranteed asset protection waivers.

Cite as Ga. Comp. R. & Regs. R. 120-2-102-.02
Authority: O.C.G.A. Sec. 33-2-9 and O.C.G.A. Chapter 33-63.
History. Original Rule entitled "Purpose and Applicability" adopted. F. Apr. 17, 2013; eff. May 7, 2013.

Rule 120-2-102-.03. Definitions.

(1) "Administrator" means a person, other than an insurer or creditor that performs administrative or operational functions pursuant to guaranteed asset protection waiver programs.

(2) "Borrower" means a debtor, retail buyer, or lessee under a finance agreement.

(3) "Creditor" means:

(a) The lender in a loan or credit transaction;

(b) The lessor in a lease transaction;

(c) Any retail installment seller that provides credit to any retail buyer of motor vehicles, provided that such entity complies with the provisions of this chapter;

(d) The seller in commercial retail installment transactions; or

(e) The assignees of any of the creditors listed in (a) through (d) of this section to whom the credit obligation is payable.

(4) "Finance Agreement" means a loan, lease, or retail installment sales contract for the purchase or lease of a motor vehicle.

(5) "Free look period" means the period of time from the effective date of the guaranteed asset protection waiver until the date the borrower may cancel the guaranteed asset protection waiver without penalty, fees, or costs to the borrower. This period of time must not be shorter than 30 days.

(6) "Guaranteed asset protection waiver" means a contractual agreement wherein a creditor agrees for a separate charge to cancel or waive all or part of amounts due on a borrower's finance agreement in the event of a total physical damage loss or uncovered theft of the motor vehicle, which agreement must be part of or a separate addendum to the finance agreement.

(7) "Insurer" means an insurance company licensed, registered, or otherwise authorized to do business under the insurance laws of this state.

(8) "Motor vehicle" means self-propelled or towed vehicles designed for personal or commercial use, including but not limited to automobiles, trucks, motorcycles, recreational vehicles all-terrain vehicles, campers, boats, personal watercraft, and motorcycle, boat, camper, and personal watercraft trailers.

(9) "Person" includes an individual, company, association, organization, partnership, business trust, corporation, and every form of legal entity.

(10) "Retail buyer" shall have the same meaning as provided in O.C.G.A. Section 10-1-31.

(11) "Retail installment seller" shall have the same meaning as provided in O.C.G.A. Section 10-1-31.

Cite as Ga. Comp. R. & Regs. R. 120-2-102-.03
Authority: O.C.G.A. Sec. 33-2-9 and O.C.G.A. Chapter 33-63.
History. Original Rule entitled "Definitions" adopted. F. Apr. 17, 2013; eff. May 7, 2013.

Rule 120-2-102-.04. Guaranteed Asset Protection Insurance Requirements.

A retail installment seller must insure its guaranteed asset protection waiver obligations under a contractual liability or other insurance policy issued by an insurer. However, retail installment sellers that are lessors on motor vehicles are not required to insure obligations related to guaranteed asset protection waivers on such leased vehicles.

Cite as Ga. Comp. R. & Regs. R. 120-2-102-.04
Authority: O.C.G.A. Sec. 33-2-9 and O.C.G.A. Chapter 33-63.
History. Original Rule entitled "Guaranteed Asset Protection Insurance Requirements" adopted. F. Apr. 17, 2013; eff. May 7, 2013.

Rule 120-2-102-.05. General Requirements and Conditions.

(1) Guaranteed asset protection waivers may be offered, sold, or provided to borrowers in this state in compliance with this chapter.

(2) Guaranteed asset protection waivers may, at the option of the creditor, be sold for a single payment or may be offered with a monthly or periodic payment option.

(3) Notwithstanding any other provision of law, any cost to the borrower for a guaranteed asset protection waiver entered into in compliance with the federal Truth in Lending Act, 15 U.S.C. 1601*et seq.*, and its implementing regulations, as they may be amended from time to time, must be separately stated and is not to be considered a finance charge or interest.

(4) The guaranteed asset protection waiver shall remain a part of the finance agreement upon the assignment, sale, or transfer of such finance agreement by the creditor.

(5) Neither the extension of credit, the term of credit, nor the term of the related motor vehicle sale or lease may be conditioned upon the purchase of a guaranteed asset protection waiver.

(6) Any creditor that offers a guaranteed asset protection waiver must report the sale of, and forward funds received on, all such waivers to the designated party, if any, as prescribed in any applicable administrative services agreement, contractual liability policy, other insurance policy or other specified program documents.

(7) Funds received or held by a creditor or administrator and belonging to an insurer, creditor, or administrator pursuant to the terms of a written agreement must be held by such creditor or administrator in a fiduciary capacity.

(8) Contractual liability or other insurance policies insuring guaranteed asset protection waivers must state the obligation of the insurer to reimburse or pay to the creditor any sums the creditor is legally obligated to waive under the guaranteed asset protection waivers issued by the creditor and purchased or held by the borrower.

(9) Coverage under a contractual liability or other insurance policy insuring a guaranteed asset protection waiver must also cover any subsequent assignee upon the assignment, sale, or transfer of the finance agreement.

(10) Coverage under a contractual liability or other insurance policy insuring a guaranteed asset protection waiver must remain in effect unless cancelled or terminated in compliance with the applicable insurance laws of this state.

(11) The cancellation or termination of a contractual liability or other insurance policy must not reduce the insurer's responsibility for guaranteed asset protection waivers issued by the creditor prior to the date of cancellation or termination and for which premium has been received by the insurer.

Cite as Ga. Comp. R. & Regs. R. 120-2-102-.05
Authority: O.C.G.A. Sec. 33-2-9 and O.C.G.A. Chapter 33-63.
History. Original Rule entitled "General Requirements and Conditions" adopted. F. Apr. 17, 2013; eff. May 7, 2013.

Rule 120-2-102-.06. Required Disclosures.

Guaranteed asset protection waivers must disclose, as applicable, in writing and in clear, understandable language that is easy to read the following:

(1) The name and address of the initial creditor and the borrower at the time of sale and the identity of any administrator if different from the creditor;

(2) The purchase price and the terms of the guaranteed asset protection waiver including without limitation the requirements for protection, conditions, or exclusions associated with the guaranteed asset protection waiver;

(3) That the borrower may cancel the guaranteed asset protection waiver within a free look period, as specified in the waiver, and will be entitled to a full refund of the purchase price, provided no benefits have been made; or in the event benefits have been made, the borrower may receive a full or partial refund if the waiver so provides;

(4) The procedure the borrower must follow, if any to obtain guaranteed asset protection waiver benefits under the terms and conditions of the waiver, including a telephone number and address where the borrower may apply for waiver benefits;

(5) Whether or not the guaranteed asset protection waiver is cancelable after the free look period and the conditions under which it may be canceled or terminated, including the procedures for requesting any refund due;

(6) That in order to receive any refund due in the event of a borrower's cancellation of the guaranteed asset protection waiver agreement or early termination of the finance agreement after the free look period of the guaranteed asset protection waiver, the borrower, in accordance with terms of the waiver, must provide a written request to cancel to the creditor, administrator, or such other party within 90 days after the borrower's decision to cancel the waiver or the occurrence of the event terminating the finance agreement;

(7) The methodology for calculating any refund of the unearned purchase price of the guaranteed asset protection waiver due in the event of cancellation of the guaranteed asset protection waiver or early termination of the finance agreement;

(8) That neither the extension of credit, the terms of the credit, nor the terms of the related motor vehicle sale or lease may be conditioned upon the purchase of the guaranteed asset protection waiver.

Cite as Ga. Comp. R. & Regs. R. 120-2-102-.06
Authority: O.C.G.A. Sec. 33-2-9 and O.C.G.A. Chapter 33-63.
History. Original Rule entitled "Required Disclosures" adopted. F. Apr. 17, 2013; eff. May 7, 2013.

Rule 120-2-102-.07. Cancellation Conditions.

(1) Guaranteed asset protection waiver agreements may be cancelable or noncancelable after the free look period. Guaranteed asset protection waivers must provide that if a borrower cancels a waiver within the free look period, the borrower will be entitled to a full refund

of the purchase price, provided no benefits have been paid; or in the event benefits have been paid, the borrower may receive a full or partial refund if the waiver so provides.

(2) In the event of a borrower's cancellation of the guaranteed asset protection waiver or early termination of the finance agreement, after the agreement has been in effect beyond the free look period, the borrower may be entitled to a refund of any unearned portion of the purchase price of the waiver unless the waiver provides otherwise. In order to receive a refund, the borrower, in accordance with any applicable terms of the waiver, must provide a written request to the creditor, administrator or other party within 90 days after the borrower's decision to cancel the waiver or the occurrence of the event terminating the finance agreement.

(3) If the cancellation of a guaranteed asset protection waiver occurs as a result of a default under the finance agreement or the repossession of the motor vehicle associated with the finance agreement, or any other termination of the finance agreement, any refund due may be paid directly to the creditor or administrator and applied as set forth in paragraph (1) herein.

(4) Any cancellation refund under paragraphs (1), (2), or (3) herein may be applied by the creditor as a reduction of the amount owed under the finance agreement unless the borrower can show that the finance agreement has been paid in full.

Cite as Ga. Comp. R. & Regs. R. 120-2-102-.07
Authority: O.C.G.A. Sec. 33-2-9 and O.C.G.A. Chapter 33-63.
History. Original Rule entitled "Cancellation Conditions" adopted. F. Apr. 17, 2013; eff. May 7, 2013.

Rule 120-2-102-.08. Exemptions.

Subsection (c) of O.C.G.A. Section 33-63-4 and O.C.G.A. Code Sections 33-63-6 and 33-63-9 shall not be applicable to a guaranteed asset protection waiver offered in connection with a lease or retail installment sale associated with a commercial transaction.

A retail installment seller shall not be required to insure a guaranteed asset protection waiver in connection with the sale of a motor vehicle if the retail installment seller does both of the following:

(1) Maintains, or has a parent company that maintains, a net worth or stockholders' equity of at least $50 million, provided the parent company guarantees the obligations of the retail installment seller arising from guaranteed asset protection waivers underwritten pursuant to this subsection; and

(2) Files a copy of its Form 10-K or Form 20-F disclosure statements, or, if it does not file with the United States Securities and Exchange Commission, a copy of its audited financial statements reported on generally accepted accounting principles. If the retail

installment seller's financial statements are consolidated with those of its parent company, then the retail installment seller may comply with the provisions of this paragraph by filing the statements of its parent company. The statement shall be filed with the Commissioner at least 30 days prior to the retail installment seller's initial offering or delivering a guaranteed asset protection waiver, and thereafter the statement shall be filed with the Commissioner annually.

Cite as Ga. Comp. R. & Regs. R. 120-2-102-.08
Authority: O.C.G.A. Sec. 33-2-9 and O.C.G.A. Chapter 33-63.
History. Original Rule entitled "Exemptions" adopted. F. Apr. 17, 2013; eff. May 7, 2013.

Rule 120-2-102-.09. Penalties.

The Commissioner of Insurance may take action which is necessary or appropriate to enforce the provisions of this chapter and to protect guaranteed asset protection waiver holders in this state. After proper notice and opportunity for hearing the Commissioner may:

(1) Order the creditor, administrator, or any other person not in compliance with this chapter to cease and desist from further guaranteed asses protection waiver related operations which are in violation of this chapter; and

(2) Issue a penalty of not more than $500.00 per violation and not more than $10,000.00 in the aggregate for all violations of a similar nature. For purposes of this paragraph, violations are of a similar nature if the violations consist of the same or similar courses of conduct, action, or practice, irrespective of the number of times the conduct, action, or practice occurred.

Cite as Ga. Comp. R. & Regs. R. 120-2-102-.09
Authority: O.C.G.A. Sec. 33-2-9 and O.C.G.A. Chapter 33-63.
History. Original Rule entitled "Penalties" adopted. F. Apr. 17, 2013; eff. May 7, 2013.

Rule 120-2-102-.10. 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 this regulation or the applicability of such provision to other persons or circumstances shall not be affected.

Cite as Ga. Comp. R. & Regs. R. 120-2-102-.10
Authority: O.C.G.A. Sec. 33-2-9 and O.C.G.A. Chapter 33-63.
History. Original Rule entitled "Severability" adopted. F. Apr. 17, 2013; eff. May 7, 2013.

Subject 120-2-103. CERTIFICATES OF INSURANCE.

Rule 120-2-103-.01. Statutory Authority.

This regulation is made and promulgated by the Insurance Commissioner pursuant to the authority set forth in Code Sections 33-2-9 and 33-24-19.1(p).

Cite as Ga. Comp. R. & Regs. R. 120-2-103-.01
Authority: O.C.G.A. § 33-2-9 and 33-24-19.1(b).
History. Original Rule entitled "Statutory Authority" adopted. F. May 6, 2013; eff. May 26, 2013.

Rule 120-2-103-.02. Purpose.

The purpose of this regulation is to establish guidelines, procedures and best business practices for the issuance and delivery of property and casualty certificates of insurance in the State of Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-2-103-.02
Authority: O.C.G.A. § 33-2-9 and 33-24-19.1(b).
History. Original Rule entitled "Purpose" adopted. F. May 6, 2013; eff. May 26, 2013.

Rule 120-2-103-.03. Applicability.

This regulation shall apply to all certificate holders, policyholders, insurers, insurance producers, and certificate of insurance forms issued as evidence of insurance coverages on property, operations or risks located in this state, regardless of where the certificate holder, policyholder, insurer or insurance producer is located.

Cite as Ga. Comp. R. & Regs. R. 120-2-103-.03
Authority: O.C.G.A. § 33-2-9 and 33-24-19.1(b).
History. Original Rule entitled "Applicability" adopted. F. May 6, 2013; eff. May 26, 2013.

Rule 120-2-103-.04. Definitions.

For the purpose of this regulation:

(1) "Certificate" or "certificate of insurance" means any document or instrument, no matter how titled or described, which is prepared or issued by an insurer or insurance producer as evidence of property or casualty insurance coverage. "Certificate" or "certificate of insurance" shall not include a policy of insurance, policy endorsement or insurance binder, including any policy of insurance which may be referred to as a certificate, or any insurance information card or identification card issued in conjunction with a motor vehicle insurance policy.

(2) "Certificate holder" means any person, other than a policyholder, who requests, obtains, or possesses a certificate of insurance.

(3) "Commissioner" means the Commissioner of Insurance for the State of Georgia.

(4) "Insurance Producer" means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(5) "Insurer" means any person engaged as indemnitor, surety, or contractor who issues insurance as defined by Code Sections 33-7-3 and 33-7-6. Insurer shall not mean any offering of accident, sickness, or disability insurance by a fraternal benefit society, as provided under Code Section 33-15-60; nonprofit medical service corporations, as provided under Chapters 18 and 19 of Title 33; health care plans, as provided under Chapter 20 of Title 33; health maintenance organization, as provided under Chapter 21 of Title 33; any provisions of accident and sickness insurance policies generally, as provided under Code Sections 33-24-20 through 33-24-31; individual accident and sickness insurance, as provided under Chapter 29 of Title 33; or group or blanket accident and sickness insurance, as provided under Chapter 30 of Title 33.

(6) "Person" means any individual, partnership, corporation, association, or other legal entity, including any government or governmental subdivision or agency.

(7) "Policyholder" means a person who has contracted with a property and casualty insurer for insurance coverages.

Cite as Ga. Comp. R. & Regs. R. 120-2-103-.04
Authority: O.C.G.A. § 33-2-9 and 33-24-19.1(b).
History. Original Rule entitled "Definitions" adopted. F. May 6, 2013; eff. May 26, 2013.

Rule 120-2-103-.05. Approval of Certificates.

(1) No person, wherever located, may prepare, issue, or request the issuance of a certificate of insurance unless the form has been filed with and approved by the Commissioner. Forms shall be submitted in the same manner as any other form filing through the SERFF filing system with applicable filing fees submitted electronically. Only insurers may file certificates for approval.

(2) Only current certificate of insurance forms promulgated by the Association of Cooperative Operations Research and Development (ACORD) or the Insurance Services Office (ISO) are deemed approved by the Commissioner and are not required to be filed if the forms otherwise comply with the requirements of this regulation and Code Section 33-24-19.1. Superseded editions of ACORD and ISO certificate of insurance forms shall also be deemed approved, however, as long as ACORD and ISO permit their use during periods of transition.

(3) The Commissioner shall disapprove a certificate filed under Rule and Regulation 120-2-103-.04 or withdraw approval of a form, if the form:

(a) is unjust, unfair, misleading, or deceptive or violates public policy;

(b) fails to comply with the requirements of section (4) of this Section;

(c) violates any law, including any regulation adopted by the Commissioner.

(4) Each certificate of insurance must contain the following or similar statement: **"This certificate of insurance is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage, terms exclusions and conditions afforded by the policies referenced herein."**

(5) The Commissioner has authority and may approve a certificate filed under this section which does not state that the form is provided for informational purposes only, if such form contains at a minimum the following statement: **"This certificate of insurance does not amend, extend, or alter the coverage, terms, exclusions, and conditions afforded by the policies referenced herein."** Forms filed under this provision shall state the limited use of the form and the insurer and producer shall only use the form for those stated and approved situations. The limited use provision may include, but not be limited to, mortgagee requirements or lending transactions. Any person requiring or using the limited use certificate outside of its intended use as stated in the filing by the insurer shall be subject to the penalty provisions of this regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-103-.05
Authority: O.C.G.A. § 33-2-9 and 33-24-19.1(b).
History. Original Rule entitled "Approval of Certificates" adopted. F. May 6, 2013; eff. May 26, 2013.

Rule 120-2-103-.06. Requirements.

Insurers shall provide to their producers written instructions clearly outlining the insurer's procedures and each party's responsibilities for issuing and servicing certificates. These instructions shall include but not be limited to:

(a) The procedure for issuing notice of cancellation to certificate holders when such notice is required by the insurance contract or statute.

(b) The procedure for retaining copies of all certificates issued by or on the behalf of the insurer by the producer. Retention or providing of copies may be done electronically.

(c) The procedure to monitor certificates to ensure they have been issued in compliance with the insurer's procedures, applicable statute and this regulation.

Cite as Ga. Comp. R. & Regs. R. 120-2-103-.06
Authority: O.C.G.A. § 33-2-9 and 33-24-19.1(b).
History. Original Rule entitled "Requirements" adopted. F. May 6, 2013; eff. May 26, 2013.

Rule 120-2-103-.07. Prohibited Practices.

(1) No person, wherever located, shall demand or request the issuance of a certificate of insurance from an insurer, insurance producer, or policyholder that contains any false or misleading information, or which purports to affirmatively or negatively amend, extend, modify or alter in any way the coverage or any other term or condition concerning the policy of insurance to which the certificate makes reference. A certificate of insurance shall not confer to a certificate holder new or additional rights beyond what the referenced policy expressly provides.

(2) No certificate of insurance shall contain references to or language from a construction or service contract, other than that referenced in the contract of insurance. The certificate may contain a reference or contract number from the construction or service contract for identification purposes only. This may include but not be limited to project number, project name, project description or a general description of work to be performed. Nothing in the certificate can refer to any language or contents in the construction or service contracts.

(3) Neither an insurer nor a producer shall be required to issue an opinion letter or other document in addition to or in lieu of a certificate of insurance. If any opinion letter or other such document is issued, however, it must meet the provisions of this regulation and Code Section 33-24-19.1. Insurers and producers may provide the certificate holder with the certificate and an actual copy of the policy, insurance binder or relevant policy provision to demonstrate contractual compliance.

Cite as Ga. Comp. R. & Regs. R. 120-2-103-.07
Authority: O.C.G.A. § 33-2-9 and 33-24-19.1(b).
History. Original Rule entitled "Prohibited Practices" adopted. F. May 6, 2013; eff. May 26, 2013.
Note: Correction of typographical error in paragraph (1) as submitted by the Agency on August 14, 2017, partial sentence (*"No person, wherever located, shall demand or request the issuance of a certificate of"*) deleted and paragraph (1) in its entirety added as originally filed. Effective August 14, 2017.

Rule 120-2-103-.08. Penalties.

Any person, no matter where located, who commits a violation of this regulation or requests information to be provided which is in conflict with this regulation may be subject to a fine not to exceed $5,000 per violation.

Cite as Ga. Comp. R. & Regs. R. 120-2-103-.08
Authority: O.C.G.A. § 33-2-9 and 33-24-19.1(b).

History. Original Rule entitled "Penalties" adopted. F. May 6, 2013; eff. May 26, 2013.

Rule 120-2-103-.09. Severability.

If any rule or portion of a rule in this chapter or the applicability thereof to any particular circumstances is held invalid by a court of competent jurisdiction, the remainder of the rules or the applicability of such provision to other persons or circumstances shall not be affected.

Cite as Ga. Comp. R. & Regs. R. 120-2-103-.09
Authority: O.C.G.A. § 33-2-9 and 33-24-19.1(b).
History. Original Rule entitled "Severability" adopted. F. May 6, 2013; eff. May 26, 2013.

Subject 120-2-104. PREMIUM RATES AND PATIENT PROTECTION AND AFFORDABLE CARE ACT.

Rule 120-2-104-.01. Statutory Authority.

This chapter is made and promulgated by the Insurance Commissioner pursuant to O.C.G.A. Sections 33-2-9, 33-29-22, and 33-30-13.

Cite as Ga. Comp. R. & Regs. R. 120-2-104-.01
Authority: O.C.G.A. Sections 33-2-9, 33-29-22, and 33-30-13.
History. Original Rule entitled "Statutory Authority" adopted. F. Sep. 6, 2013; eff. Sep. 26, 2013.

Rule 120-2-104-.02. Purpose and Interpretation.

The purpose of this chapter is to inform the public about the correlation between anticipated health insurance premium rate increases and the Patient Protection and Affordable Care Act ("PPACA"). Nothing in this chapter prohibits an insurer from disclosing to a consumer as a part of its notice a summary of the changes created by PPACA, including enhanced minimum benefits or the possible cost-shifting components of PPACA.

Cite as Ga. Comp. R. & Regs. R. 120-2-104-.02
Authority: O.C.G.A. Section 33-2-9.
History. Original Rule entitled "Purpose and Interpretation" adopted. F. Sep. 6, 2013; eff. Sep. 26, 2013.

Rule 120-2-104-.03. Individual Accident and Sickness Policies.

(a) Notice of any premium increase shall be mailed or delivered to each holder of an individual accident and sickness insurance policy not less than 60 days prior to the effective date of such increase.

(b) Concurrently with any notice of premium increase or offer of new coverage because of discontinuance or termination of an existing plan of coverage, an insurer shall provide an estimate as to the amount or percentage of any premium increase which is attributable to the PPACA. Such notices shall include the following statement: "These increases are due to the federal Patient Protection and Affordable Care Act and not the enactment of any laws or regulations of the Governor of Georgia, the Georgia General Assembly, or the Georgia Department of Insurance."

(c) When determining estimates of the amount or percentage of premium increases which are attributable to the PPACA, insurers must analyze the following and may include additional relevant factors:

(1) The new taxes and fees imposed under PPACA;

(2) Policies being guaranteed issue with modified community rating;

(3) The Essential Health Benefits;

(4) The age rating bands;

(5) The effect of a 70% actuarial value (out-of-pocket limit impact factored);

(6) The impact of the individual mandate on the risk pool;

(7) The impact of subsidies on the risk pool; and

(8) The impact of the risk adjustment and reinsurance mechanisms in PPACA.

(d) Each insurer shall perform an analysis of rate impact upon comprehensive or major medical health coverage according to the following conditions:

(1) Each insurer shall estimate the average premium impact upon a 21 year old, 40 year old, and 60 year old male and female; and

(2) When determining the average premium impact on each of the individuals listed in subparagraph (1) of paragraph (d), an insurer may use as a basis:

(i) A product similar to the one owned by the recipient of the notice;

(ii) Each type of product sold by the company in the individual market; or

(iii) The most common policy sold in the individual market.

(e) Each disclosure shall be in a form compliant with the following conditions:

(1) An itemized estimate is not required for each factor listed in subparagraphs (1) through (8) of paragraph (c). However, each estimate shall, at a minimum, incorporate the applicable factors listed in that section;

(2) A notice may show an estimate for each average individual in subparagraph (1) of paragraph (d) or it may include only the age range closest to the recipient;

(3) Each estimate may be displayed in a range based upon the company's estimates; and

(4) A notice may use as a basis a product identified by items (i), (ii), or (iii) of subparagraph (2) of paragraph (d) provided that:

(i) If a notice uses as a basis the products identified by item (ii) of subparagraph (2) of paragraph (d), then an estimate must be provided for each of those products; and

(ii) If a notice uses as a basis the products identified by item (iii) of subparagraph (2) of paragraph (d), then such notice shall include a web address where the recipient can go to the insurer's website to view the disclosure information for each product listed in item (ii) subparagraph (2) of paragraph (d).

Cite as Ga. Comp. R. & Regs. R. 120-2-104-.03
Authority: O.C.G.A. Sections 33-2-9 and 33-29-22.
History. Original Rule entitled "Individual Accident and Sickness Policies" adopted. F. Sep. 6, 2013; eff. Sep. 26, 2013.

Rule 120-2-104-.04. Small Group Accident and Sickness Policies.

(a) Notice of the maximum amount of a group premium increase shall be mailed or delivered to the group policyholder and to each employer group or subgroup insured under the group policy not less than 60 days prior to the effective date of such increase.

(b) Concurrently with any notice of premium increase or offer of new coverage because of discontinuance or termination of an existing plan of coverage, an insurer shall provide an estimate as to the amount or percentage of any premium increase which is attributable to the Patient Protection and Affordable Care Act. Such notices shall include the following statement: "These increases are due to the federal Patient Protection and Affordable Care Act and not the enactment of any laws or regulations of the Governor of Georgia, the Georgia General Assembly, or the Georgia Department of Insurance."

(c) When determining estimates of the amount or percentage of premium increases which are attributable to PPACA, insurers must analyze the following but may analyze additional relevant factors:

(1) Policies being issued using modified community rating;

(2) The Essential Health Benefits;

(3) The effect of a 70 percent actuarial value; and

(4) Taxes and fees;

(d) Each insurer shall perform an analysis of rate impact upon comprehensive or major medical health coverage according to the following conditions:

(1) Each insurer shall estimate the average premium impact upon the average small group;

(2) When determining the average premium impact on each small group listed in subparagraph (1) of paragraph (d), an insurer may use as a basis:

(i) A product similar to the one owned by the recipient of the notice;

(ii) Each type of product sold by the company in the small group market; or

(iii) The company's most common policy sold in the small group market.

(e) Each disclosure shall be in a form compliant with the following conditions:

(1) An itemized estimate is not required for each factor listed in subparagraph (1) through (4) of paragraph (c). However, each estimate shall, at a minimum, incorporate the applicable factors listed in that section.

(2) Each estimate may be displayed in a range based upon the company's estimates; and

(3) A notice may use as a basis a product identified by items (i), (ii), or (iii) of subparagraph (2) of paragraph (d) provided that:

(i) If a notice uses as a basis the products identified by item (ii) of subparagraph (2) of paragraph (d), then an estimate must be provided for each of those products; and

(ii) If a notice uses as a basis the products identified by item (iii) of subparagraph (2) of paragraph (d), then such notice shall include a web address where the recipient can go to the insurer's website to view the disclosure information for each product listed in item (ii) subparagraph (2) of paragraph (d).

Cite as Ga. Comp. R. & Regs. R. 120-2-104-.04
Authority: O.C.G.A. Sections 33-2-9 and 33-33-30-13.
History. Original Rule entitled "Small Group Accident and Sickness Policies" adopted. F. Sep. 6, 2013; eff. Sep. 26,

2013.

Rule 120-2-104-.05. Severability.

If any rule or portion of a rule in this chapter or the applicability thereof to any particular circumstances is held invalid by a court of competent jurisdiction, the remainder of the rules or the applicability of such provision to other persons or circumstances shall not be affected.

Cite as Ga. Comp. R. & Regs. R. 120-2-104-.05
Authority: O.C.G.A. Sections 33-2-9.
History. Original Rule entitled "Severability" adopted. F. Sep. 6, 2013; eff. Sep. 26, 2013.

Rule 120-2-104-.06. Repeal of Chapter.

This chapter shall stand repealed on December 31, 2014.

Cite as Ga. Comp. R. & Regs. R. 120-2-104-.06
Authority: O.C.G.A. Sections 33-2-9, 33-29-22, and 33-30-13.
History. Original Rule entitled "Repeal of Chapter" adopted. F. Sep. 6, 2013; eff. Sep. 26, 2013.

Subject 120-2-105. CORPORATE GOVERNANCE ANNUAL DISCLOSURE.

Rule 120-2-105-.01. Authority.

These regulations are promulgated pursuant to the authority granted by O.C.G.A. §§ 33-2-9 and 33-65-4.

Cite as Ga. Comp. R. & Regs. R. 120-2-105-.01
Authority: O.C.G.A. §§ 33-2-9, 33-65-4.
History. Original Rule entitled "Authority" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-105-.02. Purpose.

The purpose of these regulations are to set forth the procedures for filing and the required contents of the Corporate Governance Annual Disclosure ("CGAD"), deemed necessary by the Commissioner to carry out the provisions of O.C.G.A. § 33-65-1*et seq*.

Cite as Ga. Comp. R. & Regs. R. 120-2-105-.02
Authority: O.C.G.A. §§ 33-2-9, 33-65-4.
History. Original Rule entitled "Purpose" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-105-.03. Definitions.

When used in this regulation, the term:

(a) "Commissioner" means the Insurance Commissioner of the State of Georgia.

(b) "Insurance group" means those insurers and affiliates included within an insurance holding company system as defined in paragraph (5) of Code Section 33-13-1.

(c) "Insurer" has the same meaning as set forth in Code Section 33-1-2, except that it shall not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

(d) "Senior Management" means any corporate officer responsible for reporting information to the board of directors at regular intervals or providing this information to shareholders or regulators and shall include, for example and without limitation, the Chief Executive Officer ("CEO"), Chief Financial Officer ("CFO"), Chief Operations Officer ("COO"), Chief Procurement Officer ("CPO"), Chief Legal Officer ("CLO"), Chief Information Officer ("CIO"), Chief Technology Officer ("CTO"), Chief Revenue Officer ("CRO"), Chief Visionary Officer ("CVO"), or any other "C" level executive.

Cite as Ga. Comp. R. & Regs. R. 120-2-105-.03
Authority: O.C.G.A. §§ 33-2-9, 33-65-4.
History. Original Rule entitled "Definitions" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-105-.04. Filing Procedures.

(a) An insurer, or the insurance group of which the insurer is a member, required to file a CGAD by Code Section 33-65-1*et seq.*, shall, no later than June 1 of each calendar year, submit to the Commissioner a CGAD that contains the information described in Rule 120-2-105-.05.

(b) The CGAD must include a signature of the insurer's or insurance group's chief executive officer or corporate secretary attesting to the best of that individual's belief and knowledge that the insurer or insurance group has implemented the corporate governance practices and that a copy of the CGAD has been provided to the insurer's or insurance group's Board of Directors ("Board") or the appropriate committee thereof.

(c) The insurer or insurance group shall have discretion regarding the appropriate format for providing the information required by these regulations and is permitted to customize the CGAD to provide the most relevant information necessary to permit the Commissioner to gain an understanding of the corporate governance structure, policies and practices utilized by the insurer or insurance group.

(d) For purposes of completing the CGAD, the insurer or insurance group may choose to provide information on governance activities that occur at the ultimate controlling parent level, an intermediate holding company level and/or the individual legal entity level, depending upon how the insurer or insurance group has structured its system of corporate governance. The insurer or insurance group is encouraged to make the CGAD disclosures at the level at which the insurer's or insurance group's risk appetite is determined, or at which the earnings, capital, liquidity, operations, and reputation of the insurer are overseen collectively and at which the supervision of those factors are coordinated and exercised, or the level at which legal liability for failure of general corporate governance duties would be placed. If the insurer or insurance group determines the level of reporting based on these criteria, it shall indicate which of the three criteria was used to determine the level of reporting and explain any subsequent changes in level of reporting.

(e) Notwithstanding (a) above, and as outlined in Code Section 33-65-3, if the CGAD is completed at the insurance group level, then it must be filed with the lead state of the group as determined by the procedures outlined in the most recent Financial Analysis Handbook adopted by the NAIC. In these instances, a copy of the CGAD must also be provided to the chief regulatory official of any state in which the insurance group has a domestic insurer, upon request.

(f) An insurer or insurance group may comply with this section by referencing other existing documents (*e.g.*, ORSA Summary Report, Holding Company Form B or F Filings, Securities and Exchange Commission ("SEC") Proxy Statements, foreign regulatory reporting requirements, etc.) if the documents provide information that is comparable to the information described in Rule 120-2-105-.05. The insurer or insurance group shall clearly reference the location of the relevant information within the CGAD and attach the referenced document if it is not already filed or available to the regulator.

(g) Each year following the initial filing of the CGAD, the insurer or insurance group shall file an amended version of the previously filed CGAD indicating where changes have been made. If no changes were made in the information or activities reported by the insurer or insurance group, the filing should so state.

Cite as Ga. Comp. R. & Regs. R. 120-2-105-.04
Authority: O.C.G.A. §§ 33-2-9, 33-65-4.
History. Original Rule entitled "Filing Procedures" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-105-.05. Contents of Corporate Governance Annual Disclosure.

(a) The insurer or insurance group shall be as descriptive as possible in completing the CGAD, with inclusion of attachments or example documents that are used in the governance process, since these may provide a means to demonstrate the strengths of their governance framework and practices.

(b) The CGAD shall describe the insurer's or insurance group's corporate governance framework and structure including consideration of the following:

(1) The Board and various committees thereof ultimately responsible for overseeing the insurer or insurance group and the level(s) at which that oversight occurs (*e.g.*, ultimate control level, intermediate holding company, legal entity, etc.). The insurer or insurance group shall describe and discuss the rationale for the current Board size and structure; and

(2) The duties of the Board and each of its significant committees and how they are governed (*e.g.*, bylaws, charters, informal mandates, etc.), as well as how the Board's leadership is structured, including a discussion of the roles of CEO and Chairman of the Board within the organization.

(c) The insurer or insurance group shall describe the policies and practices of the most senior governing entity and significant committees thereof, including a discussion of the following factors:

(1) How the qualifications, expertise and experience of each Board member meet the needs of the insurer or insurance group.

(2) How an appropriate amount of independence is maintained on the Board and its significant committees.

(3) The number of meetings held by the Board and its significant committees over the past year as well as information on director attendance.

(4) How the insurer or insurance group identifies, nominates and elects members to the Board and its committees. The discussion should include, for example:

(a) Whether a nomination committee is in place to identify and select individuals for consideration.

(b) Whether term limits are placed on directors.

(c) How the election and re-election processes function.

(d) Whether a Board diversity policy is in place and if so, how it functions.

(5) The processes in place for the Board to evaluate its performance and the performance of its committees, as well as any recent measures taken to improve performance (including any Board or committee training programs that have been put in place).

(d) The insurer or insurance group shall describe the policies and practices for directing Senior Management, including a description of the following factors:

(1) Any processes or practices (*i.e.*, suitability standards) to determine whether officers and key persons in control functions have the appropriate background, experience and integrity to fulfill their prospective roles, including:

(a) Identification of the specific positions for which suitability standards have been developed and a description of the standards employed.

(b) Any changes in an officer's or key person's suitability as outlined by the insurer's or insurance group's standards and procedures to monitor and evaluate such changes.

(2) The insurer's or insurance group's code of business conduct and ethics, the discussion of which considers, for example:

(a) Compliance with laws, rules, and regulations; and

(b) Proactive reporting of any illegal or unethical behavior.

(3) The insurer's or insurance group's processes for performance evaluation, compensation and corrective action to ensure effective senior management throughout the organization, including a description of the general objectives of significant compensation programs and what the programs are designed to reward. The description shall include sufficient detail to allow the Commissioner to understand how the organization ensures that compensation programs do not encourage and/or reward excessive risk taking. Elements to be discussed may include, for example:

(a) The Board's role in overseeing management compensation programs and practices;

(b) The various elements of compensation awarded in the insurer's or insurance group's compensation programs and how the insurer or insurance group determines and calculates the amount of each element of compensation paid;

(c) How compensation programs are related to both company and individual performance over time;

(d) Whether compensation programs include risk adjustments and how those adjustments are incorporated into the programs for employees at different levels;

(e) Any clawback provisions built into the programs to recover awards or payments if the performance measures upon which they are based are restated or otherwise adjusted; and

(f) Any other factors relevant in understanding how the insurer or insurance group monitors its compensation policies to determine whether its risk management objectives are met by incentivizing its employees.

(4) The insurer's or insurance group's plans for CEO and Senior Management succession.

(e) The insurer or insurance group shall describe the processes by which the Board, its committees and Senior Management ensure an appropriate amount of oversight to the critical risk areas impacting the insurer's business activities, including a discussion of:

(1) How oversight and management responsibilities are delegated between the Board, its committees and Senior Management;

(2) How the Board is kept informed of the insurer's strategic plans, the associated risks, and steps that Senior Management is taking to monitor and manage those risks;

(3) How reporting responsibilities are organized for each critical risk area. The description should allow the Commissioner to understand the frequency at which information on each critical risk area is reported to and reviewed by Senior Management and the Board. This description may include, for example, the following critical risk areas of the insurer:

(a) Risk management processes (An ORSA Summary Report filer may refer to its ORSA Summary Report pursuant to the Risk Management and Own Risk and Solvency Assessment Model Act);

(b) Actuarial function;

(c) Investment decision-making processes;

(d) Reinsurance decision-making processes;

(e) Business strategy/finance decision-making processes;

(f) Compliance function;

(g) Financial reporting/internal auditing; and

(h) Market conduct decision-making processes.

Cite as Ga. Comp. R. & Regs. R. 120-2-105-.05
Authority: O.C.G.A. §§ 33-2-9, 33-65-4.
History. Original Rule entitled "Contents of Corporate Governance Annual Disclosure" adopted. F. Dec. 13, 2019;

eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-2-105-.06. Severability Clause.

If any provision of these regulations, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of these regulations which can be given effect without the invalid provision or application, and to that end the provisions of these regulations are severable.

Cite as Ga. Comp. R. & Regs. R. 120-2-105-.06
Authority: O.C.G.A. §§ 33-2-9, 33-65-4.
History. Original Rule entitled "Severability Clause" adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Subject 120-2-106. SURPRISE BILLING.

Rule 120-2-106-.01. Authority.

This Regulation is promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. §§ 33-2-9 and O.C.G.A §§ 33-20E.

Cite as Ga. Comp. R. & Regs. R. 120-2-106-.01
Authority: O.C.G.A. §§ 33-2-9, 33-20E.
History. Original Rule entitled "Authority" adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Rule 120-2-106-.02. Scope and Purpose.

This Regulation is made pursuant to the "Surprise Billing Consumer Protection Act," which was passed to provide a mechanism to resolve billing and payment disputes between insurers and out-of-network providers. It will also establish a fair and equitable arbitration process to handle such disputes. This Regulation applies only to "healthcare plans" and "state healthcare plans," as defined in this Regulation. Nothing in this Regulation shall reduce a covered person's financial responsibilities concerning ground ambulance transportation. Failure of an insurer to comply with the provisions of Chapter 20E of Title 33 shall be deemed an unfair trade practice as defined in 33-6-4.

Cite as Ga. Comp. R. & Regs. R. 120-2-106-.02
Authority: O.C.G.A. §§ 33-2-9, 33-20E.
History. Original Rule entitled "Scope and Purpose" adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Rule 120-2-106-.03. Definitions.

For the purposes of this Regulation, the following definitions apply:

(1) "Balance bill" means the amount that a non-participating provider charges for services provided to a covered person. Such amount equals the difference between the amount paid or offered by the insurer and the amount of the non-participating provider's bill charge but shall not include any amount for coinsurance, copayments, or deductibles due by the covered person.

(2) "Contracted amount" means the median in-network amount paid during the 2017 calendar year by an insurer for the emergency or non-emergency services provided by in-network providers engaged in the same or similar specialties and provided in the same or nearest geographical area. The Department shall annually adjust such amount for inflation, which may be based on the Consumer Price Index, and shall not include Medicare or Medicaid rates.

(3) "Covered person" means an individual who is insured under a healthcare plan.

(4) "Emergency medical provider" means any physician licensed by the Georgia Composite Medical Board who provides emergency medical services and any other healthcare provider licensed or otherwise authorized in this state to render emergency medical services.

(5) "Emergency medical services" means medical services rendered after the recent onset of a medical or traumatic condition, sickness, or injury exhibiting acute symptoms of sufficient severity, including, but not limited to, severe pain, that would lead a prudent layperson possessing an average knowledge of medicine and health to believe that his or her condition, sickness, or injury is of such a nature that failure to obtain immediate medical care could result in:

(a) Placing the patient's health in serious jeopardy;

(b) Serious impairment to bodily functions;

(c) Serious dysfunction of any bodily organ or part.

(6) "Facility" means a hospital, an ambulatory surgical treatment center, birthing center, diagnostic and treatment center, hospice, or similar institution.

(7) "Geographic area" is defined as one of 16 Geo Rating Areas established for ACA purposes by use of Georgia Standardized Metropolitan Statistical Areas, expanded by contiguous counties and which has been in required use by Georgia insurers since 2014.

(8) "Healthcare plan" means any hospital or medical insurance policy or certificate, healthcare plan contract or certificate, qualified higher deductible health plan, health maintenance organization or other managed care subscriber contract, or state healthcare plan. This term shall not include limited benefit insurance policies or plans listed under paragraph (3) of Code Section 33-1-2, air ambulance insurance, or policies issued in

accordance with Chapter 21A or 31 of this title or Chapter 9 of Title 34, relating to workers' compensation, Part A, B, C, or D of Title XVIII of the Social Security Act (Medicare), or any plan or program not described in this paragraph over which the Commissioner does not have regulatory authority. Notwithstanding paragraph (3) of Code Section 33-1-2 and any other provision of this title, this chapter this term shall include stand-alone dental insurance and stand-alone vision insurance for purposes of this chapter.

(9) "Healthcare provider" or "provider" means any physician, other individual, or facility other than a hospital licensed or otherwise authorized in this state to furnish healthcare services, including, but not limited to, any dentist, podiatrist, optometrist, psychologist, clinical social worker, advanced practice registered nurse, registered optician, licensed professional counselor, physical therapist, marriage and family therapist, chiropractor, athletic trainer qualified pursuant to Code Section 43-5-8, occupational therapist, speech-language pathologist, audiologist, dietitian, or physician assistant.

(10) "Healthcare services" means emergency or non-emergency medical services.

(11) "Insurer" means an entity subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the Commissioner, that contracts, offers to contract, or enters into an agreement to provide, deliver, arrange for, pay for, or reimburse any of the costs of healthcare services, including those of an accident and sickness insurance company, a health maintenance organization, a healthcare plan, a managed care plan, or any other entity providing a health insurance plan, a health benefit plan, or healthcare services.

(12) "Median" means the middle number of a sorted list of reimbursement amounts paid to in-network providers or facilities with respect to a specific emergency or non-emergency medical service, with each paid claim amount separately represented on the list, arranged in order from least to greatest. If there is an even number of items in the sorted list of paid claim amounts, the median is found by taking the average of the two middlemost numbers. The calculated median paid amount shall include copayment, coinsurance, and deductible as applicable and shall exclude claims in which the insurer is not the primary payer.

(13) "Non-emergency medical services" means the examination or treatment of persons for the prevention of illness or the correction or treatment of any physical or mental condition resulting from an illness, injury, or other human physical problem which does not qualify as an emergency medical service and includes, but is not limited to:

(a) Hospital services which include the general and usual care, services, supplies, and equipment furnished by hospitals;

(b) Medical services which include the general and usual care and services rendered and administered by doctors of medicine, dentistry, optometry, and other providers; and

(c) Other medical services which, by way of illustration only and without limiting the scope of this chapter, include the provision of appliances and supplies; nursing care by a registered nurse; institutional services, including the general and usual care, services, supplies, and equipment furnished by healthcare institutions and agencies or entities other than hospitals; physiotherapy; drugs and medications; therapeutic services and equipment, including oxygen and the rental of oxygen equipment; hospital beds; iron lungs; orthopedic services and appliances, including wheelchairs, trusses, braces, crutches, and prosthetic devices, including artificial limbs and eyes; and any other appliance, supply, or service related to healthcare which does not qualify as an emergency medical service.

(14) "Out-of-network" refers to healthcare services provided to a covered person by providers or facilities who do not belong to the provider network in the healthcare plan.

(15) "Non-participating provider" means a healthcare provider who has not entered into a contract with a healthcare plan for the delivery of medical services.

(16) "Participating provider" means a healthcare provider that has entered into a contract with an insurer for the delivery of healthcare services to covered persons under a healthcare plan.

(17) "Resolution organization" means a qualified, independent, third-party claim dispute resolution entity selected by and contracted with the Department.

(18) "State healthcare plan" means:

(a) The state employees' health insurance plan established pursuant to Article 1 of Chapter 18 of Title 45;

(b) The health insurance plan for public school teachers established pursuant to Subpart 2 of Part 6 of Article 17 of Chapter 2 of Title 20;

(c) The health insurance plan for public school employees established pursuant to Subpart 3 of Part 6 of Article 17 of Chapter 2 of Title 20; and

(d) The Regents Health Plan established pursuant to authority granted to the board pursuant to Code Sections 20-3-31, 20-3-51, and 31-2-4.

(19) "Surprise bill" means a bill resulting from an occurrence in which charges arise from a covered person receiving healthcare services from an out-of-network provider at an in-network facility.

Cite as Ga. Comp. R. & Regs. R. 120-2-106-.03
Authority: O.C.G.A. §§ 33-2-9, 33-20E.
History. Original Rule entitled "Definitions" adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Rule 120-2-106-.04. ERISA Exempt Plans.

ERISA Exempt Plans subject to the exclusive jurisdiction of federal law and rules are not eligible for review under the "Surprise Billing Consumer Protection Act."

Cite as Ga. Comp. R. & Regs. R. 120-2-106-.04
Authority: O.C.G.A. §§ 33-2-9, 33-20E.
History. Original Rule entitled "ERISA Exempt Plans" adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Rule 120-2-106-.05. Emergency Services.

(1) Insurers shall pay covered emergency medical services for covered persons regardless of whether the provider or facility is participating or non-participating in their network according to this Regulation. Such an insurer shall make such payment without prior authorization and without retrospective payment denial for emergency medical services deemed to be medically necessary.

(2) If a covered person receives emergency medical services from a non-participating provider, such person shall not be liable to the non-participating provider or facility for any amount exceeding such person's deductible, coinsurance, copayment, or other cost-sharing amount as determined by such person's policy. The amount payable by an insurer for emergency medical services paid directly to the provider shall be the greater of:

(a) The verifiable median contracted amount paid by all eligible insurers for similar services calculated by a vendor utilized and chosen by the Commissioner;

(b) The most recent verifiable amount agreed to by the insurer and the non-participating emergency medical provider for the same services during which time the provider was in-network with the insurer; (if applicable)

(c) A higher amount as the insurer may deem appropriate given the complexity and circumstances of the services provided.

Any amount payable by an insurer under this section for emergency medical services shall not include any amount of coinsurance, copayment, or deductible owed by the covered person or already paid by such person.

(3) Insurers shall not deny benefits or emergency medical services rendered based on a covered person's failure to provide subsequent notification where the insured's medical condition prevented timely notification.

(4) Emergency medical services received from non-participating providers and/or facilities shall count toward the deductible and any maximum out of pocket policy provisions as if the services were obtained from a participating provider.

(5) In cases of emergency medical services received from a non-participating facility, the facility shall bill the covered person no more than deductible, coinsurance, copayment, or other cost-sharing as determined by such person's policy.

(6) Insurer payments made to providers in this Code section shall be in accord with prompt payment requirements under 33-24-59.14. Notification should reflect whether coverage is subject to the exclusive jurisdiction of ERISA (1974), U.S.C. Sec 1001.

Cite as Ga. Comp. R. & Regs. R. 120-2-106-.05
Authority: O.C.G.A. §§ 33-2-9, 33-20E.
History. Original Rule entitled "Emergency Services" adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Rule 120-2-106-.06. Non-emergency Medical Services.

(1) If the provisions of 120-2-106.08 are met, an insurer that provides any benefits to covered persons with respect to non-emergency medical services shall pay for such services in the event that such services resulted in a surprise bill regardless of whether the healthcare provider furnishing non-emergency medical services is a participating provider with respect to non-emergency medical services.

(2) In the event a covered person receives care in a facility that generates a surprise bill for non-emergency medical services from a non-participating medical provider, the non-participating provider shall collect or bill the covered person no more than such person's deductible, coinsurance, copayment, or other cost-sharing amount as determined by such person's policy. The insurer shall directly pay such provider the greater of:

(a) The verifiable median contracted amount paid by all eligible insurers for similar services calculated by a vendor utilized and chosen by the Commissioner;

(b) The most recent verifiable amount agreed to by the insurer and the non-participating emergency medical provider for the same services during which time the provider was in-network with the insurer; (if applicable)

(c) A higher amount as the insurer may deem appropriate given the complexity and circumstances of the services provided.

Any amount that the insurer pays the non-participating provider under this subsection shall not be required to include any amount of coinsurance, copayment, or deductible owed by the covered person or already paid by such person.

(3) Non-emergency medical services received from non-participating providers and/or facilities shall count toward the deductible and any maximum out of pocket policy provisions as if the services were obtained from a participating provider.

(4) In cases of non-emergency medical services received from a non-participating facility, the facility shall bill the covered person no more than deductible, coinsurance, copayment, or other cost-sharing as determined by such person's policy.

(5) All insurer payments made to providers pursuant to this Code section shall be in accord with Code Section 33-24-59.14. Such payments shall accompany notification to the provider from the insurer disclosing whether the healthcare plan is subject to the exclusive jurisdiction of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 202 Sec. 1001, et seq.

Cite as Ga. Comp. R. & Regs. R. 120-2-106-.06
Authority: O.C.G.A. §§ 33-2-9, 33-20E.
History. Original Rule entitled "Non-emergency Medical Services" adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Rule 120-2-106-.07. Balance Billing provision for covered benefits from non-participating providers.

No healthcare plan shall deny or restrict covered benefits from a participating provider to a covered person solely because the covered person obtained treatment from a non-participating provider leading to a balance bill. Notice of such protection shall be provided in writing to the covered person by the insurer.

Cite as Ga. Comp. R. & Regs. R. 120-2-106-.07
Authority: O.C.G.A. §§ 33-2-9, 33-20E.
History. Original Rule entitled "Balance Billing provision for coverage benefits from non-participating providers" adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Rule 120-2-106-.08. Covered Person Choosing to receive Non-emergency medical Services from a non-participating provider, Referrals and Procedures.

(1) Nothing in this chapter shall reduce a covered person's financial responsibilities in the event that such covered person chose to receive non-emergency medical services from an out-of-network provider. Such services shall not be considered a surprise bill for the purpose of this chapter.

(2) The covered person's choice described in subsection (1) of this Code section must:

   (a) Be documented through such covered person's written and oral consent in advance of the provision of such services; and

   (b) Occur only after such person has been provided with an estimate of the potential charges.

(3) If during the provision of non-emergency medical services, a covered person requests that the attending provider refer such covered person to another provider for the immediate provision of additional non-emergency medical services, such referred provider shall be exempt from the requirements in subsection (b) of this Code section if the following requirements are satisfied:

(a) The referring provider advises the covered person that the referred provider may be a non-participating provider and may charge higher fees than a participating provider;

(b) The covered person orally and in writing acknowledges that he or she is aware that the referred provider may be a non-participating provider and may charge higher fees than a participating provider;

(c) The written acknowledgment referenced in paragraph (2) of this subsection shall be on a document separate from other documents provided by the referring provider and shall include language to be determined by the Commissioner (Appendix A) and Regulation; and

(d) The referring provider records the satisfaction of the requirements in paragraphs (1), (2), and (3) of this subsection in the covered person's medical file.

Cite as Ga. Comp. R. & Regs. R. 120-2-106-.08
Authority: O.C.G.A. §§ 33-2-9, 33-20E.
History. Original Rule entitled "Covered Person Choosing to receive Non-emergency medical Services from a non-participating provider, Referrals and Procedures" adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Rule 120-2-106-.09. Claims Database.

Pursuant to O.C.G.A 33-20E-8 (a) appropriations for an all claims database were not provided, and subsection (b) of O.C.G.A 33-20E-8 will be triggered. The Department will utilize a verifiable median contracted amount paid by all eligible insurers for similar services calculated by a vendor utilized and chosen by the Commissioner.

Cite as Ga. Comp. R. & Regs. R. 120-2-106-.09
Authority: O.C.G.A. §§ 33-2-9, 33-20E.
History. Original Rule entitled "Claims Database" adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Rule 120-2-106-.10. Arbitration.

(1) If an out-of-network provider concludes that payment received from an insurer pursuant to regulation 120-2-106-.05 or 120-2-106-.06 is not sufficient given the complexity and

circumstances of the services provided. Or, if an out-of-network facility concludes that payment received from an insurer pursuant to Regulation 120-2-106-.05 concludes the same, a request for arbitration with the Commissioner may be initiated. A request for arbitration must be submitted within 30 days of receipt of payment for the claim and concurrently provide the insurer with a copy of such request.

(2) All arbitration requests must be submitted to the Administrative Procedure Division of the Office of Insurance and Safety Fire Commissioner.

(3) Within 30 days of the insurer's receipt of a provider's or facility's request for arbitration, the insurer must submit to the Administrative Procedure Division all data necessary to determine whether the insurer's payment to such provider or facility complied with regulations 120-2-106-.05 or 120-2-106-.06.

(4) The Commissioner will dismiss specific arbitration requests if the disputed claim meets certain criteria laid out in O.C.G.A. § 33-20E-10 or in Rule 120-2-106-.08. Should an insurer believe one of these criteria is present, they should submit the appropriate data they believe supports this contention. Should the Commissioner dismiss a claim for meeting one of the criteria in O.C.G.A. § 33-20E-10, the provider or facility may request a hearing under the rules contained in Regulation 120-2-2.

(5) Before proceeding with arbitration, the parties will be permitted 30 days from the date the request was received to negotiate a settlement. The parties must notify the Administrative Procedure Division of the result of such negotiation. If the Administrative Procedure Division has not been notified within 30 days of the settlement negotiation's result, the claim will be sent to arbitration. The parties may still reach a negotiated settlement after the claim is referred but before arbitration begins. However, they will be responsible for splitting any costs incurred by the resolution organization due to the referral.

(6) Disputes are to be reviewed by independent resolution organizations with whom the Department will contract. The disputes will be decided pursuant to the rules as laid out in O.C.G.A. 33-20E*et. seq.*

(7) A list of the selected organizations and their approved fee schedules will be kept by the Administrative Procedure Division and available for review upon request. In contracting with each dispute resolution organization, the Department will ensure that appropriate safeguards are put in place so that information subject to trade secret protection laws is duly protected.

(8) Upon the Commissioner's referral of a dispute to a resolution organization, the parties will have five days to select an arbitrator by mutual agreement. If the parties have not notified the resolution organization of their mutual selection before the fifth day, the resolution organization shall select an arbitrator from among its members. Should the parties not agree to the resolution organization's choice of arbitrator, the Commissioner will select one for the parties; this decision will be final.

(9) Arbitrators should possess training and experience in health care billing, reimbursement, and usual and customary charges in consultation with a licensed doctor in active practice in the same or similar specialty as the doctor providing the service that is the subject of the dispute.

(10) In addition to the factors found in O.C.G.A. § 33-20E-15, in deciding a claim, arbitrators should also consider the following factors:

(a) Whether there is a gross disparity between the fee charged by the provider and (1) fees paid to the provider for the same services provided to other patients in health care plans in which the provider is non-participating, and (2) the fees paid by the health plan to reimburse similarly qualified out-of-network providers for the same services in the same region;

(b) The provider's training, education, experience, and the usual charge for comparable services when the provider does not participate with the patient's health plan;

(c) In the case of a hospital, the teaching status, scope of services, and case-mix;

(d) The circumstances and complexity of the case;

(e) Patient characteristics; and

(f) For physician services, the usual and customary cost of the service.

(11) Following the resolution of arbitration, the Commissioner is permitted to refer the decision of the arbitrator to the appropriate state agency or the governing entity with governing authority over such provider or facility if the Commissioner concludes that a provider or facility has either displayed a pattern of acting in violation of this chapter or has failed to comply with a lawful order of the Commissioner or the arbitrator. However, if the provider or facility's violations or actions fall under the Commissioner's jurisdiction, the Commissioner may investigate and proceed under the provisions of Title 33.

(12) Each resolution organization contracted with by the Department should submit its quarterly reports to the Administrative Procedure. In addition to the information required by O.C.G.A. § 33-20E-19, each resolution organization will also submit in its quarterly report: the name of each arbitrator who settled a dispute and the number of disputes they settled in favor of either the insurer or the provider or facility.

(13) The Surprise Billing Consumer Protection Act becomes effective on January 1, 2020. The Department has until July 1, 2021, to contract with one or more arbitration organizations. Any arbitration requests received after January 1, 2020, and before the Department has contracted with an arbitration organization will be held until such contract is executed.

Cite as Ga. Comp. R. & Regs. R. 120-2-106-.10
Authority: O.C.G.A. §§ 33-2-9, 33-20E.
History. Original Rule entitled "Arbitration" adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Rule 120-2-106-.11. Hospital Surprise Bill Rating.

Insurers shall make available online and in print a health benefit plan surprise bill rating for hospitals as required in Chapter 20C of Title 33. For each hospital, health benefit plans shall clearly display a rating denoting the health benefit plan surprise bill rating factor. This factor shall range from 0, denoting no specialties are in-network, to 4, which means all specialty groups are in-network. For any rating less than 4, the health benefit plan shall display which specialty group is not in-network by marking the specialty with a red **X** and any specialty group that is included by a green checkmark **X**. If a hospital does not provide one of the qualified hospital-based specialties, the absence of that specialty shall be designated by a green N/A. The factor and markings shall be clearly displayed for the covered person or potential covered person to easily understand. Qualified hospital-based specialty groups are medical groups that include anesthesiologists, pathologists, radiologists, or emergency medicine physicians. Any changes in the hospital rating factor shall be changed by the health benefit plan within 30 days.

Cite as Ga. Comp. R. & Regs. R. 120-2-106-.11
Authority: O.C.G.A. §§ 33-2-9, 33-20E.
History. Original Rule entitled "Hospital Surprise Bill Rating" adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Rule 120-2-106-.12. Severability.

If any section or any portion of a section of this Regulation or the applicability thereof to any waiver or circumstances is held invalid by any court of competent jurisdiction, the remainder of the rules or applicability of such provisions shall not be affected.

Cite as Ga. Comp. R. & Regs. R. 120-2-106-.12
Authority: O.C.G.A. §§ 33-2-9, 33-20E.
History. Original Rule entitled "Severability" adopted. F. Dec. 7, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Subject 120-2-107. INSURANCE WRITTEN IN CONNECTION WITH LOANS UNDER THE GEORGIA INSTALLMENT LOAN ACT.

Rule 120-2-107-.01. Promulgation and Purpose.

These rules and regulations of the Insurance Commissioner, entitled "Insurance Written in Connection with Loans Under the Georgia Installment Loan Act," are promulgated pursuant to the rulemaking authority of the Insurance Commissioner, O.C.G.A. 33-2-9, and pursuant to the Insurance Commissioner's authority under O.C.G.A. § 7-3-11(3), as amended in 2020.

Cite as Ga. Comp. R. & Regs. R. 120-2-107-.01
Authority: O.C.G.A. §§ 33-2-9, 7-3-11(3).
History. Original Rule entitled "Promulgation and Purpose" adopted. F. Dec. 8, 2020; eff. Dec. 31, 2020, as specified by the Agency.

Rule 120-2-107-.02. General Regulations, All Insurance.

(1) Evidence of insurance. All insurance authorized and included in or incident to a loan contract made under the provisions of the Georgia Installment Loan Act shall be evidenced by a policy or certificate of insurance which shall be delivered to the borrower at the time the indebtedness is incurred. The policy and the certificate of insurance shall describe the amount and term of the coverage, the amount of the premium and a description of the coverage including any exceptions, limitations or restrictions. If a policy or certificate of insurance is not delivered to the borrower at the time the indebtedness is incurred, the insurer shall cause to be delivered to the borrower a policy or certificate of insurance within 30 days of incurred indebtedness. An application or notice of proposed insurance form shall serve as a binder during the first 30 days of incurred indebtedness.

(2) If any loan within the Georgia Installment Loan Act is made in conjunction with the sale of insurance authorized and included in or incidental to the advancement of funds at the expense of the borrower, then the licensee shall provide to the borrower a separate written disclosure statement. The disclosure statement shall disclose, in no smaller than twelve-point type, the following:

(a) The cost to the borrower of any such insurance.

(b) A copy of the signed document shall be provided to the borrower, and the licensee shall retain the original in the loan file.

(3) Payment of Claims.

(a) No licensee under the act shall execute any contract or agreement with any person, firm or corporation which permits such licensee to retain any portion of the premium for payment of losses incurred or to be incurred under policies or certificates of insurance.

(b) No plan or arrangement shall be used whereby any person, firm or corporation other than the insurance company or its designated claim agent or representative shall be authorized to settle or negotiate the settlement of claims.

(c) Each individual policy, group policy and certificate of insurance shall state that the benefits payable there under shall only be paid to the licensee to reduce or extinguish the borrower's then outstanding loan balance in the case of credit life insurance coverage; or for the exact amount of the borrower's covered installment payment due in the case of credit accident and sickness insurance. Each individual

policy, group policy and certificate of insurance shall further state that if the amount of insurance benefits payable exceeds the borrower's outstanding insured loan balance in the case of credit life insurance; or the exact amount of the borrower's covered installment payment due in the case of credit accident and sickness insurance by an amount of one dollar ($1) or more, such excess amounts shall be payable either to the borrower or to a beneficiary named by the borrower other than the creditor or to the borrower's estate.

(d) Payment of any such excess amount to the borrower or to any beneficiary named by the borrower other than the licensee or to the borrower's estate shall be made payable only to such borrower or to such other beneficiary named by the borrower. The delivery of such excess benefit check or draft may be accomplished by the licensee acting as an authorized agent of the insurer. For the purpose of this rule, the term "excess amount" shall mean any amount which is payable to the borrower or to the beneficiaries of the borrower other than the licensee or to the borrower's estate under the credit insurance policy which exceeds the amount necessary to extinguish the borrower's then outstanding insured loan balance in the case of credit life insurance, or the exact amount of the borrower's covered installment payment due in the case of credit accident and sickness insurance by an amount of one dollar ($1) or more.

(e) Where proceeds from insurance written in connection with a loan under the Act prepays an account in full, a refund shall be made on interest, fees, and insurance premiums computed as of the date of the event insured against.

(f) Insurance proceeds paid on a loan and credited to the account by the finance company shall have the same effect as if a like amount was paid by the borrower and no late charges shall be charged to any borrower for any such payments or accounts which have been paid by such insurance proceeds.

(4) Agents and Agents' Commissions.

(a) All individual insurance solicited, sold and issued in conjunction with a loan contract under the provisions of the Georgia Installment Loan Act shall be solicited, sold and issued by an agent, subagent or limited subagent licensed under the provisions of the Georgia Insurance Code.

(b) No licensee or any other person subject to the provisions of the Georgia Installment Loan Act or the Rules and Regulations of the Office of Commissioner of Insurance shall contract for, charge, collect, or accept, directly or indirectly as an insurance agent or general agent or through any contract of credit life or credit accident and sickness insurance written or procured by such licensee pursuant to the Georgia Installment Loan Act as remuneration for the sale of such insurance in this state any commissions, service fees, or other forms of compensation other than those which are contained in the written agency agreement or agency contract between such insurer and its agent.

(c) No person shall solicit, directly or indirectly, make or cause to be made any contract of credit insurance unless such person holds a valid agent, subagent, or a limited subagent license.

(d) All licensees and any other persons subject to the provisions of the Georgia Installment Loan Act or the Rules and Regulations of the Office of Commissioner of Insurance shall be required in the handling of insurance to comply in all respects with the applicable requirements of Title 33 of the Official Code of Georgia Annotated, and of the Rules and Regulations of the Office of Commissioner of Insurance.

(5) Any agent, subagent, agency or licensee writing credit life or credit accident and sickness insurance in this state shall provide forms necessary to file claims within fifteen (15) calendar days of a request with reasonable explanations regarding their use and shall forward such claim to the insurer within twenty (20) business days of receipt of written proof of loss.

(6) Quarterly Insurance Reports. Quarterly Insurance Reports shall be filed with this department on a form obtained from the Insurance Commissioner on or before the 20th of each month following the quarters ending March 31, June 30, September 30 and December 31. Such forms shall reflect the number of loans made with insurance coverage, amount of loans, total premiums charged, refunds, net premium charged, the percent of insurance claims paid to net premiums collected, and name of the insuring company as to:

(a) Life insurance;

(b) Accident and sickness insurance;

(c) Household goods fire insurance;

(d) Automobile insurance;

(e) Non-recording insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-107-.02
Authority: §§ 33-2-9, 7-3-11(3).
History. Original Rule entitled "General Regulations, All Insurance" adopted. F. Dec. 8, 2020; eff. Dec. 31, 2020, as specified by the Agency.

Rule 120-2-107-.03. Credit Life Insurance.

(1) Coverage.

(a) Level term life insurance will pay the first beneficiary at the death of the insured the amount of the indebtedness, not exceeding the amount of insurance stated in the policy, and pay the second beneficiary the amount stipulated in excess of the indebtedness; or if there be no indebtedness, the full face amount of the policy shall be paid to the second beneficiary.

(b) Reducing term life insurance will pay the first beneficiary the amount of indebtedness, if any, owing by the insured to the first beneficiary at the time of the death of the insured.

(2) Rates.

(a) Credit level term life insurance or group credit level term life insurance may be written as security on all loans made under the provisions of the Georgia Installment Loan Act. Insurance coverage shall not exceed the face amount of the contract. The premium shall not exceed $.84 per annum per $100.00 of the face amount of the loan unless otherwise authorized by law and applicable rules and regulations.

(b) Credit decreasing term life insurance may be written on all loans made under the provisions of the Act. Insurance coverage shall not exceed the face amount of the contract. The premium shall not exceed $.45 per annum per $100.00 of the face amount of the loan unless otherwise authorized by law and applicable rules and regulations. For premiums not based on initial insured indebtedness, the premium shall not exceed a monthly rate of $.70 per $1,000.00 of outstanding unpaid insured indebtedness.

(c) Single premiums for credit life insurance covering joint lives on either of the bases in subparagraphs (2)(a) or (2)(b) of this rule shall not exceed 150 percent of the appropriate single life rate specified in subparagraphs (2)(a) or (2)(b) of this rule.

(d) Single premiums for credit decreasing term life insurance covering joint lives on either of the bases in paragraph (c) of this rule shall not exceed 150 percent of the appropriate single life rate specified in paragraph (c) of this rule.

(3) Policy status at renewal, refinancing or repayment of entire contract.

(a) If through prepayment the indebtedness is discharged prior to the scheduled maturity date, the insured in all instances (except group credit reducing term life, which must be canceled) shall be given the option either to cancel or to retain such insurance. The option to cancel or to retain shall be set forth in writing either as a part of the policy or certificate or by separate written statement furnished to the debtor.

(b) In the event of renewal or refinancing accounts where credit life insurance is written on the new loan, any unexpired credit life insurance which was written in

connection with the previous loan or loans, shall be concurrently canceled and proper credit given the borrower by refunding to him the unearned portion of the premium on the former policy or policies.

(4) Refund of Premiums.

(a) All unearned premiums on credit life insurance shall be made according to the Rule of 78's without regard to a minimum refund provision.

(b) Refunds will be made in all instances of insurance cancellations due to prepayments, renewals, and refinancing with the exception of a loan prepaid in full by credit life insurance proceeds; in this event life insurance premiums shall be considered earned unless otherwise provided in the insurance contract.

(5) Insured.

(a) Where a credit life insurance policy or certificate is issued to cover two lives jointly, the amount of credit life insurance shall be made payable upon the death of the first to die during the term of the policy, and the policy or certificate will then terminate. The phrase "two lives" as used in the preceding sentence means only spouses or business partners and such persons must be jointly and severally liable for the repayment of the single indebtedness and be joint signers of the instrument of indebtedness. Endorsers and guarantors are not eligible for such credit insurance coverage covering joint lives. Joint life coverage shall not be written covering more than two lives. Jointly indebted spouses shall not be covered separately at single life rates.

(b) No disability benefit provisions may be included in such a joint credit life policy, except that disability benefits may be provided on one of the lives insured who is specifically identified by name if the policy provisions clearly indicate that only such person is covered for disability benefits.

(c) If a credit life policy containing a suicide exclusion is issued on joint lives, the policy must be specific regarding termination of the policy, or continuation of the policy on the life of the survivor, and appropriate refunds to be made in the event suicide does occur.

(6) Principal Party Rule.

(a) As used in paragraph (3) of O.C.G.A. Section 7-3-11, the term "principal party" refers to the person or persons from whom repayment of the loan is expected because such person:

1. has applied for the loan; and

2. possesses assets, income, or indicia of credit-worthiness from which the expectation of repayment is reasonably drawn; and

3. is not an endorser or guarantor.

(b) A spouse is not principal party by virtue only of the status of spouse without meeting the criteria of subparagraph (a) of this paragraph.

(c) The burden of proving the status of a person as a principal party for purposes of requiring insurance shall be upon the licensee. Such information shall be obtained in writing by the licensee and shall become a part of the loan file.

(7) The Insurance Commissioner may review the regulations concerning credit insurance and promulgate such changes as are appropriate.

Cite as Ga. Comp. R. & Regs. R. 120-2-107-.03
Authority: O.C.G.A. §§ 33-2-9, 7-3-11(3).
History. Original Rule entitled "Credit Life Insurance" adopted. F. Dec. 8, 2020; eff. Dec. 31, 2020, as specified by the Agency.

Rule 120-2-107-.04. Credit Accident and Sickness Insurance.

(1) Coverage. Credit accident and sickness insurance may be written on all loans made under the provisions of the Georgia Installment Loan Act. Provided, however, any such insurance written in connection with such a loan shall not provide for monthly benefits which exceed the amount of one monthly repayment installment loan.

(2) Rates.

(a) On loans where the actual amount of cash advanced is one hundred dollars ($100.00) or less, no credit accident and sickness insurance shall be written which provides a waiting period in excess of three (3) days, coverage shall be retroactive and no premium shall be charged for such insurance in excess of $3.06 per annum per five dollars ($5.00) per month benefit unless otherwise authorized by law and applicable Rules and Regulations.

(b) On loans where the actual amount of cash advanced is in excess of one hundred dollars ($100.00), no credit accident and sickness insurance shall be written which provides a waiting period in excess of seven days. Coverage shall be retroactive and no premium shall be charged for such insurance in excess of $2.10 per annum for five dollars ($5.00) per month benefit unless otherwise authorized by law and applicable Rules and Regulations. Provided, however, if the waiting period is three (3) days, no premium shall be charged for such insurance in excess of $3.06

per annum for five dollars ($5.00) per month benefit unless otherwise authorized by law and applicable Rules and Regulations.

(3) Policy status at renewal, refinancing or prepayment of entire contract.

(a) If through prepayment the indebtedness is discharged prior to the scheduled maturity date, the insured in all instances (except for group coverage which must be canceled) shall be given the option either to cancel or to retain such insurance. The option to cancel or to retain shall be set forth in writing either as a part of the policy or by separate written statement furnished to the debtor.

(b) In the event of renewal or refinanced accounts where credit accident and sickness insurance is written on the new loan, any unexpired credit accident and sickness insurance written in connection with the previous loan or loans shall be concurrently canceled and proper credit given the debtor by refunding to him the unearned portion of the premium on the former policy or policies.

(4) Refund of Premiums.

(a) All unearned premiums on credit accident and sickness insurance shall be refunded according to the Rule of 78's without regard to a minimum refund provision.

(b) Refunds shall be made in all instances of insurance cancellations due to prepayments, renewals, and refinancing with the exception of the loan being prepaid in full by accident and sickness insurance proceeds; in this event accident and sickness premiums shall be considered earned unless otherwise provided in the insurance contract.

(5) Claim Forms. All insurance companies writing accident and sickness insurance in connection with loans made under the Georgia Installment Loan Act shall use medical claim forms wherein a doctor's signature is required in connection with making claims for losses occurring under accident and sickness policies.

(6) Claims relative to renewals and refinancing. Renewal or refinancing of a loan shall not operate to extinguish an insurance contract when as an incident to such renewal or refinancing another insurance contract is entered into by the same insurer and insured. Any new insurance contract issued incident to such renewal or refinancing shall be a continuation of the original contract and any waiting periods or existing disease provisions shall relate to the date of the initial insurance contract.

(7) No credit accident and sickness policy shall be issued in this State to cover two lives jointly.

Cite as Ga. Comp. R. & Regs. R. 120-2-107-.04
Authority: O.C.G.A. §§ 33-2-9, 7-3-11(3).

History. Original Rule entitled "Credit Accident and Sickness Insurance" adopted. F. Dec. 8, 2020; eff. Dec. 31, 2020, as specified by the Agency.

Rule 120-2-107-.05. Household Goods Fire Insurance.

(1) Coverage.

(a) Dual interest household goods insurance shall insure both the creditor and the debtor as their interest may appear against loss or damage caused by fire, lightning and collision;

(b) Single interest household goods insurance shall insure only the interest of the Creditor Loss Payee or assignees against loss or damage caused by fire, lightning and collision.

(2) Rates. The rates for both single interest and dual interest household goods insurance shall be approved by the Georgia Insurance Department. Rates may differ between single and dual interest insurance and between protected and unprotected areas.

(3) No household goods insurance may be written where the maximum premium approved by the Georgia Insurance Department is less than one dollar ($1.00).

(4) Refund of premiums. All unearned premiums on single or dual interest household goods insurance included on a loan contract on items pledged as collateral to secure a loan shall be refunded according to the Rule of 78's. Refunds shall be given on all insurance contracts canceled before the expiration date.

(5) Limitation, Coverage.

(a) On loans where household goods are the only collateral and the actual market value is equal to or exceeds the face amount of the note, the insurance written shall not exceed the face amount of the note.

(b) On loans where household goods are the only collateral and the actual market value is less than the face amount of the note, insurance, if written, shall be for the actual market value of the household goods.

(6) Loss Payee. No licensee shall require fire insurance to be written on any household goods pledged as security for a loan if the borrower produces evidence that such pledged property is insured for the term of the loan and endorses the insurance policy to the licensee as assignee or loss payee. A licensee, who requires insurance on collateral pledged to secure a loan and who writes such insurance, shall be liable to the borrower in case of loss covered by the policy in the full amount even though coverage is provided by other insurance. The licensee cannot deny liability, or any part thereof, on the grounds that said collateral is covered by other insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-107-.05
Authority: O.C.G.A. §§ 33-2-9, 7-3-11(3).
History. Original Rule entitled "Household Goods Fire Insurance" adopted. F. Dec. 8, 2020; eff. Dec. 31, 2020, as specified by the Agency.

Rule 120-2-107-.06. Automobile Insurance.

(1) Coverage.

(a) Dual interest automobile insurance shall insure both creditor and debtor as their interest may appear against loss or damage caused by fire, theft, and collision.

(b) Single interest automobile insurance shall insure only the interest of the creditor loss payee or assignee against loss caused by fire, theft and collision.

(2) Rates. The rates for both single interest and dual interest automobile shall be those which meet the applicable standards and requirements contained in Chapter 9 of Title 33 of the Official Code of Georgia Annotated and the applicable Rules and Regulations of the Georgia Insurance Department.

(3) Term and Type Coverage Permitted. Single interest insurance coverage issued in connection with a loan contract made under the provisions of the Georgia Installment Loan Act shall not exceed the term of said loan contract. Automobile insurance coverage issued in connection with loans made under the provisions of the Georgia Installment Loan Act shall be limited to fire, theft, and collision, or comprehensive and collision.

(4) Refund of premiums.

(a) All unearned premiums on single interest automobile insurance shall be refunded according to the Rule of 78's.

(b) All unearned premiums on dual interest automobile insurance shall be refunded on a pro-rata basis when canceled by the insurer and on a short rate basis when canceled by the insured.

(5) Limitation of coverage.

(a) Single interest automobile insurance may be written in an amount not to exceed the face amount of the loan or the actual market value of the automobile, whichever is smaller.

(b) Dual interest automobile insurance may be written in an amount not to exceed the actual cash value of the automobile as determined by authorized publications of the insurance industry. Coverage is not limited by the face amount of the note.

(6) Loss Payee. No licensee shall require automobile insurance to be written on an automobile pledged as security for a loan if the borrower produces evidence that such pledged property is insured for the term of the loan and endorses the insurance policy to the licensee as assignee or loss payee.

(7) Insurance on Dual Collateral.

(a) When household goods and an automobile are both pledged as security on a loan and the actual cash value of the automobile and the market value of the household goods together are less than the face amount of the loan, the insurance written shall be for the actual market value of the automobile and the household goods. This applies regardless of whether or not single interest or dual interest coverage is written on any of the policies.

(b) In the event the actual market value of the automobile and the household goods exceed the face amount of the contract and single interest insurance is written on both types of collateral, the amount of coverage shall not exceed the face amount of the contract.

(c) A licensee shall not divide the amount of insurance written on collateral in such a manner as to penalize a borrower in the amount of insurance premium he is required to pay.

(d) Insurance written may exceed the face amount of the contract in the event the actual cash value of an automobile exceeds the amount of the contract and dual interest coverage is provided. If household goods are included as security on the loan, insurance coverage shall not be written on such household goods.

(e) All insurance written on personal property pledged as security for a loan shall be written in one contract. No licensee shall write fire, theft, and collision insurance with $50.00, or some other amount, deductible and then write a separate single interest policy on the same automobile for the deductible amount.

(f) Where equity in an automobile which has been or is being financed with insurance coverage, is pledged as security for a loan, insurance may be written only to cover that period of the life of the loan that is not covered by the existing contract of insurance.

Cite as Ga. Comp. R. & Regs. R. 120-2-107-.06
Authority: O.C.G.A. §§ 33-2-9, 7-3-11(3).
History. Original Rule entitled "Automobile Insurance" adopted. F. Dec. 8, 2020; eff. Dec. 31, 2020, as specified by the Agency.

Rule 120-2-107-.07. Non-Recording Insurance.

(1) No licensee shall charge any recording fee, or actual premiums on insurance used in lieu of such recording fee unless the amount of such fee or premium be fully set forth in the copy of the loan contract or voucher furnished to the borrower.

(2) Non-recording insurance may be written on loans with a face amount in excess of $100.00. Such insurance may be written in lieu of recording the security instrument with the proper "public official or agency of the State" and protects the lender against losses.

(3) Rates. The rates for such non-recording insurance shall be those which meet the applicable standards and requirements contained in Chapter 9 of Title 33 of the Official Code of Georgia Annotated and the applicable Rules and Regulations of the Georgia Insurance Department.

(4) Restrictions.

   (a) If no security exists on a loan, charges for non-recording insurance are illegal.

   (b) A licensee shall not select non-recording insurance instead of recording if the choice will cost the borrower more money.

(5) Commissions. A licensee shall not deduct a fee or commission from the borrower's payment of non-recording insurance premiums. Where commissions are returned to the lender, such shall be credited to the customer's account.

Cite as Ga. Comp. R. & Regs. R. 120-2-107-.07
Authority: O.C.G.A. §§ 33-2-9, 7-3-11(3).
History. Original Rule entitled "Non-Recording Insurance" adopted. F. Dec. 8, 2020; eff. Dec. 31, 2020, as specified by the Agency.

Rule 120-2-107-.08. Repossession Expenses.

The actual and reasonable expenses of repossessing, storing and selling any collateral pledged as security under the Georgia Installment Loan Act shall not exceed the expenses of repossessing, storing and selling recoverable under other provisions of law.

Cite as Ga. Comp. R. & Regs. R. 120-2-107-.08
Authority: O.C.G.A. §§ 33-2-9, 7-3-11(3).
History. Original Rule entitled "Repossession Expenses" adopted. F. Dec. 8, 2020; eff. Dec. 31, 2020, as specified by the Agency.

Rule 120-2-107-.09. Insurance Claims Register.

Each licensee of the Georgia Installment Loan Act shall maintain on a daily basis an insurance claims register. There shall be recorded on this register, with respect to any and all claims against insurance sold in connection with a loan made under the provisions of the Georgia Installment

Loan Act, the loan account number, the name of the borrower/insured, the type of claim filed, the date of loss, the amount of claim, the date the claim was filed with the insurer, the date the claim was paid, the amount of the claim payment and the name and address of the person or entity to whom the proceeds of the claim payment were disbursed. In addition to the foregoing information, if a claim is filed against credit life insurance coverage, the date of the insured's death shall be shown on the insurance claims register. In addition to the foregoing information, if a claim is filed against credit life insurance coverage, the date of the insured's death shall be shown on the insurance claims register. In addition to the foregoing information, if a claim is filed against credit accident and sickness insurance coverage, the number of days for which the disability claim is filed shall be recorded on the insurance claims register. Register will include all denied claims and all paid claims.

Cite as Ga. Comp. R. & Regs. R. 120-2-107-.09
Authority: O.C.G.A. §§ 33-2-9, 7-3-11(3).
History. Original Rule entitled "Insurance Claims Register" adopted. F. Dec. 8, 2020; eff. Dec. 31, 2020, as specified by the Agency.

Rule 120-2-107-.10. Insurance Permitted.

(1) With respect to any consumer loan transaction, the creditor shall not require any insurance other than insurance covering the loss of or damage to any property in which the creditor is given a security interest. Credit life and credit accident and sickness insurance if required by the creditor, may be provided by the creditor through an insurer authorized to issue such insurance in this State.

(2) If a creditor requires any insurance permitted under subsection (1) above in any consumer loan transaction, the debtor shall be given written notice of the option of providing such insurance through an existing policy or a policy independently obtained and paid for by the debtor. If the creditor requires credit life insurance, the creditor shall give the debtor written notice of the debtor's right to choose either level term life insurance or reducing term life insurance coverage. The creditor may for reasonable cause before credit is extended decline the insurance provided by the debtor.

Cite as Ga. Comp. R. & Regs. R. 120-2-107-.10
Authority: O.C.G.A. §§ 33-2-9, 7-3-11(3).
History. Original Rule entitled "Insurance Permitted" adopted. F. Dec. 8, 2020; eff. Dec. 31, 2020, as specified by the Agency.

Rule 120-2-107-.11. Premiums.

(1) The charge to the consumer for any insurance shall not exceed the premium charged by the insurer and the premium of premiums charged for such insurance shall be reasonable in relation to the amount and term of the credit and the risk covered and the benefits provided.

(2) Upon prepayment, refinancing, or renewal of the debt before final maturity date the debtor shall be entitled to receive that portion of the premiums on any insurance refunded by the insurance carrier.

Cite as Ga. Comp. R. & Regs. R. 120-2-107-.11
Authority: O.C.G.A. §§ 33-2-9, 7-3-11(3).
History. Original Rule entitled "Premiums" adopted. F. Dec. 8, 2020; eff. Dec. 31, 2020, as specified by the Agency.

Rule 120-2-107-.12. Insurance on Property; Amounts; Terms.

(1) A creditor in a consumer loan transaction may not contract for or receive a charge for insurance against loss or damage to property unless:

(a) the insurance covers a substantial risk of loss of or damage to property related to the loan transaction;

(b) the amount, terms, and conditions of insurance are reasonable in relation to the character and value of the property insured or to be insured; and

(c) the term of the insurance is reasonable in relation to the term of credit.

(2) The term of the insurance is reasonable if it is customary and does not extend substantially beyond a scheduled maturity.

(3) No household goods insurance may be written where the maximum premium approved by the Georgia Insurance Department is less than one dollar ($1.00).

Cite as Ga. Comp. R. & Regs. R. 120-2-107-.12
Authority: O.C.G.A. §§ 33-2-9, 7-3-11(3).
History. Original Rule entitled "Insurance on Property; Amounts; Terms" adopted. F. Dec. 8, 2020; eff. Dec. 31, 2020, as specified by the Agency.

Rule 120-2-107-.13. Severability.

If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and the applicability of such provisions to other circumstances shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-2-107-.13
Authority: O.C.G.A. §§ 33-2-9, 7-3-11(3).
History. Original Rule entitled "Severability" adopted. F. Dec. 8, 2020; eff. Dec. 31, 2020, as specified by the Agency.

Chapter 120-3. RULES OF SAFETY FIRE COMMISSIONER.

Subject 120-3-1. ORGANIZATION OF THE OFFICE OF THE SAFETY FIRE COMMISSIONER. REPEALED.

Authority: O.C.G.A. Sec. 25-2-4
History. Original Rule entitled "The Following Standards as Published by the National Fire Protection Association Are Adopted" adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Editor's Note:
In accordance with the O.C.G.A. Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.

Subject 120-3-2. RULES OF PRACTICE AND PROCEDURE. REPEALED.

Authority: O.C.G.A. Sec. 25-2-4
History. Original Rule entitled "Rules of Practice and Procedure" adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New chapter of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Editor's Note:
In accordance with the O.C.G.A. Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.

Subject 120-3-3. RULES AND REGULATIONS FOR THE STATE MINIMUM FIRE SAFETY STANDARDS.

Rule 120-3-3-.01. Promulgation and Purpose.

(1) These rules and regulations of the Safety Fire Commissioner entitled, "Rules and Regulations for the State Minimum Fire Safety Standards" are promulgated to establish the State's minimum fire safety standards as specified in the Official Code of Georgia Annotated, (O.C.G.A.) Section 25-2-4.

(2) A primary purpose of these rules and regulations is to establish the state minimum fire safety standards and requirements for the prevention of loss of life and property from fire, panic from fear of fire, explosions or related hazards in all buildings, structures and facilities with the exception of one- and two- family dwellings, one- and two-family row houses (townhouses) separated by a 2-hour fire wall and two- family townhouses separated by a 2-hour fire wall.

Cite as Ga. Comp. R. & Regs. R. 120-3-3-.01
Authority: O.C.G.A. §§ 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "The Following Standards as Published by the National Fire Protection Association Are Adopted" adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule entitled "Minimum Fire Safety Standards" adopted. F. Feb. 8, 1979; eff. Mar. 1, 1979, as specified by the Agency.
Amended: F. Aug. 6, 1982; eff. Sept. 1, 1982, as specified by the Agency.
Amended: F. July 7, 1983; eff. Aug. 1, 1983, as specified by the Agency.
Amended: F. Apr. 23, 1986; eff. May 15, 1986.
Repealed: New Rule entitled "Minimum Fire Safety Standards with Modifications" adopted. F. Sept. 30, 1987; eff. Nov. 1, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Amended: F. Jan. 8, 1993; eff. Jan. 28, 1993.
Amended: F. July 9, 1998; eff. July 29, 1998.
Amended: F. Dec. 21, 1999; eff. Jan. 10, 2000.
Repealed: New Rule entitled "Promulgation and Purpose" adopted. F. Aug. 21, 2003; eff. Sept. 10, 2003.
Repealed: New Rule of same title adopted. F. Jan. 12, 2007; eff. Feb. 1, 2007.
Repealed: New Rule of same title adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.
Repealed: New Rule of same title adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-3-.02. Application.

(1) (a) Pursuant to O.C.G.A. 25-2-4, rules and regulations adopted by the Safety Fire Commissioner shall have the force and effect of law and shall have statewide application as being the state minimum fire safety standards and shall not require adoption by a municipality or county. The governing authority of any municipality or county in this state is authorized to enforce the state minimum fire safety standards on all buildings and structures except one-family and two-family dwellings, one- and two-family row houses (townhouses) separated by a 2-hour fire wall and two-family townhouses separated by a 2-hour fire wall, and those buildings and structures listed in O.C.G.A. 25-2-13, except as may be required or permitted by O.C.G.A. 25-2-12 and 25-2-12.1.

(b) Pursuant to O.C.G.A. 25-2-13(f), the municipal governing authority in any incorporated area or the county governing authority in any unincorporated area of the state shall have the authority to enact such ordinances as it deems necessary to perform fire safety inspections and related activities for those buildings and structures not covered by O.C.G.A. 25-2-13.

(2) Whenever the provisions of this chapter of the Rules and Regulations of the Safety Fire Commissioner offer alternatives, as far as fire safety requirements are concerned, that were not permissible under previous editions of any Rules and Regulations of the Safety Fire Commissioner covering the same subject matter, the provisions of this chapter may be used by the authority having jurisdiction in determining whether a building is in compliance with the provisions of O.C.G.A. Title 25, Chapter 2, and the rules and regulations promulgated there under.

Cite as Ga. Comp. R. & Regs. R. 120-3-3-.02
Authority: O.C.G.A. §§ 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Definitions" adopted. F. Feb. 8, 1979; eff. Mar. 1, 1979, as specified by the Agency.
Amended: F. Aug. 6, 1982; eff. Sept. 1, 1982, as specified by the Agency.
Amended: F. July 7, 1983; eff. Aug. 1, 1983, as specified by the Agency.
Amended: F. Apr. 23, 1986; eff. May 15, 1986, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Sept. 30, 1987; eff. Nov. 1, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Amended: F. Jan. 8, 1993; eff. Jan. 28, 1993.
Amended: F. July 9, 1998; eff. July 29, 1998.
Amended: F. Dec. 21, 1999; eff. Jan. 10, 2000.
Repealed: New Rule entitled "Application" adopted. F. Aug. 21, 2003; eff. Sept. 10, 2003.
Repealed: New Rule of same title adopted. F. Jan. 12, 2007; eff. Feb. 1, 2007.
Amended: ER. 120-3-3-0.6-.02 adopted. F. and eff. Nov. 13, 2007, the date of adoption.
Amended: ER. 120-3-3-0.9-.02 adopted. F. and eff. March 31, 2008, the date of adoption.
Repealed: New Rule of same title adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.
Repealed: New Rule of same title adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-3-.03. Definitions.

(1) "Ambulatory Health Care Occupancy." A building or portion thereof used to provide services or treatment simultaneously to four or more patients that (1) provides, on an outpatient basis, treatment for patients that renders the patients incapable of taking action for self-preservation under emergency conditions without the assistance of others; or (2) provides, on an outpatient basis, anesthesia that renders the patients incapable of taking action for self-preservation under emergency conditions without the assistance of others. For the purpose of compliance with Centers for Medicare & Medicaid Services (CMS) an Ambulatory Health Care Occupancy is a building or portion thereof used to provide services or treatment for one or more patients that (1) provides, on an outpatient basis, treatment for patient(s) that renders the patient(s) incapable of taking action for self-preservation under emergency conditions without the assistance of others; or (2) provides, on an outpatient basis, anesthesia that renders the patient(s) incapable of taking action for self-preservation under emergency conditions without the assistance of others "

(2) "Assistive device" means a device that may restrain movement which has been determined to be required by a licensed physician, nurse practitioner or physician's assistant working under a protocol or job description respectively and is applied for protection from injury or to support or correct the body alignment of the person, for the treatment of a person's physical condition, and may only be used as a treatment intervention where a specific written plan of care has been developed and the resident consents to such use.

(3) "Assisted living care" means the specialized care and services provided by an assisted living community which includes the provision of personal services, the administration of medications by a certified medication aide and the provision of assisted self-preservation."

(4) "Assisted Living Community (ALC)" means facility serving 25 residents or more that is licensed by the Georgia Department of Community Health and meets the requirements of an existing health care occupancy found in Chapter 19 of the *Life Safety Code* or the requirements established in Chapter 34 or 35 of the *Life Safety Code* as may be applicable for new or existing facilities."

(5) "Assisted self-preservation" as applied to an Assisted Living Community (ALC) means the capacity of a resident to be evacuated from an assisted living community to a designated point of safety and within an established period of time as determined by the Office of the Safety Fire Commissioner. Assisted self-preservation is a function of all of the following:

(A) the condition of the individual;

(B) the assistance that is available to be provided to the individual by the staff of the assisted living community, and

(C) the construction of the building in which the assisted living community is housed, including whether such building meets the safety requirements applicable to an existing Health Care Occupancy or an Assisted Living Community as established by Chapter 34 or 35 of NFPA 101, *Life Safety Code*, as may be applicable respectively to a new or existing facility, and other safety to life provisions as adopted by the Rules and regulations of the Safety Fire Commissioner." (Also see the definition for "Self-Preservation")

(6) "Community Living Arrangement" means for the purpose of this chapter, any residence whether operated for profit or not which is subject to being licensed by the State, that undertakes through its ownership or management to provide or arrange for the provision of daily personal services, supports, care or treatment exclusively for two or more adults who are not related to the owner or manager by blood or marriage and whose residential services are financially supported, in whole or in part, by funds designated through the Department of Human Services, Division of Mental Health, Developmental Disabilities, and Addictive Diseases.

NOTE: Refer to Modification (72) relating to the 2012 Edition of NFPA 101, *Life Safety Code* for minimum requirements for safety to life from fire and related emergency conditions in Community Living Arrangements, Assisted Living Communities, Health Care Facilities, Limited Care Facilities, Personal Care Homes, and other specialty facilities as defined herein and or through modifications to NFPA 101, *Life Safety Code*.

(7) "Evacuation Capability, Impractical" Means the total evacuation of all residents from a building or structure cannot be achieved in less than thirteen minutes whether day or night. The evacuation capabilities of residents in all cases are based on the time of day or night when the evacuation of the facility would be most difficult (e.g., sleeping residents and/or fewer staff present).

(8) "Evacuation Capability, Prompt." Means the total evacuation of all residents from the building or structure can be achieved in three minutes or less whether day or night. The evacuation capabilities of residents in all cases are based on the time of day or night when evacuation of the facility would be the most difficult (e.g., sleeping residents and/or fewest staff present).

(9) "Evacuation Capability, Slow." Means the total evacuation of all residents from the building or structure can be achieved in over three minutes but not in excess of thirteen minutes whether day or night. The evacuation capabilities of residents in all cases are based on the time of day or night when evacuation of the facility would be the most difficult (e.g., sleeping residents and/or fewest staff present).

(10) "Existing Building" means buildings, structures, facilities or conditions which are already in existence or constructed and officially authorized prior to the effective date for the adoption of this Chapter. This definition shall apply to all situations covered by this chapter except where otherwise noted by this chapter."

(11) "Fire hazard" means for the intents and purposes of this Chapter 120-3-3 and the codes and standards adopted there-under, unless more specifically stated elsewhere in this Chapter, an activity, circumstance, condition, situation, combination of materials, material process, use or improper use of heat sources, or that on the basis of applicable documentation, data, or sources deemed reliable by the authority having jurisdiction, can cause an unwanted fire, a fire out of control, an explosion, or a related condition, such as panic from a fear of smoke, fire, or explosion, that the authority having jurisdiction determines it to be a risk to persons, to property, or to the health, safety and or welfare of the jurisdiction."

(12) "Fire Wall" means, for the purpose of this chapter and O.C.G.A. Code Sections 25-2-4 and 25-2-13, walls of any approved noncombustible construction having sufficient structural stability under fire conditions to allow collapse of construction on either side without collapse of the wall for the duration of time indicated by the required fire-resistance rating, and that comply with the provisions for fire walls in accordance with the *International Building Code*, as adopted by the Georgia Department of Community Affairs. (Refer to modifications to the *International Building Code*, as adopted by the Board of Community Affairs regarding provisions for "double fire walls.")

(13) "ICC Code", means, for the purposes of the Safety Fire Commissioner's Rules and Regulations, any of the codes, or portions thereof, as published by the *International Code Council* (ICC) and as adopted and modified as set forth in this Chapter or any other chapter of the Safety Fire Commissioner's Rules and Regulations.

(14) "Limited Care (Custodial Care) Facilities". A building, or part thereof, used on a 24-hour basis, for the housing, lodging or boarding of four or more persons who are incapable of self-preservation because of age, physical limitation(s) due to accident or illness, or mental limitation(s) such as mental illness or chemical dependency. This occupancy classification also includes, but is not limited to TBI Facilities or Traumatic

Brain Injury Facilities. (See Chapters 18 and 19 of the *Life Safety Code* for minimum requirements. Also see 120-3-3-.03 of Chapter 120-3-3 Rules of the Safety Fire Commissioner for the definitions of "Assisted Living Community" and "Memory Care Unit".)"

(15) Lodging or Rooming House. A building or portion thereof that does not qualify as a one- or two-family dwelling, that provides sleeping accommodations for a total of 15 or fewer people on a transient or permanent basis, with or without meals, but without separate cooking facilities for individual occupants. Foster homes, group homes, battered spouse shelters, or similar facilities providing lodging and boarding for four but not more than 15 residents or clients, not related by blood or adoption to the owner(s) or operator(s) shall be deemed a lodging or rooming house for purposes of this Chapter 120-3-3.

(16) "Memory care unit" means the assisted living community, or specialized unit thereof, that either holds itself out as providing additional or specialized care to persons with diagnoses of probable Alzheimer's Disease or other dementia who may be at risk of engaging unsafe wandering activities outside the unit or assisted living community (eloping), or charges rates in excess of those charged other residents because of cognitive deficits which may place the residents at risk of eloping. (Such facilities shall comply with Chapter 34 or 35, as may be applicable, of NFPA 101, *Life Safety Code*, as adopted by this Chapter 120-3-3.)"

(17) "Mobile/portable classroom structure", means a portable structure built on a chassis, designed as a temporary student classroom structure for educational purposes, and designed to be used with or without a permanent foundation."

(18) "Mobile/portable classroom structure, Existing", means a mobile/portable classroom structure approved, constructed and placed in use before the effective date of this Chapter 120-3-3."

(19) "NFPA Code or Standard" means, for the purposes of the Safety Fire Commissioner's Rules and Regulations, any of the codes and/or standards, or portions thereof, as published by the National Fire Protection Association (NFPA) and as adopted and modified in this chapter or any other chapter of the Safety Fire Commissioner's Rules and Regulations.

(20) "Occupiable Story" means, for the purpose of this chapter and the codes and standards adopted herein, a story occupied by people on a regular basis. Stories used exclusively for mechanical equipment rooms, elevator penthouses and similar spaces are not occupiable stories.

(21) "Personal Care Home" means, for the purposes of this chapter and O.C.G.A. Section 25-2-13(b)(1)(J), a facility licensed by the Georgia Department of Community Health as a personal care home. A personal care home is further defined as any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one or more personal

services for two or more adults who are not related to the owner or administrator by blood or marriage. (Personal Care Homes not designated as an "Assisted Living Community" or a "Memory Care Unit" shall meet the provisions of Chapter 32 or 33, as applicable for Residential Board and Care Occupancies of NFPA 101, *Life Safety Code*, as adopted by this Chapter 120-3-3. See the definition for "Residential Board and Care Occupancies" in 120-3-3-.03)"

(22) "Primary Level of Exit Discharge" means, for the purpose of this chapter and the codes and standards adopted herein, that story which is level with or above finished grade by more than 50% of the cubic volume of the occupiable story. Building levels below the primary level shall not count as a story in determining the height of a building.

(23) "Residential Board and Care Occupancies (Specifically Personal Care Homes/Facilities means a building, or part thereof, which is used for lodging and boarding of four or more residents who are not related by blood or marriage to the owners or operators, for the purpose of providing personal care services. Such facilities may also be utilized as a Community Living Arrangement. Either use must be licensed by the State agency having licensing jurisdiction.) Any facility providing lodging and boarding and personal care for four or more residents who are mostly incapable of self-preservation, except brain injury centers, because of physical or mental disability, shall require relocation of so classified excess residents to an appropriate health care facility meeting, at the least, the provisions, for limited care facilities as set forth by NFPA 101, *Life Safety Code*. (See the definitions in 120-3-3.03 of Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner for "Assisted Living Community" and "Memory Care Unit." Also, see the definitions for "Community Living Arrangements", Limited Care Facilities, and "Limited Care (Custodial Care) Facilities" relative to Traumatic Brain Injury (TBI) Facilities.)"

(24) "Self-Preservation," except as defined in NFPA 101, *Life Safety Code* for day-care occupancies, means the ability to respond to an emergency condition, whether caused by fire or otherwise, and escape the emergency without physical, hands-on assistance from staff. The resident may move from place to place by walking, either unaided or aided by prosthesis, brace, cane, crutches, walker or handrails, or by propelling a wheelchair. (See the definition of "Assisted Self-Preservation).

(25) "Sleeping Accommodations for Hire" means, for the purpose of this chapter and O.C.G.A. Section 25-2-13(b)(1), and the adopted codes herein, a bed, whether single, double, queen, or king, which is for hire or rental, whether by the day, week, month, or some other period of time.

(26) "Stories" means, for the purpose of O.C.G.A. Section 25-2-13(b)(1) and the codes and standards adopted herein, that level starting at the primary level of exit discharge and ending at the highest occupiable story. A building level below the primary level shall not count as a story in determining the height of a building (see the definition of (20) for occupiable story).

Cite as Ga. Comp. R. & Regs. R. 120-3-3-.03
Authority: O.C.G.A. §§ 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Modifications, Additions and Deletions to Standards Adopted" adopted. F. Feb. 8, 1979; eff. Mar. 1, 1979, as specified by the Agency.
Amended: F. Aug. 6, 1982; eff. Sept. 1, 1982, as specified by the Agency.
Amended: F. July 7, 1983; eff. Aug. 1, 1983, as specified by the Agency.
Amended: F. Apr. 23, 1986; eff. May 15, 1986, as specified by the Agency.
Repealed: New Rule entitled "Request for Modification of Specific Requirements" adopted. F. Sept. 30, 1987; eff. Nov. 1, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Amended: F. July 9, 1998; eff. July 29, 1998.
Amended: F. Dec. 21, 1999; eff. Jan. 10, 2000.
Repealed: New Rule "Definitions" adopted. F. Aug. 21, 2003; eff. Sept. 10, 2003.
Repealed: New Rule of same title adopted. F. Jan. 12, 2007; eff. Feb. 1, 2007.
Repealed: New Rule of same title adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.
Repealed: New Rule of same title adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-3-.04. State Minimum Fire Safety Standards with Modifications.

(1) Unless otherwise stated in this chapter, the edition of the *International Fire Code (IFC)*, and the following editions of the codes, standards, recommended practices, guides and methods, as published in the *National Fire Codes (NFC)* by the National Fire Protection Association (NFPA), as adopted and modified in this Chapter, shall be the state minimum fire safety standards. Where any of the adopted publications of the NFPA references NFPA 1 or NFPA 5000, or any fire code or building code, it shall be construed that such references apply to the *International Fire Code (IFC)* or the *International Building Code* (*IBC*) respectively, as adopted by this Chapter 120-3-3, and the Georgia Department of Community Affairs. Where the *IFC* or *IBC* does not specifically address the referenced issue, NFPA 1 or NFPA 5000 may be applied subject to the approval of the authority having jurisdiction.

(2) Hospitals, hospices, ambulatory surgical centers, nursing homes, assisted living communities, assisted living homes, memory care units or other health care type occupancies or facilities that are regulated by the federal Centers for Medicare and Medicaid Services (CMS) shall comply with the fire and life safety rules and regulations imposed by that agency even though the codes and standards or the editions of codes and standards adopted by that agency may not be specifically addressed or included in this chapter. The codes and standards adopted and modified herein shall also apply where applicable and shall be deemed to be the minimum state fire and life safety standards where they are at least as protective as the CMS rules and regulations.

(3) ***International Fire Code (IFC)*, 2018 Edition**

Modifications:

(a) **Modifications to Chapter 1:**

1. Delete section 101.1 in its entirety and substitute in its place the following:

   101.1 "**Title.** The *International Fire Code*, 2018 edition, published by the *International Code Council*, when used in conjunction with this Chapter, shall be known as a *Georgia State Minimum Fire Prevention Code*, hereafter referred to as 'this *Code*'."

2. Delete section 101.3 in its entirety and substitute in its place the following:

   101.3 " Purposes and Intents of This *Code*. The primary purpose of this *Code*, as adopted, is to provide, along with other adopted codes and standards, for the reasonable minimum protection of life and property from the hazards created by fire, smoke, explosion, or panic created from a fear of fire or smoke. It is intended that the purposes of this *Code* be accomplished by: (1) Coordinating application and enforcement of its provisions with those of other applicable laws, rules, regulations, codes, and standards; and, (2) By coordinating the application of its provisions, where possible, with educational programs or efforts designed to bring about changes in high risk attitudes and behaviors that are the root causes of most fire related problems in Georgia; and (3) By encouraging or requiring informational and awareness programs designed to make the citizens of Georgia aware of their responsibilities for compliance with this *Code* as well as the other Rules and Regulations of the Safety Fire Commissioner. The intent of this *Code* is to establish the minimum requirements, consistent with nationally recognized good practice, for providing a reasonable level of life safety and property protection from the hazards of fire, explosion, or dangerous conditions in new and existing buildings, structures, and premises and to provide safety to fire fighters and emergency responders during emergency operations."

3. Add an exception to section 102.1 to read as follows:

   "*Exception: This Code does not apply to one- and two- family dwellings or one- and two- family row houses (townhouses) separated by a 2-hour fire wall containing not more than three dwelling units per structure."*

4. Add an exception to section 102.2 to read as follows:

   "*Exception: This Code does not apply to one- and two- family dwellings or one- and two- family row houses (townhouses) separated by a 2-hour fire wall containing not more than three dwelling units per structure."*

5. Delete section 102.3 in its entirety and substitute in its place the following:

   102.3 "**Change of use or occupancy.** No change shall be made in use or occupancy of any building or structure that would place the structure in a

different division of the same group or occupancy or in a different group of occupancies, unless such structure is made to comply with the requirements of this *Code*, as may be applicable, as well as those of the *International Building Code* (*IBC*), as adopted by the Department of Community Affairs. Pursuant to O.C.G.A. 25-2-14, due to a change of use or occupancy of a building or structure the building or structure shall be treated as a proposed (new) building. (Refer to 103.3 of this *Code* regarding the requirements applicable to proposed (new) buildings and structures.)"

6. Delete section 102.4 in its entirety and substitute in its place the following:

   102.4 "**Application of the building code.** The design and construction of proposed (new) buildings and structures shall comply with the *International Building Code* (*IBC*), as modified and adopted by the Georgia Department of Community Affairs. Repairs, alterations, additions, changes in use or occupancy classification, or changes in buildings or structures required by provisions of the *IFC*, and which are within the scope of the *IBC*, shall be made in accordance with the *IBC*, for purposes of this Chapter."

7. Add a new 102.5.1 to read as follows:

   102.5.1 " The provisions of 102.5 shall apply to local authorities having jurisdiction unless there is a change of use or occupancy that would apply under 102.3 and which would bring the new use or occupancy under the jurisdiction of O.C.G.A. 25-2-13(b)(1)"

8. Delete section 102.6 in its entirety and insert in its place the following:

   102.6 "**Historic Buildings, General.** O.C.G.A 25-2-13(a)(2) defines a "Historic building or structure" as "any individual building which contributes to the historic character of a historic district, so designated by the state historic preservation officer pursuant to rules and regulations adopted by the Board of Natural Resources, or so designated pursuant to the provisions of Article 2 of Chapter 10 of Title 44, the "Georgia Historic Preservation Act."

   (A) Refer to 102.1 and 102.2 regarding the application of this *Code* to existing buildings. Except to the extent required by applicable laws of Georgia (O.C.G.A. 25-2-13(b)(3)(D) and (E), the provisions of this *Code* are not mandatory for buildings or structures identified and classified by the state, or as appropriate, a local jurisdiction, as historic buildings when such buildings or structures are judged by the fire code official to be safe and in the public interest of health, safety and welfare, based on the criteria established by the referenced provisions of the Official Code of Georgia Annotated.

When evaluating the safety of historic buildings the fire official should consult O.C.G.A. Title 8, Chapter2, Article 3 entitled, 'Uniform Act for the Application of Building and Fire Related Codes to Existing Buildings,' and the provisions of O.C.G.A. Sections 25-2-13(b)(3) & 25-2-13(b)(4), and NFPA Standard 914, *Code for Fire Protection of Historic Structures*, as adopted by this Chapter as a recommended practice."

9. Delete section 102.7 in its entirety and substitute in its place the following:

   102.7 "**Referenced codes and standards.** Where the provisions of this *Code* or the standards referenced thereby and in Chapter 45 of this *Code* do not apply to the specific subjects, situations or conditions encountered that involve risks to life and property from the hazards of fire, panic from fear of fire or smoke, or related hazards, compliance with the applicable chapters of the Rules and Regulations of the Safety Fire Commissioner shall be evidence of compliance with this *Code*."

10. Add a new section 102.13 to read as follows:

    102.13 "**Coordination of provisions.** This *Code* shall apply to all buildings, structures and facilities as provided in subsections 102.1 and 102.2, and shall be utilized in conjunction with codes and standards specified in **Table 102.13** entitled, "**CODES REFERENCE GUIDE**."

Table102.13:CODESREFERENCEGUIDE		
Area	**Primary**	**Supplement**
OccupancyClassification	LSC	IBC
BuildingConstructionTypesincludingallowableheight,allowablebuildingareas,andtherequirementsforsprinklerprotectionrelatedtominimumbuildingconstructiontypes.	IBC	LSC
MeansofEgress	LSC	NONE
Standpipes	IBC	IFC
InteriorFinish	LSC	NONE
HVACSystems	IMC	NONE
VerticalOpenings	LSC	NONE
SprinklerSystemsminimumconstructionstandard	LSC	NONE
FireAlarmSystems	LSC	NONE
SmokeAlarms&SmokeDetectionSystems	StateStatute&LSC	NONE
Portable Fire Extinguishers	LSC&NFPA96	NONE
CookingEquipment	IFC	NONE
FuelFiredAppliances	IFGC	NFPA54
LiquidPetroleumGas	NFPA58	NFPA54
CompressedNaturalGas	NFPA52	NONE

11. Delete section 103 and all sections there-under in their entirety and substitute in its place the following:

SECTION 103 "**GENERAL PROVISIONS FOR EXISTING AND PROPOSED (NEW) BUILDINGS.**

103.1 **General Provisions.** The administration, enforcement and penalty provisions of O.C.G.A. Title 25, Chapter 2, and the administrative provisions of the various chapters of the Rules and Regulations of the Safety Fire Commissioner shall apply to and regulate the application and enforcement of this *Code* by the Safety Fire Division of the Office of the Safety Fire Commissioner.

NOTE: Nothing herein shall be construed as prohibiting any local jurisdiction from adopting the deleted portions of Chapter 1 of this *Code* for local purposes, provided, however, local amendments shall

not be less restrictive than this *Code*, and other codes and standards as adopted by the various chapters of the Rules and Regulations of the Safety Fire Commissioner.

103.1.1 The provisions of O.C.G.A. Title 25, Chapter 2, and other applicable state laws, and the applicable provisions of various chapters of the Rules and Regulations of the Safety Fire Commissioner regarding the requirements for certificates, licenses, permits, plan reviews, inspections, approvals, fees, etc. shall apply and are in addition to any requirements of local jurisdictions. Local authorities having jurisdiction need to be consulted to determine if rules and regulations of the local jurisdiction regarding the requirements for local certificates, licenses, permits, plan reviews, inspections, approvals, fees, etc. also apply.

103.1.1.1 The administrative, operational, and maintenance provisions of this *Code*, with regard to the Safety Fire Division of the Office of the Georgia Safety Fire Commissioner, shall be limited to the scope and intents and purposes of the Official Code of Georgia Annotated (O.C.G.A.) Title 25, Chapter 2, and the Commissioner's Rules and Regulations.

103.1.1.1.1 Pursuant to O.C.G.A. 25-2-13(d), every person who

owns or controls the use of any building, part of a building, or structure described in O.C.G.A 25-2-13(b)(1), which because of floor area, height, location, use or intended use as a gathering place for large groups, or use or intended use by or for the aged, the ill, the incompetent, or the imprisoned, constitutes a special hazard to property or to the life and safety on account of fire or panic from fear of fire, must so construct, equip, maintain, and use such building or

structure as to afford every reasonable and practical precaution and protection against injury from such hazards. No person who owns or controls the use or occupancy of such a building or structure shall permit the use of the premises so controlled for any such specially hazardous use unless he has provided such precautions against damage to property or injury to persons by these hazards as are found and determined by the Commissioner in the manner described in

O.C.G.A. 25-2-13(d) to be reasonable and practical.

103.2 **Existing buildings.** Every building and structure existing as of April 1, 1968, which building or structure is listed in paragraph (1) of subsection (b) of O.C.G.A 25-2-13 shall comply with the minimum fire safety standards in the Rules and Regulations of the Safety Fire Commissioner promulgated pursuant to O.C.G.A. 25-2 which were in effect at the time such building or structure was constructed.

Exception 1: Any nonconformance noted under the electrical standards adopted at the time such building or structure was constructed shall be corrected in accordance with the current electrical standards adopted pursuant to O.C.G.A. 25-2.

Exception 2: A less restrictive provision contained in any subsequently adopted minimum fire safety standard pursuant to O.C.G.A. 25-2, may be applied to any existing building or structure.

103.2.1 Existing buildings to be deemed a proposed building. For the purposes of O.C.G.A. 25-2-14(b), any existing building or structure listed in paragraph (1) of subsection (b) of O.C.G.A. 25-2-13 and which comes under the jurisdiction of the Office of the Safety Fire Commissioner, pursuant to O.C.G.A. 25-2-12, shall be deemed to be a proposed (new) building in the event such building or structure is subject to substantial renovation, a fire or other hazard of serious consequence, or a change in the classification of occupancy, or a change to the occupant load or structure issued as a

condition of occupancy. The term "substantial renovation", for purposes of this subsection means any construction project involving exits or internal features of such building or structure costing more than the building's or structure's assessed value according to county tax records at the time of such renovation (O.C.G.A. 25-2-14). Where a change of classification is involved, also refer to 102.3 of this *Code*.

103.3 **Proposed (new) buildings and additions to existing buildings:**

103.3.1 Pursuant to O.C.G.A. 25-2-14.1(b), every proposed building and structure listed in paragraph (1) of subsection (b) of O.C.G.A. 25-2-13 shall comply with the adopted minimum fire safety standards that were in effect on the date that plans and specifications therefore were received by the state fire marshal, the proper local fire official marshal, or state inspector for review and approval. Complete plans for proposed (new) buildings and structures recorded as received by the authority having jurisdiction for review prior to the effective date of this Chapter, may be reviewed under the codes, standards, and Rules and Regulations of the Safety Fire Commissioner in force prior to the effective date of this Chapter.

103.3.1.1 Projects receiving a construction permit under earlier editions of the codes and standards must start construction no later than 360 days from the issue date of the permit in order not to require resubmittal for review

under the newer adopted codes and standards.

103.3.2 Plans and specifications for all proposed buildings which come under classification in paragraph (1) of subsection (b) of O.C.G.A. 25-2-13 and which come under the jurisdiction of the Office of the Safety Fire Commissioner pursuant to O.C.G.A. 25-2-12 shall be submitted to and receive approval by either the state fire marshal, the proper local fire marshal, or state inspector before any state, municipal, or county building permit may be issued or construction started (O.C.G.A. 25-2-14(a)). All such plans and specifications submitted as required by O.C.G.A. 25-2-14(a)shall be accompanied by a fee in the amount provided in O.C.G.A. 25-2-4.1 and shall bear the seal and Georgia registration number of the drafting architect or engineer or shall otherwise have the approval of the Commissioner.

103.3.3 Pursuant to O.C.G.A. 25-2-37(a), it shall be unlawful for any person to begin construction on any proposed building or structure which comes under the classification in paragraph (1) of subsection (b) of O.C.G.A 25-2-13 and which comes under the jurisdiction of the Office of the Safety Fire Commissioner pursuant to O.C.G.A. 25-2-12 without first having plans approved in accordance with O.C.G.A. 25-2-14.

103.4 Proposed building construction and completion. Pursuant to O.O.G.A. 25-2-14(b), a complete set of plans and specifications approved as set forth in 103.3.3 shall be maintained on the construction site, and construction shall proceed in compliance with the

state minimum fire safety standards under which such plans and specifications were approved. The owner of any such building or structure or his authorized representative shall notify the state fire marshal, the proper local fire marshal, or state inspector upon completion of approximately 80 percent of the construction thereof and shall apply for a certificate of occupancy when construction of such building or structure is completed.

103.5 **Certificate of occupancy required.** Pursuant to O.C.G.A. 25-2-14(c), every building or structure which comes under classification in paragraph (1) of subsection (b) of O.C.G.A. 25-2-13 and which comes under the jurisdiction of the Office of the Safety Fire Commissioner pursuant to O.C.G.A. 25-2-12 shall have a certificate of occupancy issued by the state fire marshal, the proper local fire marshal, or state inspector before such building or structure may be occupied. Such certificates of occupancy shall be issued for each business establishment within the building, shall carry a charge in the amount provided in O.C.G.A. 25-2-4.1, shall state the occupant load for such business establishment or building, shall be posted in a prominent location within such business establishment or building, and shall run for the life of the building, except as provided in O.C.G.A. 25-2-14(d). (See 103.2.1of the *IFC*, as adopted by this Chapter.)"

12. The provisions of section 105, PERMITS, are not adopted for purposes of this Chapter. Local governing authorities may adopt the provisions for local purposes. Refer to section 103.3 with regard to permits required by the Rules and Regulations of the Safety Fire Commissioner.

13. The provisions of section 109, BOARD OF APPEALS, are not adopted for purposes of this Chapter. Local governing authorities may adopt the provisions for local purposes.

14. Delete section 110.4 and all sections there-under in their entirety and substitute in its place the following:

    110.4 "**Violation penalties.** Persons who shall violate a provision of this *Code* or shall fail to comply with any of the requirements thereof or who shall

erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this *Code*, shall be guilty of violation of Section 25-2-37 of the Official Code of Georgia Annotated. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

110.4.1 **Abatement of violation.** In addition to the imposition of the penalties herein described, the fire code official is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises."

15. The provisions of section 113, SERVICE UTILITIES, are not adopted for purposes of this Chapter. Local governing authorities may adopt the provisions for local purposes.

(b) **Modifications to Chapter 2:**

1. Delete section 201.3 in its entirety and substitute in its place the following:

201.3 "**Terms defined in other codes.** Where terms are not defined in 120-3-3-.03 of Chapter 120-3-3 or other applicable chapters of the Rules and Regulations of the Safety Fire Commissioner, or this *Code* and are defined in the *International Building Code* (*IBC*), the *International Fuel Gas Code (IFGC)*, the *International Mechanical Code (IMC)*, or the codes and standards of the National Fire Protection Association (NFPA), as adopted by this Chapter and other Rules and Regulations of the Safety Fire Commissioner, such terms shall have the meanings ascribed to them as in those codes and standards."

2. Delete Institutional Group I-2 in its entirety and replace with:

Institutional Group I-2. Institutional Group I-2 occupancy shall include buildings and structures used for medical care on a 24-hour basis for more than five persons who are not capable of self-preservation. This group shall include, but not be limited to, the following:

Foster care facilities

Detoxification facilities

Hospitals

Nursing homes

Psychiatric hospitals

Assisted Living Communities

Memory Care Units

Limited Care Facilities (Limited Healthcare)

(c) **Modifications to Chapter 3:**

1. Delete section 303.5 in its entirety and substitute in its place the following:

   303.5 "**Portable Fire Extinguishers.** There shall be at least one portable fire extinguisher complying with Section 906 and with a minimum 2-A:40-B:C rating within 25 feet (7620 mm) of each asphalt (tar) kettle during the period such kettle is being utilized, and a minimum of one additional portable fire extinguisher with a minimum 3-A:40-B:C rating on the roof being covered."

2. Add new exceptions 4, 5, 6, 7 and 8 to section 308.3 to read as follows:

   "Exception #4:

   In Group A public assembly occupancies having an occupant load greater than 300, a minimum ceiling height of 25 feet and that are protected throughout by an approved, supervised automatic sprinkler system installed in accordance with NFPA 13, as adopted by this Chapter, pyrotechnic special effect devices shall be permitted to be used on stages before proximate audiences for ceremonial or religious purposes, as part of a demonstration in exhibits, or as part of a performance, provided that precautions satisfactory to the authority having jurisdiction are taken to prevent ignition of any combustible material and use of the pyrotechnic device complies with NFPA 1126, *Standard for the Use of Pyrotechnics before a Proximate Audience*, as adopted by Chapter 120-3-22 Rules and Regulations of the Safety Fire Commissioner. The ceiling height may be lowered to a minimum of 15 feet upon approval of the authority having jurisdiction having witnessed a demonstration shot of all types of devices being used in the display.

   Exception #5:

In Group A public assembly occupancies having an occupant load greater than 300, a minimum ceiling height of 25 feet and that are protected throughout by an approved, supervised automatic sprinkler system installed in accordance with NFPA 13, as adopted by this Chapter, flame effects before an audience shall be permitted in accordance with NFPA 160, *Standard for Flame Effects Before an Audience*, as adopted by Chapter 120-3-22 Rules and Regulations of the Safety Fire Commissioner. The ceiling height may be lowered to a minimum of 15 feet upon approval of the authority having jurisdiction having witnessed a demonstration of all types of devices being used in the display.

Exception #6

On stages and platforms as a necessary part of a performance in public assembly occupancies having an occupant load greater than 300, a minimum ceiling height of 25 feet and that are protected throughout by an approved, supervised automatic sprinkler system installed in accordance with NFPA 13, as adopted by this Chapter. The ceiling height may be lowered to a minimum of 15 feet upon approval of the authority having jurisdiction having witnessed a demonstration of all types of devices being used in the display.

Exception #7

In Group A public assembly occupancies having an occupant load greater than 100 with fixed seating, a minimum ceiling height of 25 feet and that have a minimum of two certified fire fighters on site with proper firefighting equipment as determined by the local fire official, pyrotechnic special effect devices shall be permitted to be used on stages before proximate audiences for ceremonial or religious purposes, as part of a demonstration in exhibits, or as part of a performance, provided that precautions satisfactory to the authority having jurisdiction are taken to prevent ignition of any combustible material and use of the pyrotechnic device complies with NFPA 1126, *Standard for the Use of Pyrotechnics before a Proximate Audience*, as adopted by Chapter 120-3-22 Rules and Regulations of the Safety Fire Commissioner. The ceiling height may be lowered to a minimum of 15 feet upon approval of the authority having jurisdiction having witnessed a demonstration shot of all types of devices being used in the display.

Exception #8:

In public assembly occupancies having an occupant load greater than 100 with fixed seating, a minimum ceiling height of 25 feet and that have a minimum of two certified fire fighters on site with proper firefighting equipment as determined by the local fire official, flame effects before an audience shall be permitted in accordance with NFPA 160, *Standard for Flame Effects Before an Audience*, as adopted by this Chapter. The ceiling height may be lowered to a minimum of 15 feet upon approval of the authority

having jurisdiction having witnessed a demonstration of all types of devices being used in the display."

3. Delete section 310.1 'General' its entirety and substitute in its place the following:

   310.1 "**General.** The smoking or carrying of a lighted pipe, cigar, cigarette or any other type of smoking paraphernalia or material is prohibited in areas indicated in Sections 310.2 through 31.8, buildings, structures, or areas, or portions of buildings, structures, or areas, as indicated is this in any other code or standard as adopted by the Rules and Regulations of the Safety Fire Commissioner, or where prohibited in accordance Chapter 12A of Title 31 of the O.C.G.A."

4. Delete section 319.1 'General' its entirety and substitute in its place the following:

   319.1 **General.** Mobile food preparation vehicles that are equipped with appliances that produce smoke or grease-laden vapors shall comply with NFPA 96, *Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations* as adopted by this Chapter 120-3-3 and this section.

5. Delete section 319.3 'Exhaust hood' in its entirety and substitute in its place the following:

   319.3 Exhaust hood. Cooking equipment that produces grease-laden vapors shall be provided with a kitchen exhaust hood that complies with NFPA 96, *Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations* as adopted by this Chapter 120-3-3.

6. Delete section 319.4 'Fire protection' in its entirety and substitute in its place the following:

   319.4 **Fire protection.** Fire protection shall be provided in accordance with NFPA 96, *Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations* as adopted by this Chapter 120-3-3.3 -3 of the Rules and Regulations of the Safety Fire Commissioner."

(d) **Modifications to Chapter 4**:

(4) Add section 403.1.1 to read as follows:

403.1.1 "**Caregiver training.** A minimum of three hours' initial fire safety training for receipt of a certificate of training for successful completion shall be required for all directors, operators and all staff members of day-care facilities (adult and children), and for administrator's, directors,

operators and all staff of Group I-1 and Group R-4, assisted living communities, assisted living facilities, community living arrangements, memory care units, personal care homes, and residential board and care homes, as defined in Chapter 2 of this *Code* or as defined by the *Life Safety Code*, and or as adopted by Chapter 120-3-3 of the Rules and Regulations of the Georgia Safety Fire Commissioner. The curriculum for the fire safety training shall receive written approval by the State Fire Marshal's Office and be taught by an instructor registered with the Safety Fire Commissioner's Office. All persons as required herein to obtain such required training shall receive this training within 90 days from receipt of a license, being commissioned or the opening of a new facility. Such new persons shall receive a minimum of three hours' initial fire safety training and recommendation for receipt of a certificate of training for successful completion of the training within 90 days of employment. In addition, a minimum of two hours of fire safety refresher training shall be required for receipt of a certificate of training for successful completion of the refresher training. The refresher training shall be required for all persons coming under 403.1.1, every three years from the date initial training is received. Registered instructors shall deliver the training based on policies and direction from the State Fire Marshal's Office. Instructors found not to be delivering the training in accordance with the said policies and direction shall be removed from the registry and prohibited from delivering future training."

2. Delete section 403.8.2 in its entirety and substitute in its place the following:

403.8.2 **Group I-2 occupancies.** Group I-2 occupancies to include Assisted Living Communities, Memory Care Units and Limited Care Facilities (Limited Healthcare) shall comply with Sections 401, 403.8.2.1 through 403.8.2.3 and 404 through 406.

(e) **Modifications to Chapter 5:**

1. Add a new section 501.5 to read as follows:

501.5 " Where buildings or facilities fall under the jurisdiction of the Georgia Safety Fire Commissioner as set forth in the Official Code of Georgia Annotated (O.C.G.A.), Title 25, Chapter 2, except for State owned facilities and State occupied facilities, it is intended that the provisions of Chapter 5 that primarily relate to fire department response, access to facilities, access to building interiors, key boxes, premises identification, fire department connection locations, and fire hydrant locations be administered by the local Fire Chief and/or Fire Code Official responsible for providing fire or other emergency response to the buildings or facilities. With regard to State

owned State occupied facilities, that are not provided with a facility fire department, it is intended that the local Fire Chief and/or Fire Code Official providing fire protection to such facilities shall have input in the planning of facilities with regard to the noted provisions covered by Chapter 5."

2. Delete section 503.1.1 in its entirety and substitute in its place the following:

503.1.1 "**Buildings and facilities.** Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction as determined by the local Fire Chief and/or Fire Code Official of the responding fire department or agency. The fire apparatus access road shall comply with the requirements of this section and Appendix D of this *Code*. The fire apparatus access road shall extend to within 150 feet (45.7 m) of all portions of the facility or any portion of the exterior wall of the first story of the building as measured by an approved route around the exterior of the building or facility.

Exception: The local Fire Chief and/or Fire Code Official of the responding fire department or agency is authorized to increase the dimension of 150 feet (45.7 m) where:

1. *The building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.*

2. *The fire apparatus access roads cannot be installed because of location on the property*, topography, waterways, nonnegotiable grades or other similar conditions, and an approved alternative means of fire protection is provided.

3. *There are not more than two Group R-3 or Group U occupancies."*

3. Add a new section 504.1.1 to read as follows:

504.1.1 "**Access Doors.** For fire department emergency access purposes, there shall be at least one access door in each 100 linear feet (30.5 m) or major fraction thereof of the exterior walls which face the access roadways required by Section 503, unless otherwise required in this code section. In exterior walls designed with continuous rolling dock doors, which face access roadways, there shall be at least one access door in each 200 linear feet (61 m) or fraction thereof. Required access doors shall be a minimum of 3 feet (0.9 m) wide and 6 feet 8 inches (2 m) high and shall be

accessible without use of a ladder. Rolling doors are acceptable for such purposes in buildings protected throughout by an approved automatic sprinkler system(s) unless otherwise approved for unsprinklered buildings by the local Fire Chief and /or Fire Code Official."

Exception: The local Fire Chief and / or Fire Code Official of the responding fire department or agency is authorized to increase the 100 linear feet.

4. Delete section 507.5.1 in its entirety and substitute in its place the following:

507.5.1 "**Where required**. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 500 feet (152 m) from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrant and mains shall be provided where required by the local Fire Chief and/or Fire Code Official of the responding fire department or agency.

*Exceptions**:***

1. *For group R-3 and Group U occupancies, the distance requirement shall be 600 feet (183 m).*

2. *For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, the distance requirement shall be 600 feet (183 m)."*

5. Delete subsection 507.5.1.1 in its entirety without substitution. Refer to section 905 of this *Code*.

(f) **Modifications to Chapter 6:**

1. Add exception number 3 to 603.4 to read as follows:

3. *In emergency conditions, when approved by the authority having jurisdiction, equipment designed to be portable may be used for a specified time provided such equipment is properly protected and separated from combustibles as specified by the manufacturer's instructions and the authority having jurisdiction. Such devices shall be supervised during their period of operation by the establishment of a fire watch system based on the definition of "Fire Watch"in* Chapter 2 of this Code. Persons assigned to perform fire watch duties shall be instructed as to their duties.

2. Delete section 604.4 in its entirety and substitute in its place the following:

604.4 " Multiplug adapters & Relocatable Power Taps (RPTs).

604.4.1 **Multiplug adapters.** The use of multiplug electrical outlet adapters, such as but not limited to cube adapters or plug strips, or any other similar device that is not UL listed and is not equipped with overcurrent protection shall be prohibited. Such devices that are UL listed and are equipped with overcurrent protection shall only be used in accordance with the UL listing and in accordance with the manufacturer's instructions. Such listed devices shall not be used where specifically prohibited by a provision of NFPA 70, *National Electrical Code*. Where there is any conflict between the UL listing and the manufacturer's instructions, the UL listing provisions shall prevail. The suitability for the use of RTP's shall be based, by the user, on 110.3(A)(1) of the *National Electrical Code*.

604.4.2 **Relocatable Power Taps (RPT's):**

604.4.2.1 Relocatable Power Taps (RPT's) shall be UL listed and labeled in accordance with UL1363. They shall be of the polarized or grounded type, and be equipped with overcurrent protection. RPT's shall be used in accordance with their UL listing and the manufacturer's instructions. [NEC, 110.3(B)] Where there is any conflict between the UL listing and the manufacturer's instructions, the UL listing provisions shall prevail. Such listed devices shall not be used where specifically prohibited by a provision of NFPA 70, *National Electrical Code*.

604.4.2.2 **RPT power supply.** RPT's shall be directly connected to a permanently installed electrical receptacle. An RPT shall not be plugged into another RPT or into an extension cord or flexible cord. A UL listed extension cord or flexible cord having only one outlet and serving only one device may be plugged into an RPT so long as the arrangement does not cause an overcurrent condition in the RPT.

604.4.2.3 **RPT power cords.** Power cords of RPT's shall not be extended through holes in walls, structural ceilings, or floors. Such cords shall not be run

under doors or floor coverings. They shall not be run through doorways, windows, or similar openings.

604.4.2.4 **Protection from physical damage.** RPT's shall be mounted off floors to a wall or fixture so as to be protected against physical damage. The method of mounting shall not be permanent so that the devices may be easily relocated as need dictates.

604.4.2.5 **Restricted use in Health Care Occupancies.** "Hospital grade"RPT's listed, based on UL 1363A, for use in "patient care"or "patient sleeping rooms"of a hospital, limited care facility, nursing home, hospice, or ambulatory health care facility may be used in such locations, unless such use is specifically prohibited by this *Code*, NFPA 70, *National Electrical Code*, NFPA 101, *Life Safety Code*, NFPA 99, *Health Care Facilities Code*, or other applicable State or Federal rule or regulation."

3. Insert an Informational Note following section 604.4.2.4 to read as follows:

"Informational Note: Based on UL1363, RPT's are intended for indoor use as an extension of a grounding alternating-current branch circuit for general use. Where such devices are used or intended to be used for voltage surge suppression, the RPT is also required by UL1363 to meet the provisions of UL1449 for Transient Voltage Surge Suppressors. UL1363 incorporates this compliance. Such devices may be utilized for the protection of personal or laptop computers, computer related devices, word processors, memory typewriters, and other low load devices. They are not intended for use with high load equipment such as, but not limited to, refrigerators, coffee pots, microwave ovens, toasters, toaster ovens, space heaters, and other high power load devices. The labeling and manufacturer's information and instructions need to be consulted to determine if the RPT is also listed for transient voltage suppression. In addition, some RPT devices have additional options included in the device such as "electrical noise"filtration. UL1363 would also require and ensure that component would meet UL1283. The safety requirements relative RPT's regardless of the various extras that may be included in a device covered by UL1363 and the RPT manufacturer's instructions. RPT's have also been referred to as "Temporary Power Taps (TPT's)", "power strips", "Surge/Spike Protectors", or "Portable Outlets"among other designations. NFPA 70, *National Electrical Code* (NEC), 2011 edition, does not

utilize the term "Relocatable Power Tap or RPT, however, for safety provisions similar to those utilized by UL, reference can be made to NEC Article 400, Flexible Cords and Cables, Article 406, Receptacles, Cord Connectors, and Attachment Plugs (CAPS), and Article 517 Health Care Facilities."

4. Delete section 604.10 and the exception thereto, and substitute in its place the following: Sections 604.10.1 through 604.10.4 remain unchanged.

   604.10 " Portable, electric space heaters. Portable, electric heaters are prohibited in all portions of occupancies in Groups A, E (including day care), I-1, I-3, R-1, R-2, and R-4. Where not prohibited by other chapters of this *Code*, or by provisions of NFPA 101, *Life Safety Code*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner, portable, electrical space heaters shall be permitted to be used in all other occupancy groups. Where use is permitted, portable electric space heaters shall comply with Sections 604.10.1 through 604.10.5 and 604.10.6 where applicable."

5. Add a new section 604.10.6 to read as follows:

   604.10.6 " Oil filled radiator type, portable electric space heaters that have a maximum surface temperature restriction of 250º F, may be permitted to be used in staff and employee areas that are located on floors not occupied by patient or staff sleeping areas and that are totally sprinkler protected in I-2 occupancies as defined in Chapter 2 of this *Code*. For single story I-2 occupancies, such devices may be used in staff and employee non-sleeping areas that are totally sprinkler protected and that are separated from staff and patient sleeping room areas by 1-hour fire rated construction. Such space heaters shall comply with 604.10.1 through 604.10.5."

6. Add a new 604.12 to read as follows:

   604.12 "**Separation from Transformers.** Space separation for transformers shall be as follows:

   (1) Transformer pad locations shall be a minimum of 10 feet (3 m) from any building, building overhangs, canopies, exterior walls, balconies, exterior stairs and/or walkways connected to the building.

   (2) Transformer pad edges shall be not less than 14 feet (4.3 m) from any doorway.

(3) Transformer pad edges shall be not less than 10 feet (3 m) from any window or other opening.

(4) If the building has an overhang, the 10 foot (3 m) clearance shall be measured from a point below the edge of the overhang only if the building is three stories or less. If the building is four stories or more, the 10 foot (3 m) clearance shall be measured from the outside building wall.

(5) Fire escapes, outside stairs, and covered walkways attached to or between buildings, shall be considered as part of the building.

604.12.1 Transformer pads may be located closer to noncombustible walls than the above required minimum clearances in 605.12(1) upon written approval of the authority having jurisdiction, however, in no case shall the transformer location be less than 3 feet (0.9 m) from the building.

604.12.2 Transformer pads existing prior to December 31, 1994, are exempted from the requirements of 605.11. When buildings are modified, reductions in space separations may be less than the above required minimum clearances upon written approval of the authority having jurisdiction."

7. Delete section 607 in its entirety and substitute in its place the following:

607.1 "General. Commercial kitchen exhaust hoods and residential cooking appliances in commercial and public buildings shall comply with the requirements of NFPA 96, *Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations*, as adopted by this Chapter 120-3-3."

7. Delete section 609.2 in its entirety and substitute in its place the following:

607.2 "**Where required.** A commercial hood complying with NFPA 96, as adopted by this Chapter 120-3-3, shall be installed in any occupancy at or above all commercial cooking appliances, and domestic cooking appliances used for commercial purposes and which produce grease laden vapors.

607.2.1 The provisions of 607.2 shall not apply where provided for in the scoping provisions of subsection 1.1.4 of NFPA 96, as adopted by this Chapter 120-3-3."

8. Delete 607.3 in its entirety and substitute in its place the following:

607.3 "**Operations and maintenance.** Commercial cooking appliances, and domestic cooking appliances used for commercial purposes and which produce grease laden vapors, and all components of ventilation systems serving such appliances shall be installed, operated and maintained in accordance with the provisions of NFPA 96 as adopted by this Chapter 120-3-3."

(g) **Modifications to Chapter 7:**

1. Add a new 701.2.2 to read as follows:

701.2.2 "**Barrier Identification.** All fire and/or smoke barriers or walls shall be effectively and permanently identified with signs or stenciling above a decorative ceiling and/or in concealed spaces with letters a minimum of 2 inches (51 mm) high on a contrasting background spaced a maximum of 12 feet (3.7m) on center with a minimum of one per wall or barrier. The hourly rating shall be included on all rated barriers or walls. Suggested wording is, "(__) Hour Fire and Smoke Barrier-Protect All Openings."

(h) Modifications to Chapter 8:

1. Delete section 801.1 in its entirety and substitute in its place the following:

SECTION 801 "**GENERAL,**

801.1 Scope. The provisions of this *Code*, as adopted by this Chapter shall govern furniture, furnishings, decorative vegetation, and decorative materials, as defined in Chapter 2 of this *Code*, in buildings and structures. Section 803 shall be applicable to all existing buildings, structures, or spaces constructed and issued the required certificate of occupancy prior to the effective date of this Chapter 120-3-3. Sections 804 through 808 shall be applicable to such existing buildings, structures, and or spaces, and to proposed (new) buildings, structures, or spaces. For the purposes of this *Code*, wall padding, wall mounted gym pads, crash pads, or other pads mounted or secured to walls shall meet the provisions of this NFPA 101, *Life Safety Code* applicable to interior finish materials. Gym pads or other pads used on floors shall be considered as furnishings. Interior finish and trim in proposed (new) buildings shall be regulated by NFPA 101, *Life Safety Code*, as adopted by Chapter

120-3-3 of the Rules and Regulations of the Safety Fire Commissioner."

(i) **Modifications to Chapter 9:**

1. Delete section 901.3 in its entirety and substitute in its place the following:

   901.3 "**Approvals and Permits.** Fire protection systems shall be approved as set forth by the authority having jurisdiction. Local authorities having jurisdiction may require permits as required and set forth in 105.6 and 105.7 of this *Code*."

2. Delete section 901.4.1 in its entirety and substitute in its place the following:

   901.4.1 " Required fire protection systems. Fire suppression systems required by this *Code*, the *International Building Code*, the *Life Safety Code*, or other codes and standards adopted by the Rules and Regulations of the Georgia Safety Fire Commissioner, shall be installed, operated, tested, repaired and maintained in accordance with this *Code* and applicable standards adopted by the Rules and Regulations of the Georgia Safety Fire Commissioner."

3. Delete section 901.4.2 in its entirety and substitute in its place the following:

   901.4.2 " Provisions in excess of the minimum code requirements shall, as a minimum, be installed to meet the provisions of the currently adopted code(s) and/or standard(s) which may be applicable to the provision at the time of its installation. Any non-required fire protection system which is added onto, interconnected with, any required fire protection system (of a similar type), shall be designed, installed, and maintained in accordance with the provisions of the currently adopted code(s) and/or standard(s) which may be applicable to the provision at the time of its installation.

   901.4.2.1 The provisions of 901.4.2 shall not apply to other installations not conforming with the provisions of the currently adopted code(s) and/or standard(s) applicable to the provision at the time of its installation if such installations are reported and filed with the local responding fire department and the authority having jurisdiction. In addition such systems shall be identified as required by the authority having jurisdiction.

901.4.2.2 The provisions of 901.4.2 shall not apply for non-required systems designed, reviewed, installed and approved in accordance with local codes and/or ordinances."

4. Delete section 903.2 in its entirety and substitute in its place the following:

903.2 "**Where required**.

(a) Approved automatic sprinkler systems for proposed (new) buildings and structures approved for construction as set forth in 103.3.1 of this *Code*, or where specifically required for existing buildings and structures, shall as the minimum level of protection, be that required by the applicable provisions of NFPA 101, *Life Safety Code* and applicable provisions of other codes and standards adopted by Chapter 120-3-3 of the Rules and Regulations of the Georgia Safety Fire Commissioner, and this *Code* section; provided, however, the *International Building Code* (*IBC*) shall govern the requirements for sprinkler protection that are related to minimum building construction types, or to increases in building area and height limitations imposed by the *IBC*."(Refer to **Table 102.13, CODES REFERENCE GUIDE**)

(b) Where a new automatic sprinkler system is required by this *Code* or other code, standard, rule or regulation, the system shall be designed and installed in accordance with the requirements applicable to systems in proposed (new) buildings and structures.

(c) In addition, an automatic sprinkler system may be required for new or existing buildings, structures, spaces, or conditions by other NFPA standards adopted by this Chapter 120-3-3, or other Rules and Regulations of the Safety Fire Commissioner.

(d) The requirements for the installation, design, and testing of automatic sprinkler systems shall be as applicable, NFPA 13, *Standard for the Installation of Sprinkler Systems*, NFPA 13R, *Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height*; and NFPA 13D, *Standard for the Installation of Sprinkler Systems* in One- and Two-Family Dwellings and Manufactured Homes, or as adopted and modified by this Chapter 120-3-3.

903.2.1 The sprinkler protection provision of 903.2 shall not be mandatory for spaces or areas in telecommunications buildings

used exclusively for telecommunications equipment, associated electrical power distribution equipment, batteries and standby engines, provided those spaces or areas are equipped throughout with a supervised automatic fire alarm system, and are separated from the remainder of the building by fire barriers consisting of walls and floor/ceiling assemblies having a fire resistance rating of not less than 2-hours.

NOTE: NFPA 76, *Fire Protection of Telecommunications Facilities*, should be consulted. Refer to the edition adopted by this Chapter 120-3-3."

5. Delete section 903.3.7 of this *Code* in its entirety and substitute in its place the following:

   903.3.7 "**Fire department connections.** The location of fire department connections shall be approved by the Fire Chief as set forth in subsection 501.5 of this *Code*, adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner."

6. Delete section 904.2.2 in its entirety and substitute in its place the following:

   904.2.2 "**Commercial hood and duct systems.** Each required commercial kitchen exhaust hood and duct system required by Section 607 to have a commercial hood complying with NFPA 96, shall be protected with an approved automatic fire-extinguishing system installed in accordance with this *Code* and applicable provisions of NFPA 96."

7. Delete section 904.12 in its entirety and substitute in its place the following: "904.12 Fire Protection for Commercial Cooking Operations.

   904.12.1 The requirements for, as well as the design, installation, protection and maintenance of cooking equipment, shall be as required by NFPA 101, *Life Safety Code* and NFPA 96, Standard for the Ventilation Control and Fire Protection of Commercial Cooking Operations, as adopted by this Chapter 120-3-3."(Refer to **Table 102.13, CODES REFERENCE GUIDE**)

   904.12.2 Fire suppression systems approved for the protection of commercial cooking appliances shall be designed, installed, and maintained in accordance with the applicable standards adopted in this Chapter.

904.12.3 Portable fire extinguishers for commercial cooking appliances. Portable fire extinguishers shall be installed in kitchens or other commercial cooking areas in accordance with NFPA 10 and NFPA 96, as adopted by this Chapter 120-3-3 of the Rules and Regulations of the Georgia Safety Fire Commissioner. Class K portable fire extinguishers and the required operation sequence signage required by NFPA 10, shall be located between 5 feet and 10 feet from the manual release device(s) of the kitchen exhaust hood fire suppression system(s)."

8. Delete section 905.1 in its entirety and substitute in its place the following:

905.1 "**General.** The State's minimum requirements for standpipe systems shall be as required by the *International Building Code* (*IBC*) or This *Code*. Standpipe systems shall be designed, installed and tested in accordance with NFPA 14, *Standard for the Installation of Standpipe, and Hose Systems* as adopted by this Chapter 120-3-3. (Refer to **Table 102.13, CODE REFERENCE GUIDE**)"

9. Insert a new subsection 905.13 to read as follows:

905.13 "**Fire department connections.** The location of fire department connections shall be approved by the Fire Chief as set forth in subsection 501.5 of this *Code*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner."

10. Delete section 906.1 in its entirety and substitute in its place the following:

906.1 " Portable Fire Extinguishers - General. Portable fire extinguishers shall be installed in all buildings, structures and facilities falling under this *Code* and O.C.G.A. 25-2. For any other building, structure, facility, or condition or special hazard, portable fire extinguishers shall be provided as may be required by this *Code* in Table 906.1, or by various codes and standards adopted by this Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner. (Refer to **Table 102.13, CODES REFERENCE GUIDE**)."

11. Delete section 906.2 in its entirety and substitute in its place the following:

906.2 "**General requirements.** The selection, distribution, installation, and maintenance of portable fire extinguishers shall comply with NFPA 10, *Standard for Portable Fire Extinguishers*, as adopted by this Chapter 120-3-3.

906.2.1 The maximum travel distance to reach an extinguisher shall not apply to the spectator seating portions of Group A-5 occupancies.

906.2.2 Thirty-day inspections shall not be required and maintenance shall be allowed to be once every three years for dry-chemical or halogenated agent portable fire extinguishers that are supervised by a listed and approved electronic monitoring device, provided that all of the following conditions are met:

(a) Electronic monitoring shall confirm that extinguishers are properly positioned, properly charged and unobstructed.

(b) Loss of power or circuit continuity to the electronic monitoring device shall initiate a trouble signal.

(c) The extinguishers shall be installed inside of a building or cabinet in a noncorrosive environment.

(d) Electronic monitoring devices and supervisory circuits shall be tested every three years when extinguisher maintenance is performed.

(e) A written log of required hydrostatic test dates for extinguishers shall be maintained by the owner to ensure that hydrostatic tests are conducted at the frequency required by NFPA 10.

906.2.3 In Group E - Educational occupancies, in lieu of locating fire extinguishers in corridors and normal paths of travel as specified in NFPA 10, *Standard for Portable Fire Extinguishers*, fire extinguishers may be located in rooms that open directly onto such corridors and pathways provided all of the following are met:

(a) The room in which such extinguishers are placed are located in close proximity to that portion of the corridor where a fire extinguisher would otherwise be placed in accordance with NFPA 10; *Standard for Portable Fire Extinguishers*,

(b) A sign which states in white letters at least one inch in height on a red background, 'FIRE EXTINGUISHER LOCATED IN THIS ROOM,' is placed on the corridor wall immediately adjacent to the entrance way of each such room so that it can be clearly seen at all times;

(c) The rooms in which such extinguishers are placed shall be constantly supervised during school hours; and,

(d) Those rooms cannot be subject to being locked at any time the building is occupied."

12. Delete sections 906.3 through 906.10 without substitution (Refer to NFPA 10).

13. Delete section 907.1 in its entirety and substitute in its place the following, while retaining existing subsections:

907.1 "**Fire Alarm Systems - General.** (a) The State's minimum requirements for fire alarm systems in proposed (new) buildings and structures approved as set forth in 103.3.1 of this *Code* shall be as required by NFPA 101, *Life Safety Code*, as adopted by this Chapter 120-3-3. Fire alarm systems shall be designed, installed, tested, and maintained in accordance with NFPA 72, *National Fire Alarm and Signaling Code*, as adopted by this Chapter 120-3-3. (b) New fire alarm systems to be installed in existing buildings shall be designed, installed, and maintained in accordance with NFPA 72, as adopted by this Chapter 120-3-3. (Refer to **Table 102. 13 CODES REFERENCE GUIDE)"**

17. Delete sections 907.2 through 907.6.6.2 in their entirety and without substitution.

18. Delete section 909.1 in its entirety and substitute in its place the following:

909.1 "**Scope and purpose.** This section applies to mechanical or passive smoke control systems when they are required for proposed (new) buildings or portions thereof by provisions of the *Life Safety Code* (LSC) or this *Code*, as adopted by this Chapter 120-3-3, or by provisions of the *International Building Code* (*IBC*), as adopted by the Department of Community Affairs. The purpose of this section is to establish minimum requirements for the design, installation, and acceptance testing of smoke control systems that are intended to provide a tenable environment for the evacuation or relocation of occupants. These provisions are not intended for the preservation of contents, the timely restoration of operations, or for

assistance in fire suppression or overhaul activities. Smoke control systems regulated by this section serve a different purpose than the smoke and heat venting provisions found in Section 910. Mechanical smoke control systems shall not be considered exhaust systems under Chapter 5 of the *International Mechanical Code (IMC)*."

19. Delete section 909.2 in its entirety and substitute in its place the following:

    909.2 "**General design requirements.** Buildings, structures, or portions thereof required by provisions of the *Life Safety Code* (LSC) or this *Code*, as adopted by this Chapter, or by provisions of the *International Building Code*, as adopted by the Department of Community Affairs, to have a smoke control system or systems shall have such systems designed in accordance with the applicable requirements of Section 909 of this *Code* and the generally accepted and well established principles of engineering relevant to the design. The construction documents shall include sufficient information and detail to describe adequately the elements of the design necessary for the proper implementation of the smoke control systems. These documents shall be accompanied with sufficient information and analysis to demonstrate compliance with these provisions."

20. Add a new section 909.2.1 to read as follows:

    909.2.1 " Smoke Control. For the purposes of 909.2 the following publications shall be considered as providing the generally accepted and well established principals of engineering relevant to design of required smoke control systems.

    (1) NFPA 92, *Standard for Smoke Control Systems*

    (2) NFPA SPP-53, *Smoke Control in Fire Safety Design*

    (3) ASHRAE/SFPE, *Design of Smoke Management Systems*

    (4) ASHRAE, Guideline 5*: Guideline for Commissioning Smoke Management Systems"*

    (5) NFPA 101, *Life Safety Code* (For non-mandatory guidance involving systems for existing detention and correction facilities refer to A.23.3.1.3 of the 2012 Edition)

21. Add a new section 909.2.1 to read as follows:

909.2.1 "**Deactivation of Mechanical Pressurization Systems.** The design of pressurization systems shall ensure that smoke is not introduced into the pressurized enclosure so as to result in the untenable contamination of the fresh air. Approved smoke detectors shall be installed at each intake in such approved manner that the operation of the fan providing mechanical pressurization to the enclosure where smoke is detected shall be deactivated upon detection of smoke."

22. Add a new subsection 912.2.3 to read as follows:

912.2.3 "**Location of fire department connections.** The location of fire department connections for automatic sprinkler systems shall be as approved by the Fire Chief as set forth in accordance with Section 912 and Section 501.5 of this *Code*, as adopted by 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner."

23. Add a new section 914.7.3 to read as follows:

914.7.3 "**Limited Use Special Amusement Buildings:** Special amusement buildings not open to the public in excess of 45 days in a twelve month period shall be permitted, provided all of the following conditions are met:

1. Portable fire extinguishers with a minimum of a 2A:10B:C rating are placed within 25 feet of each activity or viewing station, so as to be readily accessible and visible to staff;

2. A smoke detection system is placed throughout the facility with a smoke detector located at each activity or viewing station and located throughout corridors and halls not to exceed a spacing more than 15 feet (4.6 m) from a wall or more than 30 feet (9.1 m) on center. Where there is no ceiling or cover over activity or viewing stations, or over exit access routes, other than the standard ceiling, smoke detectors shall be placed so that their area of coverage does not exceed the approval listing of the detectors;

3. Emergency lighting shall be provided which will cause illumination of the means of egress upon loss of power to lighting circuits for the means of egress routes serving the special amusement building. In addition, all staff shall be provided with flashlights;

4. Personnel dedicated for the sole purpose of performing fire watch duties as defined in Chapter 2 of the *International Fire Code* and

as be deemed necessary for specific circumstances by the authority having jurisdiction, shall be provided in such numbers to ensure the entire special amusement space is surveyed at least every 30 minutes starting 30 minutes prior to public occupancy. Such personnel shall be provided with a direct communication device for communication with all viewing or activity stations throughout the facility. In addition such personnel shall be provided with appropriate training for the operation of portable fire extinguishing equipment;

5. Communication to the responding fire department or emergency dispatch center is available from the facility (a regular telephone or at least two cell phones are acceptable);

6. "NO SMOKING"signs shall be posted at entrances to the building. Receptacles for the discard of smoking material shall be located a minimum of 15 feet (9.1 m) from the structure and shall be clearly identified by applicable signage;

7. Documentation of fire watch tours required by item 4 above is maintained. The documentation, at the minimum, shall note the time when the tour was conducted the name of personnel conducting the tour, and information about any hazards identified and actions taken to remove such hazards. Such documentation shall be readily available to the code official upon request."

(j) **Modifications to Chapter 10:**

1. Delete sections 1001 through 1030 in their entirety and substitute in their place the following:

1001.1 "**General.**

(A) Proposed (new) buildings or portions thereof approved for construction as set forth in 103.3 of this *Code*, shall be provided with means of egress and related safeguards as set forth by NFPA 101, *Life Safety Code*, as adopted this Chapter. (Refer to **Table 102.13, CODES REFERENCE GUIDE**)

(B) Buildings and structures existing and approved prior the effective date of this Chapter 120-3-3, as set forth in 103.3 of this *Code*, having means of egress and related safeguards conforming to NFPA 101, *Life Safety Code*, under which they were approved and

constructed shall be considered as complying with this *Code*. Means of egress and related safeguards in existing buildings constructed without approval, may be considered as complying with this code section if, in the judgment of the authority having jurisdiction, they do not constitute a distinct hazard to life. Where, in the judgment of the authority having jurisdiction, the means of egress or related safeguards provided constitute a distinct hazard to life, the hazardous condition or conditions shall be remedied based on the provisions for existing buildings of the *Life Safety Code* as adopted by this Chapter 120-3-3.

(C) Exit discharge termination dispersal areas may be utilized where authorized and designed in accordance with 7.7.1.5 of the *Life Safety Code*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner."

2. Add the following section 1001.2 to read as follows:

1001.2 "**Overcrowding and Life Safety Hazard Prevention**. Overcrowding or admittance of any person beyond the approved capacity of a building or a portion thereof shall not be allowed. It is the responsibility of the manager and the person in charge of a building, structure, or portion thereof not to allow an overcrowded condition or any condition which constitutes a life safety hazard to exist, and to take prompt action to remedy an overcrowded condition or life safety hazard when evidence of such a condition is noted, or when advised or ordered by the Fire Code Official or his/her representative. (Refer to 107.6)

1001.2.1 **Decreases in the Occupant Load.** For authorized decreases in the occupant load approved by the fire code authority having jurisdiction, the actual number of occupants for whom each occupied space, floor or building is designed, although less than those determined by calculation, shall be permitted to be used in the determination of the design occupant load.

1001.2.2 **Increases in the Occupant Load.** For approved increases in the occupant load by the fire code authority having jurisdiction, refer to 7.3.1.5 of Subsection 7.3.1 of NFPA 101, *Life Safety Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner.

1001.2.3 **Overcrowded Condition or Life Safety Hazard Determined.** The fire code official, upon finding any

overcrowded conditions or obstructions in aisles, passageways or other means of egress, or upon finding any condition which constitutes a life safety hazard, shall be authorized to cause the event to be stopped until such condition or obstruction is corrected. In addition, a structure, building, room or designated portion thereof shall be deemed overcrowded if the total of occupants exceeds the exit capacity of the structure, building, room or area involved."

(k) **Modifications to Chapter 11:**

1. Delete 1101.1 and substitute in its place the following:

   1101.1 "**Scope.** The provisions of this chapter shall apply to existing buildings constructed prior to the effective date of this Chapter 120-3-3.

2. Delete 1101.2 and substitute in its place the following:

   1101.2 "**Intent.** The intent of this chapter is to provide a minimum degree of fire and life safety to persons occupying buildings by providing for existing building rehabilitation activities including repair, renovation, modification, reconstruction, change of use or occupancy classification, and additions to such buildings.

3. Delete 1101.3 and substitute in its place the following:

   1101.3 "**Permits.** Construction permits for buildings falling under State jurisdiction, as set forth in O.C.G.A. 25-2 .13, shall be required for the activities noted in 4601.1 when the criteria of O.C.G.A. 25-2-14(d)for an existing building to be classified as a proposed (new) building or structure are met. For local jurisdictions, permits shall be required as set forth in Section 105.7 of this *Code* and the *International Building Code*.

4. Delete Sections 1102 through 1104 and substitute in their place a new 1102 to read as follows:

   SECTION 1102 "**FIRE AND LIFE SAFETY REQUIREMENTS FOR EXISTING BUILDINGS AND STRUCTURES**"

   1102.1 "**General.** The intents and purposes of this section shall be met through the application of the applicable provisions of this *Code*, the *Life Safety Code*, and other codes and standards as adopted by Chapter 120-

3-3 of the Rules and Regulations of the Georgia Safety Fire Commissioner, as they apply to existing conditions and routine maintenance of fire and life safety protection systems and devices. For building rehabilitation activities, including repair, renovation, modification, reconstruction, change of use or occupancy classification, and additions to such buildings, the definitions and requirements of Chapter 43, of the *Life Safety Code*, adopted by Chapter 120-3-3 of the Rules and Regulations of the Georgia Safety Fire Commissioner shall apply."

(l) **Modifications to Chapter 20:**

1. Delete section 2003.5 in its entirety and substitute in its place the following:

   2003.5 " Dispensing of flammable and combustible liquids. No dispensing, transfer or storage of flammable or combustible liquids shall be permitted inside any building or structure.

   Exceptions:

   1. *As provided in Chapter 57 of this Code, provided, the provisions are not less protective than the provisions of any applicable Codes and standards adopted by the Rules and Regulations of the* Safety Fire Commissioner.

   2. *When the procedures used follow the guidelines and requirements set forth in NFPA 410* - Standard for Aircraft Maintenance, adopted by this Chapter 120-3-3."

2. Delete sections 2006.1 through 2006.21.1 in their entirety and substitute in their place a new paragraph 2006.1 to read as follows:

   2006.1 " Aircraft motor vehicle fuel-dispensing stations and Airport Fuel Systems. All aircraft motor vehicle fuel-dispensing stations and airport fuel systems shall be in accordance with Chapter 120-3-11 Rules and Regulations of the Safety Fire Commissioner entitled, 'Rules and Regulations for Flammable and Combustible Liquids."

3. Delete section 2007.1 in its entirety and substitute in its place the following:

2007.1 "**General.** Helistops and heliports shall be maintained in accordance with Section 2007. Helistops and heliports on buildings or structures shall be constructed in accordance with the *International Building Code* and the requirements set forth by NFPA 418, Standard for Heliports, adopted by this Chapter 120-3-3."

(m) **Modification to Chapter 23.**

1. Delete sections 2301.1 through 2301.6 in their entirety and substitute in their place a new paragraph 2301.1 to read as follows:

   2301.1 "**Scope.** Automotive motor fuel-dispensing facilities, marine motor fuel dispensing facilities, fleet vehicle motor fuel-dispensing facilities and repair garages shall be in accordance with Chapter 120-3-11 Rules and Regulations of the Safety Fire Commissioner entitled, 'Rules and Regulations for Flammable and Combustible Liquids'."

   Exception: This chapter shall apply to hydrogen motor fuel-dispensing and generation facilities as specified in section 2309 and repair garages where referenced by subsection 406.6, entitled, 'Repair Garages,' of the International Building Code.

2. Delete sections 2303 through 2308 and all other paragraphs there-under, and section 2310 and all other paragraphs thereunder in their entirety without substitution.

(n) **Modification to Chapter 31:**

1. Delete 3106.5.2 in its entirety and substitute in it's place the following:

   3106.5.2 " Cooking Operations. Cooking operations shall be evaluated and comply with NFPA 96, *Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner."

(o) **Modification to Chapter 50:**

1. Add two new exceptions 12 and 13 to section 5001.1 to read as follows:

   12. " Storage, transportation, use, dispensing, mixing and handling of Flammable and combustible liquids as outlined in Chapter 120-3-11 Rules and Regulations of the Safety Fire Commissioner entitled, "Rules and Regulations for Flammable and Combustible Liquids.

13. Storage, handling, and transportation of liquefied petroleum gas (LP-Gas) and the installation of LP-gas equipment pertinent to systems for such use as outlined Chapter 120-3-16 Rules and Regulations of the Safety Fire Commissioner entitled, 'Rules and Regulations for Liquefied Petroleum Gases."

2. In Table 5003.11.1, add superscript "k"to Oxidizers in the Material column and add the following footnote "k"to read as follows:

   k. " Group M occupancies with Class 2 and Class 3 oxidizers exceeding these quantities shall comply with the applicable provisions of NFPA 400, *Hazardous Materials Code* as adopted by this Chapter 120-3-3."

(p) Modifications to Chapter 56:

2. Delete sections 5601 through 5607 and all related paragraphs there under in their entirety and substitute in their place the following:

   5601. "**Explosives and blasting.** The provisions of Chapter 120-3-10 Rules and Regulations of the Safety Fire Commissioner entitled, 'Rules and Regulations for Explosives and Blasting Agents' shall govern the possession, manufacture, storage, handling, sale and use of explosives, explosive materials and small arms ammunitions."

3. Delete section 5608.1 in its entirety and substitute in its place the following:

   5608.1 " GENERAL PROVISIONS. In addition to the requirements of this Section for the display of fireworks the provisions of O.C.G.A. Title 25, Chapter 2, and Chapter 120-3-22, Rules and Regulations of the Safety Fire Commissioner, shall apply. Where there may be a conflict between a provision of this Section and a provision of the above referenced law or regulation, the provision of the above referenced law or regulation shall apply. Nothing in this chapter shall be construed to prohibit the use of fireworks by railroads or other transportation agencies for the signal purposes or illumination, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports or for the use by military organizations."

2. Insert a new section 5608.11 to read as follows:

   5608.11 " Retail display and sale. (a) Fireworks as defined in the Official Code of Georgia (O.C.G.A.) Title 25, Chapter 10 in 25-10-1(a)(1) shall not be made available for sale at retail or wholesale, except as provided in O.C.G.A. 25-10. (b) Non-explosive sparkling devices as defined in

O.C.G.A. 25-10-1(b)are permitted for retail sales to the public, provided, however, it is unlawful for any such devices to be sold to any person under 18 years of age (O.C.G.A. 25-10-2(b)(1). In addition, it is unlawful to sell such items to any person by any means other than an in-person, face-to-face sale. Further, such person shall provide proper identification to the seller at the time of such purchase. The term 'proper identification' means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth and includes without being limited to, a passport, military identification card, driver's license, or an identification card authorized under O.C.G.A. Sections 40-5-100 through 40-5-104. (c) In areas where devices are stored or displayed for retail sales, at least one pressurized-water type portable fire extinguisher complying with NFPA 10, as adopted by this Chapter shall be located not more than 20 feet and not closer than 15 feet from the storage or display location. In addition, "NO SMOKING"signs complying with Section 310 shall be conspicuously posted in areas of such storage or display, unless in a building where smoking is clearly marked as prohibited."

(q) **Modification to Chapter 57:**

1. Add a new non-applicability paragraph number 12 to section 5701.2 to read as follows:

   12. " The storage, transportation, use, dispensing, mixing and handling of Flammable and Combustible Liquids as outlined in Chapter 120-3-11 Rules and Regulations of the Safety Fire Commissioner entitled, 'Rules and Regulations for Flammable and Combustible Liquids."

(r) **Modifications to Chapter 61:**

1. Delete Chapter 61 in its entirety and substitute in its place the following:

   "CHAPTER 61 LIQUEFIED PETROLEUM GASES. The provisions relating to the storage and handling of liquefied petroleum gases shall be those in NFPA 58, *Liquefied Petroleum Gas Code*, as adopted by Chapter 120-3-16, Rules and Regulations of the Safety Fire Commissioner. (Refer to **Table 102.13, CODES REFERENCE GUIDE**)"

(s) **Modifications to Chapter 80:**

1. Add an Explanatory Note at the start of the Chapter to read:

"Replace the NFPA Standard Reference numbers with the year edition with the same NFPA Standard Reference numbers and titles however; each year edition shall be those as adopted by the Rules and Regulations of the Georgia Safety Fire Commissioner Chapters 102-3-3, 120-3-10, 120-3-11 and 120-3-12."

(4) **NFPA 2, 2020 *Edition Hydrogen Technologies Code***

Modifications: None

(5) **NFPA 3, 2018 Edition*, Guide for the Commissioning and Integrated Testing of Fire Protection and Life Safety Systems Modifications*:**

(a) **Modifications to Chapter 1:**

1. Add a new subsection 1.1.3 to read as follows:

1.1.3 " This document is recognized strictly as a recommended practice for fire prevention and fire protection. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone enforceable code or standard, and it is not adopted as a minimum state code or standard. It may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards, or it may be adopted and enforced by a local jurisdiction under local ordinance."

(6) **NFPA 10, 2018 Edition*, Standard for Portable Fire Extinguishers***

Modifications:

(a) **Modification to Chapter 6:**

1. Delete 6.1.3.8.1 in its entirety and insert in its place the following (6.1.3.8.2 and 6.1.3.8.3 remain unchanged:

6.1.3.8.1 " Portable fire extinguishers having a gross weight not exceeding 40 lb. (18.14 kg) shall be installed so that the top of the extinguisher is not more than 48 in (1.19 m) above the floor."

2. Delete 6.1.3.10.5 in its entirety and substitute in its place the following:

6.1.3.10.5 Cabinets or wall recesses for fire extinguishers shall be installed that the top of the opening for the fire extinguisher is at 50 in. (1.27 m) above the finished floor.

6.1.3.10.5.1 The provisions of 6.1.3.10.5 shall not apply to existing installations.

(b) **Modifications to Chapter 7:**

1. Delete 7.1.2.1* in its entirety and insert in its place the following:

   7.1.2.1 " Persons performing maintenance and recharging of extinguishers shall be licensed and/or permitted in accordance with Chapter 12 of Title 25 of the Official Code of Georgia Annotated."

2. Delete subparagraphs 7.1.2.1.1 thru 7.1.2.1.5 in their entirety without substitution.

3. Delete subparagraph 7.1.2.3 in its entirety without substitution.

4. Delete subsection 7.3.4.1.1 in its entirety and substitute in its place the following:

   7.3.4.1.1 " Tags shall comply the requirements of Chapter 120-3-23 Rules and Regulations of the Safety Fire Commissioner."

5. Delete subsection 7.3.4.2 in its entirety and substitute in its place the following:

   7.3.4.2 "**Verification-of-Service Collar (Maintenance or Recharging)**. Verification-of-Service Collars shall comply with the requirements of Chapter 120-3-23 Rules and Regulations of the Safety Fire Commissioner."

6. Delete subsection 7.3.6.5.3 in its entirety and substitute in its place the following:

   7.3.6.5.3 " The 6 year Maintenance internal examination label shall be blue in color and shall comply with the requirements of Chapter 120-3-23 Rules and Regulations of the Safety Fire Commissioner."

7. Delete subsection 7.11.3 in its entirety and substitute in its place the following:

7.11.3 " Verification-of-Service Collars shall comply with the requirements of Chapter 120-3-23 Rules and Regulations of the Safety Fire Commissioner."

(c) **Modifications to Chapter 8:**

1. Delete subsection 8.1.2.1 in its entirety and substitute in its place the following:

   8.1.2.1 " Hydrostatic testing shall be performed by persons who are, licensed and/or permitted in accordance with Chapter 12 of Title 25 of the Official Code of Georgia Annotated, trained in pressure testing procedures and safeguards complying with 7.1.2, who have testing equipment, facilities, and an appropriate manufacturer's service manual(s) available."

2. Delete subsection 8.1.2.1.2 in its entirety without substitution.

3. Delete subsection 8.1.2.1.3 in its entirety and substitute in its place the following:

   8.1.2.1.3 " * Where hydrostatic testing is subcontracted to a facility described in 8.1.2.1.1, the secondary firm actually performing the hydro testing must be listed on the primary firms license(s) application on file in the Georgia State Fire Marshal's Office."

4. Delete subsection 8.7.2.2 in its entirety and substitute in its place the following:

   8.7.2.2 " The label shall comply with the requirements of Chapter 120-3-23 Rules and Regulations of the Safety Fire Commissioner."

(7) **NFPA 11, 2016 *Edition, Standard for Low-, Medium-, and High-Expansion Foam***

Modifications: None

(8) **NFPA 12, 2018 Edition, *Standard on Carbon Dioxide Extinguishing Systems***

Modifications: None

(9) **NFPA 12A, 2018 *Edition, Standard on Halon 1301 Fire Extinguishing Systems***

Modifications: None

(10) **NFPA 13, 2019 Edition, *Standard for the Installation of Sprinkler Systems***

Modifications:

(a) **Modification to Chapter 4:**

1. Add a new Section 4.2.1 to read as follows:

4.2.1.1 "**Modification of Existing Sprinkler Systems.** In existing sprinkler systems, heads may be relocated from original installation locations. All alterations or modifications to existing branch lines shall be submitted with hydraulic calculations if work is outside of scope of subsections 4.4.1 through 4.4.4. New hydraulic data nameplate shall be placed on any modified system at the riser or sectional valve along with the existing hydraulic data nameplate.

4.2.1.2 One additional sprinkler may be added to an original installation location if the additional sprinkler is in a remotely located or non-communicating compartment from the existing or relocated sprinkler.

4.2.1.3 Two sprinklers may be added to an existing branch line if the additional sprinklers are in remotely located or non-communicating compartments from the existing or relocated sprinkler.

4.2.1.4 New branch lines added to existing cross mains shall be sized the same as the existing branch lines.

4.2.1.5 No more than two heads shall be supplied from 1 inch (25.4 mm) pipe unless the existing system was calculated to supply more than two heads. In such case, the calculated maximum for 1 inch (25.4 mm) pipe shall take precedence."

(b) **Modification to Chapter 5:**

1. Add a new paragraph 5.2.2.3 to read as follows:

5.2.2.3 " A water test taken to determine the period of highest demand and made not more than six months prior to plan submittal shall be submitted to the authority having jurisdiction with all new system designs."

(c) **Modification to Chapter 9:**

1. Delete the Annex note A.9.3.5.1 to 9.3.5.1* and insert a revised A.9.3.5.1 to read follows: "A.9.3.5.1 It is the intent of this section to apply the requirement for draft stops and closely spaced sprinklers to openings in fire rated floor/ceiling assemblies. It is not the intent of this section to require draft stops and closely spaced sprinklers to the perimeter around mezzanines, raised platforms, lofts or other places where stairs or escalators ascend to a floor or landing that is open to the space below.

2. Insert a new 9.3.5.2.1 to read as follows:

   9.3.5.2.1 " Draft stops required by Section 8.15.4.1 shall not be required in Light and Ordinary Hazard Occupancies utilizing quick response sprinklers throughout."

(c) **Modification to Chapter 16:**

1.) Delete paragraph 16.12.5.7 in its entirety and substitute in its place the following. The annex note shall remain.

   16.12.5.7 "**FDC Locations.** The location of fire department connections shall be approved by the Fire Chief as set forth in subsections 501.5 and 912 of the *International Fire Code (IFC)*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner. Where there may be conflict between subsection 501 or 912 of the *IFC* and section 8.17.2 of this *Code*, the provisions of 501 and 912 of the *IFC* shall prevail."

(d) **Modification to Chapter 27:**

1. Add a new 27.1.2.1 to read as follows:

   27.1.2.1 " Where plan review notes returned with submitted plans or comments on submitted plans by the authority having jurisdiction (AHJ), indicating the need for corrections, such corrections shall be made by the Fire Protection Sprinkler Designer. Only after the needed corrections are made and shown on corrected plans shall changes by installation personnel be allowed. Corrected plans shall be kept at the project site and shall be firmly attached to the set of plans stamped as approved with comments by the AHJ. Submitted plans returned without the approval stamp of the AHJ shall have corrections made and be resubmitted to the AHJ for review and approval. The installation of a system shall not be allowed where plans have been returned without an approval

stamp until corrected plans have been submitted, reviewed, and stamped as approved by the AHJ."

2. Add new items (48) through (51) to subsection 27.1.3 to read as follows:

   (48) " Type of construction, (i.e. obstructed or unobstructed as defined in Section 3.7), and the distance between the sprinkler deflector and the structure in exposed structure areas.

   (49) Indicate the system is a NFPA 13 designed system.

   (50) Owner's Certificate, provided in accordance with Section 4.2.

   (51) Name, number and signature of the Certificate of Competency holder & Designer."

3. Add a new subsection 27.2.4.11.2.1 to read as follows:

   27.2.4.11.2.1 " There shall be a minimum 10 psi (0.69 bar) cushion between the hydraulically calculated sprinkler system demand and supply when there is a backflow prevention device present.

   27.2.4.11.2.1.1 The 10 psi (0.69 bar) cushion may be lowered to not less than 7 psi with written approval of the authority having jurisdiction based on the capability of the fire department to provide support to the system within 10 minutes of the receipt of notification of the alarm of fire in the building."

4. Add a new subparagraph 27.2.4.11.3 to read as follows:

   27.2.4.11.3 " There shall be a minimum 15 psi (1.03 bar) cushion between the hydraulically calculated sprinkler system demand and supply in systems that do not have a backflow prevention device.

   27.2.4.11.3.1 The 15 psi (1.05 bar) cushion may be lowered to not less than 7 psi with approval of the authority having jurisdiction based on the capability of the

fire department to provide support to the system within 10 minutes of the receipt of notification of the alarm of fire in the building."

(i) **Modification to Chapter 28:**

1. Add a new item (5) to 28.1 to read as follows:

   (5) " Attach an initial **"GREEN"** inspection tag to the sprinkler system riser.

   (a) After installation, acceptance testing, and inspection, at the time the system is initially accepted as being in a state of operational readiness, an Inspection Tag shall be completed and attached to the system at a conspicuous location so as to permit convenient inspection, and not hamper system activation.

   (b) Inspection Tags must be **GREEN** in color and have a minimum dimension of 5¼ inches (133 mm) in length and 2 inches (67 mm) in width.

   (c) Inspection tags shall bear at least the following information in an easy to read format:

   1. **"DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL."** This order shall be in a minimum of 10pt capital letters.

   2. The license number, name, and physical address of the licensed Fire Sprinkler Contractor.

   3. The license number, printed name, and signature of the licensed Fire Sprinkler Inspector.

   4. The properly punched day, month and year the system was inspected and placed in a state of operational readiness.

   5. The name and physical address, including tenant space designation, as applicable of the facility."

2. Add a new Section 28.7 Document Accessibility.

28.7.1 With every new system, a documentation cabinet shall be installed in the system riser room or at another approved location at the protected premises.

28.7.2 The documentation cabinet shall be sized so that it can contain all necessary documentation.

28.7.3 Required minimum documentation shall include copies of Approved Hydraulic calculations, Approved Plans, Above and Below ground contractors test, and Inventory of sprinkler heads.

28.7.4 Where the documentation cabinet is not in the sprinkler riser room, its location shall be identified at the system control valve.

28.7.5 The documentation cabinet shall be prominently labeled **SPRINKLER SYSTEM DOCUMENTS.**

28.7.6 The contents of the cabinet shall be accessible by authorized personnel only.

(11) **NFPA 13D, 2019 Edition, *Standard for the Installation of Sprinkler Systems* in One- and Two-Family Dwellings and Manufactured Homes**

Modifications: None

(12) **NFPA 13R, 2019 Edition, *Standard for the Installation of Sprinkler Systems* in Residential Occupancies up to and Including Four Stories in Height**

Modifications:

(a) Modification to Chapter 1:

Delete Section 1.1 in its entirety and substitute in its place the following. Subsection 1.1.1 and 1.1.2 shall remain.

1.1 "**Scope.** This standard deals with the design and installation of automatic sprinkler systems for protection against fire hazards in residential occupancies, personal care homes, day-care centers and group day-care homes, up to and including four stories in height. When a single-story open-air parking structure of fire-restrictive construction having a rating greater than 2-hours is below a four-story residential occupancy, the structure is considered within this scope."

1. Delete Section 1.2 in its entirety and substitute in its place the following:

1.2 "**Purpose.** The purpose of this standard is to provide design and installation requirements for a sprinkler system to aid in the detection and control of fires in residential occupancies, day-care centers, group day-care homes, and personal care homes, and thus provide improved protection against injury, loss of life, and property damage. A sprinkler system designed and installed in accordance with this standard is expected to prevent flashover (total involvement) in the room of fire origin, where sprinklered, and to improve the chance for occupants to escape or be evacuated. This standard shall not be applied to "new assisted living communities"or new "memory care units"as defined in 120-3-3-.03 of Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner, and as regulated by Chapter 34 or 35, as applicable, of the *Life Safety Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

(b) **Modification to Chapter 3:**

1. Delete subsection 3.3.10 in its entirety and substitute in its place the following:

   3.3.10 "**Residential Occupancies.** Residential Occupancies, as specified in the scope of this standard and for the purposes of this standard, include the following, as defined by State law, or by the Rules and Regulations of the Georgia Safety Fire Commissioner: (1) Apartment buildings, (2) Lodging and rooming houses, (3) Board and care facilities, (4) Hotels, motels, and dormitories, (5) Personal care homes (prompt and slow evacuation type only), (6) Day-care centers and group day-care homes."

2. Add a new paragraph 3.3.9.1 to read as follows:

   3.3.10.1 " Day-care Center - For purposes of NFPA 13R, a day-care facility subject to licensure or commission by the Department of Human Resources where more than 12 clients receive care. A day-care center is within the definition of a dwelling unit."

3. Add a new paragraph 3.3.10.2 to read as follows:

   3.3.10.2 "**Group Day-care Home** - For purposes of NFPA 13R, a day-care facility subject to licensure or commission by the

Department of Human Resources where at least seven but not more than 12 clients receive care. A group day-care home is within the definition of a dwelling unit."

4. Add a new paragraph 3.3.10.3 to read as follows:

   3.3.10.3 "**Dwelling** - For purposes of NFPA 13R, any building which contains not more than one or two 'dwelling units' intended to be used, rented, leased, hired out to be occupied for habitation purposes, or for use as a day-care center, a group day-care home, or as a personal care home or community living arrangement."

5. Add a new paragraph 3.3.10.4 to read as follows:

   3.3.10.4 "**Outside Dwelling Unit** - Any area such as, but not limited to, storage, mechanical and equipment rooms and/or other area(s) that, in the opinion of the authority having jurisdiction, constitutes a fire hazard in excess of the hazards normally found within the dwelling unit."

6. Add a new paragraph 3.3.10.5 to read as follows:

   3.3.10.5 "**Personal Care Home** - For the purposes of NFPA 13R, any building or part thereof that is used as defined in Chapter 120-3-3 in 120-3-3-.03(11) of the Rules and Regulations of the Safety Fire Commissioner."

(c) **Modification to Chapter 4:**

1. Add a new Section 4.6 to read as follows:

   4.6 "**Minimum Pipe Sizes.** Minimum pipe sizes shall be ¾ inch (19.1 mm) for copper and 1-inch (25.4 mm) for steel. For other approved pipe or tubing used, a minimum size of ¾ inch (19.1 mm) for those with a Hazen-Williams 'C' value of 150 or more and 1 inch (19.1 mm) for those less than 150."

(d) **Modification to Chapter 6:**

1. Delete paragraph 6.6.1 in its entirety and substitute in its place the following:

   6.6.1 " Sprinklers shall be installed in all areas except where omission is permitted by 6.6.2 through 6.6.9 excluding day-care facilities.

Sprinklers shall be installed in all areas of day-care facilities except where omission is permitted by 6.6.4 and 6.6.5."

2. Add a new paragraph 6.8.11 to read as follows:

   6.8.11 " A non-multipurpose piping system shall be isolated from the domestic water system by not less than two spring-loaded check valves or equivalent."

3. Add a new paragraph 6.8.12 to read as follows:

   6.8.12 " All valves controlling water supplies for sprinkler systems or portions thereof, including floor control valves, shall be easily accessible to authorized persons. Water supply connections shall not extend into or through a building unless such connection is under control of an outside listed indicating valve or an inside listed indicating valve located near an outside wall of the building."

(e) **Modification to Chapter 9:**

1. Delete subsection 9.6.2.1 in its entirety and substitute in its place the following:

   "Where a waterflow test is used for the purpose of system design, the test shall be conducted no more than 6 months prior to working plan submittal unless otherwise approved by the authority having jurisdiction."

2. Add a new subsection 9.7.2.1 to read as follows:

   9.7.2.1 " A fire pump not meeting NFPA 20, *Standard for the Installation of Stationary Pumps for Fire Protection*, may be acceptable for small community living arrangements, day-care centers, day-care homes, and small personal care homes based upon documentation and subject to written approval of the authority having jurisdiction."

(f) **Modification to Chapter 10:**

1. Add a new subsection 10.1.5 to read as follows:

   10.1.5 " Upon completion of the acceptance test as set forth in this section, the installer shall attach an initial **"GREEN"** inspection tag to the sprinkler system riser.

(a) After installation, testing, and inspection, at the time the system is initially accepted as being in a state of operational readiness, an Inspection Tag shall be completed and attached to the system at a conspicuous location so as to permit convenient inspection, and not hamper system activation.

(b) Inspection Tags must be GREEN in color and have a minimum dimension of 5¼ inches (133 mm) in length and 2 inches (67 mm) in width.

(c) Inspection tags shall bear at least the following information in an easy to read format:

(1) **"DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL."** This order shall be in a minimum of 10pt capital letters.

(2) The license number, name, and physical address of the licensed Fire Sprinkler Contractor.

(3) The license number, printed name, and signature of the licensed Fire Sprinkler Inspector.

(4) The properly punched day, month and year the system was inspected and placed in a state of operational readiness.

(5) The name and physical address (including tenant space as applicable) of the facility."

(13) **NFPA 14, 2019 Edition,** ***Standard for the Installation of Standpipe, and Hose Systems***

Modifications:

(a) **Modifications to Chapter 1:**

1. Delete Section 1-1 in its entirety and substitute in its place the following:

1-1 "**Scope.** The State's minimum requirements for standpipes shall be established by the *IBC* (Refer to **Table 102.13, CODES REFERENCE GUIDE**) of the *International Fire Code*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the

Safety Fire Commissioner). In addition, the requirements for occupant hoses are eliminated for new and existing buildings subject to the approval of the authority having jurisdiction. Where the installation of standpipes and /or hose systems is required, this standard covers the minimum requirements for the installation of standpipes and hose systems for buildings and structures. This standard does not cover requirements for periodic inspection, testing, and maintenance of standpipe systems. (See NFPA 25, *Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems*.)"

(b) **Modification to Chapter 7:**

1. Delete 7.8 in its entirety and substitute in its place the following:

7.8 "**Minimum and Maximum Pressure Limits**

7.8.1 Hydraulically designed standpipe systems shall be designed to provide the waterflow rate required by Section 7.10 at a minimum residual pressure of 100 psi (6.9 bar) at the outlet of the hydraulically most remote 2-1/2 inch (65 mm) hose connection and 65 psi (4.5 bar) at the outlet of the hydraulically most remote 1-1/2 (38 mm) hose connection.

7.8.1.1 Where the local Fire Chief or local Fire Code Official having fire suppression jurisdiction permits lower than 100 psi (6.9 bar) for 2-1/2 inch (65 mm) hose connections, based upon local suppression tactics, the pressure shall be permitted to be reduced to not less than 65 psi (4.5 bar).

7.8.1.2 Where the building is protected throughout by a supervised automatic sprinkler system and the building is not a high-rise, as defined in 3.3.5, the minimum residual pressure provisions shall not be mandatory when the standpipe system piping is a minimum of eight inches (8") nominal diameter.

7.8.1.3 Existing high-rise buildings, as defined in 3.3.5, that are protected throughout by a supervised automatic sprinkler system shall be

permitted a reduction of the minimum residual pressure requirement of 100 psi (6.9 bar) at the hydraulically most remote 2-1/2 inch (63.5 mm) hose connection to 65 psi (4.5 bar).

7.8.1.4 Manual standpipe systems shall be designed to provide 100 psi (6.9 bar) at the topmost outlet with the calculations terminating at the fire department connection."

2. Insert a new subsection 7.12.3.4 to read as follows:

7.12.3.4 "**Location.** The location of fire department connections shall be approved by the Fire Chief as set forth in subsection 501.5 of the *International Fire Code*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner."

(d) **Modification to Chapter 10:**

1. Add a new subsection 10.3 to read as follows:

10.3 " A letter certifying that all pressure restricting and pressure reducing equipment is installed and set per NFPA requirements and manufacturer's instructions shall be presented to the inspector along with test certificates at the time of final inspection."

(e) **Modification to Annex A:**

1. Add a New Annex Note A.7.8.1.4 to read as follows:

A.7.8.1.4 " It is not the intent of this standard to provide an automatic water supply for manual standpipe systems. Manual standpipe systems are designed (sized) to provide 100 psi (6.9 bar) at the topmost outlet using a fire department pumper as the source of flow and pressure."

(14) **NFPA 15, 2012 Edition, *Standard for Water Spray Fixed Systems for Fire Protection***

Modifications: None

(15) **NFPA 16, 2019 Edition, *Standard for the Installation of Foam-Water Sprinkler and Foam- Water Spray Systems***

Modifications: None

(16) **NFPA 17, 2017 Edition*, Standard for Dry Chemical Extinguishing Systems***

Modifications:

(a) **Modification to Chapter 1:**

1. Delete Section 1.6 in its entirety and substitute in its place the following:

   1.6 "*** Qualifications.** Only persons who are properly trained and licensed and/or permitted in accordance with Chapter 12 of Title 25 of the Official Code of Georgia Annotated, shall be considered competent to design, install, and service dry chemical systems."

(b) **Modification to Chapter 11:**

1. Delete subsection 11.1.3 in its entirety and substitute in its place the following:

   11.1.3 " Only persons trained and licensed and/or permitted in accordance with Chapter 12 of Title 25 of the Official Code of Georgia Annotated, shall be considered competent to design, install, and service dry chemical extinguishing systems, in accordance with this standard and the manufacturer's instructions."

2. Delete paragraph 11.1.3.1 in its entirety without substitution.

3. Delete subparagraph 11.3.1.2.4 in its entirety and substitute in its place the following:

   11.3.1.2.4 " The label shall comply with the requirements of Chapter 120-3-23 Rules and Regulations of the Safety Fire Commissioner."

4. Delete subparagraph 11.3.1.2.7 in its entirety and substitute in its place the following:

   11.3.1.2.7 " The collar shall comply with the requirements of Chapter 120-3-23 Rules and Regulations of the Safety Fire Commissioner."

5. Delete paragraph 11.3.1.10 in its entirety and substitute in its place the following:

11.3.1.10 " Each dry chemical system shall have the required tags or labels complying with the requirements of Chapter 120-3-23 Rules and Regulations of the Safety Fire Commissioner after each service has been conducted on the system. Only the current applicable tag or label shall remain on the system."

6. Delete subsection 11.4.2 in its entirety and substitute in its place the following:

   Systems shall be recharged by persons who are properly trained and licensed under the requirements of Chapter 120-3-23, Rules and Regulations of the Safety Fire Commissioner, in accordance with the manufacturer's listed installation and maintenance manual."

(17) **NFPA 17A, 2013 Edition, *Standard for Wet Chemical Extinguishing Systems***

Modifications:

(a) **Modification to Chapter 1:**

1. Delete Section 1.7 in its entirety and substitute in its place the following:

   1.7 "***Qualifications.** Only persons who are properly trained and licensed and/or permitted in accordance with Chapter 12 of Title 25 of the Official Code of Georgia Annotated, shall be considered competent to design, install, and service wet chemical systems."

(b) **Modification to Chapter 7:**

1. Delete subsection 7.3.1 in its entirety and substitute in its place the following:

   7.3.1 " A service technician who performs maintenance on an extinguishing system shall be trained and shall possess a licensed and/or permitted in accordance with Chapter 12 of Title 25 of the Official Code of Georgia Annotated."

2. Delete paragraph 7.3.1.1 in its entirety without substitution.

3. Delete subparagraph 7.3.3.6.1 in its entirety and substitute in its place the following:

7.3.3.6.1 " The owner or owner's representative shall retain all maintenance reports for a period of 3 years after the next maintenance of that type required by the standard."

4. Delete paragraph 7.3.3.7 in its entirety and substitute in its place the following:

   7.3.3.7 "***** Each wet chemical system shall have a tag or label securely attached, complying with the requirements of Chapter 120-3-23 Rules and Regulations of the Safety Fire Commissioner. Only the current tag or label shall remain in place."

5. Add a new paragraph 7.5.2.4 to read as follows:

   7.5.2.4 " Each stored pressure system agent cylinder that has undergone maintenance or hydrostatic testing that includes internal examination, or that has been recharged shall have 'Verification of Service' collar located around the neck of the cylinder. The collar shall contain a single circular piece of uninterrupted material forming a hole of a size that will not permit the collar assembly to move over the neck of the cylinder unless the valve is completely removed. The collar shall not interfere with the operation and actuation of the system cylinder. The 'Verification of Service' collar shall comply with the requirements of NFPA 10, *Standard for Portable Fire Extinguishers*, as adopted by Chapter 120-3-3, Rules and Regulations of the Safety Fire Commissioner.

   7.5.2.4.1 The provisions of 7.5.2.4 do not apply to stored pressure system cylinders undergoing maintenance before March 1, 2002.

   7.5.2.4.2 Non-stored pressure cylinders such as cartridge cylinders for cartridge-operated systems do not require a 'Verification of Service' collar for the cartridge."

(18) **NFPA 18, 2017 Edition, *Standard on Wetting Agents***

Modifications: None

(19) **NFPA 18A, 2017 Edition, *Standard on Water Additives for Fire Control and Vapor Mitigation***

Modifications: None

(20) **NFPA 20, 2019 Edition, *Standard for the Installation of Stationary Pumps for Fire Protection***

Modifications:

(a) **Modification to Chapter 4:**

1. Add new paragraphs 4.6.2.3.4 and 4.6.2.3.5 to read as follows:

4.6.2.3.4 " At 150% rated capacity or below, the pump suction supply shall not drop below 20 psi (1.38 bar).

4.6.2.3.5 Suction supply pressure may be lowered upon approval of the authority having jurisdiction."

(21) **NFPA 22, 2018 Edition, *Standard for Water Tanks for Private Fire Protection***

Modifications: None

(22) **NFPA 24, 2019 Edition, *Standard for the Installation of Private Fire Service Mains and Their Appurtenances***

Modifications:

(a) **Modifications to Chapter 4:**

1. Delete 4.1.3 (10) in its entirety and substitute in its place the following:

(10) " Size, location, and piping arrangement of fire department connections as approved by the local Fire Chief having jurisdiction as set forth in 501.5 of the *International Fire Code*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner."

(b) **Modifications to Chapter 13:**

1. Delete Section 13.1 in its entirety and substitute in its place the following: "13.1* Private Service Mains.

13.1.1 No pipe smaller than a nominal 8 inches (203 mm) in diameter shall be used to supply more than one hydrant or one hydrant on dead end mains over 500 feet (152 m).

13.1.2 No pipe smaller than a nominal 8 inches (203 mm) in diameter shall be used to supply one hydrant and automatic extinguishing systems.

13.1.3 No pipe smaller than a nominal 8 inches (203 mm) in diameter shall be used to supply more than one hydrant and automatic extinguishing systems on looped mains over 1,000 feet (305 m)."

2. Add the following in Annex A, A13.1:

A.13.1 " Pipe sizing should be based upon good engineering practices based on the projected water demand, firefighting capabilities and water supply characteristics. Pipe sizes other than those specified in 13.1 may be acceptable in new or existing installations with the written approval of the authority having jurisdiction."

(23) **NFPA 25, 2017 Edition, *Standard for the Inspection, Testing, and Maintenance of Water- Based Fire Protection Systems***

Modifications:

(a) **Modifications to Chapter 4:**

1. Add a new Subsection 4.3.1.2 to read as follows:

4.3.1.2 " On non-compliant or impaired systems, a copy of the inspection report shall be forwarded to the authority having jurisdiction by the owner and/or the occupant."

2. Delete 4.3.3* in its entirety and substitute in its place the following:

4.3.3 " * Records shall be maintained by the property owner for a period of at least three years."

3. Delete Section 4.3.5 and replace with the following:

4.3.5 " Subsequent records shall be retained for a period of 3 years after the next inspection of that type required by the standard."

4. Add a new subsection 4.3.6 to read as follows:

4.3.6 " Tagging.

4.3.6.1 **Inspection Tag.**

(a) After inspection and testing, an Inspection Tag shall be completed indicating all work that has been done, and then attached to the system in such a position as to permit convenient inspection and not hamper its activation or operation. A new Inspection Tag shall be attached to each system each time an inspection and test service is performed.

(b) Inspection Tags must be GREEN in color having a minimum dimension of 133 mm (5 1/4 inches) in height and 67 mm (2 5/8 inches) in width.

(c) Inspection tags shall bear the following information in an easily read format:

1. '**DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL.'** This particular information shall be in a minimum of 10pt type and in all capital letters.

2. The licensed Fire Sprinkler Contractor's name and physical address;

3. The license number of the Fire Sprinkler Contractor;

4. The license number of the fire sprinkler inspector;

5. The licensed fire sprinkler inspector's signature;

6. The day, month and year (to be punched);

7. The facility name and address.

(d) Inspection Tags may be printed and established for any period of time. After each printing, a

minimum of three sample tags must be forwarded to the State Fire Marshal's office.

(e) An Inspection Tag shall only be removed by an authorized representative of a licensed fire sprinkler contractor.

(f) Should impairments or noncompliance items be found, the licensed inspector shall notify the building owner or his representative and the authority having jurisdiction in writing of all noncompliance items and/or impairments found. A fire sprinkler system compliance Inspection Tag shall not be installed on each system until the impairments or noncompliance items have been corrected and each system has been re-inspected and found to be in a state of operational readiness.

4.3.6.2 **Noncompliance Tag.**

(a) If a fire sprinkler system is found in noncompliance with the applicable NFPA standards, a completed Noncompliance Tag shall be attached to the main control valve of each system to indicate that corrective action is necessary.

(b) Noncompliance Tags must be YELLOW in color having a minimum dimension of 133 mm (5 1/4 inches) in height and 67 mm (2 5/8 inches) in width.

(c) Noncompliance Tags shall bear the following information in an easily read format:

1. **'DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL-SYSTEM NOT IN COMPLIANCE WITH NFPA STANDARDS.' This particular information shall be in a**

minimum of 10pt type and in all capital letters.

2. The licensed Fire Sprinkler Contractor's name and physical address;

3. The license number of the Fire Sprinkler Contractor;

4. The license number of the fire sprinkler inspector;

5. The licensed fire sprinkler inspector's signature;

6. The day, month and year (to be punched);

7. The noncompliance issue(s);

8. The facility name and address.

(d) Noncompliance Tags may be printed and established for any period of time. After each printing, a minimum of three sample tags must be forwarded to the State Fire Marshal's office.

(e) The signature of the licensee on a Noncompliance Tag certifies the impairments listed on the label cause the system to be out of compliance with NFPA standards.

(f) A Noncompliance Tag shall only be removed by an authorized representative of a licensed fire sprinkler contractor upon re-inspection of the fire sprinkler system.

(g) A letter of noncompliance conditions shall be sent to the building owner or authorized representative within five working days of the date of the inspection.

4.3.6.3 **Impairment Tag.**

(a) Should impairments constitute an emergency impairment as defined in this standard, then the inspector shall complete and attach an Impairment Tag to the main control valve of each system and the fire department connection to indicate that corrective action is necessary.

(b) Impairment Tags must be RED in color having a minimum dimension of 133 mm (5 1/4 inches) in height and 67 mm (2 5/8 inches) in width.

(c) Impairment Tags shall bear the following information in an easily read format:

1. **'DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL.'** This particular information shall be in a minimum of 10pt type and in all capital letters.

2. The licensed Fire Sprinkler Contractor's name and physical address;

3. The license number of the Fire Sprinkler Contractor;

4. The license number of the fire sprinkler inspector;

5. The licensed fire sprinkler inspector's signature;

6. The day, month and year (to be punched);

7. The emergency impairment(s);

8. The facility name and address.

(d) Impairment Tags may be printed and established for any period of time. After each

printing, a minimum of three sample tags must be forwarded to the State Fire Marshal's office.

(e) The signature of the licensee on an Impairment Tag certifies the impairments listed on the label cause the system to be out of compliance with NFPA standards.

(f) An Impairment Tag shall only be removed by an authorized representative of a licensed fire sprinkler contractor upon re-inspection of the fire sprinkler system.

(g) A letter of emergency impairment conditions shall be sent to the building owner or authorized representative and to the occupant within 24 hours of the time of the inspection. The building owner and/or occupant shall notify the authority having jurisdiction within 24 hours of the time of the impairment notification."

(b) **Modifications to Chapter 6:**

1. Add a new 6.1.1.1.1 to read as follows:

6.1.1.1.1 " In new and existing buildings, the requirements for hose for occupant use are eliminated, subject to the approval of the local Fire Chief or local Fire Code Official having fire suppression jurisdiction."

(24) **NFPA 30*, Flammable and Combustible Liquids Code***

Modifications:

(a) Refer to Chapter 120-3-11, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(25) **NFPA 30A*, Code for Motor Fuel Dispensing Facilities and Repair Garages***

Modifications:

(a) Refer to Chapter 120-3-11, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(26) **NFPA 30B*, Code for the Manufacture and Storage of Aerosol Products***

Modifications:

(a) Refer to Chapter 120-3-11, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(27) **NFPA 31*, Standard for the Installation of Oil-Burning Equipment***

Modifications:

(a) Refer to Chapter 120-3-11, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(28) **NFPA 32*, Standard for Drycleaning Plants***

Modifications:

(a) Refer to Chapter 120-3-11, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(29) **NFPA 33*, Standard for Spray Application Using Flammable or Combustible Materials***

Modifications*:*

(a) Refer to Chapter 120-3-11, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(30) **NFPA 34*, Standard for Dipping, Coating and Printing Processes Using Flammable or Combustible Liquids***

Modifications:

(a) Refer to Chapter 120-3-11, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(31) NFPA 35, *Standard for the Manufacture of Organic Coatings*

Modifications:

(a) Refer to Chapter 120-3-11, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(32) **NFPA 36, *Standard for Solvent Extraction Plants***

Modifications:

(a) Refer to Chapter 120-3-11, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(33) **NFPA 37, *Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines***

Modifications:

(a) Refer to Chapter 120-3-11, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(34) **NFPA 40, 2019 Edition, *Standard for the Storage and Handling of Cellulose Nitrate Film***

Modifications: None

(35) NFPA 45, 2019 Edition, *Standard on Fire Protection for Laboratories Using Chemicals*

Modifications:

(a) **Modification to Chapter 10:**

1. Delete paragraph 10.2.3.4 in its entirety and substitute in its place the following:

10.2.3.4 "**Emergency shutoff valves for laboratories.** In addition to point of use manual shutoff valves required by 10.2.3, each laboratory space containing two or more gas outlets installed

on tables, benches, or in hoods in business, educational, healthcare, research, commercial, and industrial occupancies shall have a single valve through which all such gas outlets are supplied. This emergency shutoff valve shall be accessible, located within the laboratory or adjacent to the laboratory's primary egress door, and clearly identified by approved signage stating at the least, **'GAS SHUTOFF'**."

(36) **NFPA 51, 2018 Edition*, Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes***

Modifications:

(a) Refer to Chapter 120-3-13, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(37) **NFPA 51B, 2019 Edition*, Standard for Fire Prevention During Welding, Cutting, and Other Hot Work***

Modifications:

(a) Refer to Chapter 120-3-13, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(38) **NFPA 52, 2019 Edition*, Gaseous Vehicular Fuel Systems Code***

Modifications:

(a) Refer to Chapter 120-3-14, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(39) **NFPA 53, 2016 Edition*, Materials, Equipment, and Systems Used in Oxygen-Enriched Atmospheres***

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new subsection 1.3.1 to read as follows:

1.3.1 " This document is recognized strictly as a recommended practice that may be used in evaluating fire hazards in oxygen-enriched atmospheres. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone code or standard, however, it may be used in conjunction with and in the support of the applicable provisions of other adopted codes or standards."

(40) **NFPA 54, 2018 Edition,** ***National Fuel Gas Code***

Modifications:

(a) Refer to Chapter 120-3-14, Rules and Regulations of the Safety Fire Commissioner, and Chapter 120-3-16, Rules and Regulations of the Safety Fire Commissioner, for the adopted edition and any modifications.

(41) **NFPA 55 2020 Edition,** ***Compressed Gases and Cryogenic Code***

Modifications: None

(43) **NFPA 56, 2017 Edition,** ***Standard for Fire and Explosion Prevention During Cleaning and Purging of Flammable Gas Piping Systems***

Modifications: None

(44) **NFPA 58, 2017 Edition,** ***Liquefied Petroleum Gas Code***

Modifications:

(a) Refer to Chapter 120-3-16, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(45) **NFPA 59,** ***Utility LP-Gas Plant Code (LNG)***

Modifications:

(a) Refer to Chapter 120-3-16, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(46) **NFPA 59A, 2019 Edition,** ***Standard for the Production, Storage, and Handling of Liquefied Natural Gas***

Modifications:

(a) Refer to Chapter 120-3-16, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(47) **NFPA 61, 2017 Edition,** ***Standard for the Prevention of Fires and Dust Explosions in Agricultural and Food Processing Facilities***

Modifications:

(a) Refer to Chapter 120-3-24, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(48) **NFPA 68, 2018 Edition,** ***Standard on Explosion Protection by Deflagration Venting***

Modifications:

(a) Refer to Chapter 120-3-24, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(49) **NFPA 69, 2019 Edition,** ***Standard on Explosion Prevention Systems***

Modifications: None

(50) **NFPA 70, 2017 Edition,** ***National Electrical Code***

Modifications:

(a) **Modifications to Article 110, I:**

1. Add a new section 110.29 to read as follows:

110.29 " Relocatable Power Tap's (RPT's. Relocatable power taps (RPT's) shall comply with the provisions of 605.4.2 of the *International Fire Code (IFC)* as adopted by this Chapter."

(51) **NFPA 70B, 2019 Edition,** ***Electrical Equipment Maintenance***

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new subsection 1.1.3 to read as follows:

1.1.3 " This document is recognized strictly as a recommended practice that may be used in evaluating the effectiveness of electrical equipment within its scope. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone enforceable code or standard, however, it may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards."

(52) **NFPA 70E, 2018 Edition,** ***Standard for Electrical Safety Requirements for Employee Workplaces***

Modifications:

(a) **Modifications to Article 90 Introduction:**

1. Delete 90.1 in its entirety and substitute in its place the following:

90.1 " This standard addresses those electrical safety requirements for employee workplaces that are necessary for practical safeguarding of employees in their pursuit of gainful employment. This document is recognized strictly as a recommended practice that may be used in evaluating electrical safety requirements for employee workplaces. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone enforceable code or standard, however, it may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards. This standard covers:

(a) Electrical conductors and equipment installed within or on buildings or other structures, including mobile homes and recreational vehicles, and other premises such as yards, carnival, parking and other lots, and industrial substations.

(b) Conductors that connect the installations to a supply of electricity.

(c) Other outside conductors on the premises."

(53) **NFPA 72, 2019 Edition,** ***National Fire Alarm and Signaling Code***

Modifications:

(a) **Modification to Chapter 1:**

1. Delete Section 1.1.1 in its entirety and substitute in its place the following:

1.1.1 "**Scope.** This *Code* covers the application, installation, location, performance, inspection, testing, and maintenance of fire alarm systems, supervising station alarm systems, public emergency alarm reporting systems, fire and carbon monoxide detection and warning equipment, and emergency communications systems (ECS), and their components, whether such system or component is required or not.

1.1.1.1 Where the requirements of this *Code* have technical differences and requirements from those established, as applicable, by Chapter 120-3-20 or 120-3-20A, of the Safety Fire Commissioner's Rules and Regulations for Accessibility to Buildings and Facilities, the technical provisions and requirements of Chapter 120-3-20 and 120-3-20A shall take precedence over the requirements of this *Code* where applicable."

(b) **Modifications to Chapter 7:**

1. Add a new paragraph (5) to 7.5.3 to read as follows:

(5) " For software-based systems, all access codes and passwords to grant access to the software by authorized personnel."

(c) **Modifications to Chapter 10:**

1. Add a new subsection 10.4.7 to read as follows:

10.4.7 " Protection shall not be required in Existing building installations acceptable to the authority having jurisdiction."

(d) **Modifications to Chapter 17:**

1. Add a new subparagraph 17.7.3.1.4 to read as follows:

17.7.3.1.4 " Alternate locations of smoke detectors as allowed by the *International Fire Code*, or where applicable, the *Life Safety Code*, and acceptable to the authority having jurisdiction,

may be utilized and may be considered to be in compliance with this *Code*."

(e) **Modification to Annex A:**

1. Add a new Annex note A.18.4.4.2 to read as follows:

A.18.4.4.2 " For example, in critical care patient areas, it is often desirable to not have an audible fire alarm even at reduced private mode levels. Another example would be classrooms for small children in day care or educational occupancies, where verbal communication is vital between caregivers or teachers and children during drills or during an actual fire or other emergency condition. Audible alarms often frighten small children and valuable time may be lost while trying to calm such children. Also, audible alarms at or near locations, where clear communications is required, may present a problem. A school office or a receptionist desk common to various occupancies are examples. An additional example of where an audible fire alarm could be a problem would be high noise level work areas where an audible signal needed to overcome background noise at one time of the day would be excessively loud and potentially dangerous at another time of lower ambient noise. A sudden increase of more than 30 dB over 0.5 seconds is considered to cause sudden and potentially dangerous fright. Each case requires individual consideration by the authority having jurisdiction."

(54) **NFPA 75, 2017 Edition, *Standard for the Protection of Electronic Computer/Data Processing Equipment***

Modifications: None

(55) **NFPA 76, 2016 Edition, *Standard for Fire Protection of Telecommunications Facilities***

Modifications: None

(56) **NFPA 77, 2019 Edition, *Recommended Practice on Static Electricity***

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new subsection 1.1.9 to read as follows:

1.1.9 " This document is recognized strictly as a recommended practice that may be used in evaluating systems or devices installed for the purposes of safeguarding life and/or property against the hazards of static electricity. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone enforceable code or standard, however, it may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards."

(57) **NFPA 78, 2020 Edition, *Guide on Electrical Inspections***

(a) **Modifications to Chapter 1:**

1. Add a new subsection 1.1.4 to read as follows:

1.1.4 " This document is recognized strictly as a recommended practice that may be used in evaluating electrical/electronic equipment, apparatus, or systems of industrial machines within its scope. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone enforceable code or standard, however, it may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards. This standard is not meant to add any requirements not found in the NEC, nor change the intent of the intent of the requirements found in the NEC. If any conflict occurs between this standards and the NEC, the NEC shall control."

(58) **NFPA 79, 2019 Edition, *Electrical Standard for Industrial Machinery***

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new subsection 1.1.3 to read as follows:

1.1.3 " This document is recognized strictly as a recommended practice that may be used in evaluating electrical/electronic equipment, apparatus, or systems of industrial machines within its scope. Recommendations may be based on the document where deemed

appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone enforceable code or standard, however, it may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards. This standard is not meant to add any requirements not found in the *NEC*, nor change the intent of the requirements found in the *NEC*. If any conflict occurs between this standards and the *NEC*, the *NEC* shall control."

(59) **NFPA 80, 2019 Edition, *Standard for Fire Doors and Other Opening Protectives***

Modifications: None

(60) **NFPA 80A, 2017 Edition, *Protection of Buildings from Exterior Fire Exposures***

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new subsection 1.1.5 to read as follows:

1.1.5 " This document is recognized strictly as a recommended practice that may be used in evaluating the exterior fire exposure risks of buildings. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand- alone enforceable code or standard, however, it may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards."

(61) **NFPA 82, 2019 Edition, *Standard on Incinerators and Waste and Linen Handling Systems and Equipment***

Modifications: None

(62) **NFPA 85, 2019 Edition, *Boiler and Combustion Systems Hazards Code***

Modifications: None

(63) **NFPA 86, 2019 Edition, *Standard for Ovens and Furnaces***

Modifications: None

(64) **NFPA 87, 2018 Edition,** ***Standard for Fluid Heaters***

Modifications: None

(65) **NFPA 88A, 2019 Edition,** ***Standard for Parking Structures***

Modifications: None

(66) **NFPA 90A, 2018 Edition,** ***Standard for the Installation of Air-Conditioning and Ventilating Systems***

Modifications: None

NOTE: *The International Mechanical Code*, as adopted by the Georgia Department of Community Affairs (DCA), shall be the applicable code replacing 90A with the exception of its application to Hospitals, hospices, ambulatory surgical centers, nursing homes, assisted living homes or other health care type facilities that are regulated by the federal Centers for Medicare and Medicaid Services (CMS) shall comply with the fire and life safety rules and regulations imposed by that agency even though codes and standards adopted by that agency may not be specifically included herein. The codes and standards adopted and modified herein shall also apply where applicable and shall be deemed to be the minimum state fire and life safety standards where they are at least as protective as the CMS rules and regulations. (Refer to **Table 102.13, CODES REFERENCE GUIDE** in the *International Fire Code* adopted by this Chapter 120-3-3.)

(67) **NFPA 90B, 2018 Edition,** ***Standard for the Installation of Warm Air Heating and Air- Conditioning Systems***

Modifications: None

NOTE: *The International Mechanical Code*, as adopted by the Georgia Department of Community Affairs (DCA), shall be the applicable code replacing 90B with the exception of its application to Hospitals, hospices, ambulatory surgical centers, nursing homes, assisted living communities or other health care type facilities that are regulated by the federal Centers for Medicare and Medicaid Services (CMS) shall comply with the fire and life safety rules and regulations imposed by that agency even though codes and standards adopted by that agency may not be specifically included herein. The codes and standards adopted and modified herein shall also apply where applicable and shall be deemed to be the minimum state fire and life safety standards where they are at least as protective as the CMS rules and regulations. (Refer to **Table 102.13, CODES REFERENCE GUIDE** in the *International Fire Code* adopted by this Chapter 120-3-3.)

(68) **NFPA 91, 2015 Edition,** ***Standard for Exhaust Systems for Air Conveying of Vapors, Gases, Mists, and Noncombustible Particulate Solids***

Modifications: None

(69) **NFPA 92, 2018 Edition, *Standard for Smoke Control Systems***

Modifications: None

[Note: Also see 909.2.1 (1) of the *International Fire Code*]

(70) **NFPA 96, 2017 Edition, *Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations***

Modifications:

(a) **Modification to Chapter 1:**

1. Delete subsection 1.1.3 in its entirety and substitute in its place the following:

   1.1.3 " This standard shall apply to all commercial cooking equipment used for commercial cooking operations."

2. Delete subsection 1.1.4 in its entirety and substitute in its place the following:

   1.1.4 " This standard shall not apply to residential cooking equipment located in a single dwelling unit or to cooking equipment in facilities where all of the following are met:

   (1) Only residential cooking equipment such as: stoves, ranges or cooking surfaces traditionally used in dwelling units are being utilized.

   (2) The defined residential cooking equipment contains a maximum of four standard surface cooking elements and is not used for frying operations.

   (3) The defined residential equipment is used for food warming, limited cooking, rehabilitation training or in a home economic education classroom setup.

   (4) The residential cooking equipment is protected by a listed self-contained residential fire suppression system located in an approved residential hood which is vented directly to the outside and providing protection to each cooking surface The self-contained fire suppression system for the

defined residential cooking equipment need not be provided where protection is provided by an approved automatic sprinkler system protecting the cooking surface, subject to approval of the authority having jurisdiction. The self-contained residential fire suppression system shall automatically disconnect electric power to electric stoves, and shut off the gas supply and electric power to gas fueled stoves, provided, however, this provision shall not be retroactive for installations approved prior to the effective adoption date of this standard.

(5) The facility is not an assembly occupancy, provided, this shall not apply to church facilities with a single residential stove or range complying with (2) above.

(6) Fire Extinguishers are located in all kitchen areas in accordance with NFPA 10, *Standard for Portable Fire Extinguishers*, and this *Code*, as adopted with modifications."

1. Add a new subsection 1.1.5 to read as follows:

1.1.5 " This standard, except for operational and maintenance provisions, shall not apply for conditions existing prior to March 9, 2010, subject to the approval of the authority having jurisdiction, and where a notarized statement that no frying operations will be performed is provided. This approval shall be void for cause when the authority having jurisdiction finds cooking operations involve frying operations. (See also 1.4.1)"

(b) **Modification to Chapter 10:**

1. Delete subsection 10.2.6 in its entirety and substitute in its place the following:

10.2.6 " Automatic fire extinguishing systems shall be installed by competent personnel meeting Chapter 120-3-23, Rules and Regulations of the Safety Fire Commissioner, licensing and permit requirements. In addition, such systems shall be installed in accordance with the terms of their listing, the manufacturer's instructions, and the following applicable standard(s):

(1) NFPA 12, *Standard on Carbon Dioxide Extinguishing Systems*

(2) NFPA 13, *Standard for the Installation of Sprinkler Systems*

(3) NFPA 17, *Standard for Dry Chemical Extinguishing Systems*

(4) NFPA 17A, *Standard for Wet Chemical Extinguishing Systems"*

2. *Add a New Subsection 10.4.4.1 to read as follows:*

10.4.4.1 Shut off devices shall be located below any ceiling and be accessible.

(c) **Modification to Chapter 13:**

1. Delete Section 13.2 in its entirety and substitute in its place the following:

13.2 "**Design Restrictions.** All recirculating systems shall comply with the requirements of Section

13.2. Recirculating systems shall be limited to outdoor vending areas or rooms that are fully sprinklered."

(d) Add a New Chapter 16:

Chapter 16: Mobile and Temporary Cooking Operations

16.1 **General Requirements**

16.1.1 Annex B shall be adopted as mandatory requirements for mobile and temporary cooking operations.

16.1.2 Cooking equipment used in fixed, mobile, or temporary concessions, such as trucks, buses, trailers, pavilions, tents or any form of roofed enclosure shall comply with this chapter.

(70) **NFPA 99, 2018 Edition, *Standard for Health Care Facilities***

Modifications: None

NOTE: Hospitals, hospices, ambulatory surgical centers, nursing homes, or other health care type facilities that are regulated by the federal Centers for Medicare and Medicaid Services (CMS) shall comply with the fire and life safety rules and regulations imposed by that agency even though codes and standards adopted by that agency may not be specifically included herein. The codes and standards adopted and modified herein shall also apply where applicable and shall be deemed to be the minimum state fire and life safety standards where they are at least as protective as the CMS rules and regulations. (Refer to 120-3-3-.03 of Chapter 120-3-3-.03 of the Rules and Regulations of the Safety Fire Commissioner for definitions of "assisted living communities"and "memory care units. Such facilities are regulated, as appropriate by Chapters 34 or 35 of the *Life Safety Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner.)

(71) **NFPA 99B, 2018 Edition, *Standard for Hypobaric Facilities***

Modifications: None

(72) **NFPA 101, 2018 Edition, *Life Safety Code***

Modifications:

The 2018 Edition of the *Life Safety Code* is adopted with modifications so as to be applicable to proposed (new) and existing buildings and structures. Unless noted otherwise herein, operational provisions such as fire drills, emergency egress and relocation drills, development of fire or emergency plans, and regulation of decorations and contents of building and structures of the various provisions of NFPA 101, *Life Safety Code* shall not be applicable to proposed (new) or existing buildings, structures, facilities, or conditions. The operational provisions of the *International Fire Code (IFC)*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner shall apply to proposed (new) and existing buildings, structures, facilities, and conditions, unless such provisions are less protective than or are in conflict with the rules and regulations of the Centers for Medicare and Medicaid Services (CMS) as they apply to health care related occupancies.

(a) **Modifications to Chapter 1:**

1. Delete paragraph (1) of subsection 1.1.9 in its entirety and substitute in its place the following:

   (1) " General fire prevention or building construction features are normally a function of fire prevention codes and building codes. The *International Fire Code (IFC)*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner, and the *International Building Code* (*IBC*), as adopted by the Georgia Department of Community Affairs, are applicable, and

their use along with other codes and standards shall be coordinated with this *Code*, as set forth in 1.4.4 and Table 1.4.4, **CODES REFERENCE GUIDE**

2. Add a new subsection 1.4.4 to read as follows:

1.4.4 "**Code Coordination.** This *Code* shall apply to all proposed (new) and existing buildings, structures and facilities, except as herein provided, and shall be utilized in conjunction with the *IBC*, the *IFC*, the IMC, and the IFGC, to the degree provided in Table 1.4.4 **CODES REFERENCE GUIDE**.

1.4.4.1 This *Code* does not apply to one- and two-family dwellings or one- and two-family row houses (townhouses) separated by a 2-hour firewall, except as specified in Chapters 26, 30 and 31."

Table 102.13: CODES REFERENCE GUIDE

Area	Primary	Supplement
Occupancy Classification	LSC	IBC
Building Construction Types including allowable height, allowable building areas, and the requirements for sprinkler protection related to minimum building construction types.	IBC	LSC
Means of Egress	LSC	NONE
Standpipes	IBC	IFC
Interior Finish	LSC	NONE
HVAC Systems	IMC	NONE
Vertical Openings	LSC	NONE
Sprinkler Systems minimum construction standard	LSC	NONE
Fire Alarm Systems	LSC	NONE
Smoke Alarms & Smoke Detection Systems	State Statute & LSC	NONE
Portable Fire Extinguishers	LSC & NFPA 96	NONE
Cooking Equipment	IFC	NONE
Fuel Fired Appliances	IFGC	NFPA 54
Liquid Petroleum Gas	NFPA 58	NFPA 54
Compressed Natural Gas	NFPA 52	NONE

(b) **Modification to Chapter 3:**

[Note: Refer to 120-3-3-.03 of Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner for modified or special definitions that apply to this *Code*, unless otherwise advised by the various chapters of this *Code*.]

(c) **Modification to Chapter 4:**

1. Delete Section 4.7 in its entirety (4.7.1 through 4.8.2.3) and substitute in its place the following: "SECTION 4.7 Fire Safety and Evacuation Plans and Emergency Evacuation Drills.

   4.7.1 **Fire Safety and Evacuation Plans.** Fire safety and evacuation plans shall be developed, made available, and maintained in various occupancies as required by Section 404 of the *IFC*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner.

   4.7.1.1 **Resources for Development of Fire Safety and Evacuation Plans.** The provisions of A.4.7, A.4.7.2, A.4.7.4, A.4.7.6, A.4.8.2.1, and Table A.4.8.2.1(3), and as applicable, A.12.7.6, A.7.7, A.12.7.7.3, A.13.7.6, A.13.7.7, A.14.7.2.1, A.15.7.2.1, A.16.7.1, A.16.7.2.1, A.17.7.1, A.18.7, A.18.7.2.1, A.19.7, A.19.7.2.1, A.20.7, A.20.7.2.1, A.21.7, A.21.7.2.1, A.22.7.1.3, A.23.7.1.3, A.28.7.1.1, and A.29.7.1.1 of this *Code* shall be deemed acceptable resources for use in the development of fire safety and evacuation plans required by the *IFC*, as set forth by the provisions of 4.7.1of this *Code*.

   4.7.2 Emergency Evacuation Drills. Emergency evacuation drills shall be conducted in various occupancies as required by Section 405 of the *IFC*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner.

   4.7.3 **Employee Training and Response Procedures.** Employees in various occupancies shall be trained in fire emergency procedures and evacuation procedures as required by Section 406 of the *IFC*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner."

(d) **Modifications to Chapter 6:**

1. Delete subparagraph 6.1.14.4.1 in its entirety and substitute in its place the following:

   6.1.14.4.1 " Where separated occupancies are provided, each part of the building comprising a distinct occupancy as described in this chapter, shall be completely separated from other occupancies by fire resistive assemblies as specified in 6.1.14.4.2, and in Section 508 of the *International Building Code*, adopted by the Georgia Department of Community Affairs, as applicable to "separated occupancies", unless separation is provided by approved existing separations."

2. Delete subparagraph 6.1.14.4.3 in its entirety without substitution.

3. Delete Table 6.1.14.4.1(a) in its entirety without substitution.

4. Delete Table 6.1.14.4.1(b) in its entirety without substitution.

(e) **Modifications to Chapter 7:**

1. Add a new item (8) to subparagraph 7.2.1.4.1 to read as follows:

   (8) " For conditions or circumstances not covered herein, vertical fire shutters, roll down fire doors, or similar assemblies shall not be installed in means of egress, except where expressly permitted due to special hazards or circumstances by other chapters of this *Code*, or by approval of the Office of the State Fire Marshal for buildings coming under O.C.G.A. 25-2-13, or by the fire authority having jurisdiction over other buildings."

2. Add a new subparagraph 7.2.1.8.2.1 to read as follows:

   7.2.1.8.2.1 " Where fire doors are used within the means of egress, they shall comply with the applicable provisions of 7.2.1. Spring loaded hinges or spring operated self-closing devices not listed for use with rated fire door assemblies are prohibited for use as closing devices for fire rated doors.

   7.2.1.8.2.1.1 Existing applications utilizing spring loaded hinges in existing buildings may be continued in use where acceptable to the authority having jurisdiction.

   7.2.1.8.2.1.2 Spring loaded hinges or spring operated self-closing devices shall not be permitted for use on fire-rated smoke doors, provided, however, spring loaded hinges may be used on non-rated doors designed and installed to resist the passage of smoke, unless otherwise specified in Chapters 11 through 43.

   7.2.1.8.2.1.3 Existing installations in existing buildings of spring loaded hinges on fire-rated smoke doors may be continued in use where acceptable to the authority having jurisdiction."

3. Add a new subparagraph 7.2.3.10.3 to read as follows:

   7.2.3.10.3 "**Deactivation of Mechanical Pressurization Systems.** The design of pressurization systems shall ensure that smoke is not introduced into the pressurized enclosure so as to result in the untenable contamination of the fresh air. Approved smoke detectors shall be installed at each intake in such approved manner that the operation of the fan providing mechanical pressurization to the enclosure where smoke is detected shall be deactivated upon detection of smoke."

4. Add a new paragraph 7.3.1.2.1 to read as follows:

   7.3.1.2.1 " Where substantial evidence and documentation is provided, the authority having jurisdiction may decrease the occupant load for some occupancy use areas. The determined occupant load capacity shall be posted at an obvious location indicating the total occupant load capacity."

5. Add to Table 7.3.1.2 entitled "Occupant Load Factor"the additional use areas to read as follows:

"Locker Rooms	15	(1.4)
Free Weight Rooms	20	(1.9)
Running Tracks	50	(4.7)
Art Museums	30	(2.8)
Pool Halls	75	(6.9)
Multi-Purpose room	7	(0.65)
Airport terminals:		
Concourse	100	(9.3)
Waiting area	15	(1.4)
Baggage Claim	20	(1.9)
Baggage Handling	300	(27.9)"

6. Add a new subparagraph 7.4.1.1.1 to read as follows:

   7.4.1.1.1 " Egress stairways from mezzanines shall conform to the requirements of Chapter 7 of this *Code*. They may be open to the floor of the room in which they are located provided all of the following conditions are met:

   (1) The space beneath the mezzanine is totally open and unencumbered by partitioned rooms or spaces. The space beneath the mezzanine may be enclosed provided the enclosed space is protected throughout with a smoke detection system installed in accordance with NFPA 72, *National Fire Alarm and Signaling Code*, which sounds an alarm in the mezzanine.

   (2) The travel distance from the most remote point on the floor of the mezzanine to the building exit or to a protected egress corridor, exit court, horizontal passageway, enclosed stair, or exterior exit balcony does not exceed the travel distance limitations of Chapters 11 through 42.

(3) The occupant load of the mezzanine is added to the occupant load of the story or room in which it is located for the purposes of determining the minimum egress requirements.

(4) The mezzanine in not occupied for sleeping purposes unless there are exterior windows accessible to the mezzanine and located not more than two stories above grade."

7. Add a new paragraph 7.7.1.5 to subsection 7.7.1 to read as follows:

7.7.1.5 " Where the exit discharge termination cannot be at a public way, or the authority having jurisdiction determines it to be a significant hardship to provide the termination at a public way, the authority having jurisdiction may approve the exit discharge termination to be a safe dispersal area that complies with the following:

(1) The area shall be of an area that accommodates at the least 5 square feet (0.46 m²) for each person calculated to be served by the exit(s) for which the dispersal area is provided.

(2) The dispersal area shall be located on the same lot at least 50 feet (15240 mm) away from the building requiring egress. A greater distance may be required by the authority having jurisdiction based on the evaluated fire severity or other risk from the building requiring egress.)

(3) The area shall be clearly identified and permanently maintained as a safe dispersal area.

(4) The area shall be provided with a clearly identified and unobstructed exit discharge route, and comply with the applicable provisions of 7.1.6 of this *Code*.

(5) The exit discharge route and the dispersal area shall be illuminated by normal and emergency lighting, where the building requiring egress is occupied during periods of darkness."

8. Add a new subsection 7.7.7 to read as follows:

7.7.7 " Discharge from exits into fenced or walled courtyards or yards.

7.7.7.1 For occupancies covered by Chapters 14, 15, 16, 17, 32 and 33, exits shall be permitted to discharge into fenced or walled courtyards or yards, provided the courtyard or yard is provided

with a gate at least 32 inches (0.81 m) in clear width. Where the population served exceeds 50, two gates shall be provided. There shall be adequate exit capacity provided for the population served. The requirements of 7.4.1.2 shall apply. Gates are permitted to be locked if adequate provisions are made for the rapid removal of occupants by means such as remote control of locks, keying of all locks to keys carried by staff at all times, or other such reliable means available to the staff at all times that is approved by the authority having jurisdiction. Only one locking device shall be permitted on each gate.

7.7.7.2 The provisions of 7.7.7.1 shall not be construed as prohibiting the use of fenced or walled courtyards as components of the discharge of exits as set forth in Chapters 22 and 23.

7.7.7.3 The provisions of 7.7.7.1 may be applied, as approved by the authority having jurisdiction, to an "Assisted Living Community"or "Memory Care Unit"as defined in 120-3-3-.03 of Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner.

7.7.7.4 The provisions of various occupancy chapters dealing with a "lock-up", as defined in 3.3.164, shall not be construed as applying to the exit discharge provisions of 7.7.7.1, provided, however, exits from approved lock-ups may discharge into fenced or walled areas complying with the provisions of Chapter 22 or 23 as may be applicable, and as approved by the authority having jurisdiction."

(f) **Modification to Chapter 8:**

1. Delete paragraph 8.2.1.2* in its entirety and substitute in its place the following:

   8.2.1.2 " * The *International Building Code* (*IBC*) as adopted by the Department of Community Affairs (DCA) shall be used to determine the requirements for the construction classification."

2. Add a new subparagraph 8.2.1.2.1 and Table 8.2.1.2.1 to read as follows:

   8.2.1.2.1 "**Construction Conversion Table**. The table noted herein provides a comparison of acceptable construction types as defined in NFPA Standard 220 and the *International Building Code* (*IBC*)."

Table 8.2.1.2.1 Conversion Table for the *IBC* and NFPA 220 Construction Types

NF PA 220	Type I(443)	TypeI(332)	Type II (222)	Type II (111)	Type II (000)	Type III (211)	Type III (200)	Type IV (2 HH)	Type V (111)	Type V (000)
IBC	---	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB

3. Add a new to sub-paragraph 8.2.2.2.1 to read as follows:

   8.2.2.2.1 " Fire barriers/walls required for tenant separation by the *IBC* may terminate at exit access corridors with a lower fire rating including a non-rated smoke resistive barrier, if such barriers are allowed by the requirements for the protection rating of exit access corridors."

4. Add a new paragraph 8.3.1.2.1 to read follows:

   8.3.1.2.1 2- " hour fire barriers shall occur at the junction of new and existing construction when the existing construction does not meet the minimum requirements of the code for existing facilities. Such barriers shall not be extended into the new construction."

5. Add new paragraph 8.3.1.5 to read as follows:

   8.3.1.5 " All fire and/or smoke barriers or walls shall be effectively and permanently identified with signs or stenciling above a decorative ceiling and/or in concealed spaces with letters a minimum of 2 inches (51 mm) high on a contrasting background spaced a maximum of 12 feet (3.7 m) on center with a minimum of one per wall or barrier. The hourly rating shall be included on all rated barriers or walls. Wording shall be similar to the following: '( ) Hour Fire and Smoke Barrier-Protect All Openings. Where signs are utilized, they shall be designed and installed to resist peeling of detaching from the barrier."

   8.3.1.5.1 Existing stenciling, acceptable to the authority having jurisdiction, shall be permitted to remain in use. Existing signs that are not peeling or detaching from the barrier shall be permitted to remain in use, subject to the approval of the authority having jurisdiction."

6. Add a new 8.3.3.6.12 to read as follows:

8.3.3.6.12 " Tested and listed fire-rated glazing material installed in separately tested fire-rated frame assemblies not tested in a single unit with fire-rated glazing material may be permitted to be used subject to approval of the authority having jurisdiction in fire-rated barriers that are not part of an exit enclosure or enclosures around unsprinklered hazardous areas not containing flammable liquids or gases, combustible liquids, or other materials having the potential for rapid oxidation or explosion potential."

7. Delete 8.7.3.1 in its entirety and substitute in its place the following:

8.7.3.1 " The use, handling and storage of flammable or combustible liquids, flammable gases, or other materials deemed hazardous to the safety of life shall be in accordance with the applicable provisions of the *International Fire Code (IFC)*, as adopted by Chapter 120-3-3, of the Rules and Regulations of the Safety Fire Commissioner, or in accordance with the applicable codes or standards adopted by other Chapters of the Rules and Regulations of the Safety Fire Commissioner."

(g) **Modification to Chapter 9:**

1. Delete 9.1.1 in its entirety and insert in its place the following:

9.1.1 " Gas. Equipment using gas and related gas piping shall be in accordance with the *International Fuel Gas Code (IFGC)*, NFPA 54, National Fuel Gas Code, or NFPA 58, *Liquefied Petroleum Gas Code*, as may be applicable and as adopted by the applicable Chapters of the Rules and Regulations of the Safety Fire Commissioner. (Refer to **Table 1.4.4, CODES REFERENCE GUIDE**. Existing installations, subject to approval of the authority having jurisdiction, shall be permitted to be continued in service."

2. Delete 9.2.1 in its entirety and substitute in its place the following:

9.2.1 " Air Conditioning, Heating, Ventilating, Ductwork, and Related Equipment. Air conditioning, heating, ventilating ductwork, and related equipment shall be in accordance with the *International Mechanical Code (IMC)*, as adopted by the Georgia Department of Community Affairs. (Refer to **Table 1.4.4**, **CODES REFERENCE GUIDE**)"

3. Delete section 9.3 in its entirety and substitute in its place the following:

9.3.1 "*** General.** Smoke control systems, where required or permitted by Chapters 11 through 42, shall be designed, installed, tested, and maintained in conformance with Section 909 of the *International Fire Code (IFC)*, as

adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner."

4. Add a new subsection 9.3.2 to read as follows:

   9.3.2 " Detention, holding or processing cell(s) which are used for the containment of an individual for not more than two hours in a 12-hour period shall not be required to be provided with vent openings, smoke shafts, or an engineered smoke control system to provide ventilation provided each cell is monitored by closed circuit television or dedicated personnel located outside the holding area and which have visual supervision of the cell(s)."

5. Delete subsection 9.4.2.1 in its entirety and substitute in its place the following:

   9.4.2.1 " New elevators, escalators, dumbwaiters, and moving walks shall be installed in accordance with the requirements of ANSI/ASME A17.1, Safety Code for Elevators and Escalators. The elevator lobby of the designated floor and the alternate floor specified by Rule 211.3(a), and determined by the Fire Chief of the fire department having emergency response jurisdiction, shall be separated from the remainder of the building by 1-hour fire-rated construction. In buildings equipped with automatic sprinkler protection, smoke partitions in accordance with Section 8.4 may be used in lieu of 1-hour fire rated construction. Except health care occupancies as approved by the AHJ, openings in the elevator lobby shall be limited to those required for access to the elevators from exit access corridors or exits only. Elevator lobbies may be used as part of the means of egress from the building.

   Exception No. 1: Elevator lobbies are not required within an atrium.

   Exception No. 2: Elevator lobbies are not required where elevators are installed on open exterior walls.

   Exception No. 3: Elevator lobbies are not required where elevators are installed in open air parking structures.

   Exception No 4: Elevator lobbies are not required in buildings three stories or less with vertical openings protected in accordance with the applicable occupancy chapter.

   Exception No 5: Elevator lobbies are not required in mercantile occupancies that have properly protected openings for escalators or stairs.

Exception No 6: Existing installations acceptable to the authority having jurisdiction."

6. Add a new subparagraph 9.6.2.10.8.1 to read as follows:

9.6.2.10.8.1 " Existing battery-powered smoke alarms as permitted by other sections of this *Code* shall be permitted to remain in use provided the following criteria are met:

1. The device is no older than 10 years of the manufactures date on the device; and,

2. The device is installed in a facility that was legally permitted before July 1, 1987, as a residential occupancy; and,

3. The facility has demonstrated to the authority having jurisdiction that the testing, maintenance, and battery replacement program will ensure reliability of power to the smoke alarms,

7. Add a new subparagraph 9.6.2.10.8.2 to read as follows:

9.6.2.10.8.2 " Existing battery-powered smoke alarms as permitted by other sections of this *Code* and which meet the provisions of subparagraph 9.6.2.10.8.1 shall be replaced with smoke alarms whose device housing is tamper resistant and is powered by a non-replaceable, non-removable energy source capable of powering the alarm for a minimum of ten years from the manufacture's date on the device when any of the following apply:

1. The device is replaced for any reason; or,

2. The provisions of subparagraph 9.6.2.10.8.1 or not met; or,

3. There is no manufactures date that exist on the device; or,

4. The device does not meet all of the provisions of subparagraph 9.6.2.10.8.1.

8. Delete 9.6.3.6.3 and its place substitute the following:

9.6.3.6.3 " * Where occupants are incapable of evacuating themselves because of age, dependence on verbal communication with caregivers, physical or mental disabilities, or physical restraint, the private operating mode as described in NFPA 72, *National Fire Alarm and Signaling Code*, shall be permitted to be used. Only attendants, caregivers, and other personnel that

are required to relocate or assist in the relocation occupants from a zone, area, floor, or building shall be required to be notified. The notification shall include means to readily identify the zone, area, floor, or building in need of evacuation. Where approved by the authority having jurisdiction, the requirements for audible signaling shall be permitted to be further reduced or eliminated when visible signaling is provided in accordance with NFPA 72.

9. Add an Annex Note to 9.6.3.6.3 to read as follows:

A.9.6.3.6.3 " For example, in critical care patient areas, it is often desirable to not have an audible fire alarm even at reduced private mode levels. Another example would be classrooms for small children in day care or educational occupancies, where verbal communication is vital between caregivers or teachers and children during drills or during an actual fire or other emergency condition. Audible alarms often frighten small children and valuable time may be lost while trying to calm such children. Also, audible alarms at or near locations where clear communications is required may present a problem. A school office or a receptionist desk common to various occupancies are examples. An additional example of where an audible fire alarm could be a problem would be high noise level work areas where an audible signal needed to overcome background noise at one time of the day would be excessively loud and potentially dangerous at another time of lower ambient noise. A sudden increase of more than 30 dB over 0.5 seconds is considered to cause sudden and potentially dangerous fright. Each case requires individual consideration by the authority having jurisdiction."

10. Add a new subparagraph 9.7.1.1.1 to read as follows:

9.7.1.1.1 " NFPA 13R, *Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height*s, shall be permitted for use as specifically referenced in Chapters 24 through 33 of this *Code*. This standard shall also be permitted for the design and installation of automatic sprinkler systems in personal care homes, community living arrangements, day-care centers, and day-care homes in buildings up to and including four stories. When a single-story open-air parking structure of fire- restrictive construction is below a four-story residential occupancy the structure is considered within this scope. NFPA 13R automatic sprinkler systems shall not be permitted in assisted living communities or memory care units, as defined in 120-3-3-.03 of Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner, unless authorized by the State Fire Marshal's Office."

11. Delete paragraph 9.9* in its entirety and substitute in its place the following:

    9.9 " * Portable fire extinguishers shall be installed in all buildings, structures and facilities as set forth in this *Code* and as established in 906.1 of the *International Fire Code*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner. (Refer to **Table 1.4.4, CODES REFERENCE GUIDE**)

12. Delete paragraph 9.10 in its entirety and substitute in its place the following:

    9.10 " Where required by either the provisions of another section of this *Code*, the *International Building Code* (*IBC*) as adopted by the Department of Community Affairs or the *International Fire Code (IFC)* as adopted by Chapter 120-3-3 Rules and Regulations of the Safety Fire Commissioner, standpipe and hose systems shall be provided in accordance with NFPA 14, Standard for the Installation of Standpipe and Hose Systems. Where standpipe and hose systems are installed in combination with automatic sprinkler systems, installation shall be in accordance with the appropriate provisions established by NFPA 13, *Standard for the Installation of Sprinkler Systems*, and NFPA 14, Standard for the Installation of Standpipe and Hose Systems."

(h) **Modifications to Chapter 10:**

1. Delete SECTION 10.3 in its entirety and substitute in its place the following:

   SECTION 10.3 "**Decorations and Furnishings**.

   10.3.1 The use of decorative materials (vegetative and non-vegetative), as defined in Chapter 2 of the *International Fire Code*, and furnishings in proposed (new) and existing buildings shall be regulated as set forth by Sections 805, 806, 807, and 808 of the *International Fire Code (IFC)*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner."

(i) **Modifications to Chapter 11:**

1. Delete subsection 11.1.6 in its entirety and substitute in its place the following:

   11.1.6 "**Minimum Construction requirements.** The minimum construction requirements for the location of occupants of health care and ambulatory health care occupancies shall be as specified in accordance with the applicable occupancy chapter."

2. Delete paragraph 11.3.3.5 in its entirety and substitute in its place the following:

   11.3.3.5 "**Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in all enclosed and normally occupied towers in accordance with 9.9 of this *Code*."

3. Add a new item (4) to paragraph 11.7.3.4 to read follows:

   (4) " This requirement shall not apply to existing windowless or underground structures, excluding Chapter 15, with an occupant load of 100 or fewer persons in the windowless or underground portions of the structure."

4. Delete subsection 11.8.2.3 in its entirety and substitute in its place the following:

   11.8.2.3 "**Smoke Proof Enclosures**. High-rise buildings shall be provided with smoke proof exit enclosures in accordance with 7.2.3."

5. Add a new paragraph 11.8.3.3 to read as follows:

   11.8.3.3 "**Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in all high- rise buildings in accordance with 9.9."

6. Add a new subsection 11.9.6 to read as follows: "11.9.6 Extinguishing Equipment:

   11.9.6.1 **Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in all permanent membrane structures in accordance with 9.9."

7. Delete subsection 11.10.3 in its entirety and substitute in its place the following: "11.10.3 Extinguishing Equipment.

   11.10.3.1 **Portable Fire Extinguishers**. Portable fire extinguishers shall be provided in all temporary membrane structures in accordance with 9.9."

8. Delete subsection 11.11.5 in its entirety and substitute in its place the following: "11.11.5 Extinguishing Equipment.

   11.11.5.1 **Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in all tents in accordance with 9.9."

(j) **Modification to Chapter 12:**

1. Add a new subparagraph 12.1.1.2.1 to read as follows:

   12.1.1.2.1 " Pursuant to O.C.G.A. 25-2-13(b)(1)(F), (G) and G.1) and 25-2-14(c), "Racetracks, stadiums, grandstands, theaters, auditoriums, restaurants, bars, lounges, nightclubs, dance halls, recreation halls and other places of

public assembly having an occupant load of 300 or more, except that the occupant load shall be 100 or more persons where alcoholic beverages are served, shall have a certificate of occupancy issued by the appropriate authority having jurisdiction. For churches the occupant load requirement is 500 or more persons in a common area or having an occupant load greater than 1,000 persons based on the total occupant load of the building or structure."

2. Reserved.

3. Add a new paragraph 12.3.5.5 to read as follows:

   12.3.5.5 "**Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in all assembly occupancies in accordance with 9.9"

4. Add a note following Table 12.4.2.3 to read as follows:

   "Note: See 12.4.2.6 for factors A, B and C in Tables 12.4.2.3 and 12.4.2.4.".

5. Delete paragraph 12.4.6.11 in its entirety and substitute in its place the following:

   12.4.6.11 "**Scenery, Decorations, and Furnishings.** Combustible decorations and scenery of cloth, film, foam plastic, vegetation, and similar materials shall meet the applicable provisions of 805, 806, 807, and 808 of the *International Fire Code (IFC)*, as set forth in SECTION 10-3 of this Code. Scenery and stage properties not separated from the audience by proscenium openings shall be either noncombustible or limited-combustible."

6. Add a new subparagraph 12.4.8.9 to read as follows:

   12.4.8.9 " Special amusement buildings not open to the public in excess of 45 days in a twelve month period shall be permitted, provided all of the following conditions are met:

   1. Portable fire extinguishers with a minimum of a 2A:10B:C rating are placed within 25 feet of each activity or viewing station, so as to be readily accessible and visible to staff;

   2. A smoke detection system is placed throughout the facility with a smoke detector located at each activity or viewing station and located throughout corridors and halls not to exceed a spacing more than 15 feet (4.6 m) from a wall or more than 30 feet (9.1 m) on center. Where there is no ceiling or cover over activity or viewing stations,

or over exit access routes, other than the standard ceiling, smoke detectors shall be placed so that their area of coverage does not exceed the approval listing of the detectors;

3. Emergency lighting shall be provided which will cause illumination of the means of egress upon loss of power to lighting circuits for the means of egress routes serving the special amusement building. In addition, all staff shall be provided with flashlights;

4. Personnel dedicated for the sole purpose of performing fire watch duties as defined in Chapter 2 of the *International Fire Code* and as be deemed necessary for specific circumstances by the authority having jurisdiction, shall be provided in such numbers to ensure the entire special amusement space is surveyed at least every 30 minutes starting 30 minutes prior to public occupancy. Such personnel shall be provided with a direct communication device for communication with all viewing or activity stations throughout the facility. In addition such personnel shall be provided with appropriate training for the operation of portable fire extinguishing equipment;

5. Communication to the responding fire department or emergency dispatch center is available from the facility (a regular telephone or at least two cell phones are acceptable);

6. **"NO SMOKING"** signs shall be posted at entrances to the building. Receptacles for the discard of smoking material shall be located a minimum of 15 feet (9.1 m) from the structure and shall be clearly identified by applicable signage;

7. Documentation of fire watch tours required by item 4 above is maintained. The documentation, at the minimum, shall note the time when the tour was conducted the name of personnel conducting the tour, and information about any hazards identified and actions taken to remove such hazards. Such documentation shall be readily available to the code official upon request.

8. Interior wall and ceiling finish materials complying with Section 10.2 shall be Class A throughout."

7. Delete subsection 12.7.3 in its entirety and substitute in its place the following:

12.7.3 "**Open Flame and Pyrotechnics.** No open flame devices or pyrotechnic devices shall be used in any assembly occupancy, unless otherwise provided by 12.7.3.1 through 12.7.3.4.

12.7.3.1 As set forth in the exceptions to 308.3 of the *IFC*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner.

12.7.3.2 This requirement shall not apply to heat-producing equipment complying with 9.2.2.

12.7.3.3 This requirement shall not apply to food service operations in accordance with 13.7.1.

12.7.3.4 Gas lights shall be permitted to be used, provided that precautions subject to the approval of the authority having jurisdiction are taken to prevent ignition of any combustible materials."

8. Delete subsection 12.7.4 in its entirety and substitute in its place the following:

12.7.4 "**Scenery, Decorations, and Furnishings**. Combustible decorations, curtains, draperies, similar furnishings, and scenery of cloth, film, foam plastic, vegetation, and similar materials shall meet the applicable provisions of 805, 806, 807, and 808 of the *International Fire Code (IFC)*, as set forth in SECTION 10-3 of this *Code*. The authority having jurisdiction shall impose additional controls, as he or she deems necessary, on the quantity and arrangement of combustible contents in assembly occupancies to provide an adequate level of safety to life from fire. (Refer to the definition for "decorative materials"in Chapter 2 of the *International Fire Code*."

9. Delete subsection 12.7.6 in its entirety and substitute in its place the following:

12.7.6 "**Crowd Managers.** Crowd managers shall be provided as required by 403.12.3 of the *IFC*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner."

10. Delete subsection 12.7.13 in its entirety and substitute in its place the following:

12.7.13 "**Emergency Planning and Preparedness.** Assembly occupancies (Group A) shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with

applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

(k) **Modification to Chapter 13:**

1. Add a new subparagraph 13.3.5.1.1 to read as follows:

   13.3.5.1.1 " The provisions of 13.3.5.1 shall not apply to locations that were approved for occupancy prior to the adoption of the 2012 edition of the *Life Safety Code*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner, adopted 1/1/2014, and provided the conditions approved have not been modified without subsequent required review and approval by the authority having jurisdiction, and provided the provisions of 13.1.1.4 and 13.1.1.5 of this *Code*, as applicable, and the provisions of Section 103 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner, and as applicable to existing buildings are met."

2. Add a new paragraph 13.3.5.5 to read as follows:

   13.3.5.5 "**Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in all assembly occupancies in accordance with 9.9."

3. Add a note following Table 13.4.2.3 to read as follows:

   "**Note:** See 12.4.2.6 for factors A, B and C in Tables 13.4.2.3 and 13.4.2.4.1."

4. Add a new paragraph 13.4.8.9 to read as follows:

   13.4.8.9 " Special amusement buildings not open to the public in excess of 45 days in a twelve month period shall be permitted, provided all of the following conditions are met:

   1. Portable fire extinguishers with a minimum of a 2A:10B:C rating are placed within 25 feet of each activity or viewing station, so as to be readily accessible and visible to staff;

   2. A smoke detection system is placed throughout the facility with a smoke detector located at each activity or viewing station and located throughout corridors and halls not to exceed a spacing more than 15 feet (4.6 m) from a wall or more than 30 feet (9.1 m) on center. Where there is no ceiling or cover over activity or viewing stations, or over exit access routes, other than the standard ceiling,

smoke detectors shall be placed so that their area of coverage does not exceed the approval listing of the detectors;

3. Emergency lighting shall be provided which will cause illumination of the means of egress upon loss of power to lighting circuits for the means of egress routes serving the special amusement building. In addition, all staff shall be provided with flashlights;

4. Personnel dedicated for the sole purpose of performing fire watch duties as defined in Chapter 2 of the *International Fire Code* and as be deemed necessary for specific circumstances by the authority having jurisdiction, shall be provided in such numbers to ensure the entire special amusement space is surveyed at least every 30 minutes starting 30 minutes prior to public occupancy. Such personnel shall be provided with a direct communication device for communication with all viewing or activity stations throughout the facility. In addition such personnel shall be provided with appropriate training for the operation of portable fire extinguishing equipment;

5. Communication to the responding fire department or emergency dispatch center is available from the facility (a regular telephone or at least two cell phones are acceptable);

6. **"NO SMOKING"** signs shall be posted at entrances to the building. Receptacles for the discard of smoking material shall be located a minimum of 15 feet (9.1 m) from the structure and shall be clearly identified by applicable signage;

7. Documentation of fire watch tours required by item 4 above is maintained. The documentation, at the minimum, shall note the time when the tour was conducted the name of personnel conducting the tour, and information about any hazards identified and actions taken to remove such hazards. Such documentation shall be readily available to the code official upon request.

8. Interior wall and ceiling finish materials complying with Section 10.2 shall be Class A throughout."

5. Delete subsection 13.7.3 in its entirety and substitute in its place the following:

13.7.3 "**Open Flame and Pyrotechnics.** No open flame devices or pyrotechnic devices shall be used in any assembly occupancy.

13.7.3.1 This requirement shall not apply as set forth in the exceptions to 308.3.1 of the *International Fire Code (IFC)*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner.

13.7.3.2 This requirement shall not apply to heat-producing equipment complying with 9.2.2.

13.7.3.3 This requirement shall not apply to food service operations in accordance with 13.7.2.

13.7.3.4 Gas lights shall be permitted to be used, provided that precautions subject to the approval of the authority having jurisdiction are taken to prevent ignition of any combustible materials."

6. Delete subsection 13.7.6 in its entirety and substitute in its place the following:

13.7.6 "**Crowd Managers.** Crowd managers shall be provided as required by 403.12.3 of the *IFC*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner."

7. Delete subsection 13.7.7 in its entirety and substitute in its place the following:

13.7.7 "**Emergency Planning and Preparedness.** Assembly occupancies (Group A) shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

(l) **Modifications to Chapter 14:**

1. Add a new paragraph 14.1.1.6 to read as follows:

14.1.1.6 "**Mobile/Portable Classrooms**. Each mobile/portable classroom shall not be occupied until the required Certificate of Occupancy has been authorized by the State Fire Marshal's Office, the proper local fire marshal, state inspector, or others authorized by O.C.G.A Section 25-2-12."

2. Add a new subparagraph 14.1.1.6.1 to read as follows:

14.1.1.6.1 " **Classification.** Mobile/portable classroom structures, as defined in 120-3-3-.03 of Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner shall also be classified as Group E - Educational occupancies and shall comply with the provisions of this section and other sections applicable to Group E - Educational occupancies, except as may be provided otherwise elsewhere in this *Code* or in Chapter 120-3-3, of the Rules and Regulations of the Safety Fire Commissioner.

3. Add a new paragraph 14.1.1.6.2 to read as follows:

14.1.1.6.2 " Plans and specifications for proposed (new) mobile/portable classrooms shall be submitted to and receive approval by either the State Fire Marshal's Office, the proper local fire marshal, state inspector, or others authorized by O.C.G.A 25-2-12 prior to construction. A Georgia registered architect or engineer must place his or her seal on the plans submitted. Submitted plans must include a site plan that is drawn to scale and showing clearances from other mobile/portable classroom structures and other structures. Such site plan shall also show the exit discharge route(s) to a public way in accordance with this *Code*, or where such is not possible, to an approved area of refuge."

4. Add a new paragraph 14.1.1.6.3 to read as follows:

14.1.1.6.3 " Proposed (new) mobile/portable classrooms shall comply with the various provisions of this *Code* applying to classrooms in educational occupancies (Group E - Educational), unless otherwise specified."

5. Add a new paragraph 14.1.1.5.4 to read as follows:

14.1.1.6.4 " Locating Mobile/Portable Classroom Structures. Mobile/portable classrooms shall not be installed within 25 feet (7.6 m) of any exposed building or structure, or within 10 feet (3.05 m) of another exposed mobile/portable classroom unit. The mobile/portable classroom unit shall not be connected to any other unit, or to other buildings or structures by a canopy of combustible construction. The distance between a mobile/portable classroom unit and an exposed building or structure, that is totally protected by an approved automatic sprinkler system, may be reduced to 10 feet (3.05 m), provided, the exposed exterior wall is of noncombustible construction, and there are no windows or doors in the exposed wall of the building within 25 feet (7.6 m) of the mobile/portable classroom unit. The distance may be reduced to 0 feet if the exposed wall is of noncombustible construction having a certified fire resistance rating of at least 2-hours and without openings within 25 feet of the exposing mobile/portable classroom unit."

6. Add a new paragraph 14.2.1.4.1, to read as follows:

   14.2.1.4.1 " The provisions of 14.2.1.2 and 14.2.1.3 shall not apply to educational facilities that meet the requirements of 16.1.6."

7. Add a new subparagraph 14.2.2.2.2.1 to read as follows:

   14.2.2.2.2.1 " Doors serving as exits from mobile/portable classrooms shall not be less than 32 inches (0.91 m) in clear width, swing outward with exit travel onto landings at least 4 feet by 4 feet (1.2 m by 1.2 m), and have steps and/or ramps complying with applicable provisions of this *Code*. This includes guardrails and graspable handrails. Steps and ramps serving fewer than 50 persons may be 36 inches (0.91m) in clear width."

8. Add a new paragraph (5) to 14.2.11.1.1 1 to read as follows:

   (5) " Windows may open onto a court or an enclosed court provided all of the following criteria are met:

   (a) The court shall be of sufficient width such that persons exiting through the courtyard will be at a minimum dimension not less than 10 feet (3 m) from any portion of the building that could present an exposure condition to a fire.

   (b) The court has exits directly to the exterior of the building through an exit passageway that is separated out from all other parts of the building by 2-hour fire-rated construction. No space other than exit corridors protected by 'B' labeled 1½-hour fire doors, whether normally occupied or not, shall open onto this required exit passageway.

   (c) The exit capacity for the exit passageway shall be of sufficient width for the corridors connected to it as well as the enclosed court calculated at 15 square feet (1.4 sq. m) per person or minimum number of students subject to exiting into the court, whichever is the greater of the two.

   (d) The travel distance from any point in a connecting classroom to the exterior of the building through the exit passageway shall not exceed 150 feet (45.7 m).

   (e) The court is provided with emergency lighting to direct occupants to the exit(s) in accordance with Section 5.9.

   (f) The exit(s) from the court is/are clearly marked in accordance with Section 7.10."

9. Add a new paragraph 14.2.11.4 to read as follows:

14.2.11.4 "**School Hallway Interior Emergency Lockdown Defense (SHIELD).** The installation of a School Hallway Interior Emergency Lockdown Defense (SHIELD) shall be permitted in educational occupancies provided all of the following criteria are met:

(1) Activation shall be by means of depressing a panic button or pull station marked for emergency SHIELD available to school administration at a central location. Additional activation may be by telephone code.

(2) System activation shall automatically contact law enforcement authorities upon activation.

(3) Cross corridor doors may be provided with magnetic hold open devices to release upon activation of the system.

(4) Upon activation of the system, cross corridor doors shall be permitted to be kept in the closed position with magnetic locks.

(5) System hardware shall be provided with emergency power or battery back-up in event of loss of power.

(6) Smoke detectors shall be provided within 15 feet of cross corridor doors on the classroom egress side for each corridor zone and be identified distinctly from other required detectors. Such detectors upon activation by smoke shall release door mag locks for the locked zone to freely open. Detectors are not required to be interconnected into the building's fire alarm system.

(7) Card readers with keypad shall be installed on the ingress side of the doors requiring a PIN code and card swipe to deactivate for the activated corridor zone.

(8) Keypad shall be installed on the egress side of the doors only requiring a PIN code for deactivation of the door mag locks for the activated corridor zone.

(9) A blue light strobe and siren, distinct from that of the fire alarm may be provided to deter intruders.

(10) Staff shall be adequately trained on the intent and operation of the system with the conduction of mock drills.

14.2.11.4.1 **(SHIELD) Activation.** The SHIELD system shall only be activated in the following

(1) The event of intrusion or active shooter upon school premises.

(2) For the purposes of testing the system.

(3) For the purposes of conducting drills related to the intrusion or active shooter upon school premises."

10. Delete subparagraph 14.3.2.1(1)(a) in its entirety and substitute in its place the following:

    (a) " Boiler and furnace rooms, unless such rooms enclose only air handling equipment, compressor equipment, furnaces or other heating equipment with a total aggregate input rating less than 200,000 Btu. Such rooms shall not be used for any combustible storage. In addition, a minimum of 30 inches (0.76 m) shall be provided and maintained to equipment and electrical or emergency control panels or devices for emergency response purposes."

11. Delete the term "Laundries"from 14.3.2.1(2)(a) and substitute in its place the following:

    (a) " Laundry areas utilizing commercial equipment, multiple residential appliances, or exceeding 100 square feet (9.3 sq. m)."

12. Add a new subparagraph 14.3.2.2.1 to read as follows:

    14.3.2.2.1 " Residential type cooking equipment. Residential type cooking equipment located in food preparation areas of home economic labs may be protected by a listed self-contained residential fire suppression systems located in a residential hood over each cooking surface, with the exhaust hood vented directly to the outside of the building. The fire suppression system shall automatically disconnect electric power to electric stoves or shut off the gas supply to gas fueled stoves. Food preparation areas located in home economics labs need not be so protected where located in a fully sprinklered building or where protection is provided in accordance with 9.7.1.2, provided, however, the exhaust hood shall still be required to be vented to the outside of the building."

13. Add a new subparagraph 14.3.4.2.3.3 to read as follows:

14.3.4.2.3.3 " Manual fire alarm boxes may be located in rooms which open directly onto such corridors and normal paths of travel provided all of the following are met:

(1) The rooms in which such manual fire alarm boxes are placed are constantly supervised all school hours.

(2) The rooms in which such manual fire alarm boxes are placed are located in close proximity to the to that portion of the corridors and normal paths of travel where a manual fire alarm box would be placed in accordance with 9.6.2.5.

(3) A sign is placed on the corridor wall immediately adjacent to the entry door(s) of such room so that it can be readily seen at all times. The sign shall state **"MANUAL FIRE ALARM BOX LOCATED IN THIS ROOM".** The sign shall have a red background and the letters shall be white and be at least one inch in height."

14. Delete subparagraph 14.3.4.3.1.1 in its entirety and substitute in its place the following:

14.3.4.3.1.1 " Occupant notification shall be by means of audible and visual alarm devices in accordance with 9.6.3 and Chapter 120-2-20, Rules and Regulations of the Safety Fire Commissioner. Where visual alarm devices are located inside classrooms the installation of an audible device or component shall not be required, provided the audible alarm signal from alarm devices located in adjacent corridors or compartments is clearly audible in the classrooms, and is subject to the approval of the authority having jurisdiction."

15. Add a new subparagraph 14.3.5.6 to read as follows:

14.3.5.6 "**Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in educational occupancies, including mobile/portable classrooms, in accordance with 9.9.

14.3.5.6.1 In lieu of locating portable fire extinguishers in corridors and normal paths of travel as specified in NFPA Standard 10, *Standard for Portable Fire Extinguishers*, portable fire extinguishers may be located in rooms that open directly onto such corridors and paths of travel, provided, all of the following are met:

(a) The rooms in which such portable fire extinguishers are placed are located in close proximity to that portion of the corridor where a portable fire extinguisher would normally be placed in accordance with NFPA Standard 10.

(b) A sign which states, in white letters at least one inch in height on a red background, "**PORTABLE FIRE EXTINGUISHER LOCATED IN THIS ROOM**,"is placed on the corridor wall immediately adjacent to the entrance(s) of each such room so that it can be clearly seen at all times."

(c) The rooms in which such portable fire extinguishers are placed shall be constantly supervised during school hours.

(d) These rooms cannot be subject to being locked at any time the building is occupied."

16. Add a new item 6 to subsection 14.3.6 to read as follows:

    6. " Door closing devices are not required on doors in corridor wall openings other than those serving exits or required enclosures of hazardous areas."

17. Add a new paragraph 14.4.3.6 to read as follows:

    14.4.3.6 " Corridor walls in flexible plan buildings shall comply with subsection 14.3.6 as modified.

18. Add a new paragraph 14.5.2.3 to read as follows:

    14.5.2.3 " Portable electric and liquefied petroleum gas or liquid fuel fired space heating devices designed to be portable are prohibited in all portions of educational buildings, unless such use is permitted by 603.4 of the *IFC*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner."

19. Add new subparagraph 14.7.1.1 to read as follows:

    14.7.1.1 " Emergency Planning and Preparedness. Educational occupancies (Group E - Educational) shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an

emergency situation. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with the applicable provisions of Chapter 4 of the *IFC*, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

(m) Modifications to Chapter 15:

1. Add a new subparagraph 15.1.1.1.1 to read as follows:

15.1.1.1.1 "**Existing Mobile/Portable Classroom Structures.**

(a) Existing mobile/portable classroom structures, which have been installed prior to the effective date of this *Code*, and which were deemed to be in compliance with provisions in effect at the time of their installation, shall be permitted to remain in use, if deemed to have been maintained as approved, and meet specific provisions of this chapter applicable to existing mobile/portable classroom structures.

(b) When an existing mobile/portable classroom structure is removed from a school system, the certificate of occupancy for that structure becomes void, provided, however, the structure shall retain the status of an existing structure if continued in service as a classroom structure in another school system. This shall also apply to leased or rented mobile/portable classroom structures. A new certificate of occupancy shall be required for the relocated structure, and shall be issued provided the structure meets the provisions of this *Code* that are applicable to existing mobile/portable classrooms."

2. Add a new paragraph 15.1.1.6 to read as follows:

15.1.1.6 " Existing mobile/portable classrooms shall comply with the various provisions of this *Code* applying to classrooms in existing educational occupancies, unless otherwise specified in this chapter."

3. Add a new paragraph 15.1.1.7 to read as follows:

15.1.1.7 " When relocated, a mobile/portable classroom structure shall not be placed within 25 feet (7.6 m) of any building or structure or within 10 feet (3.1 m) of another mobile/portable classroom structure. Such mobile/portable classroom structures shall not be connected to any building or other mobile classroom structure by a canopy of combustible construction. An existing canopy of combustible components may be

continued in use provided no combustible components are within 25 feet (7.6 m) of any building or structure or within 10 feet (3.1 m) of another mobile/portable classroom structure. The distance between a mobile/portable classroom unit and an exposed building or structure, that is totally protected by an approved automatic sprinkler system, may be reduced to 10 feet (3.05 m), provided, the exposed exterior wall is of noncombustible construction, and there are no windows or doors of the exposed wall of the building within 25 feet (7.6 m) of the mobile/portable classroom unit. The distance may be reduced to 0 feet if the exposed wall is of noncombustible construction having a certified fire resistance rating of at least 2-hours and without openings within 25 feet of exposing mobile/portable classroom unit."

4. Add a new paragraph 15.2.1.5 to read as follows:

   15.2.1.5 " The provisions of 15.2.1.2 and 15.3.2.3 shall not apply to facilities that meet the requirements of 16.1.6."

5. Add a new subparagraph 15.2.2.2.3 to read as follows:

   15.2.2.2.3 " Doors serving as exits from existing mobile/portable classrooms shall not be less than 32 inches (0.91 m) in clear width, unless originally approved for a clear width of not less than 28 inches. Such exit doors shall open onto landings 4 feet by 4 feet (1.2 m by 1.2 m) and have stairs and or ramps, as needed, complying with applicable provisions of this *Code*. Landings, stairs, ramps, guardrails, and handrails installed and approved prior to the effective date of this *Code*, if maintained in a state of good repair, may be continued in use. When a mobile/portable classroom structure is moved to another site at the same school or another school, landings, stairs, ramps, guardrails, and graspable handrails shall comply with the applicable requirements of this *Code* for new construction."

6. Add a new item (4) to paragraph 15.2.11.1 to read as follows:

   (4) " Windows may open onto a court or an enclosed court provided all of the following criteria are met:

   (a) The court shall be of sufficient width such that persons exiting through the courtyard will be at a minimum dimension not less than 10 feet (3 m) from any portion of the building that could present an exposure condition to a fire.

(b) The court has exits directly to the exterior of the building through an exit passageway that is separated out from all other parts of the building by 2-hour fire-rated construction. No space other than exit corridors protected by 'B' labeled 1½-hour fire doors, whether normally occupied or not, shall open onto this required exit passageway.

(c) The exit capacity for the exit passageway shall be of sufficient width for the corridors connected to it as well as the enclosed court calculated at 15 square feet (1.4 sq. m) per person or minimum number of students subject to exiting into the court, whichever is the greater of the two.

(d) The travel distance from any point in a connecting classroom to the exterior of the building through the exit passageway shall not exceed 150 feet (45.7 m).

(e) The court is provided with emergency lighting to direct occupants to the exit(s) in accordance with Section 5.9.

(f) The exit(s) from the court is/are clearly marked in accordance with Section 7.10."

7. Add a new paragraph 15.2.11.3 to read as follows:

15.2.11.3 " School Hallway Interior Emergency Lockdown Defense (SHIELD). The installation of a School Hallway Interior Emergency Lockdown Defense (SHIELD) shall be permitted in educational occupancies provided all of the following criteria are met:

(1) Activation shall be by means of depressing a panic button or pull station marked for emergency SHIELD available to school administration at a central location. Additional activation may be by telephone code.

(2) System activation shall automatically contact law enforcement authorities upon activation.

(3) Cross corridor doors may be provided with magnetic hold open devices to release upon activation of the system.

(4) Upon activation of the system, cross corridor doors shall be permitted to be kept in the closed position with magnetic locks.

(5) System hardware shall be provided with emergency power or battery back-up in event of loss of power.

(6) Smoke detectors shall be provided within 15 feet of cross corridor doors on the classroom egress side for each corridor zone and be identified distinctly from other required detectors. Such detectors upon activation by smoke shall release door mag locks for the locked zone to freely open. Detectors are not required to be interconnected into the building's fire alarm system.

(7) Card readers with keypad shall be installed on the ingress side of the doors requiring a PIN code and card swipe to deactivate for the activated corridor zone.

(8) Keypad shall be installed on the egress side of the doors only requiring a PIN code for deactivation of the door mag locks for the activated corridor zone.

(9) A blue light strobe and siren, distinct from that of the fire alarm may be provided to deter intruders.

(10) Staff shall be adequately trained on the intent and operation of the system with the conduction of mock drills.

15.2.11.3.1 **(SHIELD) Activation.** The SHIELD system shall only be activated in the following situations:

(1) The event of intrusion or active shooter upon school premises.

(2) For the purposes of testing the system.

(3) For the purposes of conducting drills related to the intrusion or active shooter upon school premises."

8. Delete subparagraph 15.3.2.1(1)(a) in its entirety and substitute in its place the following:

(a) " Boiler and furnace rooms, unless such rooms enclose air handling equipment, compressor equipment, furnaces or other heating equipment with a total aggregate input rating less than 200,000 BTU input. Such rooms shall not be used for any combustible storage. A minimum of 30 inches (0.76 m) unobstructed access shall be provided and maintained to equipment and electrical or emergency control panels or devices for emergency response purposes."

9. Delete the term "Laundries"from subparagraph 15.3.2.1(2)(a) and substitute in its place the following:

   (a) " Laundry areas utilizing commercial equipment, multiple residential appliances, or exceeding 100 square feet (9.3 sq. m)."

10. Add a new paragraph 15.3.2.2.1 to read as follows:

    15.3.2.2.1 " Food preparation areas located in home economic labs may be protected by listed self-contained residential fire suppression systems located in a residential hood over each cooking surface, with the exhaust hood vented directly to the outside. Required use of automatic disconnects of fuel source or power source is subject to the approval of the authority having jurisdiction. Food preparation areas located in home economic labs need not be protected where in a fully sprinklered building or where protection is provided in accordance with 9.7.1.2. The exhaust hood is still required to be vented to the outside if installed after July 28, 1998."

11. Add items (3) and (4) to paragraph 15.3.4.2.1 to read as follows:

    (3) " Where each classroom in a mobile/portable classroom structure is provided with a two-way communication system that will permit initiation of the communication from the classroom as well as from a constantly attended location in the main administrative office of the school from which a general alarm can be sounded, if needed, and the fire department can be summoned. A telephone mounted in each classroom and equipped with speed dialing, or a similar function, to provide contact with the constantly attended location noted above, shall be acceptable as a two- way communication system for purposes of this provision. The procedure for using the system for emergency alerting shall be clearly posted near the system actuation device in each classroom and at the constantly attended location.

    (4) Fire alarm alerting provisions for existing mobile/portable classroom structures approved prior to the effective date of this *Code*, and which are in a state of operational readiness. At the minimum, such provisions shall provide alerting of a fire condition in each mobile/portable classroom structure. Where alerting is by an alarm bell or horn, the sound/signal shall be distinctive from other bells or horns."

12. Add a new subparagraph 15.3.4.2.3.3 to read as follows:

    15.3.4.2.3.3 " In lieu of locating manual fire alarm boxes in educational occupancies in corridors and normal paths of travel, the fire alarm boxes may be located in rooms which open directly onto such

corridors and normal paths of travel provided all of the following are met:

(1) The rooms in which such manual fire alarm boxes are placed are constantly supervised all school hours.

(2) The rooms in which such manual fire alarm boxes are placed are located in close proximity to the to that portion of the corridors and normal paths of travel where a manual fire alarm box would be placed in accordance with 9.6.2.5.

(3) A sign is placed on the corridor wall immediately adjacent to the entry door(s) of such room so that it can be readily seen at all times. The sign shall state **"MANUAL FIRE ALARM BOX LOCATED IN THIS ROOM". The sign shall have a red background and the letters shall be white and be at least one inch in height."**

13. Add a new paragraph 15.3.5.6 to read as follows:

15.3.5.6 "**Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in educational occupancies, including mobile/portable classrooms, in accordance with 9.9.

15.3.5.6.1 In lieu of locating portable fire extinguishers in corridors and normal paths of travel as specified in NFPA 10, *Standard for Portable Fire Extinguishers*, portable fire extinguishers may be located in rooms that open directly onto such corridors and normal paths of travel provided all of the following are met:

(a) The room in which such portable fire extinguishers are placed are located in close proximity to that portion of the corridor where a fire extinguisher would otherwise be placed in accordance with NFPA 10; *Standard for Portable Fire Extinguishers*,

(b) A sign which states in white letters at least one inch in height on a red background, '**PORTABLE FIRE EXTINGUISHER LOCATED IN THIS ROOM,**' is placed on the corridor wall immediately adjacent to the entrance way of each such room so that it can be clearly seen at all times;

(c) The rooms in which such portable fire extinguishers are placed shall be constantly supervised during school hours; and,

(d) Those rooms cannot be subject to being locked at any time the building is occupied."

14. Add a new item (6) to subsection 15.3.6 to read as follows:

(6) " Door closing devices are not required on doors in corridor wall openings other than those serving exits or required enclosures of hazardous areas."

15. Add new paragraph 15.5.2.3 to read as follows:

15.5.2.3 " Portable electric and liquefied petroleum gas or liquid fuel fired space heating devices designed to be portable are prohibited in all portions of educational buildings.

15.5.2.3.1 As permitted by 603.4 of the *IFC*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner."

16. Delete subsection 15.7.1 in its entirety and substitute in its place the following:

15.7.1 "**Emergency Planning and Preparedness.** Educational occupancies (Group E) shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

(n) **Modification to Chapter 16:**

1. Add a new 16.1.1.2.1 to read as follows:

16.1.1.2.1 " Pursuant to O.C.G.A. 25-2-13(b)(1)(I) the term Group Day-Care Home applies to day- care facilities where at least seven (7) but not more than twelve (12) children receive care. Further, the term Day Care Center applies where more than twelve (12) children receive care. Where such facilities are required to be licensed or commissioned as set forth by O.C.G.A. 25-2-13(b)(1)(I), the facilities are also required to comply with

the Rules and Regulations of the Safety Fire Commissioner and to obtain a Certificate of Occupancy pursuant to O.C.G.A. 25-2-14(c)."

2. Add a new subparagraph 16.1.3.1.1 to paragraph 16.1.3.1 to read as follows:

   16.1.3.1.1 " The provisions of 6.1.14 shall not apply to one- and two-family dwellings."

3. Delete paragraph 16.1.6.1 and its corresponding table in its entirety and substitute in its place the following:

   16.1.6.1 " The location of day-care occupancies and clients of such shall be limited as shown in Table 16.1.6.1.

   16.1.6.1.1 Day-Care occupancies with exits directly to the outside from each room normally occupied by clients may be of any construction type without being protected throughout by an automatic sprinkler system.

Table 17.1.6.1 Day-Care Occupancy Location

Type of Construction	**Age Group**	**Number of Stories** (Stories are counted starting at the floor of exit)			
		1	2	3	4+
I(443), I(332) and II(222)	0 through 4	YES	YES	YES	YES+
	5 and older	YES	YES	YES	YES+
II(111), III(211) and V(111)	0 through 4	YES	YES+	NO	NO
	5 and older	YES	YES	YES+	NO
IV(2HH)	0 through 4	YES	YES+	NO	NO
	5 and older	YES	YES+	NO	NO

II(000)	0 through 4	YES	YES+	NO	NO
	5 and older	YES	YES+	NO	NO
III(200) and V(000)	0 through 4	YES+	YES+	NO	NO
	5 and older	YES	YES+	NO	NO

The types of construction in the Table are from NFPA 220, *Standard on Types of Building Construction*. Refer to 8.2.1.2 and 8.2.1.2.1 of this *Code* and the conversion chart for cross-referencing to the construction types established by the *International Building Code*.

YES: Day-care occupancy location permitted in type of construction.

YES+: Day-care occupancy location permitted in type of construction if entire building is protected throughout by an approved automatic sprinkler system.

NO: Day-care occupancy location not permitted in type of construction."

4. Add a new paragraph 16.1.6.3 to read as follows:

   16.1.6.3 "**Day-Care Facilities Located Below the LED.** The story below the level of exit discharge shall be permitted to be used in buildings of any construction type, other than Type II(000), Type III(200) and Type V(000) provided, the building is protected throughout by an approved automatic sprinkler system."

5. Add a new subparagraph 16.1.6.3.1 to read as follows:

   16.1.6.3.1 " Where the story below the level of exit discharge is occupied as a day-care center, both of the following shall apply:

(1) One means of egress shall be an outside or interior stair in accordance with 7.2.2. An interior stair, if used, shall only serve the story below the level of exit discharge. The interior stair shall be permitted to communicate with the level of exit discharge; however, the required exit route from the level of exit discharge shall not pass through the stair enclosure.

(2) The second means of egress shall be permitted to be via an unenclosed stairway separated from the level of exit discharge in accordance with 8.6.5. The path of egress travel on the level of exit discharge shall be protected in accordance with 7.1.3.1."

6. Delete subsection 16.2.9 in its entirety and substitute in its place the following:

16.2.9 "**Emergency Lighting.** Emergency lighting shall be provided in accordance with Section 7.9 in the following areas:

1. In all interior stairs and corridors.

2. In all normally occupied spaces

3. Emergency lighting is not required in the following locations:

(1) Administrative areas other than receptionist areas.

(2) Mechanical rooms, storage areas, and rooms or areas not normally occupied by students."

7. Delete item (a) to paragraph 16.3.2.1(1) (a) in its entirety and substitute in its place the following:

(a) " Rooms enclosing air handling equipment compressor equipment, furnaces or other heating equipment with a total aggregate input rating less than 200,000 BTU input. Such rooms shall not be used for any combustible storage. A minimum of 30 inches (0.76 m) unobstructed access shall be provided and maintained to equipment and electrical or emergency control panels or devices for emergency response purposes."

8. Add an item (4) to paragraph 16.3.2.1to read as follows:

(4) " In areas where documentation is provided indicating an unreliable water source, the authority having jurisdiction may accept separation of these areas from the remainder of the building by fire barriers having not less than a 2-hour fire-resistance rating."

9. Delete the term "Laundries"from subparagraph 16.3.2.1 (2) a. and substitute in its place the following:

   a. " Laundry areas utilizing commercial equipment, multiple residential appliances, or exceeding 100 square feet (9.3 sq. m)."

10. Delete paragraph 16.3.2.3 in its entirety and substitute in its place the following:

    16.3.2.3 " Food preparation facilities protected in accordance with 9.2.3 are not required to have openings protected between food preparation areas and dining areas. Where domestic cooking equipment is used for food warming or limited cooking, a listed self-contained residential fire suppression system may be installed in a residential hood to cover the area of the cooking surface, with the exhaust hood vented directly to the outside. The fire suppression system shall automatically disconnect electric power to electric stoves or automatically shut off the gas supply to gas stoves. Such system shall be interconnected to the building fire alarm system where one is provided.

    16.3.2.3.1 Subject to the approval of the authority having jurisdiction approval, where domestic cooking equipment is used for food warming or limited cooking, the requirements for a residential fire suppression system may be waived if the room is protected by approved automatic sprinkler protection. The provisions of 9.7.1.2 may be permitted. The exhaust hood is still required to be vented to the outside."

11. Delete subsection 16.3.5 in its entirety and substitute in its place the following:

    16.3.5 "**Extinguishment Requirements.** Buildings containing day-care occupancies shall be sprinkler protected throughout for construction types as specified in Table 16.1.6.1 entitled "Day-Care Occupancy Location Limitations"and paragraph 16.1.6.3. Any required sprinkler system based upon Table 16.1.6.1 and paragraph 16.1.6.3 shall be in accordance with 9.7."

12. Add a new paragraph 16.3.5.1 to read as follows:

    16.3.5.1 "**Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in all daycare occupancies in accordance with 9.9."

13. Add new paragraph 16.5.2.4 to read as follows:

16.5.2.4 " Portable electric and liquefied petroleum gas or liquid fuel fire space heating devices designed to be portable are prohibited in all portions of day-care facilities.

16.5.2.4.1 In emergency conditions when approved by the authority having jurisdiction, equipment designed to be portable may be used for a specified time provided such equipment is properly protected and separated from combustibles as specified by the manufacturer's instructions and the authority having jurisdiction."

14. Delete paragraph 16.6.1.6 in its entirety and substitute in its place the following:

16.6.1.6 "**Minimum Construction Requirements.** The minimum construction requirements for new day-care homes shall be limited to the types of building construction permitted by the *IBC* as specified in 8.2.1. Clients of a group day-care home in a multi-story building shall be restricted to the level of exit discharge, unless the provisions of 16.1.6 are met."

15. Add a new paragraph 16.6.3.6 to read as follows:

16.6.3.6 "**Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in all daycare home occupancies in accordance with 9.9."

16. Delete subsections 16.7.1 and 16.7.2 in their entirety and substitute in their place the following:

16.7.1 "**Emergency Planning and Preparedness.** Day-care occupancies (Group E and I-4) shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

(o) **Modifications to Chapter 17:**

1. Delete paragraph 17.1.1.4 in its entirety and substitute in its place the following:

17.1.1.4 " Pursuant to O.C.G.A. 25-2-13(b)(1)(I) the term Group Day-Care Home applies to daycare facilities where at least seven (7) but not more than twelve (12) children receive care. Further, the term Day Care Center applies where more than twelve (12) children receive care. Where such facilities are required to be licensed or commissioned as set forth by

O.C.G.A. 25-2-13(b)(1)(I), the facilities are also required to comply with the Rules and Regulations of the Safety Fire Commissioner and to obtain a Certificate of Occupancy pursuant to O.C.G.A. 25-2-14(c)."

2. Delete paragraph 17.1.1.5 in its entirety and substitute in its place the following:

   17.1.1.5 " This section establishes life safety requirements for existing day-care occupancies, adult day- care facilities, and head start facilities in which more than 12 clients receive care, maintenance, and supervision by other than their relative(s) or legal guardian(s) for less than 24 hours per day. An existing day-care occupancy shall be allowed the option of meeting the requirements of Chapter 16 in lieu of Chapter 17. Any day-care occupancy that meets the requirements of Chapter 16 shall be judged to meet the requirements of Chapter 17."

3. Add a new subparagraph 17.1.3.1.1 to read as follows:

   17.1.3.1.1 " The provisions of 6.1.14 shall not apply to one- and two-family dwellings."

4. Add a new subparagraph 17.1.4.1.1 to read as follows:

   17.1.4.1.1 " Existing day-care centers that include part-day preschools, head-start programs, kindergartens, and other schools whose purpose involves education primarily for a group of children may continue to meet the requirements of this section or may be allowed the option of meeting the requirements of Chapter 15."

5. Delete subsection 17.1.6.1 and its corresponding table in its entirety and substitute in its place the following:

   17.1.6.1 "**Location and Minimum Construction Requirements.** The location of day-care occupancies and clients of such shall be limited as shown in Table 17.1.6.1

   17.1.6.1.2 Day-Care occupancies with exits directly to the outside from each room normally occupied by clients may be of any construction type without being protected throughout by an automatic sprinkler system.

   17.1.6.1.3 " Centers located on the level of exit discharge in buildings of any construction type without a complete approved automatic sprinkler system, may be continued in use as a child day-care center housing children ages zero through

four, or non-ambulatory children, as long as at least one exit door is provided directly to the outside of the building at ground level from every room or space normally occupied by children, except restrooms. For centers existing prior to April 12, 1985, where direct access to the outside of the building is not possible from interior rooms, and such interior rooms are normally subject to occupancy by children, the interior room may continue to be used provided there are two remote exits from the rooms that provide access to two separate and distinct exits to the outside."

Table 17.1.6.1 Day-Care Occupancy Location

Table 17.1.6.1 Day-Care Occupancy Location					
Type of Construction	**Age Group**	**Number of Stories**			
		(Stories are counted starting at the floor of exit)			
		1	2	3	4+
I(443), I(332) and II (222)	0 through 4	YES	YES	YES	YES
	5 and older	YES	YES	YES	YES
II(111), III(211) and V(111)	0 through 4	YES	YES+	NO	NO
	5 and older	YES	YES	YES+	NO
IV(2HH)	0 through 4	YES	YES+	NO	NO
	5 and older	YES	YES+	NO	NO
II(000)	0 through 4	YES	YES+	NO	NO
	5 and older	YES	YES+	NO	NO

III(200) and V(000)	0 through 4	YES+	YES+	NO	NO
	5 and older	YES	YES+	NO	NO

The types of construction in the Table are from NFPA 220, *Standard on Types of Building Construction*. Refer to 8.2.1.2 and 8.2.1.2.1 of this *Code* and the conversion chart for cross-referencing to the construction types established by the *International Building Code*.

YES: Day-care occupancy location permitted in type of construction.

YES+: Day-care occupancy location permitted in type of construction if entire building is protected throughout by an approved automatic sprinkler system.

NO: Day-care occupancy is not permitted in this construction type."

6. Delete subsection 17.2.9 in its entirety and substitute in its place the following:

17.2.9 "**Emergency Lighting.** Emergency lighting shall be provided in accordance with Section 7.9 in the following areas:

1. In all interior stairs and corridors.

2. In all normally occupied spaces.

17.2.9.1 Emergency lighting is not required in the following areas:

(1) Administrative areas other than receptionist areas.

(2) Mechanical rooms, storage areas, and rooms not normally occupied by students."

7. Add a new subparagraph 17.3.2.1(1)(a)(1) to read as follows:

17.3.2.1(1)(a)(1) " Rooms enclosing air handling equipment compressor equipment, furnaces or other heating equipment with a total aggregate input

rating less than 200,000 BTU input are not required to comply with 17.3.2.1(1) provided, such rooms shall not be used for any combustible storage. A minimum of 30 inches (0.76 m) unobstructed access shall be provided and maintained to equipment and electrical or emergency control panels or devices for emergency response purposes."

8. Delete paragraph 17.3.2.3 in its entirety and substitute in its place the following:

17.3.2.3 " Food preparation facilities protected in accordance with 9.2.3 are not required to have openings protected between food preparation areas and dining areas. Where domestic cooking equipment is used for food warming or limited cooking, a listed self-contained residential fire suppression system may be installed in a residential hood to cover the cooking surface, with the exhaust hood vented directly to the outside. Required use of automatic disconnects of the fuel source or power source is subject to the authority having jurisdiction. Upon receipt of a sworn affidavit, no protection is required for existing domestic cooking equipment used for limited cooking or warming of foods.

17.3.2.3.1 Subject to the approval of the authority having jurisdiction, where domestic cooking equipment is used for food warming or limited cooking, the requirements for a residential fire suppression system may be waived if the room is protected by approved automatic sprinkler protection. The provisions of 9.7.1.2 may be permitted. The exhaust hood is still required to be vented to the outside."

9. Delete the term "Laundries"from subparagraph 17.3.2.1 (2)(a) and substitute in its place the following:

(a) " Laundry areas utilizing commercial equipment, or multiple residential appliances, or having a floor area exceeding 100 square feet (9.3 m)."

10. Add a new paragraph 17.3.5.3.1 to read as follows:

17.3.5.3.1 "**Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in all day- care occupancies in accordance with 9.9."

11. Delete subsection 17.4.1 in its entirety and substitute in its place the following:

17.4.1 "**Windowless or Underground Buildings.** Windowless or underground buildings or structures shall comply with the applicable provisions of Section 11.7. All such buildings and structures housing a day-care

occupancy shall be protected throughout by an approved automatic sprinkler system.

17.4.1.1 " Buildings or structures existing prior to January 28, 1993, and housing day-care occupancies with an occupant load not greater than 100 may remain in use without being protected throughout by an automatic sprinkler system."

12. Add a subparagraph 17.5.1.2.1 to read as follows:

17.5.1.2.1 " In existing day-care occupancies, in lieu of special protective covers, receptacles may be placed at a minimum of six feet above the finished floor."

13. Add a new paragraph 17.5.2.4 to read as follows:

17.5.2.4 " Portable electric and liquefied petroleum gas or liquid fuel fire space heating devices designed to be portable are prohibited in all portions of day-care facilities.

17.5.2.4.1 " In emergency conditions when approved by the authority having jurisdiction, equipment designed to be portable may be used for a specified time provided such equipment is properly protected and separated from combustibles as specified by the manufactures instructions and the authority having jurisdiction."

14. Delete subparagraph 17.6.1.4.1.2 in its entirety and substitute in its place the following:

17.6.1.4.1.2 " This section establishes life safety requirements for group day-care homes, adult daycare homes and head start facilities in which at least seven but not more than 12 clients receive care, maintenance, and supervision by other than their relative(s) or legal guardian(s) for less than 24 hours per day (generally within a dwelling unit). An existing day-care home shall be allowed the option of meeting the requirements of Section 16.6 in lieu of Section 17.2. Any day-care home that meets the requirements of Chapter 16 shall be judged to meet the requirements of Chapter 17."

15. Add an exception to subsection 17.6.1.4.1 to read as follows:

17.6.1.4.1 " Existing day-care homes that include part-day preschools, head-start programs, kindergartens, and other schools whose purpose involves

education primarily for a group of children may continue to meet the requirements of this section or may be allowed the option of meeting the requirements of Chapter 15."

16. Delete paragraph 17.6.1.6 in its entirety and substitute in its place the following:

    17.6.1.6 " Clients of a group day-care home in a multi-story building shall be restricted to the level of exit discharge, unless the provisions of 17.1.6.1 are met."

17. Add a new paragraph 17.6.3.6 to read as follows:

    17.6.3.6 "**Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in all daycare home occupancies in accordance with 9.9."

18. Add a new subsection 17.6.3.7 to read as follows:

    17.6.3.7 " In existing day-care homes in lieu of special protective covers, receptacles may be placed at a minimum of 6 feet (1.8 m) above the finished floor."

19. Delete subsections 17.7.1 and 17.7.2 in their entirety and substitute in their place the following:

    17.7.1 "**Emergency Planning and Preparedness.** Day-care occupancies (Group E and I-4) shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

(p) **Modifications to Chapter 18:**

1. Delete subsection 18.1.1.1.8 in its entirety and in its place substitute the following:

   18.1.1.1.8 " Buildings, or sections of buildings, that house older persons and that provide activities that foster continued independence but that do not include services distinctive to health care occupancies (see 18.1.4.2), as defined in 3.3.196.7, shall be permitted to comply with the requirements of other chapters of this *Code*, such as Chapters 30, 32 or 34 based upon appropriate licensing if required."

2. Add a new subparagraph 18.1.1.4.3.4.1 to read as follows:

18.1.1.4.3.4.1 " Minor renovations, alterations, modernizations or repairs as used in 18.1.1.4.3.4 shall mean that construction is less than 40% of the floor area within a smoke compartment."

3. Add the following to the list of hazardous areas in Subparagraph 18.3.2.1.2 to read as follows:

   (8) " Soiled utility rooms also used for combustible storage - 1 hour."

4. Add a new subparagraph 18.3.2.5.2.1 to read as follows:

   18.3.2.5.2.1 " Where a residential stove (a maximum of four surface burners or cooking elements), is used for food warming, limited cooking, or rehabilitation training, a residential style hood system ducted to the outside shall be installed to cover each cooking surface. Other protection or segregation shall not be required unless subsequent inspections reveal conditions have changed and a higher level of risk to life is deemed to exist by the authority having jurisdiction."

5. Delete subsections 18.7.1 and 18.7.2 in their entirety and substitute in their place the following:

   18.7.1 "**Emergency Planning and Preparedness.** Health care occupancies (Group I-2) shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code (IFC)*, and NFPA 99, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

6. Delete subsection 18.7.4 in its entirety and in its place substitute the following:

   18.7.4 " * **Smoking.** Smoking regulations shall be adopted and shall include, at the least, the applicable provisions of Section 310 of the *International Fire Code (IFC)*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner."

(q) **Modifications to Chapter 19:**

1. Delete subsection 19.1.1.1.8 in its entirety and in its place substitute the following:

   19.1.1.1.8 " Buildings, or sections of buildings, that house older persons and that provide activities that foster continued independence but do not include services distinctive to health care occupancies (see 19.1.4.2), as defined

in 3.3.196.7, shall be permitted to comply with the requirements of other chapters of this *Code*, such as Chapters 31, 33 or 35 based upon appropriate licensing if required."

2. Add the following to the list of hazardous areas in subparagraph 19.3.2.1.5 to read as follows:

   (9) " Soiled utility rooms used for combustible storage."

3. Add subparagraphs 19.3.2.5.2.1 to read as follows:

   19.3.2.5.2.1 " Where residential stove cooking is used for food warming, limited cooking, or rehabilitation training, a residential style hood system ducted to the outside and equipped with a listed self- contained residential fire suppression system shall be installed to cover each cooking surface. Required use of automatic disconnects of fuel source or power source is subject to the approval of the authority having jurisdiction.

   19.3.2.5.2.1.1 Other installations acceptable to the authority having jurisdiction shall be acceptable."

4. Add a new subparagraph 19.3.4.3.1.1 to read as follows:

   19.3.4.3.1.1 " A Zoned, coded systems shall be permitted."

5. Delete subsections 19.7.1 and 19.7.2 in their entirety and substitute in their place the following:

   19.7.1 "**Emergency Planning and Preparedness.** Health care occupancies (Group I-2) shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code (IFC)* and NFPA 99, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

6. Delete subsection 19.7.4 in its entirety and in its place substitute the following:

   19.7.4 "*** Smoking.** Smoking regulations shall be adopted and shall include, at the least, the applicable provisions of Section 310 of the *International Fire Code (IFC)*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner."

(r) **Modification to Chapter 20:**

1. Delete subsections 20.7.1 and 20.7.2 in their entirety and substitute in their place the following:

   20.7.1 "**Emergency Planning and Preparedness.** Ambulatory health care facilities shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions for health care occupancies (Group I-2) of Chapter 4 of the *International Fire Code (IFC)* and NFPA 99, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

(s) **Modification to Chapter 21:**

1. Delete subsections 21.7.1 and 21.7.2 in their entirety and substitute in their place the following:

   21.7.1 "**Emergency Planning and Preparedness.** Ambulatory health care facilities shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions for health care occupancies (Group I-2) of Chapter 4 of the *International Fire Code (IFC)* and NFPA 99, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

(t) **Modifications to Chapter 22:**

1. Delete paragraph 22.2.11.1.2 in its entirety and substitute in its place the following:

   22.2.11.1.2 " Doors shall be permitted to be locked with approved detention locking mechanisms only in accordance with the applicable use condition. Padlocks are not permitted on housing unit doors or any other door located in the interior means of egress.

   22.2.11.1.2.1 Padlocks are permitted on gates and doors located on exterior fencing, and in exterior walls, which are not part of the building, from areas of refuge located outside the building."

2. Delete the words 'fuel fired' from Table 22.3.2.1.

3. Add a note to Table 22.3.2.1 to read as follows:

"[Note: Areas incidental to resident housing will mean any areas that exceed 10% of the resident housing area. This includes sleeping areas, dayrooms, group activity space, or other common spaces for customary access of residents.]"

4. Delete paragraph 22.3.7.5 in its entirety and substitute in its place the following:

   22.3.7.5 " Any required smoke barrier shall be constructed in accordance with Section 8.5 Smoke Barriers. Such barriers shall be of substantial construction and shall have structural fire resistance. Smoke barriers may have windows with wire glass in steel frames or tested window assemblies."

5. Delete subsection 22.7.1 in its entirety and substitute in its place the following:

   22.7.1 "**Emergency Planning and Preparedness.** Detention and correctional facilities (Group I-3 occupancies) shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

6. Delete subsection 22.7.2 in its entirety and substitute in its place the following:

   22.7.2 " Policies and procedures shall be established by facility administrators to control and limit the amount of personal property in sleeping rooms and require periodic checks for the collection and storage of such items on a monthly basis. Records of periodic checks shall be kept and made available to the authority having jurisdiction upon request.

   22.7.2.1 Facilities which provide closable metal lockers or fire-resistant containers for the storage of books, clothing, and other combustible personal property allowed in sleeping rooms."

(u) **Modifications to Chapter 23:**

1. Delete paragraph 23.2.11.1.2 in its entirety and substitute in its place the following:

   23.2.11.1.2 " Doors shall be permitted to be locked with approved detention locking mechanisms only in accordance with the applicable use condition. Padlocks are not permitted on housing unit doors or any other door located in the means of egress.

23.2.11.1.2.1 Padlocks are permitted on gates and doors located on exterior fencing and walls from areas of refuge located outside the building."

2. Delete the words 'fuel fired' from Table 23.3.2.1.

3. Add a note to Table 23.3.2.1 to read as follows:

   "[Note: Areas incidental to resident housing will mean any areas that exceed 10% of the resident housing area. This includes sleeping areas, dayrooms, group activity space, or other common spaces for customary access of residents.]"

4. Delete paragraph 23.3.7.5 in its entirety and substitute in its place the following:

   23.3.7.5 " Required smoke barriers shall be constructed in accordance with Section 8.5 Smoke Barriers. Such barriers shall be of substantial construction and shall have structural fire resistance. Smoke barriers may have windows with wire glass in steel frames or tested window assemblies."

5. Delete subsection 23.7.1 in its entirety and substitute in its place the following:

   23.7.1 "**Emergency Planning and Preparedness.** Detention and correctional facilities (Group I-3 occupancies) shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

6. Delete subsection 23.7.2 in its entirety and substitute in its place the following:

   23.7.2 " Policies and procedures shall be established by facility administrators to control and limit the amount of personal property in sleeping rooms and require periodic checks for the collection and storage of such items on a monthly basis. Records of periodic checks shall be kept and made available to the authority having jurisdiction upon request.

   23.7.2.1 Facilities which provide closable metal lockers or fire-resistant containers for the storage of books, clothing, and other combustible personal property allowed in sleeping rooms."

(v) **Modification to Chapter 24:**

1. Delete the Title of Chapter 24 and retitle it to read as follows:

   "Chapter 24 One- and Two-Family Dwellings/Community Living Arrangements"

2. Add a new subparagraph 24.1.1.1.1 to read as follows:

   24.1.1.1.1 " In addition, this chapter establishes life safety requirements for facilities licensed by the State of Georgia as a 'Community Living Arrangement' for one to four individuals not related to the owner or administrator by blood or marriage whether the facility is operated for profit or not. Community Living Arrangements for five or more residents shall comply with the applicable requirements of Chapter 32."

3. Add a new paragraph 24.1.1.6 to read as follows:

   24.1.1.6 " The use of a one- and two- family dwelling for the purposes of a Community Living Arrangement as licensed by the State, for one to four residents, shall constitute a change of occupancy sub-classification. The new sub-classification shall meet the requirements established in this Chapter for the One- and Two-Family Dwelling and the additional requirements specified under Section 24.4.

4. Delete 24.2.2.1.2(2) in its entirety and substitute in its place the following:

   (2) " The dwelling unit is protected throughout by an approved automatic sprinkler system in accordance with 24.3.5. This sprinkler provision shall not apply to a community living arrangement."

5. Add a new subparagraph to 24.2.4.1.1 to read as follows:

   24.2.4.1.1 " Doors in the path of travel of a means of escape in Community Living Arrangement facilities shall be not less than 32 in. (81 cm) wide."

6. Add a new subparagraph 24.3.4.1.3.1 to read as follows:

   24.3.4.1.3.1 " The provisions of 9.6.2.10.8.1 and 9.6.2.10.8.2 shall apply."

7. Delete Section 24.4 in its entirety and substitute in its place the following:

   24.4 "**Community Living Arrangements.**

   24.4.1 **General.** The following shall be provided in addition to the requirements of this Chapter for facilities subject to being licensed as a Community Living Arrangement. Where there are conflicts in requirements specified elsewhere in this Chapter, the requirements specified under Section 24.4 shall prevail.

24.4.2 **Address identification.** New and Existing Community Living Arrangement structures shall have approved address numbers, building numbers or approved building identification placed in accordance with the provisions of the *International Fire Code*.

24.4.3 **Means of Egress.**

24.4.3.1 A Community Living Arrangement serving a resident dependent upon a wheelchair or other mechanical device for mobility shall provide at least two (2) exits from the Community Living Arrangement, remote from each other, and that are accessible to the residents.

24.4.3.2 Bedrooms for residents shall be separated from halls, corridors and other rooms by floor to ceiling walls. capable of resisting fire for not less than ½-hour, which is considered to be achieved if the partitioning is finished on both sides with lath and plaster or materials providing a 15-minute thermal barrier. Sleeping room doors shall be substantial doors, such as those of 1¾ in. (4.4-cm) thick, solid-bonded wood core construction or other construction of equal or greater stability and fire integrity. Any vision panels shall be fixed fire window assemblies in accordance with 8.3.3 or shall be wired glass not exceeding 1296 sq. in (0.84 m2) each in area and installed in approved frames.

24.4.3.3 A room shall not be used as a bedroom where more than one-half the room height is below ground level.

24.4.3.4 Bedrooms which are partially below ground level shall have adequate natural light and ventilation and be provided with two useful means of egress.

24.4.3.5 Bedrooms occupied by residents shall have doors that can be closed. Doors shall be not less than 32 in. (81 cm) wide.

24.4.3.6 Any door in the path of travel of a means of means of egress or escape shall be not less than 32 in. (81 cm) wide.

24.4.3.7 Residents who need assistance with ambulation shall be provided bedrooms that have access to a ground-level exit to the outside or be provided bedrooms above ground level that have access to exits with easily negotiable ramps or easily accessible lifts.

24.4.3.8 **Locks.**

24.4.3.8.1 Bedrooms may have locks on doors provided both the occupant and staff are provided with keys to ensure easy entry. Double-cylinder locks (locks requiring a key on both sides) are prohibited to be used on the bedroom door of a resident.

24.4.3.8.2 Exterior doors shall be equipped with locks that do not require keys to open the door from the inside.

24.4.4 **Detection and Alarm Systems**

24.4.4.1 A fire alarm system meeting the minimum requirements for Single- and Multiple Station Alarms and Household Fire Alarm Systems per NFPA 72 shall be installed.

24.4.4.2 **Smoke Detection.**

24.4.4.2.1 Smoke alarms shall be installed in accordance with the provisions of 9.6.2.10 of this *Code*. Any additional detection/alarm devices shall be as established by O.C.G.A. § 25-2-40.

24.4.4.2.2 Smoke alarms shall be installed on all levels, including basements but excluding crawl spaces and unfinished attics.

24.4.4.2.3 Additional smoke alarms shall be installed for all living areas as defined in 3.3.22.5 of this *Code*.

24.4.4.2.4 Strobe alarms shall be used when required by the needs of the resident, e.g., for hearing impaired persons.

24.4.4.3 **Carbon Monoxide Detectors.**

24.4.4.3.1 Carbon monoxide detectors shall be provided in the residence where natural gas, LP gas or heating oil is used to heat the residence.

24.4.4.3.2 Carbon monoxide detectors shall be provided in the residence if a solid fuel-burning fireplace or fixed heating device is installed the residence.

24.4.5 **Protection.**

24.4.5.1 **Portable Fire Extinguishers.** Portable fire extinguishers in accordance with Section 9.9 shall be provided near hazardous areas.

24.4.5.1.1 At least one 5 lb. 2A rated multipurpose ABC portable fire extinguisher shall be provided on each occupied floor, and, where applicable, in the basement. The extinguishers shall be installed so as to be readily accessible in accordance with NFPA 10.

24.4.5.1.2 Required portable fire extinguishers shall be inspected and maintained annually by a State licensed fire extinguisher technician in accordance with NFPA 10.

24.4.5.1.3 Monthly quick check inspections shall be conducted by the staff of the Community Living Arrangement to ensure they are charged and in operable condition.

24.4.6 **Heating, Ventilation and Air Conditioning.**

24.4.6.1 Portable space heaters shall not be used. The use of heating devices and equipment shall be regulated by the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner.

24.4.6.2 Fire screens and protective devices shall be used with fireplaces, stoves, and fixed heaters.

24.4.6.3 A water temperature monitor or a scald valve shall be installed where necessary to ensure the safety of the residents. Heated water provided for use of residents shall not exceed 120 degrees Fahrenheit at the hot water fixture, unless a cooler temperature is required by the needs of the individual.

24.4.7 **Operating Features.**

24.4.7.1 **Staffing.** The Community Living Arrangement shall have as many qualified and trained employees on duty as shall be needed to safeguard properly the health, safety, and welfare of residents and ensure the provision of services the residents require to be delivered in the Community Living Arrangement.

24.4.7.1.1 Before working independently with residents, each staff member shall be trained and show continuing evidence of competence in fire safety and emergency evacuation procedures. A resident shall not be considered a staff person in the residence in which they live. Also, training of management and staff shall comply with Chapter 4 of the adopted *International Fire Code*.

24.4.7.2 **Evacuation Capabilities.** Community Living Arrangement shall maintain a staffing ratio sufficient to ensure that all residents can meet a prompt evacuation capability as defined in 12-3-3-.03 of Chapter 120-3-3 Rules and Regulations of the Safety Fire Commissioner. Residents who cannot meet the prompt evacuation capability provision shall be provided with a

minimum of one dedicated employee whose primary responsibility is to provide evacuation of the resident in the event of a fire or other emergency. The dedicated employee/employees shall be in close attendance at all times.

24.4.7.3 **Drills.** Fire drills shall be conducted at least quarterly on each shift at alternating times. At least two drills per calendar year shall be during sleeping hours. All fire drills shall be documented and include the names of staff involved. Also, refer to Chapter 4 of the *International Fire Code*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner.

24.4.7.4 **Procedures.** There shall be established procedures and mechanisms for alerting and caring for residents in case of emergencies and for evacuating them to safety. An evacuation plan with clear instructions shall be available within each residence. Also, refer to Chapter 4 of the *International Fire Code*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner."

(w) **Modification to Chapter 26:**

1. Add a new subparagraph 26.3.4.5.3.1 to read as follows:

   26.3.4.5.3.1 " The provisions of 9.6.2.10.8.1 and 9.6.2.10.8.2 shall also apply."

2. Add a new paragraph 26.3.6.4 to read as follows:

   26.3.6.4 "**Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in all lodging or rooming house occupancies in accordance with 9.9 of this *Code*."

(x) **Modification to Chapter 28:**

1. Add a new subparagraph 28.2.5.5.1 to read as follows:

   28.2.5.5.1 " The provisions of 28.2.5.5 apply to exterior exit access routes and interior corridors."

2. Add a new subparagraph 28.2.5.6.1 to read as follows:

   28.2.5.6.1 " The provisions of 28.2.5.6 apply to exterior exit access routes and interior corridors."

3. Add a new subparagraph 28.3.2.2.1.1 to read as follows:

   28.3.2.2.1.1 " The provisions of 28.3.2.2 shall not apply to rooms enclosing air handling equipment, compressor equipment, furnaces or other heating equipment with a total aggregate input rating less than 200,000 BTU input. Such rooms shall not be used for any combustible storage. A minimum of 30 inches (0.76 m) unobstructed access shall be provided and maintained to equipment and electrical or emergency control panels or devices for emergency response purposes."

4. Delete paragraph 28.3.4.5 in its entirety and substitute in its place the following:

   28.3.4.5 " A corridor smoke detection system in accordance with O.C.G.A. Sections 25-2-13(d)& 25-2-40 shall be provided in all interior corridors, halls and passageways.

   28.3.4.5.1 The provisions of 28.3.4.5 are not required in hotels and motels protected throughout by an approved supervised automatic sprinkler system installed in accordance with 28.3.5. Dormitory facilities shall still be required to provide a corridor smoke detection system in accordance with O.C.G.A. Sections 25-2-13(d) and 25-2-40."

5. Add a new subparagraph 28.3.4.6.1 to read as follows:

   28.3.4.6.1 " A smoke alarm shall be mounted on the ceiling or wall at a point centrally located in the corridor, hall or area giving access to each group of rooms used for sleeping purposes. Such smoke alarm shall be listed and meet the installation requirements of NFPA 72, *National Fire Alarm and Signaling Code*, and be powered from the building's electrical system. In addition, 1½-hour emergency power supply source is required for the back-up power of the smoke alarms."

6. Add a new subparagraph 28.3.4.6.2 to read as follows:

   28.3.4.6.2 " Each living area within a guestroom or suite which is separated by doors or folding partitions shall be provided with an approved single station smoke alarm in accordance with 9.6.2.10 of this *Code*. The smoke alarm shall be powered from the building's electrical system."

7. Delete subsections 28.7.1, 28.7.2, 28.7.3, and 28.7.5 in their entirety and substitute in their place the following:

   28.7.1 "**Emergency Planning and Preparedness.** Hotels and dormitories (Group R-2 occupancies) shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

(y) **Modification to Chapter 29:**

1. Delete paragraph 29.2.5.3 in its entirety and substitute in its place the following:

   29.2.5.3 " Exterior exit access or internal corridors shall be arranged so there are no dead ends in excess of 50 feet (15 m)."

2. Add a new subparagraph 29.3.4.5.3 to read as follows:

   29.3.4.5.3 " The provisions of 9.6.2.10.8.1 and 9.6.2.10.8.2 shall also apply."

3. Add a new subparagraph 29.3.4.5.4 to read as follows:

   29.3.4.5.4 " A corridor smoke detection system in accordance with O.C.G.A Sections 25-2-13(d) and 25-2-40 shall be provided in all interior corridors, halls and passageways.

   29.3.4.5.4.1 The provisions of 29.3.4.5.1 do not apply in hotels and motels protected throughout by an approved supervised automatic sprinkler system installed in accordance with 28.3.5.

   29.3.4.5.4.2 Dormitory facilities shall be required to provide a corridor smoke detection system in accordance with O.C.G.A. Sections 25-2-13(d) and 25-2-40."

4. Delete subsections 29.7.1, 29.7.2, 29.7.3, and 29.7.5 in their entirety and substitute in their place the following:

   29.7.1 "**Emergency Planning and Preparedness.** Hotels and dormitories (Group R-2 occupancies) shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable

provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

(z) **Modification to Chapter 30:**

1. Delete item (2) of subsection 30.2.4.4 in its entirety and substitute in its place the following:

   (2) " The dwelling unit has direct access to an outside stair complying with 7.2.2 that serves a maximum of two units where both of which are located on the same floor. This does not preclude two stairs serving a floor level with a maximum of four units with an open breezeway connecting and allowing access to either exit stair."

2. Add a new subparagraph 30.3.2.1.2 to read as follows:

   30.3.2.1.3 " The provisions of 30.2.1 shall not apply to rooms enclosing air handling equipment, compressor equipment, furnaces or other heating equipment with a total aggregate input rating less than 200,000 BTU input. Such rooms shall not be used for any combustible storage, and a minimum of 30 inches (0.76 m) unobstructed access shall be provided and maintained to equipment and electrical or emergency control panels or devices for emergency response purposes."

3. Delete the words 'fuel fired' from Table 30.3.2.1.1

4. Delete subparagraph 30.3.4.5 in its entirety and substitute in its place the following:

   30.3.4.5 " Approved single station or multiple station detectors continuously powered from the building's electrical system shall be installed in accordance with 9.6.2.10 in every living unit within the apartment building regardless of the number of stories or number of apartments. In addition, a 1½-hour emergency power supply source is required for the back-up power of the detector. When activated, the detector shall initiate an alarm that is audible in the sleeping rooms of that unit. This individual unit detector shall be in addition to any sprinkler system or other detection system that may be installed in the building."

5. Delete paragraph 30.3.6.2.3 in its entirety and substitute in its place the following:

   30.3.6.2.3 " Doors that open onto exit access corridors shall be self-closing and self-latching, with a listed pneumatic closure or three heavy-duty spring-loaded hinges."

6. Delete subsection 30.7.1 in its entirety and substitute in its place the following:

   30.7.1 "**Emergency Planning and Preparedness.** Residential facilities (Group R-2 occupancies) shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, resident training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

(aa) **Modifications to Chapter 31:**

1. Delete item (2) of subsection 31.2.4.4 in its entirety and substitute in its place the following:

   (2) " The dwelling unit has direct access to an outside stair complying with 7.2.2 that serves a maximum of two units where both units are located on the same floor. This does not preclude two stairs serving a floor level with a maximum of four units with an open breezeway connecting and allowing access to either exit stair."

2. Add a new subparagraph 31.3.4.5.2.1 to read as follows:

   31.3.4.5.2.1 " The provisions of 9.6.2.10.8.1 and 9.6.2.10.8.2 shall also apply."

3. Add a new subparagraph 31.3.4.5.4.1 to read as follows:

   31.3.4.5.4.1 " The provisions of 9.6.2.10.8.1 and 9.6.2.10.8.2 shall also apply."

4. Delete subsection 31.7.1 in its entirety and substitute in its place the following:

   31.7.1 "**Emergency Planning and Preparedness.** Residential facilities (Group R-2 occupancies) shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, resident training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

(bb) **Modifications to Chapter 32:**

Delete paragraph 32.1.1.1 in its entirety and substitute in its place the following:

32.1.1.1 "**General.** The requirements of this chapter shall apply to new buildings or portions thereof used as residential board and care occupancies (See 3.3.196.12* and 3.3.214* and their Annex A notes). This designation shall include, but may not be limited to, a personal care home or community living arrangement, as defined in 120-3-3-.03 of the Rules and Regulations of the Safety Fire Commissioner.

32.1.1.1.1 **Additions, Conversions, Modernizations, Renovations, and Construction Operations.** Additions shall be separated from any existing structure not conforming to the provisions of Chapter 32 by a fire barrier having not less than a 2-hour fire resistance rating and constructed of materials as required for the addition. (See 4.6.5 and 4.6.7) Doors in fire barriers shall normally be kept closed, however, doors shall be permitted to be held open if they meet the requirements of 7.2.1.8.2, and such doors shall be released upon activation of the building fire alarm system.

32.1.1.1.1.2. **Conversion.** For purposes of this chapter, exceptions for conversions shall apply only for a change of occupancy from an existing residential or health care occupancy.

32.1.1.1.1.3 **Change of Occupancy.** A change from a licensed personal care home to an assisted living community or memory care unit shall be considered a change of occupancy or subclassification and would be required to meet the provisions of Chapter 35 for existing construction. Such changes in occupancy classification or subclassification are considered as proposed (new) buildings and shall be subject to the applicable administrative provisions of Section 103 of the *International Fire Code*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner.

32.1.1.1.4. **Renovations, Alterations, and Modernizations.** (See 4.6.7)

32.1.1.1.5. **Construction, Repair, and Improvement Operations.** (See 4.6.10)"

2. Delete paragraph 32.1.1.4 in its entirety and substitute in its place the following:

32.1.1.4 " Personal Care Homes and Community Living Arrangements with Five or More Residents. A personal care home or community living

arrangement with five or more residents, as defined in 120-3 .3-.03 of the Rules and Regulations of the Safety Fire Commissioner, shall comply with the general provisions of 32.1 of this Chapter 32, and with the applicable provisions for residential board and care occupancies as defined in 3.3.196.12 of this *Code*. The provisions of Chapter 32 for large facilities are deemed to provide for the use of "defend in place"fire response strategies should self-preservation measures not be deemed successful.

32.1.1.4.1 **Goals and Objectives.** The goals and objectives of Sections 4.1 and 4.2 of this *Code* shall be met with due consideration for functional requirements, which are accomplished by limiting the development and spread of a fire to the room of origin and reducing the need for total occupant evacuation except for the room of fire origin.

32.1.1.4.2 **Total Concept.** All new personal care homes, and community living arrangements with five or more residents shall be constructed, maintained, and operated to minimize the possibility of a fire emergency requiring the evacuation of occupants.

32.1.1.4.2.1 Because the safety of personal care home residents or residents of a community living arrangement cannot be adequately ensured by dependence on evacuation of the building, their protection from fire shall be provided by appropriate arrangement of facilities; adequate trained staff (refer to 406.2.1 of the *International Fire Code* as adopted by 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner); and development of operating and maintenance procedures composed of the following:

(1) Design, construction, and compartmentation

(2) Provision for detection, alarm, and extinguishment

(3) Fire protection and planning, training, and drilling programs for

the isolation of fire, transfer of occupants to areas of refuge, or evacuation of the building."

3. Delete paragraph 32.1.1.5 in its entirety and substitute in its place the following:

32.1.1.5 " All new facilities classified as residential board and care occupancies shall conform to the requirements of this chapter. This chapter is divided into six sections as follows:

(1) Section 32.1 - General Requirements.

(2) Section 32.2 - Small Facilities (Sleeping accommodations for not more than six residents. (Includes Personal Care Homes and Community Living Arrangements for five or six residents)

(3) Section 32.3 - Large Facilities (Sleeping accommodations for seven or more residents. This includes Personal Care Homes, as defined in section 120-3-3-.03 of Chapter 120-3-3, Rules and Regulations of the Safety Fire Commissioner. It also includes Community Living Arrangements with seven or more residents.)

(4) Section 32.4 - Additional minimum requirements for an Apartment Building Housing a Board and Care Occupancy.

(5) Section 32.5 - Community Living Arrangement Facilities (small and large) (As defined in 120-3-3-.03 of Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner)

(6) Section 32.7 Operating Features."

4. Delete subsection 32.1.2 in its entirety and substitute in its place the following:

32.1.2 "**Classification of Occupancy.** See 6.1.9 and provisions of this Chapter 32, and the applicable definitions in 120-3-3-.03 of Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner."

5. Delete subparagraph 32.2.1.1.1 in its entirety and substitute in its place the following:

32.2.1.1.1 "**Scope.** This section applies to a community living arrangement with 5 to 6 residents and to residential board and care occupancies, including a personal care home, providing sleeping accommodations for not more

than 6 residents. Where there are sleeping accommodations for more than 6 residents of a residential board and care occupancy, including a personal care home or community living arrangement, the occupancy shall be classed as a large facility. The requirements for large facilities are found in Section 32.3. The provisions of 32.5 also apply to community living arrangements. (Also see 3.3.196.12.)"

6. Add a new paragraph 32.2.1.5 to read as follows:

32.2.1.5 "**Classification of Hazards of Contents.** Contents of Residential Board and Care occupancies shall be classified in accordance with the provisions of Section 6.2."

7. Add a new subparagraph 32.2.3.2.6 to read as follows:

32.2.3.2.6 " Residential cooking appliances such as stoves (a maximum of four surface burners or cooking elements) and griddles shall be protected by a listed self-contained residential fire suppression systems located in residential hoods over each cooking surface, with the exhaust hood vented directly to the outside. Automatic disconnects of the fuel source or power source shall be provided. Commercial cooking appliances including fryers shall be protected in accordance with 9.2.3, and shall not be required to have openings protected between food preparation areas and dining areas.

32.2.3.2.6.1 Subject to the approval of the authority having jurisdiction, the protection of residential cooking equipment shall not be required in buildings protected by an automatic sprinkler system as provided in 32.2.3.5. The protection authorized by 32.2.3.5.5 is acceptable for purposes of this section, provided, however, exhaust hood shall still be required to be vented to the outside.

32.2.3.2.6.2 Subject to the approval of the authority having jurisdiction, no protection is required over residential cooking appliances such as grills and stoves in facilities which have a prompt evacuation capability and having a licensed capacity as determined by the Department of Human Resources of six or less residents."

8. Add new subparagraph 32.2.3.4.5.5 to read as follows:

32.2.3.4.5.5 " Strobe alarms shall be used when required by the needs of the resident, e.g., for hearing impaired persons."

9. Delete subparagraph 32.2.3.5.2 in its entirety and substitute in its place the following:

32.2.3.5.2 " * In conversions, sprinklers shall not be required in small board and care homes, including personal care homes and community living arrangements serving six or fewer residents when all occupants have the ability as a group to move reliably to a point of safety within three minutes.

32.2.3.5.2.1 Where the provisions of 32.2.3.5.2 are not met and maintained, the sprinkler protection requirement may be met through the installation of a sprinkler system complying with 32.2.3.5."

10. Add a new subsection 32.2.3.5.9 to read as follows:

32.2.3.5.9 "**Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in all residential board and care occupancies and on each floor of a personal care home or community living arrangement facility in accordance with 9.9."

11. Delete (1) of subparagraph 32.2.3.6.1 and substitute in its place the following:

(1) " The separation walls of sleeping rooms shall be capable of resisting fire for not less than 30 minutes, which is considered to be achieved if the partitioning is finished on both sides with materials such as, but not limited to, ½ inch thick gypsum board, wood lath and plaster, or metal lath and plaster. It shall be acceptable for corridor walls to terminate at a ceiling which is constructed similar to a corridor wall capable of resisting fire for not less than 30 minutes."

12. Add new subparagraph 32.2.5.2.4 to read as follows:

32.2.5.2.4 " Portable electric and liquefied petroleum gas or liquid fuel fired space heating devices designed to be portable are prohibited in all portions of small residential board and care occupancies, including personal care homes and community living arrangements.

32.2.5.2.4.1 In emergency conditions when approved by the authority having jurisdiction, equipment designed to be portable may be used for a specified time provided such equipment is properly protected and separated

from combustibles as specified by the manufacturer's instructions and the authority having jurisdiction."

13. Delete subparagraph 32.3.1.1 in its entirety and substitute in its place the following:

    32.3.1.1.1 " This section applies to residential board and care occupancies, including licensed personal care homes and community living arrangements with more than 6 residents, as defined in 120-3-3-.03 of Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner. Where there are sleeping accommodations for six or less residents, or a community living arrangement for 5 to 6 residents, the occupancy shall be classed as a small facility. The requirements for small facilities are found in Section 32.2.

14. Add a new Section 32.3.1.2 to read as follows:

    32.3.1.2 "**Assisted Living Communities and Memory Care Units.**

    32.3.1.2.1 This chapter shall not apply to any building, or portion thereof, newly constructed, or substantially renovated, as defined in O.C.G.A. 25-2-14(d), so as to be designated and licensed by the Georgia Department of Community Health as an assisted living community or memory care unit, as defined in Section 120-3-3-.03 of Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner. Refer to Chapter 34 or 35 for the applicable requirements for such facilities."

15. Delete 32.3.1.2 and insert a new 32.3.1.2 to read as follows:

    32.3.1.2 **Requirements Based on Evacuation Capability.** Definitions for the classifications of evacuation capability are defined in 120-3-3-.03 of Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner. For purposes of Section 32.3, large facilities are assumed to have an impractical evacuation capability.

16. Add a new item 8 to subparagraph 32.3.2.2.2 to read as follows:

    (9) " : Doors to resident rooms may be subject to being locked by the occupant, if they can be unlocked from the opposite side and keys are carried by staff at all times. Additional keys must be available/accessible to the staff."

17. Add a new subparagraph 32.3.2.6.1 to read as follows:

32.3.2.6.1 " Travel distance shall not exceed 35 feet (10.7 m) in any story below the level of exit discharge occupied for public purposes."

18. Add a new subparagraph 32.3.2.6.2 to read as follows:

32.3.2.6.2 " Travel distance shall not exceed 75 feet (22.9 m) in any story below the level of exit discharge not occupied for public purposes."

19. Add a new subparagraph 32.3.2.6.3 to read as follows:

32.3.2.6.3 " Any story below the level of exit discharge occupied for public purposes shall have at least two separate exits provided from each story with a maximum dead-end corridor of 20 feet (6.1 m). Any floor below the level of exit discharge not open to the public and used only for mechanical equipment, storage, and service operations (other than kitchens which are considered part of the residential board and care occupancies) shall have exits appropriate to its actual occupancy in accordance with other applicable sections of this *Code*."

20. Delete paragraph 32.3.2.9 in its entirety and substitute in its place the following:

32.3.2.9 " Emergency lighting in accordance with Section 7.9 of the *Code* shall be provided in means of egress and common areas in all residential board and care occupancies.

32.3.2.9.1 " Where each resident room has a direct exit to the outside of the building at ground level, no emergency lighting shall be required."

21. Add a new subparagraph 32.3.2.11.1 to read as follows:

32.3.2.11.1 " Every stairwell door shall allow reentry from the stairwell to the interior of the building or an automatic release shall be provided to unlock all stairwell doors to allow re-entry. Such automatic release shall be actuated with the initiation of the building fire alarm system or upon loss of power."

22. Add a new subparagraph 32.3.3.1.4 to read as follows:

32.3.3.1.4 " Stairway enclosures shall not be required where a one-story stair connects two levels within a single dwelling unit, resident room or suite."

23. Add a new subparagraph 32.3.3.2.4 to read as follows:

32.3.3.2.4 " The provisions of Table 32.3.3.2.2 shall not apply to rooms enclosing air handling equipment, compressor equipment, furnaces or other heating equipment with a total aggregate input rating less than 200,000 BTU input. Such rooms shall not be used for any combustible storage. A minimum of 30 inches (0.76 m) unobstructed access shall be provided and maintained to equipment and electrical or emergency control panels or devices for emergency response purposes."

24. Delete subparagraph 32.3.3.4.7 in its entirety and substitute in its place the following:

32.3.3.4.7 "**Smoke Alarms.** Each sleeping room shall be provided with an approved single station smoke alarm in accordance with 9.6.2.10. Approved smoke alarms shall be powered by the building's electrical system and be provided with a 1½-hour emergency power source."

32.3.3.4.7.1 Strobe alarms shall be used when required by the needs of the resident, e.g., for hearing impaired residents in personal care homes or Community Living Arrangements."

25. Delete subparagraph 32.3.3.4.8 in its entirety and substitute in its place the following:

32.3.3.4.8 "**Smoke Detection Systems.** All corridors and common spaces shall be provided with smoke detectors in accordance with NFPA 72, *National Fire Alarm and Signaling Code*, arranged to initiate the fire alarm such that it is audible in all sleeping areas. Detectors shall be located in corridors or hallway so there is a detector within 15 feet (4.6 m) of the wall and at least every 30 feet (9.1 m) thereafter. Where a building has more than one floor level, a detector shall be located at the top of each stair and inside each enclosure. (Refer to 3.3.264)

32.3.3.4.8.1 Detectors may be excluded from crawl spaces beneath the building and unused and unfinished attics.

32.3.3.4.8.2 Unenclosed corridors, passageways, balconies, colonnades, or other arrangements where one or more sides along the long dimension are fully or extensively open to the exterior at all times."

26. Delete subparagraph 32.3.3.5.7 in its entirety and substitute in its place the following:

32.3.3.5.7 "**Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in all residential board and care occupancies and on each

floor of a personal care home or community living arrangement facility in accordance with 9.9."

27. Delete subparagraph 32.3.3.6.6 in its entirety and substitute in its place the following:

32.3.3.6.6 " There shall be no louvers, transfer grilles, operable transoms, or other air passages penetrating such walls or doors other than properly installed heating and utility installations. Unprotected openings shall be prohibited in partitions of interior corridors serving as exit access from resident rooms. Transfer grilles, whether protected by fusible link operated dampers or not, shall not be used in corridor walls or doors between resident rooms and interior corridors.

32.3.3.6.6.1 Existing transoms installed in corridor partitions of resident rooms shall be fixed in the closed position and shall be covered or otherwise protected to provide a fire-resistance rating at least equivalent to that of the wall in which they are installed."

28. Add a new subparagraph 32.3.5.2.4 to read as follows:

32.3.5.2.4 " Portable electric and liquefied petroleum gas or liquid fuel fired space heating devices designed to be portable are prohibited in all portions of large residential board and care occupancies.

32.3.5.2.4.1 " In emergency conditions when approved by the authority having jurisdiction, equipment designed to be portable may be used for a specified time provided such equipment is properly protected and separated from combustibles as specified by the manufactures instructions and the authority having jurisdiction."

29. Delete section 32.5 in its entirety and substitute in its place the following:

32.5 "**Community Living Arrangement Facilities.**

32.5.1 **General.** The following shall be provided in addition to the requirements of this Chapter for facilities subject to being licensed as a Community Living Arrangement. Where there are conflicts in requirements specified elsewhere in this Chapter, the requirements specified under Section 32.5 shall prevail.

32.5.2 Address identification. Community Living Arrangement structures shall have approved address numbers, building

numbers or approved building identification placed in accordance with the provisions of the *International Fire Code*.

32.5.3 **Means of Egress.**

32.5.3.1 **Number of Means of Escape.** In any dwelling or dwelling unit of two rooms or more, every sleeping room and every living area shall have not less than one primary means of escape and one secondary means of escape.

32.5.3.1.1 A secondary means of escape shall not be required where the bedroom or living area has a door leading directly to the outside of the building at or to grade level.

32.5.3.1.2 **Exits for the mobility impaired.** A Community Living Arrangement serving a resident dependent upon a wheelchair or other mechanical device for mobility shall provide at least two (2) exits from the Community Living Arrangement, remote from each other, which are accessible to the residents."

32.5.3.2 **Bedrooms.** Bedrooms for residents shall be separated from halls, corridors and other rooms by floor to ceiling walls. capable of resisting fire for not less than ½-hour, which is considered to be achieved if the partitioning is finished on both sides with lath and plaster or materials providing a 15-minute thermal barrier. Sleeping room doors shall be substantial doors, such as those of 1¾-in. (4.4-cm) thick, solid-bonded wood core construction or other construction of equal or greater stability and fire integrity. Any vision panels shall be fixed fire window assemblies in accordance with 8.3.3 or shall be wired glass not exceeding 1296 in. 2 (0.84 m2) each in area and installed in approved frames.

32.5.3.2.1 A room shall not be used as a bedroom where more than one-half the room height is below ground level.

32.5.3.2.2 Bedrooms which are partially below ground level shall have adequate natural light and ventilation and be provided with two useful means of egress.

32.5.3.2.3 Bedrooms occupied by residents shall have doors that can be closed. Doors shall be not less than 32 in. (81 cm) wide.

32.5.3.2.4 Any door in the path of travel of a means of means of egress or escape shall be not less than 32 in. (81 cm) wide.

32.5.3.2.5 Residents who need assistance with ambulation shall be provided bedrooms that have access to a ground-level exit to the outside or provided bedrooms above ground level that have access to exits with easily negotiable ramps or easily accessible lifts.

32.5.3.3 **Locks.**

32.5.3.3.1 Bedrooms may have locks on doors provided both the occupant and staff are provided with keys to ensure easy entry. Double-cylinder locks (locks requiring a key on both sides) are prohibited be used on the bedroom door of a resident.

32.5.3.3.2 Exterior doors shall be equipped with locks that do not require keys to open the door from the inside.

32.5.4 **Detection and Alarm Systems**

32.5.4.1 A fire alarm system meeting the minimum requirements for Single- and Multiple Station Alarms and Household Fire Alarm Systems per NFPA 72 shall be installed.

32.5.4.2 **Smoke Detection.**

32.5.4.2.1 Smoke alarms shall be installed in accordance with the provisions of 9.6.2.10. Any additional detection/alarm devices shall be as established by O.C.G.A. § 25-2-40.

32.5.4.2.2 Smoke alarms shall be installed on all levels, including basements but excluding crawl spaces and unfinished attics.

32.5.4.2.3 Additional smoke alarms shall be installed for all living areas as defined in 3.3.119 and 3.3.25.5.

32.5.4.2.4 Strobe alarms shall be used when required by the needs of the resident, e.g., for hearing impaired persons.

32.5.4.3 **Carbon Monoxide Detectors.**

32.5.4.3.1 Carbon monoxide detectors shall be provided in accordance with 32.3.3.4.9.

32.5.5 **Protection.**

32.5.5.1 **Portable Fire Extinguishers.** Portable fire extinguishers in accordance with 9.9 shall be provided near hazardous areas.

32.5.5.1.1 At least one 2A rated multipurpose ABC fire extinguisher shall be provided on each occupied floor and in

the basement that shall be readily accessible.

32.5.5.1.2 Required portable fire extinguishers shall be inspected and maintained annually by a licensed fire safety technician annually in accordance with NFPA 10.

32.5.5.1.3 Monthly quick check inspections shall be conducted by the staff of the Community Living Arrangement to ensure they are charged and in operable condition.

32.5.6 **Heating, Ventilation and Air Conditioning.**

32.5.6.1 Portable space heaters shall not be used.

32.5.6.2 **Fire screens and protective devices shall be used with fireplaces, stoves and fixed heaters.**

32.5.6.3 A water temperature monitor or a scald valve shall be installed where necessary to ensure the safety of the residents. Heated water provided for use of residents shall not exceed 120 degrees Fahrenheit at the hot water fixture, unless a cooler temperature is required by the needs of the individual.

32.5.7 **Operating Features.**

32.5.7.1 **Staffing.** The Community Living Arrangement shall have as many qualified and trained employees on duty as shall be needed to safeguard properly the health, safety, and welfare of residents and ensure the provision of services the residents require to be delivered in the Community Living Arrangement.

32.5.7.1.1 Before working independently with residents, each staff member shall be trained and show continuing evidence of competence in fire safety and

emergency evacuation procedures. A resident shall not be considered a staff person in the residence in which they live. (Refer to Chapter 4 of the *International Fire Code* regarding care-giver minimum training requirements.)

32.5.7.2 **Evacuation Capabilities.** Community Living Arrangement shall maintain a staffing ratio sufficient to ensure that all residents can successfully respond to a fire or other emergency using self-preservation or assisted preservation measures as defined by 120-3-3-.03 of Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner. Residents who cannot successfully respond shall be provided with a minimum of one dedicated employee whose primary responsibility is to provide evacuation of the resident in the event of a fire or other emergency. The dedicated employee/employees shall be in close attendance to the affected resident at all times.

32.5.7.3 **Drills.** Fire drills shall be conducted at least quarterly on each shift. At least two drills per calendar year shall be during sleeping hours. All fire drills shall be documented with staffing involved. (See Chapter 4 of the *International Fire Code* regarding fire and emergency evacuation drills.)

32.5.7.4 **Procedures**. There shall be established procedures and mechanisms for alerting and caring for residents in case of emergencies and for evacuating them to safety. An evacuation plan with clear instructions shall be available within each resident room. Each sleeping room shall have a secondary exit, which may be a door or a window usable for escape."

30. Delete subsections 32.7.1, 32.7.2, and 32.7.3 in their entirety and substitute in their place the following:

32.7.1 "**Emergency Planning and Preparedness.** Residential board and care facilities (Group I-1 and R-4 occupancies), including personal care homes and community living arrangements shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, resident training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner. The specific provisions of 32.5.7 shall also apply to community living arrangements."

31. Delete subsection 32.7.4 in its entirety and substitute in its place the following:

32.7.4 "**Smoking.** Smoking regulations shall be adopted and shall include the following minimal provisions.

32.7.4.1 Smoking shall be prohibited in any room, area or compartment where flammable liquids, combustible gases, or oxygen are used or stored and in any other hazardous location. Such areas shall be posted with '**NO SMOKING**' signs.

32.7.4.2 Smoking by residents classified as not responsible shall be prohibited, Exception unless the resident is under direct supervision.

32.7.4.3 Ashtrays of noncombustible material and safe design shall be provided in all areas where smoking is permitted.

32.7.4.4 Metal containers with self-closing cover devices into which ashtrays may be emptied shall be readily available in all areas where smoking is permitted."

32. Add a new paragraph 33.7.5.4 to read as follows:

32.7.5.4 " Wastebaskets and other waste containers shall be of noncombustible or other approved materials."

(cc) **Modifications to Chapter 33:**

1. Delete paragraphs 33.1.4.1 and 33.1.4.2 in their entirety and substitute in their place the following:

33.1.4.1 "**General.** For definitions see Chapter 3, Definitions and 120-3-3-.03 of Chapter 120-3-3 of the Rules and Regulations of the Safety Fire

Commissioner (RRSFC). Where there is a difference in definitions, the definitions in 120-3-3-.03 shall prevail.

33.1.4.2 **Special Definitions.**

(1) Broad and Care Occupancies, Residential. See RRSFC 120-3-3-.03.

(2) Community Living Arrangement. See RRSFC 120-3-3-.03

(3) Evacuation Capability, Impractical. See RRSFC 120-3-3-.03.

(4) Evacuation Capability, Prompt. See RRSFC 120-3-3.03.

(5) Evacuation Capability, Slow. See RRSFC 120-3-3-.03.

(6) Personal Care. See RRSFC 120-3-3-.03.

(7) Personal Care Home. See RRSFC 120-3-3-.03.

(8) Self-preservation. See RRSFC 120-3-3-.03.

2. Add new subparagraphs 33.1.1.4.1 through 33.1.1.4.3 to read as follows:

33.1.1.4.1 " Community Living Arrangements for five to six residents shall comply with the requirements of Sections 33.2 and 33.5

33.1.1.4.2 Community Living Arrangements for seven or more residents shall comply with the requirements of Sections 33.3 and 33.5.

33.1.1.4.3 Refer to 120-3-3-.03 for the definition of a "Community Living Arrangement."

33.1.1.4.4 Existing large personal care homes with 25 or more residents desiring to be licensed as an Assisted Living Community or as a Memory Care Unit, both as defined in 120-3-3-.03 of the Rules and Regulations of the Safety Fire Commissioner, shall meet the requirements for a conversion to a large residential board and care occupancy and the applicable provisions for assisted living communities or memory care units as set forth by Chapter 35 of this *Code*. (Also defined in RRSFC 120-3-3-.03)."

3. Delete paragraph 33.1.1.5 in its entirety and substitute in its place the following:

33.1.1.5 " All existing facilities classified as residential board and care occupancies shall conform to the requirements of this chapter. This chapter is divided into six sections as follows:

(1) Section 33.1 - General Requirements.

(2) Section 33.2 - Small Facilities (sleeping accommodations for not more than six residents. Includes small personal care homes and community living arrangements.)

(3) Section 33.3 - Large Facilities (sleeping accommodations for seven or more residents. This includes existing "personal care homes"as defined in section 120-3-3-.03 of Chapter 120-3-3, Rules and Regulations of the Safety Fire Commissioner, and not licensed as an "Assisted Living Community"or "Memory Care Unit")

(4) Section 33.4 - Additional minimum requirements for an Apartment Building Housing a Board and Care Occupancy.

(5) Section 33.5 - Community Living Arrangement Facilities

(6) Section 33.7 - Operating Features."

4. Add a new subsection 33.1.9 to read as follows:

33.1.9 "**Classification of Hazards of Contents.** Contents of Residential Board and Care occupancies shall be classified in accordance with the provisions of Section 6.2."

5. Delete paragraph 33.2.1.1 in its entirety and substitute in its place the following:

33.2.1.1 "**Scope.** This section applies to residential board and care occupancies, including community living arrangements with 5 to 6 residents and personal care homes providing sleeping accommodations for not more than six residents. Where there are sleeping accommodations for more than six residents of a residential board and care occupancy or a community living arrangement more than 6, the occupancy shall be classed as a large facility. The requirements for large facilities are found in Section 33.3."

6. Add a new paragraph 33.2.1.5 to read as follows:

33.2.1.5 "**Occupant Load.** The occupant load of small Residential Board and Care occupancies (personal care occupancies) or any individual story or section thereof for the purpose of determining exits shall be the maximum number

of persons intended to occupy the floor on the basis of the occupant load factors of Table 7.3.1.2. (Also see 3.3.22.2.1 for Gross Floor Area.)"

7. Add a new subparagraph 33.2.3.2.6 to read as follows:

33.2.3.2.6 " Residential cooking appliances such as stoves and griddles shall be protected by listed self-contained residential fire suppression systems located in residential hoods over each cooking surface, with the exhaust hood vented directly to the outside. Automatic disconnects of the fuel source or power source shall be provided. Commercial cooking appliances including fryers shall be protected in accordance with 9.2.3 and shall not be required to have openings protected between food preparation areas and dining areas.

33.2.3.2.6.1 " Subject to the approval of the authority having jurisdiction, the protection of residential cooking equipment shall not be required in buildings protected by an automatic sprinkler system as provided in 33.2.3.5. The exhaust hood is still required to be vented to the outside.

33.2.3.2.6.2 " No protection is required over residential cooking appliances such as grills and stoves in facilities which have prompt evacuation capability and have a licensed capacity as determined by the Department of Community Health of six or less residents."

8. Add new subparagraph 33.2.3.4.3.1 to read as follows:

33.2.3.4.3.1 " Strobe alarms shall be used when required by the needs of the resident, e.g., for hearing impaired persons."

9. Add a new subparagraph 33.2.3.4.3.1 to read as follows:

33.2.3.4.3.1 " The provisions of 9.6.2.10.8.1 and 9.6.2.10.8.2 shall also apply.

10. Add new subparagraph 33.2.3.4.5 to read as follows:

33.2.3.4.5 "**Carbon Monoxide Detectors.** Carbon monoxide detectors shall be provided in all community living arrangements where natural gas, LP gas or heating oil is used to heat the residence or where a solid fuel-burning appliance is located in the residence."

11. Delete subparagraph 33.2.3.5.3.7 in its entirety and substitute in its place the following:

    33.2.3.5.3.7 "**Impractical and Slow Evacuation Capability.** All slow and impractical evacuation capability facilities shall be protected throughout by an approved, supervised automatic sprinkler system installed in accordance with 33.2.3.5.3."

12. Add new subparagraph 33.2.5.2.4 to read as follows:

    33.2.5.2.4 " Portable electric and liquefied petroleum gas or liquid fuel fired space heating devices designed to be portable are prohibited in all portions of small residential board and care occupancies, including personal care homes and community living arrangements.

    33.2.5.2.4.1 In emergency conditions when approved by the authority having jurisdiction, equipment designed to be portable may be used for a specified time provided such equipment is properly protected and separated from combustibles as specified by the manufactures instructions and the authority having jurisdiction."

13. Add a new subsection 33.2.6 to read as follows:

    33.2.6 "**Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in all residential board and care occupancies, personal care homes or community living arrangement facilities as follows.

    33.2.6.1 Portable fire extinguishers in accordance with Section 9.9 of this *Code* shall be provided near hazardous areas. Also, at least one 2A rated multipurpose ABC fire extinguisher shall be provided on each occupied floor and in the basement, and they shall be readily accessible.

    33.2.6.1.2 Required portable fire extinguishers shall be inspected and maintained at least annually by a licensed fire safety technician in accordance with NFPA 10.

    33.6.5.1.3 Monthly quick check inspections shall be conducted by the staff of the Community Living Arrangement to ensure they are charged and in operable condition."

14. Delete paragraph 33.3.1.1.1 in its entirety and substitute in its place the following:

33.3.1.1.1 "**Scope.** This section applies to residential board and care occupancies, including personal care homes and community living arrangements providing sleeping accommodations for 7 or more residents. Where there are sleeping accommodations for six or less residents or a community living arrangement for 5 to 6 residents, the occupancy shall be classed as a small facility. The requirements for small facilities are found in Section 33.2."

15. Delete 33.3.1.2.2* in its entirety and substitute in its place the following:

33.3.1.2.2 "*** Impractical.** Large facilities classified as impractical evacuation capability shall meet the requirements of 33.3 for impractical evacuation capability, or the requirements for new large facilities in Chapter 32, unless the authority having jurisdiction has determined equivalent safety is provided in accordance with Section 1.4."

16. Add a new subsection 33.3.1.4 to read as follows:

33.3.1.4 "**Occupant Load.** The occupant load of small Residential Board and Care occupancies or Personal Care occupancies or any individual story or section thereof for the purpose of determining exits shall be the maximum number of persons intended to occupy the floor as determined on the basis of the occupant load factors of Table 7.3.1.2. Gross floor area shall be measured within the exterior building walls with no deductions. (See 3.3.22.2.1)."

17. Add a new subparagraph 33.3.3.1.1.4 to read as follows:

33.3.3.1.1.4 " Enclosure of stairs, smoke proof towers and exit passageways in buildings existing prior to April 15, 1986, shall be fire barriers of at least 20-minute fire-resistance rating with all openings protected in accordance with paragraph 8.3.3 of this *Code* in buildings less than three stories in height. In buildings existing prior to April 15, 1986, more than three stories in height, the enclosure shall not be less than a 1-hour fire-resistance rating with all openings protected in accordance with paragraph 8.3.4.4 of this *Code*."

18. Add a new exception to subparagraph 33.3.2.2.2(10) to read as follows:

33.3.2.2.2(10) " Doors to resident rooms may be subject to being locked by the occupant, if they can be unlocked from the opposite side and keys are carried by staff at all times. Additional keys must be available to and accessible by the staff."

19. Delete subparagraph 33.3.2.5.4 in its entirety and substitute in its place the following:

    33.3.2.5.4 " No dead-end corridor shall exceed 35 feet (10.7 m)."

20. Delete subparagraph 33.3.2.6.3.3 in its entirety and substitute in its place the following:

    33.3.2.6.3.3 " Travel distance to exits shall not exceed 150 feet (45.7 m) if the exit access and any portion of the building that is tributary to the exit access are protected throughout by approved automatic sprinkler systems. In addition, the portion of the building in which the 150 feet (45.7 m) travel distance is permitted shall be separated from the remainder of the building by construction having not less than a 1-hour fire-resistance rating for buildings not greater than three stories in height and 2-hour for buildings greater than three stories in height."

21. Add a new subparagraph 3 3.3.2.6.3.4 to read as follows:

    33.3.2.6.3.4 " No residents shall be located on floors below the level of exit discharge.

    33.3.2.6.3.4.1 In facilities existing prior to April 15, 1986, any floor below the level of exit discharge occupied for public purposes shall have exits arranged such that it will not be necessary to travel more than 100 feet (30.5 m) from the door of any room to reach the nearest exit."

22. Add a new subparagraph 33.3.2.6.4 to read as follows:

    33.3.2.6.4 " Any floor below the level of exit discharge not open to the public and used only for mechanical equipment, storage, and service operations (other than kitchens which are considered part of the residential board and care occupancies) shall have exits appropriate to its actual occupancy in accordance with other applicable sections of this *Code*."

23. Add a new subparagraph 33.3.2.7.1 to read as follows:

    33.3.2.7.1 " At least half of the required exit capacity of upper floors, exclusive of horizontal exits, shall lead directly to the street or through a yard, court, or passageway with protected openings and separated from all parts of the interior of the building."

24. Delete paragraph 33.3.2.9 in its entirety and substitute in its place the following:

33.3.2.9 "**Emergency Lighting.** Emergency lighting in accordance with Section 7.9 of the *Code* shall be provided in means of egress and common areas in all residential board and care occupancies.

33.3.2.9.1 Where each guestroom has a direct exit to the outside of the building at ground level, no emergency lighting shall be required."

25. Delete 33.3.2.11.1 and insert a new subparagraph 33.3.2.11.1 to read as follows:

33.3.2.11.1 " Every stairwell door shall allow re-entry from the stairwell to the interior of the building or an automatic release shall be provided to unlock all stairwell doors to allow re-entry. Such automatic release shall be actuated with the initiation of the building fire alarm system or upon loss of power."

26. Add a new subparagraph 33.3.2.11.3 to read as follows:

33.3.2.11.3 " Stairway enclosures shall not be required where a one-story stair connects two levels within a single dwelling unit, resident room or suite."

27. Add a new subparagraph 33.3.3.1.4 to read as follows:

33.3.3.1.4 " Any required exit stair which is so located such that it is necessary to pass through the lobby or other open space to reach the outside of the building shall be continuously enclosed down to the lobby level, or to a mezzanine within the lobby.

33.3.3.1.4.1 In existing two-story buildings only, the second floor level may be fire stopped with a fire barrier having at least a 1-hour fire-resistance rating. Vision panels not exceeding 1,296 square inches (8361 cu cm) and installed in steel frames shall be provided in the doors of the fire barrier."

28. Add two new subparagraphs 33.3.3.2.2.1 and 33.3.3.2.2.2 to read as follows:

33.3.3.2.2.1 " The provisions of 33.3.3.2.2 shall not apply to rooms enclosing air handling equipment compressor equipment, furnaces or other heating equipment with a total aggregate input rating less than 200,000 BTU input. Such rooms shall not be used for any combustible storage. A minimum of 30 inches (0.76 m) unobstructed access shall be

provided and maintained to equipment and electrical or emergency control panels or devices for emergency response purposes."

33.3.3.2.2.2 The provisions of 33.3.3.2.2 shall not apply in existing residential board and care occupancies constructed prior to April 15, 1986, with regard to the location of the equipment only."

29. Delete section 33.3.3.8 to read as follows:

33.3.3.8.1 " A personal care home having a licensed capacity as determined by the Department of Community Health of 16 or less residents shall have residential cooking appliances such as stoves and griddles protected by a listed self-contained residential fire suppression system located in residential hood over each cooking surface, with the exhaust hood vented directly to the outside. Automatic disconnects of the fuel source or power source shall be provided. Commercial cooking appliances including fryers shall be protected in accordance with 9.2.3 and shall not be required to have openings protected between food preparation areas and dining areas.

33.3.3.8.2 A personal care home constructed prior to January 28, 1993, and having a licensed capacity as determined by the Department of Community Health of 16 or less residents may have food preparation facilities in accordance with NFPA 91, Standard for Exhaust Systems for Conveying of Vapors, Gases, Mists, and Noncombustible Particulate Solids, 1983 edition.

33.3.3.8.3 A personal care home constructed prior to January 28, 1993, and having a licensed capacity as determined by the Department of Community Health of 16 residents or less may have food preparation facilities which have a ventilating hood meeting the provisions of NFPA 54, *National Fuel Gas Code*, as specified in Chapters 120-3-14 and 120-3-16, of the Rules and Regulations of the Safety Fire Commissioner, and NFPA 91, *Standard for Exhaust Systems for Conveying of Vapors, Gases, Mists, and Noncombustible Particulate Solids*, as specified in Chapter 120-3-3, Rules and Regulations of the Safety Fire Commissioner.

33.3.3.8.4 Subject to the approval of the authority having jurisdiction, the protection of residential cooking equipment shall not be required in buildings protected by an automatic sprinkler system as provided in 32.2.3.5. The exhaust hood is still required to be vented to the outside."

30. Add a new subparagraph 33.3.3.4.7.1.1 to read as follows:

33.3.3.4.7.1.1 " Strobe alarms shall be used when required by the needs of the resident, e.g., for hearing impaired persons located in Community Living Arrangements."

31. Delete subparagraph 33.3.3.4.7.2 in its entirety and substitute in its place the following:

    33.3.3.4.7.2 " The provisions of 9.6.2.10.8.1 and 9.6.2.10.8.2 shall also apply."

32. Delete subparagraph 33.3.3.4.8 in its entirety and substitute in its place the following:

    33.3.3.4.8 "**Smoke Detection Systems.** All corridors and common spaces shall be provided with smoke detectors in accordance with NFPA 72, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner, arranged to initiate the fire alarm such that it is audible in all sleeping areas. Detectors shall be located in corridors or hallway so there is a detector within 15 feet (4.6 m) of the wall and at least every 30 feet (9.1 m) thereafter. Where a building has more than one floor level, a detector shall be located at the top of each stair and inside each enclosure.

    33.3.3.4.8.2 Smoke detection systems may be excluded from crawl spaces beneath the building and unused and unfinished attics.

    33.3.3.4.8.3 Smoke detection systems shall not be required in unenclosed corridors, passageways, balconies, colonnades, or other arrangements where one or more sides along the long dimension are fully or extensively open to the exterior at all times."

33. Delete subparagraph 33.3.3.5.2 in its entirety and substitute in its place the following:

    33.3.3.5.2 " Sprinkler installation may be omitted in bathrooms where the area does not exceed 55 square feet (5.1 sq. m) and the walls and ceilings, including behind fixtures, are of noncombustible or limited combustible materials providing a 15-minute thermal barrier or in clothes closets, linen closets, and pantries within the facility where the area of the space does not exceed 24 square feet (2.2 sq. m) and the least dimension does not exceed 3 feet (0.91 m) and the walls and ceilings are surfaced with noncombustible or limited combustible materials as defined by NFPA 220, *Standard on Types of Building Construction*, as specified in Chapter 120-3-3, Rules and Regulations of the Safety Fire Commissioner."

34. Delete subparagraph 33.3.3.5.1.3 in its entirety and substitute in its place the following:

    33.3.3.5.1.3 " Automatic sprinklers installed in accordance with NFPA 13D, *Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes*, 1991 edition, as modified by Chapter 120-3-3, Rules and Regulations of the Safety Fire Commissioner, which were in effect shall be acceptable as a complying sprinkler system."

35. Add a new subparagraph 33.3.3.5.1.4 to read as follows:

    33.3.3.5.1.4 " Automatic sprinkler systems installed in existing facilities prior to November 1, 1987, may be continued in use subject to the approval of the authority having jurisdiction as defined in paragraph 3.2.2 of the *Code*."

36. Add new subparagraph 33.3.3.4.9 to read as follows:

    33.3.3.4.9 "**Carbon Monoxide Detectors.** Carbon monoxide detectors shall be provided in all community living arrangements where natural gas, LP gas or heating oil is used to heat the residence or where a solid fuel-burning appliance is located in the residence."

37. Delete subparagraph 33.3.3.5.7 in its entirety and substitute in its place the following:

    33.3.3.5.7 "**Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in all residential board and care occupancies and on each floor of a community living arrangement facility in accordance with 9.9."

38. Delete subparagraph 33.3.3.6.1 and subparagraphs to 33.3.3.6.1 in their entirety and substitute in its place the following:

    33.3.3.6.1 " Access shall be provided from every resident use area to not less than one means of egress that is separated from all other rooms or spaces by walls complying with 33.3.3.6.3 through 33.3.3.6.6.3."

39. Delete subparagraph 33.3.3.6.3 in its entirety and substitute in its place the following:

    33.3.3.6.3 " Fire barriers required by 33.3.3.6.1 and 33.3.3.6.2 shall have a fire-resistance rating of not less than 30 minutes. Fixed fire window assemblies in accordance with 8.3.3 shall be permitted.

33.5.3.6.3.1 The provisions of 33.3.3.6.3 shall not apply where the resident room has a door providing direct exiting at grade or to an open air balcony leading to exiting at grade."

40. Delete subparagraph 33.3.3.6.4 in its entirety and substitute in its place the following:

33.3.3.6.4 " Doors in fire barriers required by 33.3.3.6.1 or 33.3.3.6.2 shall have a fire protection rating of not less than twenty (20) minutes and shall have positive latching.

33.3.3.6.4.1 Existing 1¾ inch (44.5 mm) thick, solid bonded wood core doors shall be permitted to continue to be used. These doors shall be positive latching.

33.3.3.6.4.2 Walls that are required only to resist the passage of smoke, without a fire-resistance rating, shall be permitted to have doors that resist the passage of smoke without a fire protection rating. These doors shall be positive latching.

33.3.3.6.4.3 In existing personal care occupancies existing prior to April 15, 1986, the doors shall be constructed to resist the passage of smoke and shall be a least equal in fire protection to a 1¼ inch (31.8 mm) thick solid bonded core wood door and shall have positive latching."

41. Delete subparagraph 33.3.3.6.5 in its entirety and substitute in its place the following:

33.3.3.6.5 " Walls and doors required by 33.3.3.6.1 and 33.3.3.6.2 shall be constructed to resist the passage of fire and smoke for not less than 30 minutes. There shall be no louvers, transfer grilles, operable transoms, or other air passages penetrating such walls or doors except properly installed heating and utility installations. Unprotected openings shall be prohibited in partitions of interior corridors serving as exit access from resident rooms. Transfer grilles, whether protected by fusible link operated dampers or not, shall not be used in corridor walls or doors between resident rooms and interior corridors.

33.3.3.6.5.1 " Existing transoms installed in corridor partitions of resident rooms shall be fixed in the closed position and shall be covered or otherwise protected to provide a

fire-resistance rating at least equivalent to that of the wall in which they are installed."

42. Add new subparagraph 33.3.5.2.4 to read as follows:

33.3.5.2.4 " Portable electric and liquefied petroleum gas or liquid fuel fire space heating devices designed to be portable are prohibited in all portions of large residential board and care occupancies.

33.3.5.2.4.1 In emergency conditions when approved by the authority having jurisdiction, equipment designed to be portable may be used for a specified time provided such equipment is properly protected and separated from combustibles as specified by the manufactures instructions and the authority having jurisdiction."

43. Delete subsection 33.5 in its entirety and substitute in its place the following:

33.5 "**Community Living Arrangement Facilities.**

33.5.1 **General.** The following shall be provided in addition to the requirements of this Chapter for facilities subject to being licensed as a Community Living Arrangement. Where there are conflicts in requirements specified elsewhere in this Chapter, the requirements specified under Section 33.5 shall prevail.

33.5.2 **Address identification.** Community Living Arrangement structures shall have approved address numbers, building numbers or approved building identification placed in accordance with the provisions of the *International Fire Code*.

33.5.3 **Means of Egress.**

33.5.3.1 A Community Living Arrangement serving a resident dependent upon a wheelchair or other mechanical device for mobility shall provide at least two (2) exits from the Community Living Arrangement, remote from each other, which are accessible to the residents.

33.5.3.2 Bedrooms for residents shall be separated from halls, corridors and other rooms by floor to ceiling walls. capable of resisting fire for not less than ½-hour, which is considered to be achieved if the partitioning

is finished on both sides with lath and plaster or materials providing a 15-minute thermal barrier. Sleeping room doors shall be substantial doors, such as those of 1¾-in. (4.4-cm) thick, solid-bonded wood core construction or other construction of equal or greater stability and fire integrity. Any vision panels shall be fixed fire window assemblies in accordance with 8.3.3 or shall be wired glass not exceeding 1296 in. 2 (0.84 m2) each in area and installed in approved frames.

33.5.3.3 A room shall not be used as a bedroom where more than one-half the room height is below ground level.

33.5.3.4 Bedrooms which are partially below ground level shall have adequate natural light and ventilation and be provided with two useful means of egress.

33.5.3.5 Bedrooms occupied by residents shall have doors that can be closed. Doors shall be not less than 32 in. (81 cm) wide.

33.5.3.6 Any door in the path of travel of a means of means of egress or escape shall be not less than 32 in. (81 cm) wide.

33.5.3.7 Residents who need assistance with ambulation shall be provided bedrooms that have access to a ground-level exit to the outside or provided bedrooms above ground level that have access to exits with easily negotiable ramps or easily accessible lifts.

33.5.3.8 **Locks.**

33.5.3.8.1 Bedrooms may have locks on doors provided both the occupant and staff are provided with keys to ensure easy entry. Double-cylinder locks (locks requiring a key on both sides) are prohibited be used on the bedroom door of a resident.

33.5.3.8.2 Exterior doors shall be equipped with locks that do not require keys to open the door from the inside.

33.5.3.9 Number of Means of Escape. In any dwelling or dwelling unit of two rooms or more, every sleeping room and every living area shall have not less than one primary means of escape and one secondary means of escape.

33.5.3.9.1 A secondary means of escape shall not be required where the bedroom or living area has a door leading directly to the outside of the building at or to grade level.

33.5.4 **Detection and Alarm Systems**

33.5.4.1 A fire alarm system meeting the minimum requirements for Single- and Multiple Station Alarms and Household Fire Alarm Systems per NFPA 72, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner, shall be installed.

33.5.4.2 **Smoke Detection.**

33.5.4.2.1 Smoke alarms shall be installed in accordance with the provisions of 9.6.2.10. Any additional detection/alarm devices shall be as established by O.C.G.A. § 25-2-40.

33.5.4.2.2 Smoke alarms shall be installed on all levels, including basements but excluding crawl spaces and unfinished attics.

33.5.4.2.3 Additional smoke alarms shall be installed for all living areas as defined in 3.3.22.5.

33.5.4.2.4 Strobe alarms shall be used when required by the needs of the resident, e.g., for hearing impaired persons.

33.5.4.3 **Carbon Monoxide Detectors.**

33.5.4.3.1 Carbon monoxide detectors shall be provided in the residence where natural gas, LP gas or heating oil is used to heat the residence.

33.5.4.3.2 Carbon monoxide detectors shall be provided in the residence if a solid fuel-burning fireplace is installed the residence

33.5.5 **Protection.**

33.5.5.1 **Portable Fire Extinguishers.** Portable fire extinguishers in accordance with 9.9 shall be provided near hazardous areas.

33.5.5.1.1 At least one 2A rated multipurpose ABC fire extinguisher shall be provided on each occupied floor and in the basement that shall be readily accessible.

33.5.5.1.2 Required portable fire extinguishers shall be inspected and maintained annually by a state licensed or permitted fire extinguisher technician annually in accordance with NFPA 10, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner.

33.5.5.1.3 Monthly quick check inspections shall be conducted by the staff of the Community Living Arrangement to

ensure they are charged and in operable condition.

33.5.6 **Heating, Ventilation and Air Conditioning.**

33.5.6.1 Space heaters shall not be used.

33.5.6.2 Fire screens and protective devices shall be used with fireplaces, stoves, and heaters.

33.5.6.3 A water temperature monitor or a scald valve shall be installed where necessary to ensure the safety of the residents. Heated water provided for use of residents shall not exceed 120 degrees Fahrenheit at the hot water fixture, unless a cooler temperature is required by the needs of the individual.

33.5.7 **Operating Features.**

33.5.7.1 **Staffing.** The Community Living Arrangement shall have as many qualified and trained employees on duty as shall be needed to safeguard properly the health, safety, and welfare of residents and ensure the provision of services the residents require to be delivered in the Community Living Arrangement.

33.5.7.1.1 Before working independently with residents, each staff member shall be trained and show continuing evidence of competence in fire safety and emergency evacuation procedures. A resident shall not be considered a staff person in the residence in which they live. (See Chapter 4 of the *International Fire Code*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner.)

33.5.7.2 Evacuation Capabilities. Community Living Arrangement shall maintain a staffing ratio sufficient

to ensure that all residents can meet a prompt evacuation capability as defined in 120-3-3-.03 of Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner. Residents who cannot meet a prompt evacuation capability classification shall be provided with a minimum of one dedicated employee whose primary responsibility is to provide evacuation of the resident in the event of a fire or other emergency. The dedicated employee/employees shall be in close attendance at all times.

33.5.7.3 **Drills.** Fire drills shall be conducted at least quarterly on each shift. At least two drills per calendar year shall be during sleeping hours. All fire drills shall be documented with staffing involved. (See Chapter 4 of the *International Fire Code*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner.)

33.5.7.4 **Procedures.** There shall be established procedures and mechanisms for alerting and caring for residents in case of emergencies and for evacuating them to safety. An evacuation plan with clear instructions shall be available within each residence. Each sleeping room shall have a secondary exit, which may be a door or a window usable for escape."

44. Delete subsections 33.7.1, 33.7.2, and 33.7.3 in their entirety and substitute in their place the following:

33.7.1 "**Emergency Planning and Preparedness.** Residential board and care facilities (Group I1 and R-4 occupancies), including community living arrangements and personal care homes, shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, resident training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

45. Delete subsection 33.7.4 in its entirety and substitute in their place the following:

33.7.4 "**Smoking.** Smoking regulations shall be adopted and shall include the following minimal provisions.

33.7.4.1 Smoking shall be prohibited in any room, area or compartment where flammable liquids, combustible gases, or oxygen are used or stored and in any other hazardous location. Such areas shall be posted with **"NO SMOKING"** signs.

33.7.4.2 Smoking by residents classified as not responsible shall be prohibited.

33.7.4.2.1 Smoking is permitted by residents classified as not responsible when under direct supervision.

33.7.4.3 Ashtrays of noncombustible material and safe design shall be provided in all areas where smoking is permitted.

33.7.4.4 Metal containers with self-closing cover devices into which ashtrays may be emptied shall be readily available in all areas where smoking is permitted."

46. Add a new paragraph 33.7.5.4 to read as follows:

33.7.5.4 "**Waste Containers.** Wastebaskets and other waste containers shall be of noncombustible or other approved materials."

(dd) **Modifications to reserved Chapter 34.**

1. Insert a new Chapter 34 to read as follows:

"Chapter 34 New Assisted Living Community Occupancies

34.1 **General Requirements.**

34.1.1 **Application.**

34.1.1.1 **General.**

34.1.1.1.1 The requirements of this chapter shall apply to new buildings or portions thereof used as assisted living community occupancies. New buildings or portions thereof used as assisted living community occupancies shall be

permitted to meet all the requirements for a limited health care occupancy as prescribed in chapter 18 of this *Code* in lieu of this chapter. (See 1.3.1).

34.1.1.1.2 **Administration.** The provisions of Chapter 1, Administration, shall apply.

34.1.1.1.3 **General.** The provisions of Chapter 4, General, shall apply.

34.1.1.1.4 Buildings, or sections of buildings, that primarily house residents who, in the opinion of the governing body of the facility and the governmental agency having jurisdiction, are capable of exercising judgment and appropriate physical action for self-preservation under emergency conditions shall be permitted to comply with the provisions of Chapter 32 provided they are separated by a fire barrier having not less than a 1-hour fire resistance rating and constructed of materials as required for the addition.

34.1.1.1.5 It shall be recognized that, in buildings providing care for certain types of residents or having a security section, it might be necessary to lock doors and bar windows to confine and protect building inhabitants. In such instances, the authority having jurisdiction shall require appropriate modifications to those sections of this *Code* that would otherwise require means of egress to be kept unlocked.

34.1.1.1.6 The requirements of this chapter shall apply based on the assumption that staff is available in all resident-occupied

areas to perform certain fire safety functions as required in other paragraphs of this chapter.

34.1.1.2 *** Goals and Objectives.** The goals and objectives of Sections 4.1 and 4.2 shall be met with due consideration for functional requirements, which are accomplished by limiting the development and spread of a fire to the room of fire origin and reducing the need for occupant evacuation, except from the room of fire origin.

34.1.1.3 **Total Concept.**

34.1.1.3.1 All assisted living community facilities shall be designed, constructed, maintained, and operated to minimize the possibility of a fire emergency requiring the evacuation of occupants.

34.1.1.3.2 Because the safety of assisted living community occupants cannot be ensured adequately by dependence on evacuation of the building, their protection from fire shall be provided by appropriate arrangement of facilities; adequate, trained staff; and development of operating and maintenance procedures composed of the following:

(1) Design, construction, and compartmentation

(2) Provision for detection, alarm, and extinguishment

(3) Fire prevention and planning, training, and drilling programs for the isolation of fire, transfer of occupants to areas of refuge, or evacuation of the building

34.1.1.4 **Additions, Conversions, Modernization, Renovation, and Construction Operations.**

34.1.1.4.1 **Additions**.

34.1.1.4.1.1 Additions shall be separated from any existing structure not conforming to the provisions within Chapter 34 by a fire barrier having not less than a 2-hour fire resistance rating and constructed of materials as required for the addition. (See 4.6.5 and 4.6.7.)

34.1.1.4.1.2 Doors in barriers required by 34.1.1.4.1.1 shall normally be kept closed, unless otherwise permitted by 34.1.1.4.1.3.

34.1.1.4.1.3 Doors shall be permitted to be held open if they meet the requirements of 34.2.2.4.

34.1.1.4.2 **Conversion.** For the purposes of this chapter, exceptions for conversions shall apply only for a change of occupancy from an existing health care occupancy to an assisted living community occupancy.

34.1.1.4.3 **Changes of Occupancy.** A change from a personal care home to an assisted living community occupancy shall be

considered a change in occupancy or occupancy sub-classification and would be required to meet the provisions of this Chapter for new construction.

34.1.1.4.4 **Renovations, Alterations, and Modernizations.** See 4.6.7.

34.1.1.4.5 **Construction, Repair, and Improvement Operations.** See 4.6.10.

34.1.2 **Classification of Occupancy.** See 120-3-3.03(4), (14), and 34.1.4.2.

34.1.3 **Multiple Occupancies.**

34.1.3.1 Multiple occupancies shall comply with 6.1.14 in buildings other than those meeting the requirement of 34.1.3.2.

34.1.3.2 * Sections of assisted living community facilities shall be permitted to be classified as other occupancies, provided that they meet both of the following conditions:

(1) They are not intended to serve assisted living community occupants or have customary access by assisted living community residents who are incapable of self-preservation.

(2) They are separated from areas of assisted living community occupancies by construction having a minimum 2-hour fire resistance rating.

34.1.3.3 The requirement of 34.1.3.1 shall not apply to apartment buildings housing assisted living community occupancies in conformance with Section 34.4. In such facilities, any safeguards required by Section 34.4 that are more restrictive than those for other housed occupancies shall apply only to the extent prescribed by Section 34.4.

34.1.3.4 No assisted living community occupancy shall be located above a nonresidential or non- health care occupancy, unless the assisted living community occupancy and exits therefrom are separated from the nonresidential or non-health care occupancy by construction having a minimum 2-hour fire resistance rating.

34.1.3.5 Any area with a hazard of contents classified higher than that of the assisted living community occupancy and located in the same building shall be protected as required in 34.2.

34.1.3.6 Non-residential-related occupancies classified as containing high hazard contents shall not be permitted in buildings housing assisted living community occupancies.

34.1.4 **Definitions.**

34.1.4.1 **General. For definitions, see Chapter 3, Definitions.**

34.1.4.2 **Special Definitions.** A list of special terms used in this chapter follows:

(1) Assisted Living Community Occupancy. See 120-3-3-.03(4).

(2) Assisted self-preservation. See 120-3-3-.03(5)

(3) Evacuation Capability, Impractical. See 120-3-3-.03(7).

(4) Evacuation Capability, Prompt. See 120-3-3-.03(8).

(5) Evacuation Capability, Slow. See 120-3-3-.03(9).

(6) Personal Care Home. See 120-3-3-.03(21).

(7) Point of Safety. See 3.3.211 of this *Code*.

(8) Thermal Barrier. See 3.3.31.3 of this *Code*.

34.1.5 **Classification of Hazard of Contents.** The classification of hazard of contents shall be as defined in Section 6.2.

34.1.6 **Minimum Construction Requirements.** Assisted living community facilities shall be limited to the building construction types specified in Table 34.1.6 (see 8.2.1), based on the number of stories in height as defined in 4.6.3.

Table 34.1.6

Table 34.1.6	Number of Stories - *See Note b*					
Construction Type	Sprinklered *See Note a*	1	2	3	4-12	>12
Type I(442) *a c d*	Yes	X	X	X	X	X
	No	N.P.	N.P.	N.P.	N.P.	N.P.
Type I (332) *a c d*	Yes	X	X	X	X	X
	No	N.P.	N.P.	N.P.	N.P.	N.P.
Type II(222) *a c d*	Yes	X	X	X	X	N.P.
	No	N.P.	N.P.	N.P.	N.P.	N.P.
Type II(111) *a c d*	Yes	X	X	X	N.P.	N.P.
	No	N.P.	N.P.	N.P.	N.P.	N.P.
Type II(000) *a*	Yes	X	X	N.P.	N.P.	N.P.
	No	N.P.	N.P.	N.P.	N.P.	N.P.
Type III(211) *a*	Yes	X	X	N.P.	N.P.	N.P.
	No	N.P.	N.P.	N.P.	N.P.	N.P.
Type III(200) *a*	Yes	X	N.P.	N.P.	N.P.	N.P.
	No	N.P.	N.P.	N.P.	N.P.	N.P.

Type IV(2HH) *a*	Yes No	X N.P.	X N.P.	N.P. N.P.	N.P. N.P.	N.P. N.P.
Type V(111) *a*	Yes No	X N.P.	X N.P.	N.P N.P.	N.P. N.P.	N.P. N.P.
Type V(000) *a*	Yes No	X N.P.	N.P. N.P	N.P. N.P.	N.P. N.P.	N.P. N.P.

X = Permitted if sprinklered as required by 32.3.3.5.

NP = Not permitted.

a Building shall be protected throughout by an approved supervised automatic sprinkler system installed in accordance with 9.7.1.1(1), and provided with quick response or residential sprinklers throughout. (See requirements of 34.3.5).

b See requirements of 4.6.3.

c See requirements of 34.1.6.2.1.

d See requirements of 34.1.6.2.2.

34.1.6.1 *** Fire Resistance-Rated Assemblies.** Fire resistance-rated assemblies shall comply with Section 8.3.

34.1.6.2 **Construction Type Limitations.**

34.1.6.2.1 Any building of Type I(442), Type I(332), Type II(222), or Type II(111) construction shall be permitted to include roofing systems involving combustible supports, decking, or roofing, provided that all of the following criteria are met:

(1) The roof covering shall meet Class A requirements in

accordance with ASTM E 108, Standard Test Methods for Fire Tests of Roof Coverings, or ANSI/UL 790, Test Methods for Fire Tests of Roof Coverings.

(2) The roof shall be separated from all occupied portions of the building by a noncombustible floor assembly having not less than a 2-hour fire resistance rating that includes not less than 2 1/2 in. (63 mm) of concrete or gypsum fill.

(3) The structural elements supporting the 2-hour fire resistance-rated floor assembly specified in 34.1.6.2(2) shall be required to have only the fire resistance rating required of the building.

34.1.6.2.2 Any building of Type I(442), Type I(332), Type II(222), or Type II(111) construction shall be permitted to include roofing systems involving combustible supports, decking, or roofing, provided that all of the following criteria are met:

(1) The roof covering shall meet Class A requirements in accordance with ASTM E 108, *Standard Test Methods for Fire Tests of Roof Coverings*, or ANSI/UL 790, *Test Methods for Fire Tests of Roof Coverings.*

(2) The roof/ceiling assembly shall be constructed with fire-retardant-treated wood meeting the requirements of NFPA 220, *Standard on Types of Building Construction*.

(3) The roof/ceiling assembly shall have the required fire resistance rating for the type of construction.

34.1.6.2.3 Any level below the level of exit discharge shall be separated from the level of exit discharge by not less than Type II(111), Type III(211), or Type V(111) construction (see 8.2.1), unless both of the following criteria are met:

(1) Such levels are under the control of the assisted living community facility.

(2) Any hazardous spaces are protected in accordance with Section 8.7.

34.1.6.3 All buildings with more than one level below the level of exit discharge shall have all such lower levels separated from the level of exit discharge by not less than Type II(111) construction.

34.1.6.4 Interior nonbearing walls in buildings of Type I or Type II construction shall be constructed of noncombustible or limited-combustible materials, unless otherwise permitted by 20.1.6.4.

34.1.6.5 Interior nonbearing walls required to have a minimum 2-hour fire resistance rating shall be permitted to be fire-retardant-treated wood enclosed within

noncombustible or limited-combustible materials, provided that such walls are not used as shaft enclosures.

34.1.6.6 Fire-retardant-treated wood that serves as supports for the installation of fixtures and equipment shall be permitted to be installed behind noncombustible or limited-combustible sheathing.

34.1.7 **Occupant Load.** The occupant load, in number of persons for whom means of egress and other provisions are required, shall be determined on the basis of the occupant load factors of Table 7.3.1.2 that are characteristic of the use of the space, or shall be determined as the maximum probable population of the space under consideration, whichever is greater.

34.2 **Means of Egress Requirements.**

34.2.1 **General.**

34.2.1.1 Means of egress from resident rooms and resident dwelling units to the outside of the building shall be in accordance with Chapter 7 and this chapter.

34.2.1.2 Means of escape within the resident room or resident dwelling unit shall comply with Section 24.2 for one- and two-family dwellings.

34.2.1.3 No means of escape or means of egress shall be considered as complying with the minimum criteria for acceptance, unless emergency evacuation drills are regularly conducted using that route in accordance with the requirements of 34.7.3.

34.2.1.4 No assisted living community occupancy shall have its sole means of egress or means of escape pass through any nonresidential or non-health care occupancy in the same building.

34.2.1.5 All means of egress from assisted living community occupancies that traverse non-assisted living community spaces shall conform to the requirements

of this *Code* for assisted living community occupancies, unless otherwise permitted by 34.2.1.6.

34.2.1.6 Exit through a horizontal exit into other contiguous occupancies that does not conform to assisted living community egress provisions but do comply with requirements set forth in the appropriate occupancy chapter of this *Code* shall be permitted, provided that the occupancy does not contain high hazard contents.

34.2.1.7 Egress provisions for areas of assisted living community facilities that correspond to other occupancies shall meet the corresponding requirements of this *Code* for such occupancies, and, where the clinical needs of the residents necessitate the locking of means of egress, staff shall be present for the supervised release of occupants during all times of use.

34.2.2 **Means of Egress Components.**

34.2.2.1 **Components Permitted.** Components of means of egress shall be limited to the types described in 34.2.2.2 through 34.2.2.10.

34.2.2.2 **Doors.** Doors in means of egress shall meet all of the following criteria:

(1) Doors complying with 7.2.1 shall be permitted.

(2) Doors within individual rooms and suites of rooms shall be permitted to be swinging or sliding.

(3) No door in any means of egress, other than those meeting the requirement of 34.2.2.2.1 or 34.2.2.2.2, shall be equipped with a lock or latch that requires the use of a tool or key from the egress side.

34.2.2.2.1 Delayed-egress locks in accordance with 7.2.1.6.1 shall be permitted.

34.2.2.2.2 Access-controlled egress doors in accordance with 7.2.1.6.2 shall be permitted.

34.2.2.2.3 Doors that are located in the means of egress from individual resident bedrooms or private living units shall be permitted to have locks where the clinical needs of a resident require specialized protective security measures provided that staff can readily unlock doors at all times in accordance with 34.2.2.2.4.

34.2.2.2.4 Doors that are located in the means of egress and are permitted to be locked under other provisions of 34.2.2.2.3 shall comply with both of the following:

(1) Provisions shall be made for the rapid removal of occupants by means of one of the following:

(a) Remote control of locks from within the locked smoke compartment

(b) Keying of all locks to keys carried by staff at all times

(c) Other such reliable means available to the staff at all times

(2) Only one locking device shall be permitted on each door.

34.2.2.2.5 Doors located in the means of egress that are permitted to be locked under other provisions of Chapter 34, other

than those meeting the requirement of 34.2.2.2.1 or 34.2.2.2.2, shall have adequate provisions made for the rapid removal of occupants by means such as remote control of locks, keying of all locks to keys carried by staff at all times, or other such reliable means available to staff at all times.

34.2.2.2.6 Only one such locking device, as described in 34.2.2.2.5, shall be permitted on each door.

34.2.2.3 Stairs. Stairs complying with 7.2.2 shall be permitted.

34.2.2.4 **Smokeproof Enclosures.** Smokeproof enclosures complying with 7.2.3 shall be permitted.

34.2.2.5 **Horizontal Exits.** Horizontal exits complying with 7.2.4 shall be permitted.

34.2.2.6 **Ramps.** Ramps complying with 7.2.5 shall be permitted.

34.2.2.7 **Exit Passageways.** Exit passageways complying with 7.2.6 shall be permitted.

34.2.2.8 **Fire Escape Ladders.** Fire escape ladders complying with 7.2.9 shall be permitted.

34.2.2.9 **Alternating Tread Devices.** Alternating tread devices complying with 7.2.11 shall be permitted.

34.2.2.10 **Areas of Refuge.** Areas of refuge complying with 7.2.12 shall be permitted.

34.2.3 **Capacity of Means of Egress.**

34.2.3.1 The capacity of means of egress shall be in accordance with Section 7.3.

34.2.3.2 Street floor exits shall be sufficient for the occupant load of the street floor plus the required capacity of stairs and ramps discharging onto the street floor.

34.2.3.3 The width of corridors shall be sufficient for the occupant load served but shall be not less than 60 in. (1525 mm).

34.2.4 **Number of Means of Egress.**

34.2.4.1 Means of egress shall comply with the following, except as otherwise permitted by 34.2.4.2:

(1) The number of means of egress shall be in accordance with Section 7.4.

(2) Not less than two separate exits shall be provided on every story.

(3) Not less than two separate exits shall be accessible from every part of every story.

34.2.4.2 Exit access, as required by 34.2.4.1(3), shall be permitted to include a single exit access path for the distances permitted as common paths of travel by 34.2.5.2.

34.2.5 **Arrangement of Means of Egress.**

34.2.5.1 **General.** Access to all required exits shall be in accordance with Section 7.5.

34.2.5.2 **Dead-end Corridors.** Dead-end corridors shall not exceed 30 ft. (9.1 mm).

34.2.5.3 **Common Path.** Common paths of travel shall not exceed 75 ft. (23 m).

34.2.5.4 **Reserved.**

34.2.6 **Travel Distance to Exits.**

34.2.6.1 Travel distance from the door within a room, suite, or living unit to a corridor door shall not exceed 75 ft. (23 m) in buildings not protected throughout by an approved automatic sprinkler system in accordance with 34.3.5.

34.2.6.2 Travel distance from any point within a room, suite, or living unit to a corridor door shall not exceed 125 ft. (38 m) in buildings protected throughout by an approved automatic sprinkler system in accordance with 34.3.5.

34.2.6.3 Travel distance from the corridor door of any room to the nearest exit shall be in accordance with 34.2.6.3.1 or 34.2.6.3.2.

34.2.6.3.1 Travel distance from the corridor door of any room to the nearest exit, measured in accordance with Section 7.6, shall not exceed 150ft. (45.72m).

34.2.6.3.2 Travel distance to exits shall not exceed 200 ft. (61 m) for exterior ways of exit access arranged in accordance with 7.5.3.

34.2.7 **Discharge from Exits.** Exit discharge shall comply with Section 7.7.

34.2.8 **Illumination of Means of Egress.** Means of egress shall be illuminated in accordance with Section 7.8.

34.2.9 **Emergency Lighting.** Emergency lighting in accordance with Section 7.9 shall be provided.

34.2.10 **Marking of Means of Egress.** Means of egress shall be marked in accordance with Section 7.10.

34.2.11 **Special Means of Egress Features.**

34.2.11.1 **Reserved.**

34.2.11.2 **Lockups.** Lockups in residential assisted living community occupancies shall comply with the requirements of 22.4.5.

34.3 **Protection.**

34.3.1 **Protection of Vertical Openings.**

34.3.1.1 Vertical openings shall be enclosed or protected in accordance with Section 8.6.

34.3.1.2 Unenclosed vertical openings in accordance with 8.6.9.1 shall be permitted.

34.3.1.3 No floor below the level of exit discharge used only for storage, heating equipment, or purposes other than residential occupancy shall have unprotected openings to floors used for residential occupancy.

34.3.2 **Protection from Hazards.**

34.3.2.1 Rooms containing high-pressure boilers, refrigerating machinery, transformers, or other service equipment subject to possible explosion shall not be located directly under or adjacent to exits, and such rooms shall be effectively separated from other parts of the building as specified in Section 8.7.

34.3.2.2 Hazardous areas, which shall include, but shall not be limited to, the following, shall be separated from other parts of the building by construction having a minimum 1-hour fire resistance rating, with communicating openings protected by approved self-closing fire doors and be equipped with automatic fire-extinguishing systems:

(1) Boiler and heater rooms

(2) Laundries

(3) Repair shops

(4) Rooms or spaces used for storage of combustible supplies and equipment in quantities deemed hazardous by the authority having jurisdiction

Exception to (1): Rooms enclosing air handling equipment, compressor equipment, furnaces or other heating equipment with a total aggregate input rating less than 200,000 BTU input. Such rooms shall not be used for any combustible storage. A minimum of 30 inches (0.76 m) unobstructed access shall be provided and maintained to equipment and electrical or emergency control panels or devices for emergency response purposes.

34.3.3 **Interior Finish.**

34.3.3.1 **General.** Interior finish shall be in accordance with Section 10.2.

34.3.3.2 Interior Wall and Ceiling Finish. Interior wall and ceiling finish materials complying with Section 10.2 shall be in accordance with the following:

(1) Exit enclosures - Class A

(2) Lobbies and corridors - Class B

(3) Rooms and enclosed spaces - Class B

34.3.3.3 **Interior Floor Finish.**

34.3.3.3.1 Interior floor finish shall comply with Section 10.2.

34.3.3.3.2 Interior floor finish in exit enclosures and exit access corridors and spaces not separated from them by walls complying with 34.3.6 shall be not less than Class II.

34.3.3.3.3 Interior floor finish shall comply with 10.2.7.1 or 10.2.7.2, as applicable.

34.3.4 **Detection, Alarm, and Communications Systems.**

34.3.4.1 **General.** A fire alarm system shall be provided in accordance with Section 9.6.

34.3.4.2 **Initiation.** The required fire alarm system shall be initiated by each of the following:

(1) Manual means in accordance with 9.6.2

(2) Manual fire alarm box located at a convenient central control point under continuous supervision of responsible employees

(3) Required automatic sprinkler system

(4) Required detection system

34.3.4.3 **Annunciator Panel.** An annunciator panel, connected to the fire alarm system, shall be provided at a location readily accessible from the primary point of entry for emergency response personnel.

34.3.4.4 **Notification.**

34.3.4.4.1 **Occupant Notification.** Occupant notification shall be provided automatically, without delay, by internal audible alarm in accordance with 9.6.3.

34.3.4.4.2 **High-Rise Buildings.** High-rise buildings shall be provided with an approved emergency voice communication/alarm system in accordance with 11.8.4.

34.3.4.5 *** Emergency Forces Notification.** Fire department notification shall be accomplished in accordance with 9.6.4.

34.3.4.6 **Detection.**

34.3.4.6.1 **Smoke Alarms.** Approved smoke alarms shall be installed in accordance with 9.6.2.10 inside every sleeping room, outside every sleeping area in the immediate vicinity of the bedrooms, and on all levels within a resident unit.

34.3.4.7 **Smoke Detection Systems.**

34.3.4.7.1 Corridors, spaces open to the corridors, and other spaces outside every sleeping area in the immediate vicinity of the bedrooms other than those meeting the requirement of 34.3.4.7.2, shall be provided with smoke detectors that comply with NFPA 72, *National Fire Alarm and Signaling Code*, and are arranged to initiate an alarm that is audible in all sleeping areas.

34.3.4.7.2 Smoke detection systems shall not be required in unenclosed corridors, passageways, balconies, colonnades, or other arrangements with one or more sides along the long dimension fully or extensively open to the exterior at all times.

34.3.5 **Extinguishment Requirements.**

34.3.5.1 **General.** All buildings shall be protected throughout by an approved automatic sprinkler system installed in accordance with 9.7.1.1(1) and provided with quick-response or residential sprinklers throughout.

34.3.5.5 **Supervision.** Automatic sprinkler systems shall be provided with electrical supervision in accordance with 9.7.2.

34.3.5.7 **Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in accordance with 9.9.

34.3.6 **Corridors and Separation of Sleeping Rooms.**

34.3.6.1 Access shall be provided from every resident use area to at least one means of egress that is separated from all sleeping rooms by walls complying with 34.3.6.3 through 34.3.6.6.

34.3.6.1.1 Sleeping rooms shall be separated from corridors, living areas, and kitchens by walls complying with 34.3.6.2 through 34.3.6.6.

34.3.6.2 Walls required by 34.3.6.1 or 34.3.6.1.1 shall be smoke partitions in accordance with Section 8.4 having a minimum 1/2-hour fire resistance rating.

34.3.6.3.5 Hazardous areas shall be separated from corridors in accordance with 34.3.2.

34.3.6.4 Doors protecting corridor openings other than from resident sleeping rooms and hazardous areas shall not be required to have a fire protection rating, but shall be constructed to resist the passage of smoke.

34.3.6.4.1 Doors protecting resident sleeping rooms shall have a minimum 20-minute fire protection rating.

34.3.6.5 Door-closing devices shall not be required on doors in corridor wall openings, other than those serving exit enclosures, smoke barriers, enclosures of vertical openings, and hazardous areas.

34.3.6.6 No louvers, transfer grilles, operable transoms, or other air passages, other than properly installed heating and utility installations, shall penetrate the walls or doors specified in 34.3.6.

34.3.7 **Subdivision of Building Spaces.** Buildings shall be subdivided by smoke barriers in accordance with 34.3.7.1 through 34.3.7.21.

34.3.7.1 Every story shall be divided into not less than two smoke compartments, unless it meets the requirement of 34.3.7.4, 34.3.7.5, 34.3.7.6, or 34.3.7.7.

34.3.7.2 Each smoke compartment shall have an area not exceeding 22,500 ft2 (2100 m2).

34.3.7.3 The travel distance from any point to reach a door in the required smoke barrier shall be limited to a distance of 200 ft. (61 m).

34.3.7.3.1 Additional smoke barriers shall be provided such that the travel distance from a sleeping room corridor door to a smoke barrier shall not exceed 150 ft. (46 m).

34.3.7.4 Smoke barriers shall not be required on stories that do not contain an assisted living community occupancy located above the assisted living community occupancy.

34.3.7.5 Smoke barriers shall not be required in areas that do not contain an assisted living community occupancy and that are separated from the assisted living community occupancy by a fire barrier complying with Section 8.3.

34.3.7.6 Smoke barriers shall not be required on stories that do not contain an assisted living community occupancy and that are more than one story below the assisted living community occupancy.

34.3.7.7 Smoke barriers shall not be required in open parking structures protected throughout by an approved, supervised automatic sprinkler system in accordance with 34.3.5.

34.3.7.8 Smoke barriers shall be constructed in accordance with Section 8.5 and shall have a minimum 1-hour fire resistance rating, unless they meet the requirement of 34.3.7.9 or 34.3.7.10.

34.3.7.9 Where an atrium is used, smoke barriers shall be permitted to terminate at an atrium wall constructed in accordance with 8.6.7(1)(c), in which case not less than two separate smoke compartments shall be provided on each floor.

34.3.7.10 Dampers shall not be required in duct penetrations of smoke barriers in fully ducted heating, ventilating, and air-conditioning systems.

34.3.7.11 Not less than 15 net ft2 (1.4 net m2) per resident shall be provided within the aggregate area of corridors, lounge or dining areas, and other low hazard areas on each side of the smoke barrier.

34.3.7.12 On stories not housing residents, not less than 6 net ft2 (0.56 net m2) per occupant shall be provided on each side of the smoke barrier for the total number of occupants in adjoining compartments.

34.3.7.13 Doors in smoke barriers shall be substantial doors, such as 1 3/4 in. (44 mm) thick, solid- bonded wood-core doors, or shall be of construction that resists fire for a minimum of 20 minutes.

34.3.7.14 Nonrated factory- or field-applied protective plates extending not more than 48 in. (1220 mm) above the bottom of the door shall be permitted.

34.3.7.15 Cross-corridor openings in smoke barriers shall be protected by a pair of swinging doors or a horizontal-sliding door complying with 7.2.1.14.

34.3.7.16 Swinging doors shall be arranged so that each door swings in a direction opposite from the other.

34.3.7.17 Doors in smoke barriers shall comply with 8.5.4 and shall be self-closing or automatic-closing in accordance with 7.2.1.8.

34.3.7.18 Vision panels consisting of fire-rated glazing or wired glass panels in approved frames shall be

provided in each cross-corridor swinging door and in each cross-corridor horizontal-sliding door in a smoke barrier.

34.3.7.19 Rabbets, bevels, or astragals shall be required at the meeting edges, and stops shall be required at the head and sides of door frames in smoke barriers.

34.3.7.20 Positive latching hardware shall not be required.

34.3.7.21 Center mullions shall be prohibited.

34.3.8 *** Cooking Facilities.** Cooking facilities, other than those within individual residential units, shall be protected in accordance with 9.2.3.

34.3.9 **Standpipes.**

34.3.9.1 **General.** Where required, standpipe and hose systems shall be installed and maintained in accordance with 9.10.

34.3.9.2 In High-Rise Buildings. Class I standpipe systems shall be installed throughout all high-rise buildings.

34.3.9.3 **Roof Outlets.** Roof outlets shall not be required on roofs having a slope of 3 in 12 or greater.

34.4 **Special Provisions.**

34.4.1 **High-Rise Buildings.** High-rise buildings shall comply with Section 11.8.

34.5 *** Suitability of an Apartment Building to House an Assisted living community Occupancy.**

34.5.1 **General.**

34.5.1.1 **Scope.**

34.5.1.1.1 Section 34.5 shall apply to apartment buildings that have one or more individual apartments used as an

assisted living community occupancy. (See 34.1.3.2.)

34.5.1.1.2 The provisions of Section 34.5 shall be used to determine the suitability of apartment buildings, other than those complying with 34.5.1.1.4, to house an assisted living community facility.

34.5.1.1.3 The suitability of apartment buildings not used for assisted living community occupancies shall be determined in accordance with Chapter 30.

34.5.1.1.4 When a new assisted living community occupancy is created in an existing apartment building, the suitability of such a building for apartments not used for assisted living community occupancies shall be determined in accordance with Chapter 31.

34.5.1.2 **Requirements for Individual Apartments.** Requirements for individual apartments used as residential assisted living community occupancies shall be as specified in Section 34.2. Egress from the apartment into the common building corridor shall be considered acceptable egress from the assisted living community facility.

34.5.1.3 *** Additional Requirements.** Apartment buildings housing assisted living community facilities shall comply with the requirements of Chapter 30 and the additional requirements of Section 34.5, unless the authority having jurisdiction has determined that equivalent safety for housing an assisted living community facility is provided in accordance with Section 1.4.

34.5.1.4 **Minimum Construction Requirements.**

34.5.1.4.1 In addition to the requirements of Chapter 30, apartment buildings, other than those complying with 34.5.1.4.2, housing assisted living community facilities shall meet the construction requirements of 34.1.3.

34.5.1.4.2 When a new assisted living community occupancy is created in an existing apartment building, the construction requirements of 19.1.6 shall apply.

34.5.2 **Means of Egress.**

34.5.2.1 The requirements of Section 30.2 shall apply only to the parts of means of egress serving the apartment(s) used as an assisted living community occupancy, as modified by 34.5.2.2.

34.5.2.2 When a new assisted living community occupancy is created in an existing apartment building, the requirements of Section 31.2 shall apply to the parts of the means of egress serving the apartment(s) used as an assisted living community occupancy.

34.5.3 **Protection.**

34.5.3.1 **Interior Finish.**

34.5.3.1.1 The requirements of 30.3.3 shall apply only to the parts of means of egress serving the apartment(s) used as an assisted living community occupancy, as modified by 34.5.3.1.2.

34.4.3.1.2 When a new assisted living community occupancy is created in an existing apartment building, the requirements of 31.3.3 shall apply to the parts of the means of egress serving the

apartment(s) used as an assisted living community occupancy.

34.5.3.2 **Construction of Corridor Walls.**

34.5.3.2.1 The requirements of 30.3.6 shall apply only to corridors serving the assisted living community facility, including that portion of the corridor wall separating the assisted living community facility from the common corridor, as modified by 34.5.3.2.2.

34.5.3.2.2 If a new assisted living community occupancy is created in an existing apartment building, the requirements of 31.3.6 shall apply to the corridor serving the residential assisted living community facility.

34.5.3.3 **Subdivision of Building Spaces. (Reserved)**

34.6 **Building Services.**

34.6.1 **Utilities**. Utilities shall comply with Section 9.1.

34.6.1.1 Heating, ventilating, and air-conditioning equipment shall comply with Section 9.2.

34.6.1.2 No stove or combustion heater shall be located such that it blocks escape in case of fire caused by the malfunction of the stove or heater.

34.6.1.3 Unvented fuel-fired heaters shall not be used in any assisted living community occupancy.

34.6.3 Elevators, Dumbwaiters, and Vertical Conveyors. Elevators, dumbwaiters, and vertical conveyors shall comply with Section 9.4.

34.6.3.2 * In high-rise buildings, one elevator shall be provided with a protected power supply and shall be available for use by the fire department in case of emergency.

34.6.4 Rubbish Chutes, Incinerators, and Laundry Chutes. Rubbish chutes, incinerators, and laundry chutes shall comply with Section 9.5.

34.7 **Operating Features.**

34.7.1 **Emergency Planning and Preparedness.** Assisted living community facilities shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, resident training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner. The provisions of this Section 34.7 shall be incorporated into the plans, training and safety practices developed by the facility."

34.7.2 **Emergency Plan.**

34.7.2.1 The administration of every assisted living community facility shall have, in effect and available to all supervisory personnel, written copies of a plan for protecting all persons in the event of fire, for keeping persons in place, for evacuating persons to areas of refuge, and for evacuating persons from the building when necessary.

34.7.2.2 The emergency plan shall include special staff response, including the fire protection procedures needed to ensure the safety of any resident, and shall be amended or revised whenever any resident with unusual needs is admitted to the home.

34.7.2.3 All employees shall be periodically instructed and kept informed with respect to their duties and responsibilities under the plan, and such instruction shall be reviewed by the staff not less than every 2 months.

34.7.2.4 A copy of the plan shall be readily available at all times within the facility.

34.7.3 **Resident Training.**

34.7.3.1 All residents participating in the emergency plan shall be trained in the proper actions to be taken in the event of fire.

34.7.3.2 The training required by 34.7.3.1 shall include actions to be taken if the primary escape route is blocked.

34.7.3.3 If a resident is given rehabilitation or habilitation training, training in fire prevention and the actions to be taken in the event of a fire shall be a part of the training program.

34.7.3.4 Residents shall be trained to assist each other in case of fire to the extent that their physical and mental abilities permit them to do so without additional personal risk.

34.7.4 **Emergency Egress and Relocation Drills.** Emergency egress and relocation drills shall be conducted in accordance with 34.7.4.1 through 34.7.4.6.

34.7.4.1 Emergency egress and relocation drills shall be conducted not less than once per quarter on each shift at alternating times. It is intended that staff and residents be trained and drilled based on fire and other emergencies that may occur during the periods of lowest staffing levels. This may require more than one drill per quarter on shifts with the lowest staffing levels.

34.7.4.2 The emergency drills shall be permitted to be announced to the residents in advance.

34.7.4.3 The drills shall involve the training of residents for the eventual actual evacuation of all residents to an assembly point, as specified in the emergency plan, and shall provide residents with experience in

egressing through all exits and means of escape required by the *Code*.

34.7.4.3.1. The assembly point shall be a place outside of the building and shall be located a safe distance from the building being evacuated so as to avoid interference with fire department operations. A refuge area within a smoke compartment in buildings separated by smoke barriers shall be considered a temporary assembly point as part of a staged evacuation.

34.7.4.3.2. Buildings with smoke compartments shall be allowed to train residents to temporarily escape in a staged evacuation to another smoke compartment separated by smoke barriers. Residents shall be allowed to complete the training exercise on the other side of an adjacent smoke barrier. Residents shall still be trained to eventually complete building evacuation during an actual emergency evacuation. Residents shall be required to participate in one emergency egress and relocation drill per year where they continue to an assembly point outside of the building.

34.7.4.3.3. Residents, as a group, shall be required to complete the evacuation drill to an exit or across a smoke barrier in less than 13 minutes or shall be required to change its group evacuation capability and comply with Section 35.1.8.

34.7.4.4 Exits and means of escape not used in any drill shall not be credited in meeting the requirements of this *Code* for assisted living community facilities.

34.7.4.5 Actual exiting from windows shall not be required to comply with 34.7.4; opening the window and signaling for help shall be an acceptable alternative.

34.7.4.6 Residents who cannot meaningfully assist in their own evacuation or who have special health problems shall not be required to actively participate in the drill. Section 18.7 shall apply in such instances.

34.7.5 **Smoking.**

34.7.5.1 * Smoking regulations shall be adopted by the administration of assisted living community occupancies.

34.7.5.2 Where smoking is permitted, noncombustible safety-type ashtrays or receptacles shall be provided in convenient locations.

34.7.6 *** Furnishings, Mattresses, and Decorations.**

34.7.6.1 New draperies, curtains, and other similar loosely hanging furnishings and decorations shall comply with 34.7.6.1.1 and 34.7.6.1.2.

34.7.6.1.1 New draperies, curtains, and other similar loosely hanging furnishings and decorations in assisted living community facilities shall be in accordance with the provisions of 10.3.1, unless otherwise permitted by 34.7.6.1.2.

34.7.6.1.2 In other than common areas, new draperies, curtains, and other similar loosely hanging furnishings and decorations shall not be required to comply with 34.7.6.1.1 where the building is protected throughout by an approved automatic sprinkler system installed in accordance with 34.2.3.5.

34.7.6.2 * New upholstered furniture within assisted living community facilities shall comply with 34.7.6.2.1 or 34.7.6.2.2.

34.7.6.2.1 New upholstered furniture shall be tested in accordance with the provisions of 10.3.2.1(1) and 10.3.3.

34.7.6.2.2 Upholstered furniture belonging to residents in sleeping rooms shall not be required to be tested, provided that a smoke alarm is installed in such rooms; battery-powered single-station smoke alarms shall be permitted in such rooms.

34.7.6.3 * Newly introduced mattresses within assisted living community facilities shall comply with 34.7.5.3.1 or 34.7.5.3.2.

34.7.6.3.1 Newly introduced mattresses shall be tested in accordance with the provisions of 10.3.2.2 and 10.3.4.

34.7.6.3.2 Mattresses belonging to residents in sleeping rooms shall not be required to be tested, provided that a smoke alarm is installed in such rooms; battery-powered single-station smoke alarms shall be permitted in such rooms.

34.7.7 **Staff.** Staff shall be on duty and in the facility at all times when residents requiring evacuation assistance are present.

34.7.8 **Inspection of Door Openings.** Door assemblies for which the door leaf is required to swing in the direction of egress travel shall be inspected and tested not less than annually in accordance with 7.2.1.15."

(ee) **Modifications to Chapter 35:**

1. Insert a new Chapter 34 to read as follows:

"Chapter 35 Existing Assisted Living Community Occupancies

35.1 **General Requirements.**

35.1.1 *** Application.**

35.1.1.1 **General.**

35.1.1.1.1 The requirements of this chapter shall apply to existing buildings or portions thereof used as assisted living community occupancies or with limited applicability for a conversion as further specific specified in Section 35.1.1.4.3 entitled Change of Occupancy.

35.1.1.1.2 **Administration.** The provisions of Chapter 1, Administration, shall apply.

35.1.1.1.3 **General.** The provisions of Chapter 4, General, shall apply.

35.1.1.1.4 Buildings, or sections of buildings, that primarily house residents who, in the opinion of the governing body of the facility and the governmental agency having jurisdiction, are capable of exercising judgment and appropriate physical action for self-preservation under emergency conditions shall be permitted to comply with the provisions of Chapter 33 provided they are separated by a fire barrier having not less than a 1-hour fire resistance rating and constructed of materials as required for the addition.

35.1.1.1.5 It shall be recognized that, in buildings providing care for certain types of residents or having a security section, it might be necessary to lock doors and bar windows to confine and protect building inhabitants. In such instances, the

authority having jurisdiction shall require appropriate modifications to those sections of this *Code* that would otherwise require means of egress to be kept unlocked.

35.1.1.1.6 The requirements of this chapter shall apply based on the assumption that staff is available in all resident-occupied areas to perform certain fire safety functions as required in other paragraphs of this chapter.

35.1.1.2 *** Goals and Objectives.** The goals and objectives of Sections 4.1 and 4.2 shall be met with due consideration for functional requirements, which are accomplished by limiting the development and spread of a fire to the room of fire origin and reducing the need for occupant evacuation, except from the room of fire origin.

35.1.1.3 **Total Concept.**

35.1.1.3.1 All assisted living community facilities shall be designed, constructed, maintained, and operated to minimize the possibility of a fire emergency requiring the evacuation of occupants.

35.1.1.3.2 Because the safety of assisted living community occupants cannot be ensured adequately by dependence on evacuation of the building, their protection from fire shall be provided by appropriate arrangement of facilities; adequate, trained staff; and development of operating and maintenance procedures composed of the following:

(1) Design, construction, and compartmentation.

(2) Provision for detection, alarm, and extinguishment.

(3) Fire prevention and planning, training, and drilling programs for the isolation of fire, transfer of occupants to areas of refuge, or evacuation of the building.

35.1.1.4 Additions, Conversions, Modernization, Renovation, and Construction Operations.

35.1.1.4.1 **Additions.**

35.1.1.4.1.1 Additions shall be separated from any existing structure not conforming to the provisions within Chapter 35 by a fire barrier having not less than a 2-hour fire resistance rating and constructed of materials as required for the addition. (See 4.6.5 and 4.6.7.)

35.1.1.4.1.2 Doors in barriers required by 35.1.1.4.1.1 shall normally be kept closed, unless otherwise permitted by 35.1.1.4.1.3.

35.1.1.4.1.3 Doors shall be permitted to be held open if they meet the requirements of 35.2.2.4.

35.1.1.6 **Conversion.** For the purposes of this chapter, exceptions for conversions shall apply only for a change of occupancy from an existing personal care home occupancy or health care occupancy to an assisted living community occupancy.

35.1.1.4.3 **Changes of Occupancy.** A change from a personal care home, assisted living, or assisted living facility to an assisted living community occupancy shall be considered a change in occupancy or occupancy sub-classification. The requirements of this chapter shall be limited to only apply to a change of occupancy to an assisted living community from an existing personal care home, assisted living, or assisted living facility first occupied as such with a certificate of occupancy issued prior to March 31, 2013. Such facility may be permitted to meet all the requirements for a limited health care occupancy as prescribed in chapter 19 of this *Code* in lieu of this chapter.

35.1.1.4.3.1 An existing personal care home, assisted living, or assisted living facility with a certificate of occupancy dated after March 31, 2013, that is applying for a change of occupancy to an assisted living community or any other change of occupancy classification, sub-classification, shall meet the provisions of Chapter 34 New Assisted Living

Community
Occupancies.

35.1.1.4.4 **Renovations, Alterations, and Modernizations. See 4.6.7.**

35.1.1.4.5 **Construction, Repair, and Improvement Operations. See 4.6.10.**

35.1.2 **Classification of Occupancy. See 120-3-3.03(4), (14), and 35.1.4.2.**

35.1.3 **Multiple Occupancies.**

35.1.3.1 Multiple occupancies shall comply with 6.1.14 in buildings other than those meeting the requirement of 35.1.3.2.

35.1.3.2 * Sections of assisted living community facilities shall be permitted to be classified as other occupancies, provided that they meet both of the following conditions:

(1) They are not intended to serve assisted living community occupants or have customary access by assisted living community residents who are incapable of self-preservation.

(2) They are separated from areas of assisted living community occupancies by construction having a minimum 2-hour fire resistance rating.

35.1.3.3 The requirement of 35.1.3.1 shall not apply to apartment buildings housing assisted living community occupancies in conformance with Section 35.4. In such facilities, any safeguards required by Section 35.4 that are more restrictive than those for other housed occupancies shall apply only to the extent prescribed by Section 35.4.

35.1.3.4 No assisted living community occupancy shall be located above a nonresidential or non-health care occupancy, unless one following conditions is met:

(1) The assisted living community occupancy and exits therefrom are separated from the nonresidential or non-health care occupancy by construction having a minimum 2-hour fire resistance rating.

(2) The assisted living community occupancy is protected throughout by an approved, supervised automatic sprinkler system in accordance with Section 9.7 and is separated therefrom by construction having a minimum 1-hour fire resistance rating.

35.1.3.5 Any area with a hazard of contents classified higher than that of the assisted living community occupancy and located in the same building shall be protected as required in 35.3.2.

35.1.3.6 Non-residential-related occupancies classified as containing high hazard contents shall not be permitted in buildings housing assisted living community occupancies.

35.1.4 **Definitions.**

35.1.4.1 **General. For definitions, see Chapter 3, Definitions.**

35.1.4.2 **Special Definitions.** A list of special terms used in this chapter follows:

(1) Assisted Living Community Occupancy. See 120-3-3-.03(4).

(2) Assisted self-preservation. See 120-3-3-.03(5)

(2) Evacuation Capability, Impractical. See 120-3-3-.03(7).

(3) Evacuation Capability, Prompt. See 120-3-3-.03(8).

(4) Evacuation Capability, Slow. See 120-3-3-.03(9).

(5) Personal Care Home. See 120-3-3-.03(21).

(6) Point of Safety. See 3.3.211 of this *Code*.

(7) Thermal Barrier. See 3.3.31.3 of this *Code*.

35.1.5 **Classification of Hazard of Contents.** The classification of hazard of contents shall be as defined in Section 6.2.

35.1.6 **Minimum Construction Requirements.** Assisted living community facilities shall be limited to the building construction types specified in Table 35.1.6 (see 8.2.1), based on the number of stories in height as defined in 4.6.3.

Table 35.1.6

Table 35.1.6	Number of Stories - *See Note b*						
Construction Type	Sprinkled *See Note a*	1	2	3	4	5-6	>6-12
Type I(442) *c d*	Yes	X	X	X	X	X	X
	No	N.P.	N.P.	N.P.	N.P.	N.P.	N.P.
Type I(332) *c d*	Yes	X	X	X	X	X	X
	No	N.P.	N.P.	N.P.	N.P.	N.P.	N.P.
Type II(222) *c d*	Yes	N.P.	X	X	X	X	X
	No		N.P.	N.P.	N.P.	N.P.	N.P.
Type II(111) *c d*	Yes	X	X	X*e*	X*e*	N.P.	N.P.
	No	N.P.	N.P.	N.P.	N.P.	N.P.	N.P.
Type II(000) *a*	Yes	X	X	N.P.	N.P.	N.P.	N.P.

	No	N.P.	N.P.	N.P.	N.P.	N.P.	N.P.
Type III(211) *a*	Yes No	X N.P.	X N.P.	X*e* N.P.	X*e* N.P.	N.P. N.P.	N.P. N.P.
Type III(200) *a*	Yes No	X N.P.	N.P. N.P.	N.P. N.P.	N.P. N.P.	N.P. N.P.	N.P. N.P.
Type IV(2HH) *a*	Yes No	X N.P.	X N.P.	N.P. N.P.	N.P. N.P.	N.P. N.P.	N.P. N.P.
Type V(111) *See note a or e*	Yes No	X*a* N.P.	X*a* N.P.	X*e* N.P.	X*e* N.P.	N.P. N.P.	N.P. N.P.
Type V(000)*a*	Yes No	X*a* N.P.	N.P. N.P.	N.P. N.P.	N.P. N.P.	N.P. N.P.	N.P. N.P.

X = Permitted if sprinklered as required by 33.3.3.5 unless otherwise noted.

NP = Not permitted.

a Building shall be protected throughout by an approved supervised automatic sprinkler system installed in accordance with 35.3.5, and the interior walls are covered with lath and plaster or materials providing a 15-minute thermal barrier. (See requirements of 35.3.5).

b See requirements of 4.6.3.

c See requirements of 35.1.6.2.1.

d See requirements of 35.1.6.2.2.

e See requirements of 35.1.6.5.

35.1.6.1 *** Fire Resistance-Rated Assemblies.** Fire resistance-rated assemblies shall comply with Section 8.3.

35.1.6.2 **Construction Type Limitations.**

35.1.6.2.1 Any building of Type I(442), Type I(332), Type II(222), or Type II(111) construction shall be permitted to include roofing systems involving combustible supports, decking, or roofing, provided that all of the following criteria are met:

(1) The roof covering shall meet Class A requirements in accordance with ASTM E 108, Standard Test Methods for Fire Tests of Roof Coverings, or ANSI/UL 790, Test Methods for Fire Tests of Roof Coverings.

(2) The roof shall be separated from all occupied portions of the building by a noncombustible floor assembly having not less than a 2-hour fire resistance rating that includes not less than 2 1/2 in. (63 mm) of concrete or gypsum fill.

(3) The structural elements supporting the 2-hour fire resistance-rated floor assembly specified in 35.1.6.2(2) shall be required to have only the fire resistance rating required of the building.

35.1.6.2.2 Any building of Type I(442), Type I(332), Type II(222), or Type II(111) construction shall be permitted to include roofing systems involving combustible supports, decking, or roofing, provided that all of the following criteria are met:

(1) The roof covering shall meet Class A requirements in accordance with ASTM E 108, Standard Test Methods for Fire Tests of Roof Coverings, or ANSI/UL 790, Test Methods for Fire Tests of Roof Coverings.

(2) The roof/ceiling assembly shall be constructed with fire-retardant-treated wood meeting the requirements of NFPA 220, Standard on Types of Building Construction.

(3) The roof/ceiling assembly shall have the required fire resistance rating for the type of construction.

35.1.6.2.3 Any level below the level of exit discharge shall be separated from the level of exit discharge by not less than Type II(111), Type III(211), or Type V(111) construction (see 8.2.1), unless both of the following criteria are met:

(1) Such levels are under the control of the assisted living community facility.

(2) Any hazardous spaces are protected in accordance with Section 8.7.

35.1.6.3 All buildings with more than one level below the level of exit discharge shall have all such lower levels separated from the level of exit discharge by not less than Type II(111) construction.

35.1.6.4 Interior nonbearing walls in buildings of Type I or Type II construction shall be constructed of noncombustible or limited-combustible materials, unless otherwise permitted by 20.1.6.4.

35.1.6.5 Any existing building of Type II(111), Type III(211), or Type V(111) construction shall be permitted however, occupants requiring assistance with evacuation from others shall be limited to occupancy on the first and second stories), unless one of the following criteria is met:

(1) A horizontal exit in combination with a smoke barrier is provided on the third and fourth floor; or,

(2) The building is protected throughout by an approved supervised automatic sprinkler system installed in accordance with 9.7.1.1(1), and provided with quick response or residential sprinklers throughout.

35.1.6.6 Interior nonbearing walls required to have a minimum 2-hour fire resistance rating shall be permitted to be fire-retardant-treated wood enclosed within noncombustible or limited-combustible materials, provided that such walls are not used as shaft enclosures.

35.1.6.7 Fire-retardant-treated wood that serves as supports for the installation of fixtures and equipment shall be permitted to be installed behind noncombustible or limited-combustible sheathing.

35.1.6.8 * Changes in Group Evacuation Capability. A change in evacuation capability to a slower level shall be permitted where the facility conforms to one of the following requirements:

(1) The requirements of Chapter 34 applicable to new assisted living community facilities.

(2) The requirements of Chapter 35 applicable to existing assisted living community facilities for the new evacuation capability, provided that the building is protected throughout by an approved, supervised automatic sprinkler system complying with 35.5 or an increase in staffing to achieve evacuation of all residents to a point of safety within 13 minutes.

35.1.6.9 **Requirements Based on Evacuation Capability.**

35.1.6.9.1 **Prompt and Slow.** Facilities classified as prompt or slow evacuation capability, other than those meeting the requirement of 35.1.6.9.1.1 or 35.1.6.9.1.2, shall comply with the requirements of Section 35, as indicated for the appropriate evacuation capability.

35.1.6.9.1.1 * Facilities where the authority having jurisdiction has determined equivalent safety is provided in accordance with Section 1.4 shall not be required to comply with the requirements of Section 35, as indicated for the appropriate evacuation capability.

35.1.6.9.1.2 Facilities that were previously approved as complying with 35.1.6.9.2 shall not be required to comply with the requirements of Section 35, as indicated

for the appropriate evacuation capability.

35.1.6.9.2 **Impractical.** Facilities classified as impractical evacuation capability shall meet the requirements of Section 35 for impractical evacuation capability, or the requirements for limited care facilities in Chapter 19, unless the authority having jurisdiction has determined equivalent safety is provided in accordance with Section 1.4.

35.1.6.9.3 **Evacuation Capability Determination.**

35.1.6.9.3.1 Facility management shall furnish to the authority having jurisdiction, upon request, an evacuation capability determination using a procedure acceptable to the authority having jurisdiction.

35.1.6.9.3.2 Where the documentation required by 35.1.6.9.3.1 is not furnished, the evacuation capability shall be classified as impractical.

35.1.7 **Occupant Load.** The occupant load, in number of persons for whom means of egress and other provisions are required, shall be determined on the basis of the occupant load factors of Table 7.3.1.2 that are characteristic of the use of the space, or shall be determined as the maximum probable population of the space under consideration, whichever is greater.

35.2 **Means of Egress Requirements.**

35.2.1 **General.**

35.2.1.1 Means of egress from resident rooms and resident dwelling units to the outside of the building shall be in accordance with Chapter 7 and this chapter.

35.2.1.2 Means of escape within the resident room or resident dwelling unit shall comply with Section 24.2 for one- and two-family dwellings.

35.2.1.3 No means of escape or means of egress shall be considered as complying with the minimum criteria for acceptance, unless emergency evacuation drills are regularly conducted using that route in accordance with the requirements of 35.7.3.

35.2.1.4 No assisted living community occupancy shall have its sole means of egress or means of escape pass through any nonresidential or non-health care occupancy in the same building.

35.2.1.5 All means of egress from assisted living community occupancies that traverse non-assisted living community spaces shall conform to the requirements of this *Code* for assisted living community occupancies, unless otherwise permitted by 35.2.1.6.

35.2.1.6 Exit through a horizontal exit into other contiguous occupancies that does not conform to assisted living community egress provisions but do comply with requirements set forth in the appropriate occupancy chapter of this *Code* shall be permitted, provided that the occupancy does not contain high hazard contents.

35.2.1.7 Egress provisions for areas of assisted living community facilities that correspond to other occupancies shall meet the corresponding requirements of this *Code* for such occupancies, and, where the clinical needs of the residents necessitate the locking of means of egress, staff shall be present for the supervised release of occupants during all times of use.

35.2.2 **Means of Egress Components.**

35.2.2.1 **Components Permitted.** Components of means of egress shall be limited to the types described in 35.2.2.2 through 35.2.2.10.

35.2.2.2 **Doors.** Doors in means of egress shall meet all of the following criteria:

(1) Doors complying with 7.2.1 shall be permitted.

(2) Doors within individual rooms and suites of rooms shall be permitted to be swinging or sliding.

(3) No door in any means of egress, other than those meeting the requirement of 35.2.2.2.1 or 35.2.2.2.2, shall be equipped with a lock or latch that requires the use of a tool or key from the egress side.

35.2.2.2.1 Delayed-egress locks in accordance with 7.2.1.6.1 shall be permitted.

35.2.2.2.2 Access-controlled egress doors in accordance with 7.2.1.6.2 shall be permitted.

35.2.2.2.3 Doors that are located in the means of egress from individual resident bedrooms or private living units shall be permitted to have locks where the clinical needs of a resident require specialized protective security measures provided that staff can readily unlock doors at all times in accordance with 35.2.2.2.4.

35.2.2.2.4 Doors that are located in the means of egress and are permitted to be locked under other provisions of 35.2.2.2.3 shall comply with both of the following:

(1) Provisions shall be made for the rapid removal of occupants by means of one of the following:

(a) Remote control of locks from within the locked smoke compartment

(b) Keying of all locks to keys carried by staff at all times

(c) Other such reliable means available to the staff at all times

(2) Only one locking device shall be permitted on each door.

35.2.2.2.5 Doors located in the means of egress that are permitted to be locked under other provisions of Chapter 35, other than those meeting the requirement of 35.2.2.2.1 or 35.2.2.2.2, shall have adequate provisions made for the rapid removal of occupants by means such as remote control of locks, keying of all locks to keys carried by staff at all times, or other such reliable means available to staff at all times.

35.2.2.2.6 Only one such locking device, as described in 35.2.2.2.5, shall be permitted on each door.

35.2.2.3 **Stairs.** Stairs complying with 7.2.2 shall be permitted.

35.2.2.4 **Smokeproof Enclosures.** Smokeproof enclosures complying with 7.2.3 shall be permitted.

35.2.2.5 **Horizontal Exits.** Horizontal exits complying with 7.2.4 shall be permitted.

35.2.2.6 **Ramps.** Ramps complying with 7.2.5 shall be permitted.

35.2.2.7 **Exit Passageways.** Exit passageways complying with 7.2.6 shall be permitted.

35.2.2.8 **Fire Escape Ladders.** Fire escape ladders complying with 7.2.9 shall be permitted.

35.2.2.9 **Alternating Tread Devices.** Alternating tread devices complying with 7.2.11 shall be permitted.

35.2.2.10 **Areas of Refuge.** Areas of refuge complying with 7.2.12 shall be permitted.

35.2.3 **Capacity of Means of Egress.**

35.2.3.1 The capacity of means of egress shall be in accordance with Section 7.3.

35.2.3.2 Street floor exits shall be sufficient for the occupant load of the street floor plus the required capacity of stairs and ramps discharging onto the street floor.

35.2.3.3 The width of corridors serving an occupant load of 50 or more in facilities having prompt or slow evacuation capability, and all facilities having impractical evacuation capability, shall be sufficient for the occupant load served but shall be not less than 60 in. (1525 mm).

35.2.3.4 The width of corridors serving an occupant load of less than 50 in facilities having prompt or slow evacuation capability shall be not less than 44 in. (1120 mm).

35.2.4 **Number of Means of Egress.**

35.2.4.1 Means of egress shall comply with the following, except as otherwise permitted by 35.2.4.2:

(1) The number of means of egress shall be in accordance with 7.4.1.1 and 7.4.1.3 through 7.4.1.5.

(2) Not less than two separate exits shall be provided on every story.

(3) Not less than two separate exits shall be accessible from every part of every story.

35.2.4.2 Exit access, as required by 35.2.4.1(3), shall be permitted to include a single exit access path for the distances permitted as common paths of travel by 35.2.5.2 and 35.2.5.3.

35.2.5 **Arrangement of Means of Egress.**

35.2.5.1 **General.** Access to all required exits shall be in accordance with Section 7.5.

35.2.5.2 **Dead-end Corridors.** Dead-end corridors shall not exceed 35 ft. (15 m).

35.2.5.3 **Common Path.** Common paths of travel shall not exceed 110 ft. (35.5 m).

35.2.5.4 **Reserved.**

35.2.6 **Travel Distance to Exits.**

35.2.6.1 Travel distance from the door within a room, suite, or living unit to a corridor door shall not exceed 75 ft. (23 m) in buildings not protected throughout by an approved automatic sprinkler system in accordance with 35.3.5.

35.2.6.2 Travel distance from any point within a room, suite, or living unit to a corridor door shall not exceed 125 ft. (38 m) in buildings protected throughout by an approved automatic sprinkler system in accordance with 35.3.5.

35.2.6.3 Travel distance from the corridor door of any room to the nearest exit shall be in accordance with 35.2.6.3.1 or 35.2.6.3.2

35.2.6.3.1 Travel distance from the corridor door of any room to the nearest exit, measured in accordance with Section 7.6, shall not exceed 200 ft. (61 m).

35.2.6.3.2 Travel distance to exits shall not exceed 200 ft. (61 m) for exterior ways of exit access arranged in accordance with 7.5.3.

35.2.7 **Discharge from Exits.** Exit discharge shall comply with Section 7.7.

35.2.8 **Illumination of Means of Egress.** Means of egress shall be illuminated in accordance with Section 7.8.

35.2.9 **Emergency Lighting.** Emergency lighting in accordance with Section 7.9 shall be provided.

35.2.10 **Marking of Means of Egress.** Means of egress shall be marked in accordance with Section 7.10

35.2.11 **Special Means of Egress Features.**

35.2.11.1 **Reserved.**

35.2.11.2 **Lockups.** Lockups in residential assisted living community occupancies shall comply with the requirements of 23.4.5.

35.3 **Protection.**

35.3.1 **Protection of Vertical Openings.**

35.3.1.1 Vertical openings shall be enclosed or protected in accordance with Section 8.6.

35.3.1.2 Unenclosed vertical openings in accordance with 8.6.9.1 shall be permitted.

35.3.1.3 No floor below the level of exit discharge and used only for storage, heating equipment, or purposes other than residential occupancy shall have unprotected openings to floors used for residential occupancy.

35.3.2 **Protection from Hazards.**

35.3.2.1 Rooms containing high-pressure boilers, refrigerating machinery, transformers, or other service equipment subject to possible explosion shall not be located directly under or adjacent to exits, and such rooms shall be effectively separated from other parts of the building as specified in Section 8.7.

35.3.2.2 Hazardous areas, which shall include, but shall not be limited to, the following, shall be separated from other parts of the building by construction having a minimum 1-hour fire resistance rating, with communicating openings protected by approved self-closing fire doors and be equipped with automatic fire-extinguishing systems:

(1) Boiler and heater rooms

(2) Laundries

(3) Repair shops

(4) Rooms or spaces used for storage of combustible supplies and equipment in quantities deemed hazardous by the authority having jurisdiction

Exception to (1): Rooms enclosing air handling equipment, compressor equipment, furnaces or other heating equipment with a total aggregate input rating less than 200,000 BTU input. Such rooms shall not be used for any combustible storage. A minimum of 30 inches (0.76 m) unobstructed access shall be provided and maintained to equipment and electrical or

emergency control panels or devices for emergency response purposes.

35.3.3 **Interior Finish.**

35.3.3.1 **General.** Interior finish shall be in accordance with Section 10.2.

35.3.3.2 Interior Wall and Ceiling Finish. Interior wall and ceiling finish materials complying with Section 10.2 shall be in accordance with the following:

(1) Exit enclosures - Class A

(2) Lobbies and corridors - Class B

(3) Rooms and enclosed spaces - Class B

35.3.3.3 **Interior Floor Finish.**

35.3.3.3.1 Interior floor finish shall comply with Section 10.2.

35.3.3.3.2 Interior floor finish in exit enclosures and exit access corridors and spaces not separated from them by walls complying with 35.3.6 shall be not less than Class II.

35.3.3.3.3 Interior floor finish shall comply with 10.2.7.1 or 10.2.7.2, as applicable.

35.3.4 **Detection, Alarm, and Communications Systems.**

35.3.4.1 **General.** A fire alarm system shall be provided in accordance with Section 9.6.

34.3.4.2 **Initiation.** The required fire alarm system shall be initiated by each of the following:

(1) Manual means in accordance with 9.6.2.

(2) Manual fire alarm box located at a convenient central control point under continuous supervision of responsible employees.

(3) Required automatic sprinkler system.

(4) Required smoke and heat detection systems, other than sleeping room smoke alarms.

35.3.4.3 **Annunciator Panel.** An annunciator panel, connected to the fire alarm system, shall be provided at a location readily accessible from the primary point of entry for emergency response personnel.

35.3.4.4 **Notification**

35.3.4.4.1 **Occupant Notification.** Occupant notification shall be provided automatically, without delay, by internal audible alarm in accordance with 9.6.3.

35.3.4.4.2 **High-Rise Buildings.** High-rise buildings shall be provided with an approved emergency voice communication/alarm system in accordance with 11.8.4.

35.3.4.5 *** Emergency Forces Notification.**

35.3.4.5.1 Fire department notification shall be accomplished in accordance with 9.6.4.

35.3.4.5.2 Where the existing fire alarm system does not provide for automatic emergency forces notification in accordance with 9.6.4, provisions shall be made for the immediate notification of the public fire department by either telephone or other means, or, where there is no public fire department, notification shall be made to the private fire brigade.

35.3.4.5.3 Where a new fire alarm system is installed, or the existing fire alarm system is replaced, emergency forces notification shall be provided in accordance with 9.6.4.

35.3.4.6 **Detection.**

35.3.4.6.1 **Smoke Alarms.** Smoke alarms shall be provided in accordance with 35.3.4.6.1.1, 35.3.4.6.1.2, or 35.3.4.6.1.3.

35.3.4.6.1.1 Each sleeping room shall be provided with an approved smoke alarm in accordance with 9.6.2.10 that is powered from the building electrical system.

35.3.4.6.1.2 Existing battery-powered smoke alarms, rather than building electrical service-powered smoke alarms, shall be accepted where, in the opinion of the authority having jurisdiction, the facility has demonstrated that testing, maintenance, and battery replacement programs ensure the reliability of power to the smoke alarms.

35.3.4.6.1.3 The provisions of 9.6.8.10.1 and

9.6.8.10.2.2 shall also apply.

35.3.4.7 **Smoke Detection Systems.**

35.3.4.7.1 All living areas, as defined in 3.3.22.5, and all corridors shall be provided with smoke detectors that comply with NFPA 72, *National Fire Alarm and Signaling Code*, and are arranged to initiate an alarm that is audible in all sleeping areas, as modified by 35.3.4.7.2.

35.3.4.7.2 Smoke detection systems shall not be required in unenclosed corridors, passageways, balconies, colonnades, or other arrangements with one or more sides along the long dimension fully or extensively open to the exterior at all times.

35.3.5 **Extinguishment Requirements.**

35.3.5.1 * General. Where an automatic sprinkler system is installed, for either total or partial building coverage, the system shall be installed in accordance with Section 9.7, as modified by 35.3.5.1.1.

35.3.5.1.1 In buildings four or fewer stories above grade plane, systems in accordance with NFPA 13R, *Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height*, shall be permitted.

35.3.5.1.1.1 The exemptions found in NFPA 13R for the sprinkling all closets and bathrooms regardless of size or

construction shall not be applicable to assisted living community occupancies under this chapter.

35.3.5.2 **Impractical Evacuation Capability.** All facilities having impractical evacuation capability shall be protected throughout by an approved, supervised automatic sprinkler system in accordance with 9.7.1.1(1) (full NFPA 13 System) or increase staffing to achieve evacuation of all residents to a point of safety within 13 minutes.

35.3.5.3 **High-Rise Buildings.** All high-rise buildings shall be protected throughout by an approved, supervised automatic sprinkler system in accordance with 35.3.5. Such systems shall initiate the fire alarm system in accordance with Section 9.6.

35.3.5.4 Attics shall be protected in accordance with 35.3.5.4.1 or 35.3.5.4.2

35.3.5.4.1 Where an automatic sprinkler system is installed, attics or areas within attics used for living purposes, storage, or fuel-fired equipment shall be protected with automatic sprinklers that are part of the required, approved automatic sprinkler system in accordance with 9.7.1.1.

35.3.5.4.2 Where an automatic sprinkler system is installed, attics not used for living purposes, storage, or fuel-fired equipment shall meet one of the following criteria:

(1) Attics shall be protected throughout by a heat detection

system arranged to activate the building fire alarm system in accordance with Section 9.6.

(2) Attics shall be protected with automatic sprinklers that are part of the required, approved automatic sprinkler system in accordance with 9.7.1.1.

35.3.5.5 **Supervision**. Automatic sprinkler systems shall be supervised in accordance with Section 9.7.

35.3.5.6 **Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in accordance with 9.9.

35.3.6 **Corridors and Separation of Sleeping Rooms.**

35.3.6.1 Access shall be provided from every resident use area to not less than one means of egress that is separated from all other rooms or spaces by walls complying with 35.3.6.1.1, 35.3.6.1.3 or 35.3.6.1.4.

35.3.6.1.1 Sleeping rooms shall be separated from corridors, living areas, kitchens and all other areas by walls having a minimum 1/2-hour fire resistance rating.

35.3.6.1.2 Prompt evacuation capability facilities in buildings two or fewer stories in height, where not less than one required means of egress from each sleeping room provides a path of travel to the outside without traversing any corridor or other spaces exposed to unprotected vertical openings, living areas, and kitchens, shall not be required to comply with 35.3.6.1.1.

35.3.6.1.3 Rooms or spaces, other than sleeping rooms and hazardous areas, shall be

separated from corridors by smoke partitions in accordance with Section 8.4, and the provisions of 8.4.3.5 shall not apply.

35.3.6.2 Except for Hazardous areas, in buildings protected throughout by an approved automatic sprinkler system in accordance with 9.7.1.1(1), walls may be smoke partitions in accordance with Section 8.4, and the provisions of 8.4.3.5 shall not apply.

35.3.6.3 Hazardous areas shall be separated from corridors in accordance with 35.3.2.

35.3.6.4 Doors in walls required by 35.3.6.1 or 35.3.6.2 shall comply with 35.3.6.4.1 or 35.3.6.4.2.

35.3.6.4.1 Doors shall have a minimum 20-minute fire protection rating.

35.3.6.4.2 Solid-bonded wood-core doors of not less than 1 3/4 in. (44 mm) thickness shall be permitted to continue in use.

35.3.6.5 Doors in walls required by 35.3.6.1 and 35.3.6.2 shall comply with 35.3.6.5.1 and 35.3.6.6.

35.3.6.5.1 Door-closing devices shall not be required on doors in corridor wall openings, other than those serving exit enclosures, smoke barriers, enclosures of vertical openings, and hazardous areas.

35.3.6.6 No louvers, transfer grilles, operable transoms, or other air passages, other than properly installed heating and utility installations, shall penetrate the walls or doors specified in 34.3.6.

35.3.7 **Subdivision of Building Spaces.** The requirements of 35.3.7.1 through 35.3.7.6 shall be met for all sleeping floors, unless otherwise permitted by 35.3.7.7.

35.3.7.1 Every sleeping room floor shall be divided into not less than two smoke compartments of approximately the same size, with smoke barriers in accordance with Section 8.5, unless otherwise indicated in 35.3.7.4, 35.3.7.5, and 35.3.7.6

35.3.7.1.1 Smoke barriers shall not be required in buildings having prompt or slow evacuation capability where each sleeping room is provided with exterior ways of exit access arranged in accordance with 7.5.3.

35.3.7.2 Each smoke compartment shall have an area not exceeding 22,500 ft2 (2100 m2).

35.3.7.3 The travel distance from any point to reach a door in the required smoke barrier shall be limited to a distance of 200 ft. (61 m).

35.3.7.3.1 Additional smoke barriers shall be provided such that the travel distance from a sleeping room corridor door to a smoke barrier shall not exceed 150 ft. (46 m).

35.3.7.4 Smoke barriers shall not be required on stories that do not contain an assisted living community occupancy located above the assisted living community occupancy.

35.3.7.5 Smoke barriers shall not be required in areas that do not contain an assisted living community occupancy and that are separated from the assisted living community occupancy by a fire barrier complying with Section 8.3.

35.3.7.6 Smoke barriers shall not be required on stories that do not contain an assisted living community occupancy and that are more than one story below the assisted living community occupancy.

35.3.7.7 Smoke barriers shall not be required in open parking structures protected throughout by an approved, supervised automatic sprinkler system in accordance with 9.7.1.1(1).

35.3.7.8 Smoke barriers shall be constructed in accordance with Section 8.5 and shall have a minimum 1-hour fire resistance rating, unless they meet the requirement of 35.3.7.9 or 35.3.7.10.

35.3.7.9 Where an atrium is used, smoke barriers shall be permitted to terminate at an atrium wall constructed in accordance with 8.6.7(1)(c), in which case not less than two separate smoke compartments shall be provided on each floor.

35.3.7.10 Dampers shall not be required in duct penetrations of smoke barriers in fully ducted heating, ventilating, and air-conditioning systems.

35.3.7.11 Not less than 15 net ft2 (1.4 net m2) per resident shall be provided within the aggregate area of corridors, lounge or dining areas, and other low hazard areas on each side of the smoke barrier.

35.3.7.12 On stories not housing residents, not less than 6 net ft2 (0.56 net m2) per occupant shall be provided on each side of the smoke barrier for the total number of occupants in adjoining compartments.

35.3.7.13 Doors in smoke barriers shall be substantial doors, such as 1 3/4 in. (44 mm) thick, solid- bonded wood-core doors, or shall be of construction that resists fire for a minimum of 20 minutes.

35.3.7.14 Nonrated factory- or field-applied protective plates extending not more than 48 in. (1220 mm) above the bottom of the door shall be permitted.

35.3.7.15 Cross-corridor openings in smoke barriers shall be protected by a pair of swinging doors or a horizontal-sliding door complying with 7.2.1.14.

35.3.7.16 Swinging doors shall be arranged so that each door swings in a direction opposite from the other.

35.3.7.17 Doors in smoke barriers shall comply with 8.5.4 and shall be self-closing or automatic-closing in accordance with 7.2.1.8.

35.3.7.18 Vision panels consisting of fire-rated glazing or wired glass panels in approved frames shall be provided in each cross-corridor swinging door and in each cross-corridor horizontal-sliding door in a smoke barrier.

35.3.7.19 Rabbets, bevels, or astragals shall be required at the meeting edges, and stops shall be required at the head and sides of door frames in smoke barriers.

35.3.7.20 Positive latching hardware shall not be required.

35.3.7.21 Center mullions shall be prohibited.

35.3.8 *** Cooking Facilities.** Cooking facilities, other than those within individual residential units, shall be protected in accordance with 9.2.3.

35.3.9 **Standpipes.**

35.3.9.1 **General.** Where required, standpipe and hose systems shall be installed and maintained in accordance with 9.10.

35.3.9.2 **In High-Rise Buildings.** Class I standpipe systems shall be installed throughout all high-rise buildings.

35.3.9.3 **Roof Outlets.** Roof outlets shall not be required on roofs having a slope of 3 in 12 or greater.

35.4 **Special Provisions.**

35.4.1 **High-Rise Buildings.** High-rise buildings shall comply with Section 11.8.

35.5 **Reserved.**

35.6 **Building Services.**

35.6.1 **Heating, Ventilating, and Air-Conditioning.**

35.6.1.1 Heating, ventilating, and air-conditioning equipment shall comply with Section 9.2.

35.6.1.2 No stove or combustion heater shall be located such that it blocks escape in case of fire caused by the malfunction of the stove or heater.

35.6.1.3 Unvented fuel-fired heaters shall not be used in any assisted living community occupancy.

35.6.3 Elevators, Dumbwaiters, and Vertical Conveyors. Elevators, dumbwaiters, and vertical conveyors shall comply with Section 9.4.

35.6.3.2 * In high-rise buildings, one elevator shall be provided with a protected power supply and shall be available for use by the fire department in case of emergency.

35.6.4 **Rubbish Chutes, Incinerators, and Laundry Chutes.** Rubbish chutes, incinerators, and laundry chutes shall comply with Section 9.5.

35.7 **Operating Features.**

35.7.1 Emergency Planning and Preparedness. Assisted living community facilities shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, resident training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner. The provisions of this Section 35.7 shall be incorporated into the plans, training and safety practices developed by the facility.

35.7.2 **Emergency Plan.**

35.7.2.1 The administration of every residential assisted living community facility shall have, in effect and available to all supervisory personnel, written copies of a plan for protecting all persons in the event of fire, for

keeping persons in place, for evacuating persons to areas of refuge, and for evacuating persons from the building when necessary.

35.7.2.2 The emergency plan shall include special staff response, including the fire protection procedures needed to ensure the safety of any resident, and shall be amended or revised whenever any resident with unusual needs is admitted to the home.

35.7.2.3 All employees shall be periodically instructed and kept informed with respect to their duties and responsibilities under the plan, and such instruction shall be reviewed by the staff not less than every 2 months.

35.7.2.4 A copy of the plan shall be readily available at all times within the facility.

35.7.3 **Resident Training.**

35.7.3.1 All residents participating in the emergency plan shall be trained in the proper actions to be taken in the event of fire.

35.7.3.2 The training required by 35.7.3.1 shall include actions to be taken if the primary escape route is blocked.

35.7.3.3 If the resident is given rehabilitation or habilitation training, training in fire prevention and the actions to be taken in the event of a fire shall be a part of the training program.

35.7.3.4 Residents shall be trained to assist each other in case of fire to the extent that their physical and mental abilities permit them to do so without additional personal risk.

35.7.4 **Emergency Egress and Relocation Drills.** Emergency egress and relocation drills shall be conducted in accordance with 35.7.4.1 through 35.7.4.6.

35.7.4.1 Emergency egress and relocation drills shall be conducted not less than once per quarter on each shift at alternating times. It is intended that staff and residents be trained and drilled based on fire and other emergencies that may occur during the periods of lowest staffing levels. This may require more than one drill per quarter on shifts with the lowest staffing levels."

35.7.4.2 The emergency drills shall be permitted to be announced to the residents in advance.

35.7.4.3 The drills shall involve the training of residents for the eventual actual evacuation of all residents to an assembly point, as specified in the emergency plan, and shall provide residents with experience in egressing through all exits and means of escape required by this *Code*.

35.7.4.3.1. The assembly point shall be a place outside of the building and shall be located a safe distance from the building being evacuated so as to avoid interference with fire department operations. A refuge area within a smoke compartment in buildings separated by smoke barriers shall be considered a temporary assembly point as part of a staged evacuation.

35.7.4.3.2. Buildings with smoke compartments shall be allowed to train residents to temporarily escape in a staged evacuation to another smoke compartment separated by smoke barriers. Residents shall be allowed to complete the training exercise on the other side of an adjacent smoke barrier. Residents shall still be trained to eventually complete building evacuation during an actual emergency evacuation. Residents shall be required

to participate in one emergency egress and relocation drill per year where they continue to an assembly point outside of the building.

35.7.4.3.3. Residents, as a group, shall be required to complete the evacuation drill to an exit or across a smoke barrier in less than 13 minutes or shall be required to change its group evacuation capability and comply with Section 35.1.8.

35.7.4.4 Exits and means of escape not used in any drill shall not be credited in meeting the requirements of this *Code* for assisted living community facilities.

35.7.4.5 Actual exiting from windows shall not be required to comply with 35.7.3; opening the window and signaling for help shall be an acceptable alternative.

35.7.4.6 If the assisted living community facility has an evacuation capability classification of impractical, those residents who cannot meaningfully assist in their own evacuation or who have special health problems shall not be required to actively participate in the drill.

35.7.5 **Smoking.**

35.7.5.1 * Smoking regulations shall be adopted by the administration of assisted living community occupancies.

35.7.5.2 Where smoking is permitted, noncombustible safety-type ashtrays or receptacles shall be provided in convenient locations.

35.7.6 *** Furnishings, Mattresses, and Decorations.**

35.7.6.1 New draperies, curtains, and other similar loosely hanging furnishings and decorations shall comply with 35.7.6.1.1 and 35.7.6.1.2.

35.7.6.1.1 New draperies, curtains, and other similar loosely hanging furnishings and decorations in assisted living community facilities shall be in accordance with the provisions of 10.3.1, unless otherwise permitted by 35.7.6.1.2.

35.7.6.1.2 In other than common areas, new draperies, curtains, and other similar loosely hanging furnishings and decorations shall not be required to comply with 35.7.6.1.1 where the building is protected throughout by an approved automatic sprinkler system installed in accordance with 35.3.6.

35.7.6.2 * New upholstered furniture within assisted living community facilities shall comply with 35.7.6.2.1 or 35.7.6.2.2.

35.7.6.2.1 New upholstered furniture shall be tested in accordance with the provisions of 10.3.2.1(1) and 10.3.3.

35.7.6.2.2 Upholstered furniture belonging to residents in sleeping rooms shall not be required to be tested, provided that a smoke alarm is installed in such rooms; battery-powered single-station smoke alarms shall be permitted in such rooms.

35.7.6.3 * Newly introduced mattresses within assisted living community facilities shall comply with 35.7.6.3.1 or 35.7.6.3.2.

35.7.6.3.1 Newly introduced mattresses shall be tested in accordance with the provisions of 10.3.2.2 and 10.3.4.

35.7.6.3.2 Mattresses belonging to residents in sleeping rooms shall not be required to

be tested, provided that a smoke alarm is installed in such rooms; battery-powered single-station smoke alarms shall be permitted in such rooms.

35.7.7 **Staff.** Staff shall be on duty and in the facility at all times when residents requiring evacuation assistance are present.

35.7.8 **Inspection of Door Openings.** Door assemblies for which the door leaf is required to swing in the direction of egress travel shall be inspected and tested not less than annually in accordance with 7.2.1.15."

(ff) **Modification to Chapter 36:**

1. Add a new subparagraph 36.3.2.1.3 to read as follows:

36.3.2.1.3 " Rooms enclosing air handling equipment, compressor equipment, furnaces or other heating equipment with a total aggregate input rating less than 200,000 BTU input shall not be subject to the provisions of 36.3.2.1. Such rooms shall not be used for any combustible storage. A minimum of 30 inches (0.76 m) unobstructed access shall be provided and maintained to equipment and electrical or emergency control panels or devices for emergency response purposes."

2. Add a new subparagraph 36.3.5.1.1. to read as follows:

36.3.5.1.1 " Individual tenant spaces located in covered mall buildings shall be provided with electrically supervised control valves. Such control valves shall be located off supply mains to control each individual tenant space.

36.3.5.1.1.1 Multiple tenant spaces shall be permitted to be controlled by one control valve provided the total area covered by the single valve does not exceed 7,500 square feet (696.8 sq. m)."

3. Delete subparagraph 36.4.5.6 in its entirety and substitute in its place the following:

36.4.5.6 "**Emergency Planning and Preparedness.** Bulk merchandising and mercantile occupancies (Group M) shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff

training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

4. Delete subsections 36.7.1, 36.7.2, 36.7.3, and 36.7.4 in their entirety and substitute in their place the following:

36.7.1 "**Emergency Planning and Preparedness.** Mercantile occupancies (Group M) shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner.

36.7.2 **Food Service Operations.** Food service operations shall comply with 12.7.2

36.7.3 **Upholstered Furniture and Mattresses.** The provisions of 10.3.2 of this *Code* and Section 805 of the *International Fire Code* shall not apply to upholstered furniture and mattresses in mercantile occupancies.

36.7.4 **Soiled Linen and Trash Receptacles.** The requirements of 10.3.9 of this *Code* for containers for rubbish, waste, or linen with a capacity of 20 gal (75.7 L) or more shall not apply."

(gg) Modification to Chapter 37:

1. Add a new subparagraph 37.3.2.1.3 to read as follows:

37.3.2.1.3 " The provisions of 37.3.2.1 shall not apply to rooms enclosing air handling equipment, compressor equipment, furnaces or other heating equipment with a total aggregate input rating less than 200,000 BTU input. Such rooms shall not be used for any combustible storage. A minimum of 30 inches (0.76 m) unobstructed access shall be provided and maintained to equipment and electrical or emergency control panels or devices for emergency response purposes."

2. Delete subsections 37.7.1, 37.7.2, 37.7.3, and 37.7.4 in their entirety and substitute in their place the following:

37.7.1 "**Emergency Planning and Preparedness.** Mercantile occupancies (Group M) shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency

condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner.

37.7.2 **Food Service Operations.** Food service operations shall comply with 12.7.2

37.7.3 **Upholstered Furniture and Mattresses.** The provisions of 10.3.2 of this *Code* and Section 805 of the *International Fire Code* shall not apply to upholstered furniture and mattresses in mercantile occupancies.

37.7.4 **Soiled Linen and Trash Receptacles.** The requirements of 10.3.8 of this *Code* for containers for rubbish, waste, or linen with a capacity of 20 gal (75.7 L) or more shall not apply."

(hh) **Modification to Chapter 38:**

1. Delete subparagraph 3 8.2.2.2.6 in its entirety and substitute in its place the following:

   38.2.2.2.6 " Delayed egress locks complying with 7.2.1.6.1 shall be permitted, provided, however, not more than one such device shall be permitted in the means of egress path involved."

2. Delete subparagraph 38.2.2.2.7 in its entirety and substitute in its place the following:

   38.2.2.2.7 " Access-controlled egress doors complying with 7.2.1.6.2 shall be permitted. For elevator lobby exit access doors see 38.2.2.2.3 and 7.2.1.6.3 (14)."

3. Add a new subparagraph 38.3.2.1.1 to read as follows:

   38.3.2.1.1 " The provisions of 38.3.2.1 shall not apply to rooms enclosing air handling equipment, compressor equipment, furnaces or other heating equipment with a total aggregate input rating less than 200,000 BTU input. Such rooms shall not be used for any combustible storage. A minimum of 30 inches (0.76 m) unobstructed access shall be provided and maintained to equipment and electrical or emergency control panels or devices for emergency response purposes."

4. Delete subsections 38.7.1, 38.7.2, 38.7.3, and 38.7.4 in their entirety and substitute in their place the following:

   38.7.1 "**Emergency Planning and Preparedness.** Business occupancies (Group B) shall develop policies, procedures, plans, staff training, and safety

practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner.

38.7.2 **Food Service Operations.** Food service operations shall comply with 12.7.2

38.7.3 **Upholstered Furniture and Mattresses.** The provisions of 10.3.2 of this *Code* and Section 805 of the *International Fire Code* shall not apply to upholstered furniture and mattresses in mercantile occupancies.

38.7.4 **Soiled Linen and Trash Receptacles.** The requirements of 10.3.8 of this *Code* for containers for rubbish, waste, or linen with a capacity of 20 gal (75.7 L) or more shall not apply."

(ii) **Modification to Chapter 39:**

1. Add a new subparagraph 39.3.2.1.1 to read as follows:

39.3.2.1.1 " The provisions of 39.3.2.1 shall not apply to rooms enclosing air handling equipment, compressor equipment, furnaces or other heating equipment with a total aggregate input rating less than 200,000 BTU input. Such rooms shall not be used for any combustible storage. A minimum of 30 inches (0.76 m) unobstructed access shall be provided and maintained to equipment and electrical or emergency control panels or devices for emergency response purposes."

2. Delete subsections 39.7.1, 39.7.2, 39.7.3, and 39.7.4 in their entirety and substitute in their place the following:

39.7.1 "**Emergency Planning and Preparedness.** Business occupancies (Group B) shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner.

39.7.2 **Food Service Operations.** Food service operations shall comply with 12.7.2

39.7.3 **Upholstered Furniture and Mattresses.** The provisions of 10.3.2 of this *Code* and Section 805 of the *International Fire Code* shall not apply to upholstered furniture and mattresses in mercantile occupancies.

39.7.4 **Soiled Linen and Trash Receptacles.** The requirements of 10.3.8 of this *Code* for containers for rubbish, waste, or linen with a capacity of 20 gal (75.7 L) or more shall not apply."

(jj) **Modification to Chapter 40:**

1. Delete subsection 40.3.5 in its entirety and insert in its place the following: "40.3.5 Extinguishment Requirements.

   40.3.5.1 **Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in all industrial occupancies classified as Group F and/or Group H occupancies as in the *International Fire Code*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner, on each floor in accordance with 9.9 of this *Code*.

   40.3.5.2 **Automatic fire suppression systems.** Automatic fire suppression systems shall be installed in industrial occupancies as required by the *International Building Code*, adopted by the Georgia Department of Community Affairs, with regard to construction type, area and height requirements, and other features as set forth in Table 1.4.4, **CODES REFERENCE GUIDE.** In addition, automatic fire suppression systems, and/or specialized automatic fire suppression systems, as required by the fire code authority having jurisdiction in accordance with the *International Fire Code* or other codes and standards adopted by the Georgia Safety Fire Commissioner, shall be installed and maintained in accordance with the provisions of the applicable codes and standards."

2. Delete subsections 40.7.1 in its entirety and substitute in its place the following:

   40.7.1 **Upholstered Furniture and Mattresses.** The provisions of 10.3.2 of this *Code* and Section 805 of the *International Fire Code* shall not apply to upholstered furniture and mattresses in industrial occupancies.

3. Add new section 40.8 to read as follows: "40.8 Emergency Planning and Preparedness.

   40.8.1 **Emergency Planning and Preparedness.** Industrial occupancies otherwise classified under Group F and/or Group H in the *International Fire Code*, shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be

developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner.

40.8.2 **Employee Training and Response Procedures.** Employees in the occupancies listed in Section 404.2 of the *International Fire Code* as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner, shall be trained in the fire emergency procedures described in their fire evacuation and life safety plans. Training shall be based on these plans and as described in Section 404.3 of the noted *International Fire Code*."

(kk) **Modification to Chapter 42:**

1. Delete subsection 42.3.5 in its entirety and substitute in its place the following: "42.3.5 Extinguishment Requirements.

   42.3.5.1 **Portable Fire Extinguishers.** Portable fire extinguishers shall be provided in all storage occupancies in accordance with 9.9.

   42.3.5.2 **Automatic fire suppression systems.** Automatic fire suppression systems shall be installed in storage occupancies as required by the *International Building Code*, adopted by the Georgia Department of Community Affairs, with regard to construction type, area and height requirements, and other features as set forth in **Table 1.4.4, CODES REFERENCE GUIDE**. In addition, automatic fire suppression systems, and/or specialized automatic fire suppression systems, as required by the fire code authority having jurisdiction in accordance with the *International Fire Code* or other codes and standards adopted by the Georgia Safety Fire Commissioner, shall be installed and maintained in accordance with the provisions of the applicable codes and standards."

2. Delete subsections 42.9.1 in its entirety and substitute in its place the following:

   42.9.1 "**Upholstered Furniture and Mattresses.** The provisions of 10.3.2 of this *Code* and Section 805 of the *International Fire Code* shall not apply to upholstered furniture and mattresses in storage occupancies.

3. Add a new section 42.10 to read as follows: "42.10 Emergency Planning and Preparedness.

   42.10.1 **Emergency Planning and Preparedness.** Storage occupancies (Group S) and High Hazard occupancies (Group H) shall develop policies, procedures, plans, staff training, and safety practices for the protection of

life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

(ll) **Modifications to Chapter 43:**

1. Add a new subparagraph 43.1.4.5.1 to read as follows:

   43.1.4.5.1 " The provisions of 43.1.4.5 shall specifically apply to compliance with the *International Fire Code (IFC)* and other codes and standards promulgated and adopted with modifications by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner. Accessibility issues shall be addressed in accordance with Chapter 120-3-20 of the Rules and Regulations of the Safety Fire Commissioner. Where any of the provisions of this *Code* chapter require compliance with a building code, it shall be construed that compliance is required as applicable with the *International Building Code* (*IBC*), as adopted by the Georgia Board of Community Affairs. Also, refer to 120-3-3-.01, 120-3-3-.02, 120-3-3-.03, and 120-3-3-.04(1) of Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner.

2. Add a new paragraph 43.7.2.6 to read as follows:

   43.7.2.6 " The provisions of 43.7.2.4 and 43.7.2.5 shall be permitted to be modified by the authority having jurisdiction provided the intents and purposes of 102.3, 102.4, and 102.6 of the *International Fire Code (IFC)*, as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner are met."

3. Delete subsections 43.10.1 and 43.10.2 in their entirety and substitute in their place the following:

   43.10.1 "**General Requirements.** Table 43.7.3 Hazard Categories and Classifications in 43.7.3 of this *Code* may be utilized as may be deemed appropriate by the authority having jurisdiction in the evaluation of historic buildings.

   43.10.2 **Application.** The provisions of Chapter 43 shall be deemed as advisory and may be applied to buildings designated as historic to the degree deemed appropriate by the authority having jurisdiction, provided, however, the application of Chapter 43 and 43.10 provisions shall be coordinated as needed to ensure compliance with the requirements, intents, and purposes

of 103.3, 102.4, and 102.6 of the *International Fire Code (IFC)* as adopted with modifications by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner are met."

(mm) **Modifications to Annex A:**

Add a new (4) to A.3.3.196.7 to read as follows:

(4) " Assisted Living Communities"

Delete (5) from A.3.3.196.12 in its entirety and substitute in its place the following:

(5) " Community Living Arrangements with five or more residents"

3. Delete (1) from A.3.3.196.13 in its entirety and substitute in its place the following:

(1) " One- and two-family dwellings and Community Living Arrangements with fewer than five residents (Chapter 24)"

3. Add a new (4) to A.6.1.5.1 to read as follows:

(4) " Assisted Living Communities"

5. Delete (5) from A.6.1.9.1 in its entirety and substitute in its place the following:"

(5) Community Living Arrangements with five or more residents"

(73) **NFPA 101A, 2013 Edition, *Guide on Alternative Approaches to Life Safety***

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new Section 1.4 to read as follows:

1.4 " This document is recognized strictly as a guide that may be used in evaluating systems or methods to determine equivalent compliance alternatives for buildings, structures and facilities which do not conform to the minimum requirements of the LSC adopted by this Chapter. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone

enforceable code or standard, however, it may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards including the *IFC* adopted by this Chapter."

(74) **NFPA 102, 2016 Edition, *Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures***

Modifications:

1. The 2016 edition of NFPA 102 is **NOT** adopted. The basic provisions of this standard have been incorporated into the 2018 Edition of NFPA 101, *Life Safety Code* as adopted by this Chapter 120-3-3. The provisions of the adopted *Life Safety Code* shall apply, as appropriate, to new and existing bleachers, grandstands, folding and telescopic seating. The *Life Safety Code* in coordination with the applicable provisions of the adopted edition of the *International Fire Code* shall apply to tents and membrane structures.

2. The following apply to facilities constructed prior to the effective date of the current Chapter of 120-3-3 Rules and regulations of the Safety Fire Commissioner.

   (a) Facilities constructed after April 1, 1968 but before January 1, 1991, shall be permitted to comply with the 1978 edition of NFPA 102, Standard for Grandstands, Folding, and Telescopic Seating, Tents, and Membrane Structures.

   (b) Facilities constructed after January 1, 1991, but before January 28, 1993, shall be permitted to comply with the 1986 edition of NFPA 102, Standard for Grandstands, Folding, and Telescopic Seating, Tents, and Membrane Structures.

   (c) Facilities constructed after January 28, 1993, but before March 09, 2010, shall be permitted to comply with the 1992 edition of NFPA 102, Standard for Grandstands, Folding, and Telescopic Seating, Tents, and Membrane Structures.

   (d) Facilities constructed after March 09, 2010, but before January 1, 2014, shall be permitted to comply with the 2006 edition of NFPA 102, which had been previously adopted."

(75) **NFPA 105, 2019 Edition, Smoke Door Assemblies and Other Opening Protectives**

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new subsection 1.6 to read as follows:

1.6 " This document is recognized strictly as a recommended practice that may be used in evaluating the use of door assemblies in openings where the passage of smoke is to be governed. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone enforceable code or standard, however, it may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards."

(76) **NFPA 110*, 2019 Edition, Standard for Emergency and Standby Power Systems***

Modifications: None

(77) **NFPA 111, 2019 Edition*, Standard on Stored Electrical Energy Emergency and Standby Power Systems***

Modifications: None

(78) **NFPA 115, 2020 Edition*, Recommended Practice on Laser Fire Protection***

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new subsection 1.1.3 to read as follows:

1.1.3 " This document is recognized strictly as a recommended practice that may be used in evaluating the minimum fire protection criteria for the design, manufacture, installation, and use of lasers and associated equipment. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone enforceable code or standard, however, it may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards."

(79) **NFPA 120, 2015 Edition*, Standard for Coal Preparation Plants***

Modifications:

(a) Refer to Chapter 120-3-24, Rules and Regulations of the Safety Fire Commissioner for the application of this Standard and the adopted edition and any modifications.

(80) **NFPA 122, 2015 Edition,** ***Standard for Fire Prevention and Control in Metal / Nonmetal Mining and Metal Mineral Processing facilities***

Modifications: None

(81) **NFPA 130, 2017 Edition,** ***Standard for Fixed Guideway Transit and Passenger Rail Systems***

Modifications: None

(82) **NFPA 140, 2018 Edition,** ***Standard for Motion Picture and Television Production Studio Soundstages and Approved Facilities***

Modifications: None

(83) **NFPA 150, 2019 Edition, Standard on Fire and Life Safety in Animal Housing Facilities**

Modifications: None

(84) **NFPA 160, 2016 Edition,** ***Standard for Flame Effects Before an Audience***

Modifications: None

(85) **NFPA 170, 2018 Edition,** ***Standard for Fire Safety Symbols***

Modifications: None

(86) **NFPA 204, 2018 Edition,** ***Standard for Smoke and Heat Venting***

Modifications: None

(87) **NFPA 211, 2019 Edition,** ***Standard for Chimneys, Fireplaces, Vents, and Solid Fuel Burning Appliances***

Modifications: None

(88) **NFPA 214, 2016 Edition,** ***Standard on Water-Cooling Towers***

Modifications: None

(89) **NFPA 220, 2018 Edition,** ***Standard on Types of Building Construction***

Modifications: None

(90) **NFPA 221, 2018 Edition,** ***Standard for Fire Walls and Fire Barrier Walls***

Modifications: None

(91) **NFPA 232, 2017 Edition,** ***Standard for the Protection of Records***

Modifications: None

(92) **NFPA 241, 2019 Edition,** ***Standard for Safeguarding Construction, Alteration, and Demolition Operations***

Modifications: None

(93) **NFPA 252, 2017 Edition,** ***Standard Methods of Fire Tests of Door Assemblies***

Modifications: None

(94) **NFPA 253, 2019 Edition,** ***Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source***

Modifications: None

(95) **NFPA 257, 2017 Edition,** ***Standard on Fire Test for Window and Glass Block Assemblies***

Modifications: None

(96) **NFPA 259, 2018 Edition,** ***Standard Test Method for Potential Heat of Building Materials***

Modifications: None

(97) **NFPA 260, 2019 Edition,** ***Standard Methods of Tests and Classification System for Cigarette Ignition Resistance of Components of Upholstered Furniture***

Modifications: None

(98) **NFPA 261, 2018 Edition,** ***Standard Method of Test for Determining Resistance of Mock-Up Upholstered Furniture Material Assemblies to Ignition by Smoldering Cigarettes***

Modifications: None

(99) **NFPA 262, 2019 Edition,** ***Standard Method of Test for Flame Travel and Smoke of Wires and Cables for Use in Air-Handling Spaces***

Modifications: None

(100) **NFPA 265, 2019 Edition,** ***Standard Methods of Fire Tests for Evaluating Room Fire Growth Contribution of Textile Coverings on Full Height Panels and Walls***

Modifications: None

(101) **NFPA 268, 2017 Edition,** ***Standard Test Method for Determining Ignitability of Exterior Wall Assemblies Using a Radiant Heat Energy Source***

Modifications: None

(102) **NFPA 269, 2017 Edition,** ***Standard Test Method for Developing Toxic Potency Data for Use in Fire Hazard Modeling***

Modifications: None

(103) **NFPA 270, 2018 Edition,** ***Standard Method of Test for Measurement of Smoke Obstruction Using a Conical Radiant Source in a Single Closed Chamber***

Modifications: None

(104) **NFPA 274, 2018 Edition,** ***Standard Test Method to Evaluate Fire Performance Characteristics of Pipe Insulation***

Modifications: None

(105) **NFPA 275, 2017 Edition,** ***Standard Test Method of Fire Tests for the Evaluation of Thermal Barriers Used Over Foam Plastic Insulation***

Modifications: None

(106) **NFPA 276, 2019 Edition,** ***Standard Method of Fire Test for Determining the Heat Release Rate of Roofing Assemblies with Combustible Above-Deck Roofing Components***

Modifications: None

(107) **NFPA 285, 2019 Edition,** ***Standard Method of Test for the Evaluation of Flammability Characteristics of Exterior Non-Load-Bearing Wall Assemblies***

Containing Combustible Components Using the Intermediate-Scale, Multistory Test Apparatus

Modifications: None

(108) **NFPA 286, 2019 Edition,** ***Standard Method of Fire Tests for Evaluating Contribution of Wall and Ceiling Interior Finish to Room Fire Growth***

Modifications: None

(109) **NFPA 287, 2017 Edition,** ***Standard Methods for Measurement of Flammability of Materials in Cleanrooms Using a Fire Propagation Apparatus (FPA)***

Modifications: None

(110) **NFPA 288, 2017 Edition,** ***Standard Methods of Fire Tests of Floor Fire Door Assemblies Installed Horizontally in Fire Resistance-Rated Floor Systems***

Modifications: None

(111) **NFPA 289, 2019 Edition,** ***Standard Method of Fire Test for Individual Fuel Packages***

Modifications: None

(112) **NFPA 291, 2018 Edition,** ***Recommended Practice for Fire Flow Testing and Marking of Hydrants***

Modifications:

1. Add a new subsection 1.1.1 to read as follows:

   1.1.1 " This document is recognized strictly as a recommended practice that may be used in evaluating the design of facilities for the emergency venting of products of combustion. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone enforceable code or standard, however, it may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards."

(113) **NFPA 302, 2015 Edition,** ***Fire Protection Standard for Pleasure and Commercial Motor Craft***

Modifications: None

(114) **NFPA 303, 2016 Edition,** ***Fire Protection Standard for Marinas and Boatyards***

Modifications: None

(115) **NFPA 306, 2019 Edition,** ***Standard for the Control of Gas Hazards on Vessels***

Modifications: None

(116) **NFPA 307, 2016 Edition,** ***Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves***

Modifications: None

(117) **NFPA 312, 2016 Edition,** ***Standard for Fire Protection of Vessels During Construction, Repair, and Lay-Up***

Modifications: None

(118) **NFPA 318, 2018 Edition,** ***Standard for the Protection of Semiconductor Fabrication Facilities***

Modifications: None

(119) **NFPA 326, 2020 Edition,** ***Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning or Repair***

Modifications:

(a) Refer to Chapter 120-3-11, Rules of the Safety Fire Commissioner, for the adopted edition and any modifications.

(120) **NFPA 329, 2020 Edition,** ***Recommended Practice for Handling Releases of Flammable and Combustible Liquids and Gases***

Modifications:

(a) Refer to Chapter 120-3-11, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(121) **NFPA 385, 2017 Edition,** ***Standard for Tank Vehicles for Flammable and Combustible Liquids***

Modifications:

(a) Refer to Chapter 120-3-11, Rules and Regulations of the Safety Fire Commissioner, for the adopted edition and any modifications.

(122) **NFPA 400, 2019 Edition, *Hazardous Materials Code***

Modifications: None

(123) **NFPA 407, 2017 Edition, *Standard for Aircraft Fuel Servicing***

Modifications:

(a) Refer to Chapter 120-3-11, Rules and Regulations of the Safety Fire Commissioner, for the adopted edition and any modifications.

(124) **NFPA 408, 2017 Edition, *Standard for Aircraft Hand Portable Fire Extinguishers***

Modifications: None

(125) **NFPA 409, 2016 Edition, *Standard on Aircraft Hangars***

Modifications: None

(126) **NFPA 410, 2020 Edition, *Standard on Aircraft Maintenance***

Modifications: None

(127) **NFPA 415, 2016 Edition, *Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways***

Modifications: None

(128) **NFPA 418, 2016 Edition, *Standard for Heliports***

Modifications: None

(129) **NFPA 423, 2016 Edition, *Standard for Construction and Protection of Aircraft Engine Test Facilities***

Modifications: None

(130) **NFPA 424, 2018 Edition, *Guide for Airport / Community Emergency Planning***

Modifications:

1. Add a new subsection 1.1.1 to read as follows:

   1.1.1 " This document is recognized strictly as a guide to provide information for the elements of an airport/community emergency plan. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone enforceable code or standard, however, it may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards."

(131) **NFPA 484, 2019 Edition, *Standard for Combustible Metals***

Modifications:

(1) Refer to Chapter 120-3-24, Rules and Regulations of the Safety Fire Commissioner for the application of this standard and the adopted edition and any modifications.

(132) **NFPA 495, 2018 Edition, *Explosive Materials Code***

Modifications:

(1) Refer to Chapter 120-3-24, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(133) **NFPA 496, 2017 Edition, *Standard for Purged and Pressurized Enclosures for Electrical Equipment***

Modifications:

(1) Refer to Chapter 120-3-10, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(134) **NFPA 497, 2017 Edition, *Recommended Practice for the Classification of Flammable Liquids, Gases, or Vapors and of Hazardous (Classified) Locations for Electrical Installations in Chemical Process Areas***

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new paragraph 1.1.6 to read as follows:

1.1.6 " This document is recognized strictly as a recommended practice for locations where flammable gases or vapors, flammable liquids, or combustible liquids are processed or handled and where their release into the atmosphere may result in their ignition by electrical systems or equipment. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone enforceable code or standard, however, it may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards."

(135) **NFPA 498, 2018 Edition,** ***Standard for Safe Havens and Interchange Lots for Vehicles Transporting Explosives***

Modifications:

(a) Refer to Chapter 120-3-10, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(136) **NFPA 501A, 2017 Edition,** ***Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities***

Modifications: None

(137) **NFPA 502, 2017 Edition,** ***Standard for Road Tunnels, Bridges, and Other Limited Access Highways***

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new subsection 1.1.5 to read as follows:

1.1.5 " This document is recognized strictly as a recommended practice for the evaluation of the design, construction, operation, maintenance, and fire protection of limited access highways, tunnels, bridges, elevated roadways, depressed roadways and air-right structures. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone enforceable code or standard, however, it may be used in

conjunction with and in the support of applicable provisions of other adopted codes or standards."

(138) **NFPA 505, 2018 Edition,** ***Fire Safety Standard for Powered Industrial Trucks Including Type Designations, Areas of Use, Conversions, Maintenance, and Operations***

Modifications: None

(139) **NFPA 520, 2016 Edition,** ***Standard on Subterranean Spaces***

Modifications: None

(140) **NFPA 551, 2019 Edition,** ***Standard on Evaluation of Fire Risk Assessments***

Modifications: None

(141) **NFPA 555, 2017 Edition,** ***Guide on Methods for Evaluating Potential for Room Flashover***

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new paragraph 1.1.3 to read as follows:

1.1.3 " This document is recognized strictly a guide for evaluating the potential for room flashover from fire involving the contents, furnishings, and the interior finish of a room. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone enforceable code or standard, however, it may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards."

(142) **NFPA 557, 2020 Edition,** ***Standard for Determination of Fire Loads for Use in Structural Fire Protection Design***

Modifications: None

(143) **NFPA 600, 2015 Edition,** ***Standard on Industrial Fire Brigades***

Modifications:

(a) **Modifications to Chapter 1:**

1. Delete subsection 1.1.3 in its entirety and substitute in its place the following:

1.1.3 " This document is recognized as a recommended practice for the establishment of the minimum requirements for organizing, operating, training and equipping industrial fire brigades. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone enforceable code or standard, however, it may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards."

(144) **NFPA 652, 2019 Edition, *Standard on Fundamentals of Combustible Dust***

Modifications:

(a) Refer to Chapter 120-3-24, Rules and Regulations of the Safety Fire Commissioner for the application of this Standard and the adopted edition and any modifications.

(145) **NFPA 654, 2017 Edition, *Standard for the Prevention of Fire and Dust Explosions from Manufacturing, Processing, and Handling of Combustible Particulate Solids***

Modifications:

(a) Refer to Chapter 120-3-24, Rules and Regulations of the Safety Fire Commissioner for the application of this Standard and the adopted edition and any modifications.

(146) **NFPA 655, 2017 Edition, *Standard for Prevention of Sulfur Fires and Explosions***

Modifications:

(a) Refer to Chapter 120-3-24, Rules and Regulations of the Safety Fire Commissioner for the application of this Standard and the adopted edition and any modifications.

(147) **NFPA 664, 2017 Edition,** ***Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities***

Modifications:

(a) Refer to Chapter 120-3-24, Rules and Regulations of the Safety Fire Commissioner for the application of this Standard and the adopted edition and any modifications if Standard industry code is specified in paragraph 1(b) of rule 120-3-24-.02. All other applications shall be as specified in the 2007 edition of this standard without modification.

(148) **NFPA 701, 2019 Edition,** ***Standard Methods of Fire Tests for Flame Propagation of Textiles and Films***

Modifications: None

(149) **NFPA 703, 2018 Edition,** ***Standard for Fire-Retardant-Treated Impregnated Wood and Fire-Retardant Coatings for Building Materials***

Modifications: None

(150) **NFPA 704, 2017 Edition,** ***Standard System for the Identification of the Hazards of Materials for Emergency Response***

Modifications: None

(151) **NFPA 705, 2018 Edition,** ***Recommended Practice for a Field Flame Test for Textiles and Films***

Modifications: None

(152) **NFPA 720, 2015 Edition,** ***Standard for the Installation of Carbon Monoxide (CO) Detection and Warning Equipment***

Modifications: None

(153) **NFPA 750, 2019 Edition,** ***Standard on Water Mist Fire Protection Systems***

Modifications: None

(154) **NFPA 780, 2020 Edition,** ***Standard for the Installation of Lighting Protection Systems***

Modifications: None

(155) **NFPA 790, 2018 Edition,** ***Standard for Competency of Third Party Field Evaluation Bodies***

Modifications: None

(156) **NFPA 791, 2018 Edition,** ***Recommended Practice and Procedures for Unlabeled Electrical Equipment Evaluation***

Modifications: None

(157) **NFPA 801, 2014 Edition,** ***Standard for Fire Protection for Facilities Handling Radioactive Materials***

Modifications: None

(158) **NFPA 804, 2015 Edition,** ***Standard for Fire Protection for Advanced Light Water Reactor Electric Generating Plants***

Modifications: None

(159) **NFPA 805, 2015 Edition,** ***Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants***

Modifications: None

(160) **NFPA 806, 2015 Edition,** ***Performance-Based Standard for Fire Protection for Advanced Nuclear Reactor Electric Generating Plants Change Process***

Modifications: None

(161) **NFPA 820, 2020 Edition,** ***Standard for Fire Protection in Wastewater Treatment and Collection Facilities***

Modifications: None

(162) **NFPA 850, 2015 Edition,** ***Recommended Practice for Fire Protection for Electric Generating Plants and High Voltage Direct Current Converter Stations***

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new subsection 1.1.1 to read as follows:

1.1.1 " This document is recognized strictly a recommended practice for fire prevention and fire protection for electric generating

plants and high voltage direct current converter stations except as specified in 1.1. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone enforceable code or standard, however, it may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards."

(163) **NFPA 851, 2010 Edition,** ***Recommended Practice for Fire Protection for Hydroelectric Generating Plants***

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new subsection 1.1.1 to read as follows:

1.1.1 " This document is recognized strictly a recommended practice for fire prevention and fire protection for hydroelectric generating plants. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone enforceable code or standard, however, it may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards."

(164) **NFPA 909, 2017 Edition,** ***Code for the Protection of Cultural Resource Properties - Museums, Libraries, and Places of Worship***

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new subsection 1.1.5 to read as follows:

1.1.5 " This document is recognized strictly as a recommended practice for fire prevention and fire protection for various cultural resources. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is in the form of a stand-alone enforceable code or standard, however, it is not adopted as a minimum state code or standard. It may be used in conjunction

with and in the support of applicable provisions of other adopted codes or standards, or it may be adopted and enforced by a local jurisdiction under local ordinance."

(b) **Modification to Chapter 3:**

1. Delete the definition 3.3.25 for Fire Hazard and substitute in its place the following:

3.3.25 " "Fire Hazard"means for the intents and purposes of this *Code*, an activity, circumstance, condition, situation, combination of materials, material process, use or improper use of heat sources, or that on the basis of applicable documentation, data, or information sources deemed reliable by the authority having jurisdiction, can cause an unwanted fire, a fire out of control, an explosion, or a related condition, such as panic from a fear of smoke, fire, or explosion, that the authority having jurisdiction determines to be a risk to persons, to property, or to the health, safety, and or welfare of the jurisdiction."

(165) **NFPA 914, 2019 Edition, *Code for Fire Protection of Historic Structures***

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new subsection 1.1.3 to read as follows:

1.1.3 " This document is recognized strictly as a recommended practice for fire prevention and fire protection of historic structures. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is in the form of a stand-alone enforceable code or standard, however, it is not adopted as a minimum state code or standard. It may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards, or it may be adopted and enforced by a local jurisdiction under local ordinance."

(b) **Modifications to Chapter 3:**

1. Delete the definition 3.3.30 for Fire Hazard and substitute in its place the following:

   3.3.30 " "Fire Hazard"means for the intents and purposes of this *Code*, an activity, circumstance, condition, situation, combination of materials, material process, use or improper use of heat sources, or that on the basis of applicable documentation, data, or information sources deemed reliable by the authority having jurisdiction, can cause an unwanted fire, a fire out of control, an explosion, or a related condition, such as panic from a fear of smoke, fire, or explosion, that the authority having jurisdiction determines to be a risk to persons, to property, or to the health, safety, and or welfare of the jurisdiction."

(166) **NFPA 1122, 2018 Edition, *Code for Model Rocketry***

Modifications:

(a) Refer to Chapter 120-3-22, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(167) **NFPA 1123, 2018 Edition, *Code for Fireworks Display***

Modifications:

(a) Refer to Chapter 120-3-22, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(168) **NFPA 1124, 2017 Edition, *Code for the Manufacture, Transportation, Storage and Retail Sales of Fireworks and Pyrotechnic Articles***

Modifications:

(a) Refer to Chapter 120-3-22, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(169) **NFPA 1125, 2017 Edition, *Code for the Manufacture of Model Rocket and High Power Rocket Motors***

Modifications:

(a) Refer to Chapter 120-3-22, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(170) **NFPA 1126, 2016 Edition,** ***Standard for the Use of Pyrotechnics before a Proximate Audience***

Modifications:

(a) Refer to Chapter 120-3-22, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(171) **NFPA 1127, 2018 Edition,** ***Code for High-Power Rocketry***

Modifications:

(a) Refer to Chapter 120-3-22, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

(172) **NFPA 1142, 2017 Edition,** ***Standard on Water Supplies for Suburban and Rural Fire Fighting***

Modifications: None

(173) **NFPA 1221, 2019 Edition,** ***Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems***

Modifications: None

(174) **NFPA 1961, 2013 Edition,** ***Standard on Fire Hose***

Modifications: None

(175) **NFPA 1962, 2018 Edition,** ***Standard for the Inspection, Care, and Use of Fire Hose, Couplings, and Nozzles and the Service Testing of Fire Hose***

Modifications: None

(176) **NFPA 1963, 2019 Edition,** ***Standard for Fire Hose Connections***

Modifications: None

(177) **NFPA 2001, 2018 Edition,** ***Standard on Clean Agent Fire Extinguishing Systems***

Modifications:

(a) **Modification to Chapter 8:**

1. Delete subsection 8.1.2 in its entirety and substitute in its place the following:

   8.1.2 " All persons who could be expected to inspect, test, or maintain, fire extinguishing systems shall be licensed and/or permitted in accordance with Chapter 12 of Title 25 of the Official Code of Georgia Annotated and thoroughly trained and kept thoroughly trained in the functions they are expected to perform."

2. Delete subsection 8.4 in its entirety and substitute in its place the following:

   8.4 " At least annually, all systems shall be thoroughly inspected and tested for proper operation by personnel qualified in the installation and testing of clean agent extinguishing systems and licensed and/or permitted in accordance with Chapter 12 of Title 25 of the Official Code of Georgia Annotated. Discharge tests shall not be required."

(178) **NFPA 2010, 2015 Edition, *Fixed Aerosol Fire Extinguishing Systems***

Modifications: None

(179) ***International Wildland-Urban Interface Code (IWUIC)*, 2012 Edition**

Modifications:

(a) **Modifications to Chapter 1:**

1. Delete section 101.1 in its entirety and substitute in its place the following:

   101.1 "**Title.** The *International Fire Code*, 2012 edition, published by the *International Code Council*, shall be known as a *Georgia State Wildland-Urban Interface Code*, hereafter referred to as "this *Code*"."

2. Delete section 101.2 in its entirety and substitute in its place the following:

101.2 "**Scope.** The provisions of this *Code* shall apply to the construction, alteration, movement, repair, maintenance and use of any building, structure or premises within the wildland-urban interface areas designated by local jurisdictions by ordinance."(Note: See sample Ordinance on page xi of this *Code* for application and designated fire area.)

Buildings or conditions in existence at the time of the adoption of this *Code* are allowed to have their use or occupancy continued, if such condition, use or occupancy was legal at the time of the adoption of this *Code*, provided such continued use does not constitute a distinct danger to life or property.

Buildings or structures moved into or within the jurisdiction shall comply with the provisions of this *Code* for new buildings or structures.

101.2.1 **Appendices.** Provisions in the appendices shall not apply unless specifically adopted by local ordinance."

Cite as Ga. Comp. R. & Regs. R. 120-3-3-.04
Authority: O.C.G.A. §§ 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Notes"adopted. F. Feb. 8, 1979; eff. Mar. 1, 1979, as specified by the Agency.
Repealed: New Rule entitled "Request for Modification of Specific Requirements"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Amended: F. July 7, 1983; eff. Aug. 1, 1983, as specified by the Agency.
Repealed: New Rule entitled "Fire Safety Information to Be furnished in Hotels, Motels, Apartments and Dormitories"adopted. F. Sept. 30, 1987; eff. Nov. 1, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Amended: F. Jan. 8, 1993; eff. Jan. 28, 1993.
Amended: F. July 9, 1998; eff. July 29, 1998.
Amended: F. Dec. 21, 1999; eff. Jan. 10, 2000.
Amended: ER. 120-3-3-0.1-.04 entitled "State Minimum Fire Safety Standards With Modifications"adopted. F. and eff. May 14, 2003, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Aug. 21, 2003; eff. Sept. 10, 2003.
Repealed: New Rule of same title adopted. F. Jan. 12, 2007; eff. Feb. 1, 2007.
Repealed: New Rule of same title adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.
Repealed: New Rule of same title adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.
Amended: F. Dec. 12, 2014; eff. Jan. 1, 2015.
Amended: F. Dec. 28, 2017; eff. Jan. 1, 2018, as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-3-.05. Obstruction of and Access to Fire Hydrants.

(1) It shall be unlawful for any person in any manner to obstruct the use of any fire hydrant or place any material or objects as to obstruct its view from the roadway or other approach.

(2) Hydrant locks shall not be permitted on hydrant valves unless approved in writing by the Fire Chief of the responding fire department.

(3) Fire hydrants shall be accessible to fire service personnel at all times. No person shall place or maintain any post, fence, vehicle, vegetation, growth, trash, or storage of any other materials that would obstruct the view of or access to a fire hydrant and hinder or prevent its immediate use by fire service personnel.

(4) A minimum clearance of 36 inches to and around the requirements shall be maintained for the safe and efficient operation of the fire hydrant. The front of the hydrant shall be open to the roadway or approach and the minimum clearance in the rear of the hydrant from discharge nozzle to discharge nozzle shall be no less than three feet. The minimum clearance of three feet out from the hydrant shall be maintained out to the roadway or approach.

(5) Any roadway in front of the hydrant shall be kept clear of vehicles for fifteen feet in either direction in accordance with § 40-6-203 of the Official Code of Georgia Annotated.

(6) No person shall change the paint color of a fire hydrant from that established or set by the authority having jurisdiction.

(7) Existing non-movable obstructions such as a pre-existing buildings power poles or other non-movable obstructions located within three feet of the hydrant may remain if in existence prior to the implantation of this regulation. Such obstruction approval shall be documented and records kept on file by local authorities.

Cite as Ga. Comp. R. & Regs. R. 120-3-3-.05
Authority: O.C.G.A. §§ 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Notes"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule entitled "Fire Safety Information to Be Furnished in Hotels, Motels and Dormitories"adopted. F. Apr. 1, 1981; eff. Aug. 1, 1981, as specified by the Agency.
Amended: Rule retitled "Fire Safety Information to Be Furnished in Hotels, Motels, Apartments and Dormitories". F. July 7, 1983; eff. Aug. 1, 1983, as specified by the Agency.
Repealed: New Rule entitled "Application"adopted. F. Sept. 30, 1987; eff. Nov. 1, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Amended: F. July 9, 1998; eff. July 29, 1998.
Amended: F. Dec. 21, 1999; eff. Jan. 10, 2000.
Repealed: New Rule entitled "Request for Modification of Specific Requirements"adopted. F. Aug. 21, 2003; eff. Sept. 10, 2003.
Repealed: New Rule of same title adopted. F. Jan. 12, 2007; eff. Feb. 1, 2007.
Repealed: New Rule of same title adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.
Repealed: New Rule entitled "Obstruction of and Access to Fire Hydrants"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-3-.06. Request for Modification of Specific Requirements.

Upon receipt of a sworn affidavit stating all relevant facts and circumstances and such other information as may be required, the State Fire Marshal may recommend to the Georgia Safety Fire Commissioner that specific requirements of this Chapter and the codes and standards adopted herein be modified to allow alternative arrangements that will secure as nearly equivalent measures as practical for the prevention of injury to persons and property. The Georgia Safety Fire Commissioner in his discretion may accept the State Fire Marshal's recommendation and grant the requested modification.

Cite as Ga. Comp. R. & Regs. R. 120-3-3-.06
Authority: O.C.G.A. §§ 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Notes"adopted. F. Apr. 1, 1981; eff. Aug. 1, 1981, as specified by the Agency.
Amended: F. July 7, 1983; eff. Aug. 1, 1983, as specified by the Agency.
Repealed: New Rule entitled "Day Care Centers and Group Day Care Homes"adopted. F. Apr. 23, 1986; eff. May 15, 1986, as specified by the Agency.
Repealed: New Rule entitled "Severability"adopted. F. Sept. 30, 1987; eff. Nov. 1, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Amended: F. July 9, 1998; eff. July 29, 1998.
Amended: F. Dec. 21, 1999; eff. Jan. 10, 2000.
Repealed: New Rule entitled "Fire Safety Information to Be Furnished in Hotels, Motels, Dormitories, Apartments and Personal Care Homes"adopted. F. Aug. 21, 2003; eff. Sept. 10, 2003.
Repealed: New Rule of same title adopted. F. Jan. 12, 2007; eff. Feb. 1, 2007.
Repealed: New Rule of same title adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.
Repealed: New Rule entitled "Request for Modification of Specific Requirements"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-3-.07. Fire Safety Information to be Furnished in Hotels, Motels, Dormitories, Apartments, Community Living Arrangements and Personal Care Homes.

(1) This Rule shall apply to every new and existing hotel, motel and dormitory that comes within O.C.G.A. Section 25-2-13(b); and every apartment building three or more stories in height that comes within O.C.G.A. Section 25-2-13(b); and every personal care home licensed for seven or more persons. Provided, however, that nothing herein shall apply to condominiums or any individually owned residential unit within any of the aforesaid buildings.

(a) Every sleeping room located in any such hotel, motel, dormitory, apartment or personal care home shall contain the following fire safety information on a placard or decal language meeting the requirements of paragraph (2) herein, which shall be prominently affixed on the inside of every exit access door contained in any of the aforesaid rooms. When affixed, said placard or decal shall be unobstructed by curtains, shades or other materials.

Exception: Single story hotels and motels where each guestroom has a door opening directly outside at street or ground level.

"SAFETY TIPS"

1. Never smoke in bed.
2. Locate fire exits on this floor. (Note: Do NOT consider elevators as exits.)
3. Count the number of doors to the nearest exit, and check for any possible obstructions.
4. (When applicable: Locate fire alarm pull stations on this floor.)
5. (When applicable: Locate fire extinguishers on this floor.)
6. Check any windows to see if they can be opened; if so determine how they open.
7. Keep your room key on a table next to your bed.
8. If you leave your room, keep door closed and take your key.
9. Write down the number for the local fire department and keep it next to the phone.

THE LOCAL FIRE DEPARTMENT NUMBER IS _____.

"IN CASE OF FIRE"DON'T PANIC; remain calm.

1. Report fire to front desk or fire department as appropriate.
2. If room is smoky, get on hands and knees (or stomach) and crawl to door.
3. Feel door knob; If **HOT**, do **NOT** open door; if cool, open slowly.
4. If hallway is smoky, stay next to wall and count the doors as you crawl to exit.
5. Do **NOT** use any elevators.
6. Do **NOT** prop open doors to exit staircase.
7. Hang on to handrail and **WALK DOWN** exit staircase.

9. (When applicable: Pull fire alarm as you evacuate.)

"IF YOU CANNOT LEAVE THIS ROOM"

1. Notify (or Call) front desk (or manager, fire department, or other appropriate person) and let them know where you are.
2. Wet sheets, towels or clothing and stuff them in all cracks around doors and vents.
3. (When applicable: Turn on bathroom fan.)
4. Check to see if there is smoke **OUTSIDE** window; if **NO** smoke and if any window can be opened, hang a sheet or light colored material outside.
5. (When applicable: Fill bathtub (or sink) with cold water for firefighting.)
6. Using ice bucket or other container, keep doors and walls wet.
7. If room is smoky, fold a wet towel in a triangle and tie over your nose and mouth; stay low.
8. Make yourself visible to rescue personnel through any window or balcony; **DO NOT JUMP!**
9. Keep fighting fire until help arrives; **DON'T GIVE UP!**

FOR YOUR SAFETY, THIS BUILDING HAS THE FOLLOWING:

(List all of the following and any additional items as applicable.)

1. Automatic sprinkler protection in every room.
2. Automatic sprinkler protection in every hallway.
3. Automatic smoke detectors in every room.
4. Automatic smoke detectors in every hallway.
5. Fire extinguishers on every floor.
6. Fire alarm pull stations at every exit.
7. Posted evacuation plans in every room.

8. Pressurized staircase with self-closing doors. (NOTE: In case of fire, do **NOT** prop doors open.)

9. Fire safety staircase with self-closing doors. (NOTE: In case of fire, do **NOT** prop doors open.)

10. Emergency lighting and exit lights.

11. Fire resistant drapery and bedding.

12. An alternative fire exit to the roof. (**NOTE**: To be used **ONLY** if heavy smoke is encountered when walking **DOWN** the exit staircase.)

(b) Every owner or manager of any such apartment building shall furnish to all tenants therein the fire safety information specified in subparagraph (a) herein on a placard or decal meeting requirements of paragraph

(2) herein, and shall request each tenant to affix the placard or decal in a prominent location so as to be visible to the tenant and to any visitors.

(2) The information specified in subparagraph (a) of main paragraph (1) herein shall be contained on a placard or decal at least 8-1/2 inches by 14 inches (215.9 mm by 355.6 mm) in size. The text shall be legibly printed in a minimum of twelve-point bold type. The headings contained therein shall be legibly printed in a minimum of 48-point type and the wording shall be in the English language.

Exception No. 1: Fire safety information placards or decals are not required on resident sleeping room doors in personal care homes and apartments provided there are records, signed by the individual residents of the facility, which indicates that they have received the same information as required above in the facilities operations, policy or similar manual. Fire safety information shall be reviewed during Fire Drills performed in accordance with the appropriate occupancy chapter of NFPA 101, Life Safety Code, as adopted by this Chapter.

Exception No. 2: Existing fire safety information placards or decals at least 8-1/2 inches by 14 inches (215. mm by 355.6 mm) in size with legibly printed text in a minimum of twelve-point leaded, one- point type and whose headings are legibly printed in a minimum of 48-point type in the English language.

Example of 48-point type:

"SAFETY TIPS"

Example of 12-point type: Emergency lighting and exit lights.

(3) The information specified in subparagraph (a) of paragraph (1) herein is intended to be a minimum list of fire safety tips and emergency procedures. The owner or manager of the building may modify the text of the information specified in subparagraph (a) of paragraph (1) herein as follows:

(a) To correspond with the structural features of any such building, or any room located therein;

(b) To facilitate the communication of such information upon consideration of the age or primary language of the guests, residents or students occupying any such building; and

(c) To add other appropriate information to the extent deemed necessary by local fire safety personnel.

(4) A placard or decal shall be affixed above the call button for every elevator located in any such hotel, motel, dormitory or apartment building which shall state in bold and conspicuous type: "IN THE EVENT OF FIRE, DO NOT USE THIS ELEVATOR."In conjunction with such placard or decal, an evacuation route shall be posted with arrows indicating the direction of the nearest fire exit.

Cite as Ga. Comp. R. & Regs. R. 120-3-3-.07
Authority: O.C.G.A. §§ 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Notes"adopted. F. Apr. 23, 1986; eff. May 15, 1986, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Sept. 30, 1987; eff. Nov. 1, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Amended: F. Jan. 8, 1993; eff. Jan. 28, 1993.
Amended: F. July 9, 1998; eff. July 29, 1998.
Amended: F. Dec. 21, 1999; eff. Jan. 10, 2000.
Repealed: New Rule entitled "Accessibility to and Use of Public Facilities by Persons with Disabilities"adopted. F. Aug. 21, 2003; eff. Sept. 10, 2003.
Repealed: New Rule of same title adopted. F. Jan. 12, 2007; eff. Feb. 1, 2007.
Repealed: New Rule of same title adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.
Repealed: New Rule entitled "Fire Safety Information to be Furnished in Hotels, Motels, Dormitories, Apartments, Community Living Arrangements and Personal Care Homes"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-3-.08. Accessibility to and Use of Public Facilities by Persons with Disabilities.

The requirements for accessibility to and use of public facilities shall be as provided in O.C.G.A. Title 30, Chapter 3, and Chapter 120-3-20, Rules and Regulations of the Safety Fire Commissioner.

Note: Chapter 120-3-20, the "Georgia Accessibility Code"may be available for download in Adobe Acrobat format from www.gainsurance.org or by purchase from the Georgia State Fire Marshal's Office.

Cite as Ga. Comp. R. & Regs. R. 120-3-3-.08
Authority: O.C.G.A. §§ 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Reference to O.C.G.A. Title 30"adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Amended: F. July 9, 1998; eff. July 29, 1998.
Amended: F. Dec. 21, 1999; eff. Jan. 10, 2000.
Repealed: New Rule entitled "Parking Space Designation for Persons with Disabilities"adopted. F. Aug. 21, 2003; eff. Sept. 10, 2003.
Repealed: New Rule of same title adopted. F. Jan. 12, 2007; eff. Feb. 1, 2007.
Repealed: New Rule of same title adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.
Repealed: New Rule entitled "Accessibility to and Use of Public Facilities by Persons with Disabilities"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-3-.09. Parking Space Designation for Persons with Disabilities.

The requirements for identifying parking spaces for persons with disabilities shall be as specified in O.C.G.A. Title 40, Chapter 6, Article 10, Part 2.

Cite as Ga. Comp. R. & Regs. R. 120-3-3-.09
Authority: O.C.G.A. §§ 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Reference to O.C.G.A. Title 40"adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Amended: F. July 9, 1998; eff. July 29, 1998.
Amended: F. Dec. 21, 1999; eff. Jan. 10, 2000.
Repealed: New Rule entitled "Notes"adopted. F. Aug. 21, 2003; eff. Sept. 10, 2003.
Repealed: New Rule of same title adopted. F. Jan. 12, 2007; eff. Feb. 1, 2007.
Repealed: New Rule of same title adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.
Repealed: New Rule entitled "Parking Space Designation for Persons with Disabilities"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-3-.10. Notes.

(1) The National Fire Protection Association Standards adopted in this Chapter are on file in the Office of the State Fire Marshal and are available for viewing.

(2) Copies of the National Fire Protection Association Standards may be obtained from:

National Fire Protection Association

1 Batterymarch Park

Quincy, MA 02269-9101

Phone: 800-344-3555 Main 617-770-3000 www.nfpacatolog.org

(3) Copies of the *International Code Council* Codes are on file in the Office of the State Fire Marshal and are available for viewing. Copies may be obtained from:

International Code Council

1-888-ICC-SAFE (422-7233) or

www.isafe.org

(4) The editions of the codes and standards adopted under this Chapter 120-3-3 may not be the most currently available editions published by the National Fire Protection Association or the *International Code Council*. For the intents and purposes of O.C.G.A. 25-2-4 and the Rules and Regulations of the Safety Fire Commissioner, it is not compliant, practical nor in the best interest of the citizens of Georgia to attempt to promulgate the most current editions of nationally recognized codes or standards when published without the required evaluation and public review. Based on various provisions of O.C.G.A. 25-2 and Article 1 of O.C.G.A 25-3, local governing bodies of this State are authorized to enact ordinances, regulations, or codes that may be required in order for the jurisdiction to satisfy intents and purposes that are not required of the Commissioner under O.C.G.A. 25-4. Any local ordinances, regulations, or codes enacted by a local governing body shall not be less restrictive or protective than the "state minimum fire safety standards"promulgated in conformance with O.C.G.A. 25-2-4 and other provisions of 25-2.

Cite as Ga. Comp. R. & Regs. R. 120-3-3-.10
Authority: O.C.G.A. §§ 25-2-4, 25-2-12, 25-2-12.1, 25-2-13, 25-3-4, 25-3-6, 8-9-20(9)(D).
History. Original Rule entitled "Severability"adopted. F. Aug. 21, 2003; eff. Sept. 10, 2003.
Repealed: New Rule of same title adopted. F. Jan. 12, 2007; eff. Feb. 1, 2007.
Repealed: New Rule of same title adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.
Repealed: New Rule entitled "Notes"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-3-.11. Severability.

If any rule or portion thereof contained in this chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and the applicability of such provisions to other circumstances shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-3-3-.11
Authority: O.C.G.A. §§ 25-2-4, 33-2-9, 50-13-21
History. Original Rule entitled "Severability"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Subject 120-3-4. RULES AND REGULATIONS OF FIRE PREVENTION INSPECTION AND LICENSING OF CARNIVALS AND CIRCUSES. REPEALED.

Authority: O.C.G.A. Secs. 25-2-4, 25-2-13, 25-2-16
History. Original chapter entitled "Fire Prevention Inspection and Licensing of Carnivals and Circuses"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Chapter of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Editor's Note:
In accordance with the O.C.G.A. Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.

Subject 120-3-5. RULES AND REGULATIONS FOR MOBILE OR PORTABLE CLASSROOMS. REPEALED.

Authority: O.C.G.A. Secs. 25-2-4, 25-2-13, 25-2-16, 33-2-9, 50-13-21.
History. Original Chapter 120-3-5 entitled "Mobile/or Portable Classrooms"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Chapter entitled "Rules and Regulations for Mobile/or Portable Classrooms"adopted. F. June 3, 1987; eff.June 25, 1987, as specified by the Agency.
Repealed: New Chapter of same title adopted. F.Dec. 3, 1990; eff.Jan. 1, 1991, as specified by the Agency.
Amended: F. Dec. 8, 1992; eff. Dec. 28, 1992.
Repealed: F. Aug. 21, 2003;eff.Sept. 10, 2003
Editor's Note:
In accordance with the O.C.G.A. Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.

Subject 120-3-6. GENERAL REGULATIONS.

Authority: O.C.G.A. Sec. 25-2-4.
History. Original Chapter 120-3-6 entitled "General Regulations"adopted. F. June 12, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Editor's Note:
In accordance with the O.C.G.A. Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.

Subject 120-3-7. RULES AND REGULATIONS FOR MANUFACTURED HOMES.

Rule 120-3-7-.01. Authority.

This Regulation for manufactured and mobile homes is made and promulgated by the Georgia Safety Fire Commissioner pursuant to his authority set forth in O.C.G.A. §§ 8-2-132, 8-2-133, 8-2-135, 8-2-137(b), 8-2-161, 8-2-162, 8-2-165, 8-2-168 and 25-2-1*et seq.*

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.01
Authority: O.C.G.A. Secs. 8-2-130, 8-2-132, 8-2-133, 8-2-137, 8-2-160, 8-2-166, 25-2-1, 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Promulgation and Purpose"adopted. F. Oct. 1, 1968; eff. Sept. 26, 1968, as specified by the Agency.
Amended: F. Aug. 8, 1974; eff. Sept. 1, 1974, as specified by the Agency.
Repealed: New Rule entitled "Authority"adopted. F. May 23, 1984; eff. July 1, 1984, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Oct. 7, 1992; eff. Jan. 1, 1993, as specified by the Agency.
Amended: F. July 22, 1996; eff. Aug. 11, 1996.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule of same title adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Rule 120-3-7-.02. Purpose.

(1) To provide protection to the public against potential hazards to the safety and health of the occupants of manufactured homes.

(2) To forbid the manufacture and sale of new manufactured homes which are not constructed in compliance with "The National Manufactured Housing Construction and Safety Standards Act of 1974"(42 U.S.C. 5401*et seq.*, as amended).

(3) To regulate the installation of manufactured and mobile homes so as to provide protection to the occupants of said homes and to ensure continuing compliance with the federal standards.

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.02
Authority: O.C.G.A. Secs. 8-2-130, 8-2-132, 8-2-133, 8-2-137, 8-2-160, 8-2-166, 25-2-1, 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Definitions"adopted. F. Oct. 1, 1968; eff. Sept. 26, 1968, as specified by the Agency.
Amended: F. Aug. 8, 1974; eff. Sept. 1, 1974, as specified by the Agency.
Repealed: New Rule entitled "Purpose"adopted. F. May 23, 1984; eff. July 1, 1984, as specified by the Agency.
Amended: F. Oct. 7, 1992; eff. Jan. 1, 1993, as specified by the Agency.
Amended: F. July 22, 1996; eff. Aug. 11, 1996.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule of same title adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Rule 120-3-7-.03. Definitions.

The terms "Installation"and "Set Up"shall be used interchangeably throughout this Regulation. All other terms which are used in this Regulation shall have the same meaning as defined in O.C.G.A. §§ 8-2-131 and 8-2-160, in addition to the following:

(1) "Act"means "The National Manufactured Housing Construction and Safety Standards Act of 1974"(42 U.S.C. 5401*et seq.*, as amended) and the Rules and Regulations promulgated thereunder;

(2) "Commissioner"means the Georgia Safety Fire Commissioner.

(3) "Dispute Resolution"means a program for a timely resolution of disputes between manufactures, retailers and installers of manufactured homes regarding responsibility and for the issuance of appropriate orders for the correction or repairs of defects in the manufactured home that are reported during the 1 year period beginning on the date of installation.

(4) "Fire Safety Compliance Officer"means an employee of the Safety Fire Division, authorized by the Safety Fire Commissioner to carry out specific responsibilities, including all inspections necessary to administer and enforce O.C.G.A. §§ 8-2-130*et seq.* and 8-2-160 *et seq.* and the Rules and Regulations promulgated thereunder;

(5) "HUD"means the United States Department of Housing and Urban Development;

(6) "In-Plant Primary Inspection Agency (IPIA)"means a state or private organization which has been accepted by the Secretary in accordance with the requirements of Subpart H of the federal regulations adopted pursuant to the Act. An IPIA evaluates the ability of manufactured home plants to follow approved quality control procedures and provides ongoing surveillance of the manufacturing process;

(7) "Installation"means the construction of a foundation system and the placement or erection of a manufactured home or mobile home on the foundation system. Such term includes, without limitation, supporting, blocking, leveling, securing, or anchoring such home and connecting multiple or expandable sections of such home. The term "set up"may be used interchangeably with the term "installation";

(8) "Installer"means a person responsible for performing an installation and who is required to obtain a license pursuant to O.C.G.A. § 8-2-160*et seq.*;

(9) "Lending Institutions"shall have the same meaning as set forth in O.C.G.A. § 8-2-131(3).

(10) "Manufactured Housing Act"means O.C.G.A. §§ 8-2-130*et seq.*, 8-2-160 *et seq.* and the Rules and Regulations promulgated thereunder;

(11) "Retail Broker"shall have the meaning set forth in O.C.G.A. § 8-2-131(8).

(12) "Retailer"shall have the meaning set forth in O.C.G.A. § 8-2-131(9).

(13) "Remedial Actions"means the notification and corrective measures required to be taken under Subpart I of the Procedural and Enforcement Regulations adopted pursuant to the Act and under the Rules and Regulations adopted pursuant to O.C.G.A. §§ 8-2-130*et seq.* and 8-2-160 *et seq.*;

(14) "Safety Fire Division"means the authorized inspection and enforcement authority of the Georgia Safety Fire Commissioner. The Manufactured Housing Section is designated as having the primary responsibility;

(15) "Secretary"means Secretary of U.S. Department of Housing and Urban Development;

(16) "Set up"may be used interchangeably with the term "installation."Set up means the construction of a foundation system and the placement or erection of a manufactured home or mobile home on the foundation system. Such term includes, without limitation, supporting, blocking, leveling, securing, or anchoring such home and connecting multiple or expandable sections of such home.

(17) "Standards"means the Federal Manufactured Home Construction and Safety Standards as promulgated under Section 604 of the Act, (42 U.S.C. 5403, as Part of the Federal Regulations);

(18) "State Administrative Agency (SAA)"means an agency of a state which has been approved by HUD to carry out the state plan for enforcement of the standards pursuant to Section 623 of the Act (42 U.S.C. 5422). The Manufactured Housing Section of the Safety Fire Division is the State Administrative Agency for Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.03
Authority: O.C.G.A. Secs. 8-2-130, 8-2-132, 8-2-133, 8-2-137, 8-2-160, 8-2-166, 25-2-1, 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Administration"adopted. F. Oct. 1, 1968; eff. Sept. 26, 1968, as specified by the Agency.
Repealed: New Rule entitled "Powers of the Commissioner"adopted. F. Aug. 8, 1974; eff. Sept. 1, 1974, as specified by the Agency.
Repealed: New Rule entitled "Definitions"adopted. F. May 23, 1984; eff. July 1, 1984, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Oct. 7, 1992; eff. Jan. 1, 1993, as specified by the Agency.
Amended: F. July 22, 1996; eff. Aug. 11, 1996.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule of same title adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Rule 120-3-7-.04. Authorized Representative of the Commissioner.

The Commissioner hereby authorizes designated personnel in the Safety Fire Division, including the State Fire Marshal, supervisory personnel and Fire Safety Compliance Officers to administer and enforce the provisions of the Manufactured Homes Act.

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.04
Authority: O.C.G.A. Secs. 8-2-130, 8-2-132, 8-2-133, 8-2-137, 8-2-160, 8-2-166, 25-2-1, 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Annual License"adopted. F. Oct. 1, 1968; eff. Sept. 26, 1968, as specified by the Agency.
Repealed: New Rule entitled "Authorized Representative of the Commissioner"adopted. F. Aug. 8, 1974; eff. Sept. 1, 1974, as specified by the Agency.
Repealed: New Rule of same title adopted. F. May 23, 1984; eff. July 1, 1984, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Oct. 7, 1992; eff. Jan. 1, 1993, as specified by the Agency.
Amended: F. July 22, 1996; eff. Aug. 11, 1996.

Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule of same title adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Rule 120-3-7-.05. Standards of Construction.

All manufactured homes produced, assembled, constructed or built in Georgia must conform to the Act and the Rules and Regulations promulgated thereunder by the Secretary as the construction standard for manufactured homes, found in the Title 24 C.F.R. Part 3280, adopted May 11, 1976, as amended. (This standard may be found at 24 C.F.R. 3280 and copies may be obtained from the U.S. Department of Housing and Urban Development, Manufactured Housing Standards Division, 451 Seventh Street, S.W., Washington, D.C. 20410.)

(1) Each section of each manufactured home shall have a metal label issued by the In-Plant Primary Inspection Agency ("IPIA"), indicating that the manufacturer has certified to the best of the manufacturer's knowledge and belief that the home meets the applicable construction standards of the Act. The label shall be affixed in a permanent manner, generally at the rear of each section of the home.

(2) In accordance with subsection (1) above, manufactured homes which have been certified as complying with the standards promulgated under the Act, and which have not been damaged by natural forces or otherwise altered in such a manner as to no longer be in compliance with said standards, shall be exempt from the adoption or enforcement by any political subdivision of any other construction standard or from requiring modifications to the design specifications including, but not limited to, the electrical and plumbing systems.

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.05
Authority: O.C.G.A. Secs. 8-2-130, 8-2-132, 8-2-133, 8-2-137, 8-2-160, 8-2-166, 25-2-1, 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Certification of Factory Manufactured Movable Homes"adopted. F. Oct. 1, 1968; eff. Sept. 26, 1968, as specified by the Agency.
Repealed: New Rule entitled "Annual License"adopted. F. Aug. 8, 1974; eff. Sept. 1, 1974, as specified by the Agency.
Repealed: New Rule entitled "Standards of Construction"adopted. F. May 23, 1984; eff. July 1, 1984, as specified by the Agency.
Amended: F. July 22, 1996; eff. Aug. 11, 1996.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule of same title adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Rule 120-3-7-.06. In-Plant Primary Inspection Agency (IPIA) Inspection Procedures; Disagreements With Procedures.

(1) Inspections of manufactured homes by the IPIA or the Commissioner's designee will be conducted pursuant to Subpart H of the U.S. Department of Housing and Urban

Development's "Manufactured Homes Procedural and Enforcement Regulations"(24 C.F.R. 3282.351, adopted May 11, 1976, as amended).

(2) Whenever a manufacturer disagrees with a finding by an IPIA acting in accord with Subpart H, the manufacturer may request a Presentation of Views or a Hearing as hereafter provided in Rule 120-3-7-.10 of these Rules and Regulations.

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.06
Authority: O.C.G.A. Secs. 8-2-130, 8-2-132, 8-2-133, 8-2-137, 8-2-160, 8-2-166, 25-2-1, 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Plans and Blueprints"adopted. F. Oct. 1, 1968; eff. Sept. 26, 1968, as specified by the Agency.
Repealed: New Rule entitled "Standards of Construction"adopted. F. Aug. 8, 1974; eff. Sept. 1, 1974, as specified by the Agency.
Repealed: New Rule entitled "In-Plant Primary Inspection Agency (IPIA) Inspection Procedures; Disagreements With Procedures"adopted. F. May 23, 1984; eff. July 1, 1984, as specified by the Agency.
Amended: F. July 22, 1996; eff. Aug. 11, 1996.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule of same title adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Rule 120-3-7-.07. Consumer Complaint Handling and Remedial Actions.

Consumer complaints and remedial actions will be administered and enforced by the Manufactured Housing Section of the Safety Fire Division in accordance with O.C.G.A. §§ 8-2-130*et seq.*, 8-2-160 *et seq.* and with the Manufactured Homes Procedural and Enforcement Regulations, found in Title 24 C.F.R. Part 3282, Subpart F and Subpart I, 42 Fed. Reg. 2580, Jan. 12, 1977, as amended, wherever such is denoted as an SAA responsibility. Presentation of Views or Hearings will be conducted pursuant to Rule 120-3-7-.10 of these Rules and Regulations.

(a) Consumer complaints, including remedial actions, that involve the installation of manufactured homes set up after January 1, 1993 will be administered and enforced by the Manufactured Housing Section of the Safety Fire Division in accordance with O.C.G.A. § 8-2-160*et seq.* and the Rules and Regulations promulgated thereunder. Presentation of Views and Hearings will be conducted pursuant to Rule 120-3-7-.10 of the Rules and Regulations.

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.07
Authority: O.C.G.A. Secs. 8-2-130, 8-2-132, 8-2-133, 8-2-137, 8-2-160, 8-2-166, 25-2-1, 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Inspection Procedures"adopted. F. Oct. 1, 1968; eff. Sept. 26, 1968, as specified by the Agency.
Repealed: New Rule entitled "Plans and Specifications"adopted. F. Aug. 8, 1974; eff. Sept. 1, 1974, as specified by the Agency.
Repealed: New Rule entitled "Consumer Complaint Handling and Remedial Actions"adopted. F. May 23, 1984; eff. July 1, 1984, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Oct. 7, 1992; eff. Jan. 1, 1993, as specified by the Agency.
Amended: F. July 22, 1996; eff. Aug. 11, 1996.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.

Repealed: New Rule of same title adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Rule 120-3-7-.08. Annual License.

(1) Every manufacturer who manufactures manufactured homes in Georgia and every manufacturer who manufactures manufactured homes outside the State of Georgia and who sells or offers for sale said manufactured homes in Georgia shall apply for and obtain a license from the Manufactured Housing Section of the Safety Fire Division on the prescribed form and accompanied by the fee as provided in O.C.G.A. § 8-2-135(1) and (2). For licensing purposes, each plant location shall be treated as a separate entity and shall adhere to all licensing requirements. The applicant for licensure shall specify the actual physical location where manufactured homes are built or assembled. Every manufacturer receiving a license shall display the license in the place of business and shall make such license available upon request for verification by an authorized representative of the Commissioner.

(2) Every retailer and retail broker who sells or offers for sale to consumers three (3) or more new or previously owned manufactured or mobile homes in a twelve (12) month period in Georgia shall apply for and obtain a license from the Manufactured Housing Section of the Safety Fire Division on the prescribed form and accompanied by the fee as provided in O.C.G.A. § 8-2-135(3) and (5). For licensing purposes, each retailer lot or location and retail broker location shall be treated as a separate entity and shall adhere to all licensing requirements. The applicant for licensure shall specify the actual physical address where manufactured or mobile homes are located. Every retailer or retail broker receiving a license shall keep the license in the place of business and shall make such license available upon request for verification by an authorized representative of the Commissioner. The application for said license shall include a complete authorization form prescribed by the Commissioner of Insurance which allows the verification of criminal history by the department.

(3) Every installer who installs new or previously owned manufactured or mobile homes anywhere within the State of Georgia in accordance with O.C.G.A. § 8-2-161(1)shall apply for and obtain a license from the Manufactured Housing Section of the Safety Fire Division, to operate as a licensed installer, on the prescribed form and accompanied by the fee as provided in O.C.G.A. § 8-2-161(1). The applicant shall specify an actual physical location where the installer's business is based and where records are maintained. The application for said license shall include a completed authorization form as prescribed by the Commissioner of Insurance which allows the verification of criminal history by the department.

   (a) The application for licensure for each installer shall be accompanied by proof of successful completion of an installation training course and corresponding examination, authorized or approved by the Commissioner, and designated for licensure. The course must have been taken within 12 months prior to the initial

application for licensure. Continuing education courses approved by the Commissioner shall be taken every 24 months thereafter.

(b) A licensed installer may employ or contract with other authorized accountable personnel to assist with the installations of manufactured or mobile homes. The licensee shall be required to be at the installation site at all times, unless at least one authorized accountable personnel is continually at the installation site while the installation work is in progress and is accountable to the licensee. The licensee shall be responsible for ensuring that any installation performed under said license be in compliance with the applicable instructions and the licensee shall be responsible for providing remedial action when required. Proof of licensure and/or authorization of accountable personnel, shall be maintained at the installation site at all times for verification by local code officials and authorized representatives of the Commissioner. The proof may be in the form of the original license, copy of the original license or on a form prescribed by the Commissioner. Local jurisdictions are authorized to require proof of licensure prior to issuing any permits necessary to perform installations of manufactured and mobile homes. "Authorized accountable personnel" is defined as a person or persons who have successfully completed the installation training course, and any applicable continuing education courses, and their corresponding examinations, approved by the Commissioner. A certificate of Completion will be provided by the Manufactured Housing Section of the Safety Fire Division to these individuals upon proof of successful completion of these courses and examinations. Any retailer or retail broker licensed under the provisions of the Manufactured Housing Act who uses the services of or otherwise employs a person, partnership, corporation, entity, etc. that is not licensed as an installer in the State of Georgia shall be subject to the revocation of said retailer's and retail broker's license or other penal measures as prescribed by this Regulation. Any failure to comply with the provisions contained herein shall be considered a violation of the Manufactured Housing Act and be subject to penal measures prescribed by the Commissioner of Insurance, including but not limited to, the revocation of any applicable license.

(c) An individual who transports a manufactured or mobile home to the site of installation shall be excluded from licensure as an installer provided he or she performs only such temporary blocking as is necessary to stabilize the home and shall not, under these circumstances, be considered to be an installer. However, any further blocking of the home by the carrier shall be considered to be an installation of the unit, and the carrier shall comply with licensure requirements of an installer and the installation must be performed in compliance with O.C.G.A. § 8-2-160 et seq. and the applicable rules of the Commissioner. A partial installation of a manufactured or mobile home is not allowed under the Manufactured Housing Act.

(d) Any installer who is discovered by a state or local inspector to have performed an installation in a manner contrary to the methods indicated by the manufacturers installation instruction manual and Rule 120-3-7-.21, as applicable, shall be deemed to be in violation of the Manufactured Housing Act and shall be subject to revocation of his or her license and/or other penal measures as prescribed by the Commissioner of Insurance, this Regulation or other applicable Georgia law.

(e) In all cases in which the installation is arranged by and/or paid for by the retailer or retail broker, the retailer and retail broker shall assume responsibility for the proper set up of the mobile or manufactured home. Failure to comply with the requirements of this subsection shall be deemed a violation of the Manufactured Housing Act and shall be subject to the revocation of the retailer's or retail broker's license or other penal measures as prescribed by this Regulation or other applicable Georgia law. This subsection shall not relieve any installer from any responsibilities and applicable penalties.

(4) Applications for licensure must be approved by the Commissioner or his or her delegate before engaging in any activities contemplated by the Manufactured Housing Act and requiring licensure for manufacturers, retailers, retail brokers or installers. Each license shall be valid from January 1 through December 31 of the year in which the license is issued. License fees shall not be prorated for the remainder of the year in which the application is made but shall be paid for the entire year regardless of the date of application. All licenses are non-transferable regarding ownership and/or location. Any licensed entity changing the business name, or any other information not referenced herein, presented on the original application for licensure shall notify the Manufactured Housing Section of the Safety Fire Division of any change of information contained in the original application for licensure within twenty (20) days and shall complete a revised application.

(5) Applications for renewal licenses for manufacturers, retailers, retail brokers and installers shall be obtained and submitted to the Manufactured Housing Section of the Safety Fire Division on or before January 1 of each year and shall be accompanied by a completed consent form allowing a criminal history background check by the Safety Fire Commissioner's Office. On or before December 1 of each year, the Manufactured Housing Section of the Safety Fire Division shall forward a Notice of Renewal by electronic mail to each licensee at the last known email address on the records of the Safety Fire Commissioner. After sending the Notice of Renewal by electronic mail, the Manufactured Housing Section shall have no further duty or obligation to notify the licensee of the expiration of annual license. The fee for delinquent renewal applications received after January 10 of each year shall be double the regular annual fee.

(6) A license may be refused or a license duly issued may be suspended or revoked or the renewal of such license may be refused by the Commissioner if he or she finds that the applicant or the holder of a license:

(a) has violated any provision of the Act, the Standards, the Manufactured Homes Act or these Rules and Regulations;

(b) has intentionally made any misstatement or misrepresented or concealed any material fact in the application for the license;

(c) has obtained or attempted to obtain a license by fraud or misrepresentation;

(d) has been determined to have engaged in, or to be engaging in, a fraudulent or dishonest practice or to have demonstrated a lack of trustworthiness or lack of competence;

(e) has been convicted by final judgment in any state or federal court of a felony; or

(f) has willfully failed to comply with or has willfully violated any proper order, rule or regulation issued by the Commissioner or the Secretary.

(g) in the case of a license application, if any person having control of the applicant is subject to any of the grounds for refusal stated in subparagraphs (a) through (f) above, the license may be refused. For purposes of this subparagraph, control shall be presumed if the person owns ten percent or more of the applicant, or if the person owns ten percent or more of the voting securities of a corporate applicant.

(7) Before any license application shall be refused or any license shall be suspended or revoked or the renewal thereof refused as provided for in this Rule, the Commissioner shall give notice of his or her intention to do so to the applicant or the holder of a license in accordance with the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13, and O.C.G.A. 25-2-29, and applicable Rules and Regulations of the Safety Fire Commissioner.

(8) In situations where persons otherwise would be entitled to a hearing prior to an order, the Commissioner may issue an order to become effective within twenty (20) days from the date of the order, unless persons subject to the order request a hearing within ten (10) days after receipt of the order. Failure to make a request shall constitute a waiver of any provision contained herein for the hearing.

(9) Any person who engages in any activities identified by the Manufactured Housing Act as requiring licensure as a manufacturer, retailer, retail broker or installer without having first obtained the appropriate license or who conducts said business without proper licensure or with an expired license shall be deemed to be in violation of the Manufactured Housing Act and shall be subject to the penalties prescribed in O.C.G.A. §§ 8-2-141 or 8-2-166 after notice and hearing as prescribed by this Regulation.

(10) Lists of licensees shall be made available to the general public upon request pursuant to the provisions of O.C.G.A. § 50-18-70 et seq.

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.08
Authority: O.C.G.A. §§ 8-2-133, 8-2-161, 8-2-164.
History. Original Rule entitled "Reciprocity" adopted. F. Oct. 1, 1968; eff. Sept. 26, 1968, as specified by the Agency.
Repealed: New Rule entitled "Certification of Mobile Homes" adopted. F. Aug. 8, 1974; eff. Sept. 1, 1974, as specified by the Agency.
Repealed: New Rule entitled "Annual License" adopted. F. May 23, 1984; eff. July 1, 1984, as specified by the Agency.
Amended: F. Oct. 7, 1992; eff. Jan. 1, 1993, as specified by the Agency.
Amended: F. July 22, 1996; eff. Aug. 11, 1996.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule of same title adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.
Repealed: New Rule of same title adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-7-.09. Public Participation in Presentation of Views or Hearings.

(1) Any interested persons may participate in writing in any Presentation of Views or Hearings held under the provisions of Rules 120-3-7-.10(4) and (5). Such written materials will be considered to the extent practicable.

(2) Any interested persons may participate in the oral portion of any Presentation of Views or Hearings held under Rules 120-3-7-.10(4) and (5) unless it is determined that such participation should be limited or barred so as not to unduly prejudice the rights of the parties directly involved or unnecessarily delay the proceedings.

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.09
Authority: O.C.G.A. Secs. 8-2-130, 8-2-132, 8-2-133, 8-2-137, 8-2-160, 8-2-166, 25-2-1, 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Standards for Factory Manufactured Movable Homes"adopted. F. Oct. 1, 1968; eff. Sept. 26, 1968, as specified by the Agency.
Repealed: New Rule entitled "Inspection Procedures"adopted. F. Aug. 8, 1974; eff. Sept. 1, 1974, as specified by the Agency.
Repealed: New Rule entitled "Public Participation in Presentation of Views or Hearings"adopted. F. May 23, 1984; eff. July 1, 1984, as specified by the Agency.
Amended: F. July 22, 1996; eff. Aug. 11, 1996.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule of same title adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Rule 120-3-7-.10. Procedures for the Presentation of Views or Hearings.

(1) Request. Upon receipt of a written request for a Presentation of Views or Hearing, the Commissioner shall either grant the relief for which the Presentation of Views or Hearing is requested or shall issue a notice under subparagraph (2) of this Rule. A hearing shall be held only if the Commissioner shall find that the request is made in good faith, that the applicant would be aggrieved and that such grounds otherwise justify holding such hearing.

(2) Notice. When the Commissioner decides to conduct a Presentation of Views or Hearing, the Commissioner shall provide notice as follows:

(a) Notice shall be given at least ten (10) days prior to the date of the proceeding. Notice shall be provided to interested persons to the maximum extent practicable. Direct notice shall be sent by certified mail to the parties involved in the proceeding.

(b) The notice shall include a statement of the time, place and nature of the proceeding; reference to the authority under which the proceeding will be held; a statement of the subject matter of the proceeding; the parties and issues involved; and a statement of the manner in which interested persons shall be afforded the opportunity to participate in the proceeding.

(c) The notice shall designate the official who shall preside over the proceedings and to whom all inquiries should be directed concerning such proceedings.

(d) The notice shall state whether the proceedings shall be held in accordance with the provisions of paragraph (4) "Presentation of Views"or paragraph (5) "Hearings"of this Rule.

(e) Notwithstanding any other provision, in situations where persons otherwise would be entitled to notice or hearing prior to an order, the Commissioner may issue an order to be effective immediately if the Commissioner has reasonable cause to believe that an act, practice, or transaction is occurring or is about to occur; that the situation constitutes a situation of imminent peril to the public health, safety or welfare; and that the situation therefore imperatively requires emergency action. The emergency order shall contain findings to this effect and reasons for the determination. The order shall contain or be accompanied by a notice of opportunity for hearing which may provide that a hearing will be held if and only if a person subject to the order requests a hearing within ten (10) days of receipt of the order and notice.

(3) Reporting and transcription. Oral proceedings shall be stenographically or mechanically reported and transcribed, unless the Commissioner and the parties otherwise agree, in which case a summary approved by the presiding officer shall be kept. The original transcript or summary shall be a part of the record and the sole official transcript or summary. The cost of such reporting and transcription may, in the discretion of the Commissioner, be charged to the party seeking a Presentation of Views or Hearing. A copy of the transcript or summary shall be available to any person at a fee established by the Commissioner.

(4) Presentation of Views.

(a) A Presentation of Views may be written or oral, and may include an opportunity for oral presentation, whether requested or not, whenever the Commissioner concludes that an oral presentation would be in the public interest, and so states in

the notice. The purpose of such presentations shall be to gather information to allow fully informed decision making.

(b) Presentation of Views shall not be adversary proceedings. Oral presentations shall be conducted in an informal but orderly manner. The presiding officer shall have the duty and authority to conduct a fair proceeding, to take all necessary action to avoid delay, and to maintain order.

(c) In the absence of extraordinary circumstances, an oral Presentation of Views shall not require that testimony be given under oath or affirmation and shall not permit either cross-examination of witnesses by other witnesses or their representatives, or the presentation of rebuttal testimony by persons who have already testified. The rules of evidence prevailing in courts of law or equity shall not control the conduct of oral Presentation of Views.

(d) Within ten (10) days after a Presentation of Views, the presiding officer shall refer to the Commissioner all documentary evidence submitted, the transcript, if any, a summary of issues involved and the information presented in the Presentation of Views and the presiding officer's recommendations.

(e) The Commissioner shall issue a Final Determination concerning the matters at issue within thirty (30) days of receipt of the presiding officer's summary.

(5) Hearings. A Hearing is an adversary proceeding and includes an opportunity for the oral and documentary presentation of evidence in accordance with the Georgia Administrative Procedure Act (O.C.G.A. § 50-13-1*et seq.*), the Georgia Insurance Code (O.C.G.A. § 33-2-1*et seq.*) and Chapter 120-3-2 of the Rules and Regulations of Safety Fire Commissioner; except where such provisions are in direct conflict with the Act and the Rules and Regulations promulgated in Title 24 C.F.R. 3282, Subpart D, adopted May 13, 1976, as amended.

(6) Decision or Final Determination. A Decision or Final Determination, issued by the Commissioner in accordance with paragraphs (f) and (g) of 24 C.F.R. 3292.152, shall include:

(a) A written statement of findings of fact, with specific references to principal supporting items of evidence in the record and conclusions, as well as the reasons or basis therefore, upon all of the material issues of law or discretion presented on the record; and

(b) An appropriate order.

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.10
Authority: O.C.G.A. Secs. 8-2-130, 8-2-132, 8-2-133, 8-2-137, 8-2-160, 8-2-166, 25-2-1, 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Alterations, Changes, and Modifications of Newly Certified Mobile Homes"adopted.F. Aug. 8, 1974; eff. Sept. 1, 1974, as specified by the Agency.
Repealed: New Rule entitled "Procedures for the Presentation of Views and Hearings"adopted. F. May 23, 1984;

eff. July 1, 1984, as specified by the Agency.
Amended: F. July 22, 1996; eff. Aug. 11, 1996.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule of same title adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Rule 120-3-7-.11. Request for Extraordinary Interim Relief.

Any person requesting a Presentation of Views or Hearing under Rules 120-3-7-.10(4) and (5) may request that the Commissioner provide such interim relief as may be appropriate pending the issuance of a Decision or Final Determination. No interim relief will be granted absent extraordinary cause shown. The Commissioner shall grant, deny or defer decision of any request for interim relief.

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.11
Authority: O.C.G.A. Secs. 8-2-130, 8-2-132, 8-2-133, 8-2-137, 8-2-160, 8-2-166, 25-2-1, 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Certified Persons; Mobile Home Service School"adopted. F. Aug. 8, 1974; eff. Sept. 1, 1974, as specified by the Agency.
Repealed: New Rule entitled "Petitions for Presentation of Views or Hearings, and Request for Extraordinary Interim Relief"adopted. F. May 23, 1984; eff. July 1, 1984, as specified by the Agency.
Amended: F. July 22, 1996; eff. Aug. 11, 1996.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule entitled "Request for Extraordinary Interim Relief"adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Rule 120-3-7-.12. Dispute Resolution.

Any dispute between a manufacturer, retailer, retail broker, and/or installer of manufactured homes regarding their responsibility for defects in a new manufactured home that is reported during the 1-year period beginning on the date of installation may, by mutual agreement of all of the parties to the dispute, be submitted to the Commissioner for resolution. In that case, the dispute shall be resolved by the Commissioner through the following procedures:

(a) Based upon an investigation and determination of information received from any credible source concerning defects in a new manufactured home, the Commissioner will issue appropriate written orders to a manufacturer, an installer, a retailer, or a retail broker, for the correction of defects in manufactured homes. As part of his investigation, the Commissioner may order an on-site inspection.

(b) If the above procedure is utilized and the dispute is not resolved, or if any of the parties to the procedure are dissatisfied with the resolution, an administrative hearing shall be convened pursuant to § 120-3-7-.10 and the statutory and regulatory provisions cited therein. Administrative costs may be assessed against the party determined to be responsible.

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.12
Authority: O.C.G.A. Secs. 8-2-130, 8-2-132, 8-2-133, 8-2-137, 8-2-160, 8-2-166, 25-2-1, 25-2-4, 33-2-9, 50-13-21.

History. Original Rule entitled "Mobile Homes Service Permit"adopted. F. Aug. 8, 1974; eff. Sept. 1, 1974, as specified by the Agency.
Repealed: New Rule entitled "Compliance With Rules and Regulations; Penalties"adopted. F. May 23, 1984; eff. July 1, 1984, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Oct. 7, 1992; eff. Jan. 1, 1993, as specified by the Agency.
Amended: F. July 22, 1996; eff. Aug. 11, 1996.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule entitled "Dispute Resolution"adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Rule 120-3-7-.13. Installation Requirements.

(1) In addition to the licensure requirements of Rule 120-3-7-.08(3) of these Regulations, any installer performing any installation of a new or used manufactured or mobile home in the State of Georgia shall first purchase a permit from the Commissioner. The cost of each permit is prescribed in O.C.G.A. § 8-2-164(2). Each installer shall provide any information required by the Commissioner to obtain a permit. The installation permit shall be attached by the installer to the panel box of each manufactured or mobile home upon completion of the installation. The prescribed permit shall be designed by the Commissioner. A permit shall be issued only to a licensed installer, and shall not be transferable.

(2) Whenever the manufacturer's instructions do not stipulate certain installation requirements, or when clarification is needed, or when the manufacturer's instructions state that the issue is left to the regulatory authority having jurisdiction, then the installation instructions incorporated herein by reference in Rule 120-3-7-.21 of these Regulations shall be followed. Manufacturers of manufactured homes constructed under the provisions of the Act shall provide an installation manual with each manufactured home as required by the Act. The manual shall describe a foundation and anchorage system and provide instructions for site preparation and utility connections. O.C.G.A. § 8-2-165 requires compliance with the manufacturer's installation instructions. Pursuant to O.C.G.A. § 8-2-165, previously occupied manufactured and mobile homes which do not have the manufacturer's instructions as required by the Act shall be installed in accordance with said Rule 120-3-7-.21 of these Regulations.

(a) Each new manufactured home shall bear a data plate to be affixed in a permanent manner near the main electrical panel or other readily accessible and visible location as required by the Act. The data plate shall contain the name of the manufacturer, the serial number and model designation, the date the home was manufactured, the design-approval agency, factory-installed equipment and the wind, roof load, and thermal zones for which the unit was constructed. Local jurisdictions shall not prohibit the placement of any manufactured home built in compliance with the design standards for the zone in effect on the date that the data plate indicates the home was constructed. Manufactured homes shall not be placed in any zone(s) which exceed the design limitation for which the manufactured home was constructed as identified by the data plate.

(b) The manufactured or mobile home shall be placed on a properly prepared stand. The site shall have a grade that will allow water to drain away from the home stand, and all organic matter, debris, grass, grass sod and other foreign matter shall be removed where footings or pier foundations are to be installed. A written contractual agreement between the homeowner, the retailer, retail broker and/or installer shall determine which party is to perform the site preparation which shall include proper drainage of water away from the home. The existence of said contractual agreement shall not relieve the installer of the responsibility of set up on a properly prepared stand. Installations of manufactured or mobile homes shall not be performed on improperly prepared stands.

(c) Pursuant to O.C.G.A. §§ 8-2-167 and 43-14-13(k), a person licensed as a manufactured or mobile home installer pursuant to these Regulations shall not be subject to the electrical and plumbing licensure requirements of O.C.G.A. Title 43, Chapter 14 when performing the functions specified in O.C.G.A. § 43-14-13(k).

(d) The following shall not be the responsibility of the installer unless contracted in writing by the homeowner and/or dealer/retailer and/or installer to provide for same:

1. Skirting. When required by local jurisdiction and provided pursuant to contractual agreement, skirting shall be installed in accordance with the skirting manufacturer's instructions or Rule 120-3-7-.21(13)(d) of these Regulations.

2. Masonry curtain walls. Load bearing masonry curtain walls shall not be required by local jurisdictions for manufactured or mobile homes. Non-load bearing masonry curtain walls may be provided by contractual agreement between the homeowner, the dealer/retailer, and/or installer and shall be constructed in accordance with drawings and/or instructions provided in the manufacturer's installation manual, or instructions and other drawings or procedures approved by the Commissioner. Non-load bearing walls shall have no contact with the manufactured home or any portion thereof for the purpose of structural support.

3. Stairs and landings. When required by local jurisdiction and provided by contractual agreement, stairs and landings shall be constructed in accordance with the provisions of the State Minimum Standard Building Codes which are enforced by local jurisdiction.

(f) These installation requirements established by the Manufactured Housing Act are applicable only to manufactured and mobile homes as defined in O.C.G.A. § 8-2-131 and the Act.

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.13
Authority: O.C.G.A. Secs. 8-2-130, 8-2-132, 8-2-133, 8-2-137, 8-2-160, 8-2-166, 25-2-1, 25-2-4, 33-2-9, 50-13-21.

History. Original Rule entitled "Supervision of Alterations, Changes or Modifications Filing of Modification Reports With State Fire Marshal"adopted. F. Aug. 8, 1974; eff. Sept. 1, 1974, as specified by the Agency.
Repealed: New Rule entitled "Severability"adopted. F. May 23, 1984; eff. July 1, 1984, as specified by the Agency.
Amended: F. July 22, 1996; eff. Aug. 11, 1996.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule entitled "Installation Requirements"adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Rule 120-3-7-.14. Inspections.

(1) Local building code inspectors are authorized to make inspections of manufactured and mobile home installations to ensure compliance with O.C.G.A. § 8-2-160*et seq.* and the Rules and Regulations promulgated thereunder. No political subdivision may adopt or enforce any requirement not consistent with these Rules and Regulations.

(2) The authorized representatives of the Commissioner shall perform any inspections necessary to ensure compliance with O.C.G.A. § 8-2-160*et seq.* The Commissioner or his or her specially appointed designee is the final authority on the correctness of the installation as prescribed in O.C.G.A. § 8-2-160*et seq.* and the Rules and Regulations promulgated thereunder.

(3) The Commissioner or his or her agent shall perform random inspections on installations performed by each installer each year. The inspections required by this section shall be independent of any requirements under subpart I of Part 3282 of the Manufactured Home Procedural and Enforcement Regulations of the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401*et seq.*

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.14
Authority: O.C.G.A. Secs. 8-2-130, 8-2-132, 8-2-133, 8-2-137, 8-2-160, 8-2-166, 25-2-1, 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Reciprocity"adopted. F. Aug. 8, 1974; eff. Sept. 1, 1974, as specified by the Agency.
Repealed: New Rule entitled "Effective Date"adopted. F. May 23, 1984; eff. July 1, 1984, as specified by the Agency.
Repealed: New Rule entitled "Installation Requirements"adopted. F. Oct. 7, 1992; eff. Jan. 1, 1993, as specified by the Agency.
Amended: F. July 22, 1996; eff. Aug. 11, 1996.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule entitled "Inspections"adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Rule 120-3-7-.15. Reports of Manufactured and Mobile Home Installations.

(a) Each installer licensee of manufactured and mobile homes shall report all installations performed each month to the Manufactured Housing Section of the Safety Fire Division no later than the 10th day of the month following the actual installation on the form prescribed by the Commissioner. Reports submitted monthly to the Commissioner shall also include the permit number as required to be placed on each manufactured or mobile

home installed. Said report shall include an accurate reading from a torque probe test within two feet of each corner of the home. This Rule shall be applicable regardless of the number of installations performed during the referenced time period. A report must be filed each month, even if no installations are performed.

(1) A package of seven (7) installation reporting forms shall be sent to each installer with the initial or renewal license. The installation form may be reproduced or additional installation reporting forms may be purchased from the Manufactured Housing Section of the Safety Fire Division from funds made payable to the Safety Fire Commissioner at the following rates:

Package of seven (7) forms $1.00

Package of fifty (50) forms 2.50

Package of one hundred (100) forms 5.00

(b) The Commissioner may require each retailer/broker to submit reports of manufactured and mobile homes sold to consumers as he deems necessary.

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.15
Authority: O.C.G.A. Secs. 8-2-130, 8-2-132, 8-2-133, 8-2-137, 8-2-160, 8-2-166, 25-2-1, 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Penalties"adopted. F. Aug. 8, 1974; eff. Sept. 1, 1974, as specified by the Agency.
Repealed: F. May 23, 1984; eff. July 1, 1984, as specified by the Agency.
Amended: New Rule entitled "Inspections"adopted. F. Oct. 7, 1992; eff. Jan. 1, 1993, as specified by the Agency.
Amended: F. July 22, 1996; eff. Aug. 11, 1996.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule entitled "Reports of Manufactured and Mobile Home Installations"adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Rule 120-3-7-.16. Literature.

At a minimum, the manufacturer's installation instructions and/or homeowners manual must be delivered by the dealer/retailer to the purchaser prior to occupancy of the new home. Signed acknowledgment of receipt of said literature and manual(s) by the consumer shall be obtained by the dealer/retailer at the time the literature is delivered to the consumer, and a copy of the receipt shall be mailed to the **Safety Fire Division** within 45 days of the date on the receipt.

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.16
Authority: O.C.G.A. Secs. 8-2-130, 8-2-132, 8-2-133, 8-2-137, 8-2-160, 8-2-166, 25-2-1, 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Effective Date"adopted. F. Aug. 8, 1974; eff. Sept. 1, 1974, as specified by the Agency.
Repealed: F. May 23, 1984; eff. July 1, 1984, as specified by the Agency.
Amended: New Rule entitled "Reports of Manufactured and Mobile Home Installations"adopted. F. Oct. 7, 1992; eff. Jan. 1, 1993, as specified by the Agency.
Amended: F. July 22, 1996; eff. Aug. 11, 1996.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.

Repealed: New Rule entitled "Literature"adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Rule 120-3-7-.17. Disclosure of Damage.

The sale by a dealer/retailer of any manufactured home which has experienced interior or exterior damage by fire or flood shall include a disclosure of said damage to the purchaser.

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.17
Authority: O.C.G.A. Secs. 8-2-130, 8-2-133, 8-2-160, 8-2-166, 25-2-1, 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Manufacturer's Installation Procedures"adopted. F. Oct. 7, 1992; eff. Jan. 1, 1993, as specified by the Agency.
Amended: F. July 22, 1996; eff. Aug. 11, 1996.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule entitled "Disclosure of Damage"adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Rule 120-3-7-.18. Installation Instructions.

(1) Installation instructions provided with manufactured homes must be followed for installation. These instructions are designed to be applicable when certain aspects of the manufacturer's installation instructions are not explicit, not stipulated or need clarification, or when the manufacturer's instructions indicate that the requirement may be left to the authority having jurisdiction. The Federal Manufactured Home Construction and Safety Standards Program (24 C.F.R. 3280, 3282 and 3283) requires that all manufactured homes be provided with installation instructions covering foundation, anchoring, utility connections, and other items. Such installation instructions shall be utilized and followed for the installation of all new manufactured homes. Previously occupied manufactured homes and mobile homes which do not have manufacturer's installation instructions shall be installed according to requirements herein. The term mobile home shall be synonymous with the term manufactured home when used herein. Manufactured homes located within rental communities shall not be required to have poured concrete or permanent foundations.

(2) Definitions:

(a) Anchoring Equipment: Straps, cables, turnbuckles and chains, including tensioning devices, that are used with ties to secure a manufactured home to ground anchors;

(b) Anchoring System: A combination of ties, anchoring equipment and ground anchors that will, when properly designed and installed, resist the overturning of the home or the moving of the home sideways by wind;

(c) Footing: That part of the support system that sits directly on the ground at, below or partly below grade to support the piers;

(d) Ground Anchor: A device at the manufactured home stand designed to transfer manufactured home anchoring loads to the ground;

(e) Pier: That portion of the support system between the footing and the manufactured home, exclusive of caps and shims. Types of piers include, but are not limited to, the following:

1. Manufactured steel stands;

2. Manufactured concrete stands;

3. Concrete blocks;

4. Other approved or listed equivalent.

(f) Radius Clips: Means or method to protect strapping from sharp edges during loading.

(g) Site, Manufactured Home: A parcel of land designed and designated for the location of one manufactured home, its accessory buildings or structures, and accessory equipment for exclusive use of the home;

(h) Stabilizing Devices: All components of the anchoring and support systems such as piers, footings, ties, anchoring equipment, ground anchors, or any other materials and methods of construction which support and secure the manufactured home to the ground;

(i) Stand, Manufactured Home: That area of a manufactured home site which has been reserved for placement of a manufactured home;

(j) Support System: A combination of footings, piers, caps and shims that will, when properly installed, support the manufactured home;

(k) Tie: Strap, cable or securing device used to connect the manufactured home to ground anchors;

(l) Vertical Tie: A tie intended to resist the uplifting and overturning forces.

(3) Foundation Systems for New Manufactured Homes.

(a) A manufactured home foundation system is one constructed in accordance with the foundation system included in the manufacturer's installation instructions.

(b) The manufacturer or homeowner shall be permitted to design for unusual installation not provided for in these regulations or in the manufacturer's standard installation directions provided the design is approved in writing by a licensed

professional engineer or architect and a copy provided to the Manufactured Housing Section of the Safety Fire Division.

(c) The manufacturer's instructions include a typical foundation system designed by a registered professional engineer or architect to support the anticipated loads specified in the manufacturer's installation instructions for the design zone (including climate) of installation, and shall be deemed to meet the requirements of these regulations. These instructions shall be provided to the homeowner as required by Rule 120-3-7-.18.

(4) Foundation Systems for Previously Owned Manufactured Homes.

(a) Foundation systems for previously owned manufactured homes shall be according to requirements contained herein. Previously occupied manufactured homes can be installed according to manufacturer's installation instructions if available.

(b) Subparagraph (7) contains information for the design of manufactured home foundation systems which meet the minimum criteria established in this regulation.

(c) The manufacturer or homeowner shall be permitted to design for an unusual installation not provided for in the manufacturer's installation instructions, or these Regulations, provided that the design is approved in writing by a licensed professional engineer or architect and a copy sent to the Manufactured Housing Section of the Safety Fire Division and the manufacturer.

(5) Stabilizing Devices and Design.

(a) Each new or previously owned manufactured home being installed on a manufactured home stand shall have stabilizing devices and shall be installed on a foundation constructed in accordance with the manufacturer's installation instructions for new manufactured homes or standards included within these regulations for previously occupied manufactured homes.

(b) Stabilizing devices not provided with the manufactured home shall be listed or labeled to meet or exceed the design and capacity requirements of the manufactured home manufacturer's installation instructions and these regulations.

(6) Anchoring.

(a) Each manufactured ground anchor shall be listed and installed in accordance with the terms of its listing and the anchor manufacturer's instructions and shall include means of attachment of ties meeting the requirements of the manufacturer's installation instructions for new manufactured homes or subparagraph (6)(h) of these regulations for previously occupied manufactured homes.

(b) Ground anchor manufacturer's installation instructions shall include tensioning adjustments which may be needed to prevent damage to the manufactured home.

(c) Each ground anchor shall have the manufacturer's identification and listed model identification number marked thereon so that the number is visible after installation.

(d) Instructions shall accompany each listed ground anchor specifying the types of soil for which the anchor is suitable under the requirements of Section E.

(e) Ground anchors, including means for attaching ties, shall be located to effectively match the anchoring system instructions provided by the manufactured home manufacturer, or for previously occupied manufactured homes, in accordance with the requirements of this section.

(f) Concrete slabs or footings: If concrete slabs or continuous footings are used in lieu of ground anchors to transfer the anchoring loads to the ground, steel rods cast in concrete, or deadman, or concrete anchors shall be required and shall be capable of resisting loads as specified in subparagraph 6)(g)1.

(g) Anchors:

1. Capacity of Anchors: Each approved single head ground anchor, when installed, shall be capable of resisting an allowable working load at least equal to 3,150 pounds, plus a 50% overload (4,725 pounds), without failure when pulled in the direction of the tie. Anchors designed for connection of multiple ties shall be capable of resisting the combined working load and overload as outlined in this Section. Anchor type and size to be determined by soil probe test. Probe test must be performed within 2 feet of each corner of unit.

2. Anchoring Equipment: Anchoring equipment shall be capable of resisting an allowable working load equal to or exceeding 3,150 pounds and shall be capable of withstanding a 50% overload (4,725 pounds) without failure of either the anchoring equipment or the attached point on the manufactured home. When the stabilizing system is designed by a qualified registered professional engineer or architect, alternative working loads may be used provided the anchoring equipment is capable of withstanding a 50% overload. All anchoring equipment shall be listed or labeled as being capable of meeting all the requirements of this section.

3. Selection of Helical Anchors: Anchor selection shall be based on a determination of the soil class at the depth the anchor helical plate will be installed.

4. Other Anchoring Devices: Other anchoring devices meeting requirements of this section shall be permitted if acceptable to the Manufactured Housing Section of the Safety Fire Division.

5. Depth of Anchors: All anchors shall be installed to the full depth shown in the anchor manufacturer's installation instructions.

6. Anchors installed in line with the pull must be of sufficient additional length to compensate for loss of depth.

7. Anchors are to be placed within 2 feet of each end of each section in Zone I and II. In addition:

   (i) Zone I anchors must be placed 8 feet on center maximum along the length of both exterior sidewalls.

   (ii) Zone II anchors must be placed 6 feet on center maximum along the length of both exterior sidewalls.

   (iii) Both Zone I and II must have two longitudinal ties and anchors at each end of each section attached to the main "I"Beams. For pier heights exceeding 49 inches, anchors must be strapped to both "I"Beams. NOTE: Zone II homes produced since July 1994 must have vertical ties at each diagonal tie location.

8. Anchor length and/or type must be determined by probe testing all four corners, within two feet of corners. Results may be averaged and used to determine anchors based on the anchor manufacturer's installation and/or user manual requirements.

9. Approved alternate systems of anchoring may be used when proof that the manufacturer has approved such systems is provided.

(h) Ties:

1. Strappings or other approved methods or materials shall be used for ties. All ties shall be fastened to ground anchors and drawn tight with turnbuckles or other adjustable tensioning devices or devices supplied with the ground anchor. Strapping must be protected at sharp edges with radius clips. NOTE: Splicing for vertical ties only; overlap strap 12 inches minimum with two clips (one facing each way), double crimp each clip with proper crimping tool.

2. Tie materials shall be capable of resisting an allowable working load of 3,150 pounds and shall withstand a 50% overload (4,725 pounds total). Ties shall comply with 24 CFR 3280.306.

3. Ties shall connect the ground anchor to the top portion of the main structural steel frame (I-beam or other shape) which runs lengthwise under the manufactured home. Ties shall not connect to steel outrigger beams which fasten to and intersect the main structural frame unless specifically stated in the manufacturer's installation instructions.

4. Number of Ties: The minimum number of ties per side for various lengths of manufactured homes in Wind Zone I and Wind Zone II shall be in accordance with subparagraph (g).

5. Location of Ties: When continuous straps are provided as vertical ties, such ties shall be positioned at rafters and studs. Where a vertical tie and diagonal tie are located at the same place, both ties shall be permitted to be connected to a single ground anchor, provided that either the anchor used is capable of carrying both loadings, or that the load capacity of the total number of anchors used is equal to 3,150 pounds working load plus 50% overload (4,725 pounds) times the number of ties specified in subparagraph (g).

6. Shearwall and/or other provided ties and/or brackets must be anchored with same anchor as probe test results required for remainder of home.

7. When longitudinal brackets are provided, strapping material and anchors as described in Subparagraph (g) must be installed.

8. Special Ties: Clerestory roofs and add-on sections of expandable manufactured homes shall have provisions for vertical ties at the exposed ends. When not originally installed by manufacturer, over-the-roof or vertical ties shall not be required for manufactured homes constructed with "A"Line and shingle roofs.

9. Alternate Method Using Cable Ties: Connection of the cable frame tie to the manufactured home I beam or equivalent main structural frame member may be by a 5/8 drop-forged closed eye bolt through a hole drilled in the center of the I-beam web or other approved methods. The web shall be reinforced if necessary to maintain designed I-beam strength. Cable ends shall be secured with at least three (3) U bolt-type cable clamps with the U portion of the clamp installed on the short (dead) end of the cable to assure strength equal to that required by Section E(8).

10. Tensioning Device Design: Tensioning devices such as turnbuckles or yoke-type fasteners shall be ended with a clevis or forged or welded eyes.

11. Permanency of Connections: Anchoring equipment shall be designed and installed to prevent self-disconnection, lateral deflection or failure.

(i) Resistance to Weather Deterioration: All portions of the anchor which are exposed to weathering shall have a resistance to weather deterioration. The remainder of the anchoring equipment shall have resistance at least equivalent to that provided by a coating of zinc on steel of not less than 0.30 ounces per square foot on each side of the surface coated, as determined by ASTM Standard Methods of Test for Weight of Coating on Zinc-Coated (Galvanized) Iron or Steel Articles (ASTM A90-81).

(7) Foundation Standards.

(a) Unless the entire support system is designed by a professional engineer or architect, the support system shall be designed in accordance with this standard.

(b) Footings shall be sized to support the loads shown in the manufacturer's instructions. Where no manufacturer's instructions are available, subparagraph (7) shall apply.

(c) All grass and organic material shall be removed from the pier foundation location(s), and the pier foundation placed on stable soil at a depth sufficient to protect the footings from the effects of frost heave. For purpose of the installation of a manufactured or mobile home in the State of Georgia, all footers must be protected from the effects of frost heave. When properly designed by a registered professional engineer, a "floating slab"system may be used above the frost line. The design shall accommodate the anchorage requirements identified within this regulation and/or the manufacturer's installation instructions.

(d) The pier foundation shall be a 16"x16"x4"solid concrete pad, precast or poured in place, or other approved methods/materials. Where poured concrete foundations are required by local authority for multiple section homes, the footing size shall be 24"x24"x6"filled with poured concrete, or other approved materials/methods. Concrete in footings shall have an ultimate compressive strength of not less than 2500 psi at 28 days. Footer size may vary on piers used with alternate anchoring systems, when installed per system manufacturer's instructions, and marriage wall piers as required by manufacturer's instructions.

1. For the purpose of installing a manufactured/mobile home in the State of Georgia . The bases of concrete or other pad types are to be placed at or below the frost line. Other types of footings such as pans, domes, or open pans are to be placed with the topmost point that serves as the base set at or below the frost line, so as to avoid the effects of frost heave. The frost line in the State of Georgia is determined to be:

(i) 4"for the following counties and all counties to the north of these counties: Troup, Meriwether, Pike, Lamar, Monroe, Jones, Baldwin, Washington, Jefferson, and Burke;

(ii) 2"for the following counties and all counties to the south of these counties: Harris, Talbot, Upson, Crawford, Bibb, Twiggs, Wilkinson, Johnson, Emanuel, Jenkins, and Screven.

(e) Footings or pier foundations (unless approved by a registered professional engineer) when required, shall be placed level on firm undisturbed soil or on controlled fill which is free of grass or organic materials to minimum load-bearing capacity of 1000 psf.

(f) Piers and Spacing:

1. Piers or load-bearing supports or devices shall be designed and constructed to evenly distribute the loads.

2. Double piers are to be placed within 2 feet of each end of each main I-beam, and remaining piers spaced no more than 6 feet on center for the remaining length of each main I-beam.

3. Piers are to be placed on each side of exterior wall opening 4 feet wide or greater (footers at these openings may be 4"x 8"x 16", or equivalent product).

4. Piers shall be placed on each side of exterior door opening (footers may be 4"x 8"x 16", or equivalent). Openings for endwalls with full headers or cross members do not require piers and footings for the openings.

5. The marriage line of multiple section manufactured homes shall be supported by piers spaced no more than 20 feet apart and shall have piers located within 2 feet of each end of the home, under the marriage line, in conjunction with these piers, piers must be placed at each end of openings 6 feet wide or more. Marriage line piers must support both marriage line floor rails. Footers must be a minimum of 16"x 16"x 4"or equivalent.

6. Load-bearing supports or devices shall be listed or approved and shall be designed by a registered professional engineer or architect and shall be approved for the use intended or piers shall be constructed as follows:

   (i) Piers less than 40 inches in height shall be constructed of open or closed cell, 8 inch by 16 inch, concrete blocks with open cells

vertically placed upon the footing. The pier shall be covered with a 2 inch by 16 inch by 8 inch wood or nominal concrete plate.

(ii) Piers between 40 inches and 80 inches in height and all corner piers shall be double blocked with blocks interlocked and capped with a 4 inch by 16 inch by 8 inch solid concrete block or equivalent or 2 inch by 8 inch nominal pressure treated wood or hardwood covering the cell area.

(iii) Piers over 80 inches in height must be designed and approved by a registered professional engineer.

(iv) Steel piers, or other approved piers, when used, shall be in compliance with subparagraph (6)(i) after fabrication to provide corrosion protection.

(v) Load bearing and non-load bearing walls constructed on site shall be constructed of concrete, masonry, pressure treated wood or any other approved material or system. Minimum thickness shall be that required to resist lateral pressure from adjacent earth and support design loads as determined by acceptable engineering practice.

(vi) Plates, Shims and Wedges: Nominal 2"x 8"x 16"pressure treated wood, hardwood, 4"concrete caps or the equivalent, shall be placed on top of the pier for the purpose of a top plate. Plate must cover cell area in both single or double stack blocks. Any gap between the top plate and the I-beam frame may be filled with pressure treated wood or hardwood, nominal minimum size of 8"x 4"x 1", fitted and driven tight. Wedges shall not occupy more than one inch of vertical space and shall be at least 3"wide and 6"long, fitted from both sides and driven tight together between the I-beam and plate or shim. Wood and wedges may occupy no more than 4"of the space between the pier and main frame.

(8) Placement of Manufactured Homes.

(a) Clearance Under Homes: A minimum clearance of 12 inches shall be maintained beneath the lowest member of the main frame (I-beam or channel-beam) in the area of utility connections. No more than 25% of the underside of the main frame of the home shall be less than 12 inches above grade.

(b) Elevated Manufactured Homes: When the manufactured home is installed on a basement or split entry type foundation over a habitable lower-level area, the

foundation system shall be designed by a registered professional engineer or architect.

(9) Ventilation of Manufactured Homes.

(a) Ventilation of Underfloor Areas:

1. Provisions shall be made to minimize condensation in underfloor areas through ventilation openings or other suitable means. A 6 mill poly vapor barrier, or equivalent, must be placed on the ground area in the crawl space. A minimum of 90 percent of the ground area must be covered, not to include area under footers.

2. If combustion air for heat-producing appliance(s) is taken from within the underfloor areas, ventilation shall be adequate to assure proper operation of the appliance(s). This requirement shall take precedence over the provisions of subparagraph (9)(a)1. Note: This is in addition to the crawl space requirement.

3. A minimum of four ventilation openings totaling no less than four square feet of net free vent area, must be provided. One shall be placed at or near each corner as high as practicable. Crawl space ventilation net free requirement shall be calculated as follows:

   a=A/1500 where:

   A=the area of the crawl space, square foot a=the total net free vent space.

   If the manufacturer's installation instructions require additional vents or openings, the manufacturer's instructions shall apply.

4. Openings shall provide cross ventilation on at least two opposite sides. The openings shall be covered with corrosion resistant wire mesh not less than 1/8 inches, and not more than 1/2 inches in any dimension or with screened louvered openings to retard entry of dry vegetation, waste materials, or rodents. As an option to individual vents, ventilation can be provided by means of vinyl material which has openings for air ventilation as provided in the minimum requirements above.

(b) Intake air for ventilation purposes shall not be drawn from underfloor spaces of the home.

(c) Moisture producing devices, such as dryers, shall be vented to the atmosphere in such a manner to insure that moisture laden air is carried beyond the perimeter of the home.

(d) Skirting: Skirting, if used, shall be installed in accordance with the manufacturer's installation instructions. It shall be secured, as necessary, to assure stability, to minimize vibrations, to minimize susceptibility to wind damage, and to compensate for possible frost heave. Access opening(s) not less than 18 inches in any dimension and not less than 3 square feet in area shall be provided to allow for access and inspection of the home. Such access panel(s) or door(s) shall not be fastened in a manner requiring the use of a special tool to remove or open same. On-site fabrication of skirting shall meet the venting requirements of subparagraph (9)(a).

(10) Maintenance of Anchoring Systems: The homeowner shall be advised that tie tension should be checked and adjusted when necessary.

(11) Plumbing.

(a) Each manufactured home site shall be provided with a water supply and sewer located and arranged to permit attachment to the manufactured home in a workmanlike manner.

(b) When the entire system has been completed, install permanent drain line supports at 4' on center.

(c) Proper slopes and connector sizes: Drain lines must slope at least 1/4"fall per foot of run. EXCEPTION: 1/8"fall per foot is allowed when a clean out is installed at the upper end of the run. Connect the main drain line to the site sewer hookup. Plumbing drain lines must be supported so as to slope at least 1/4"fall per foot of run or 1/8"fall per foot of run when full-size clean out is located in upper end of line.

(12) Manufactured Home Electrical Connections.

(a) When a manufactured home consists of two or more sections, all electrical connections from one section to another shall be installed in accordance with the manufacturer's installation requirements. In the absence of manufacturer's instructions, electrical connections shall be made in accordance with the National Electrical Code.

(b) Manufactured homes may have the service equipment mounted on or in the unit provided such units comply with all of the following conditions:

1. Installed on a private or owner's lot;

2. Permanent utility connections provided;

3. Located on a properly constructed foundation;

4. Unit is properly anchored and tied down;

5. Unit is constructed in accordance with HUD Construction Standards;

6. Service equipment complies with Article 230 and 250 of the Georgia (National) Electrical Code.

(c) All manufactured home utility services shall be connected to the supply sources with only approved materials.

(d) When a manufactured home is designed to have a meter mounted on home, the electrical service supply is allowed to be installed directly on the home subject to compliance with subparagraph (12)(b), above.

(e) Temporary Electrical Service: The authority having jurisdiction shall allow for temporary electrical service for the installation of the manufactured home when the home consists of two or more sections.

(13) Retail Display.

(a) All manufactured homes and mobile homes displayed for retail sales on dealership or retailer lots shall be stabilized to such a degree as to not allow damage to occur while the home is on display.

1. Piers for multi-section homes shall consist of a minimum of twelve (12) piers and shall be located one under each I-beam in the front of each axle area and at each end of the manufactured home.

2. Piers for single section homes shall consist of a minimum of six (6) piers one located under each I-beam at each end of the home and in front of the axle area.

(14) Sites Prone to Flooding. Special elevations and anchoring techniques are required when locating a home in an area prone to flooding. Consult an engineer and the local building official to make sure that the design and construction of the foundation system conform to applicable federal, state, and local codes and regulations. The Federal Emergency Management Agency (FEMA) publication FEMA 85, "Manufactured Home Installation in Flood Hazard Areas,"contains design and anchoring systems that will allow the foundation system to resist flood forces. This publication is available from FEMA, Washington, DC 20472. Further information may be obtained from the Manufactured Housing Section of the Office of the Insurance and Safety Fire Commissioner. In areas where a community meets the eligibility requirements for the National Flood Insurance Program, the local jurisdiction having authority shall have the authority to change, delete or modify these regulations in order to comply with the National Flood Insurance Program created by the National Flood Insurance Act of 1968, as amended and/or Rules

and Regulations of FEMA addressing the installation of manufactured and mobile homes in areas subject to flooding.

(15) Additional Installation Requirements for Previously Owned Multi-Section Manufactured Homes and Mobile Homes. The floor sections, roof sections and wall sections are to be fitted together tightly. Connections must be sufficiently sealed to prevent air infiltration. Connection of multi-section manufactured homes and mobile homes (two or more sections), when manufacturer's installation instructions are not available shall be as follows:

(a) Floor Connection: All floors of multi-section manufactured homes and mobile homes shall be securely fastened together with 5/16 inch lags 4 inches long and 16 inches on center entire length of home. All sections shall be leveled and aligned making sure the floors are even on top.

(b) Roof and Ridge Beams: All roof and ridge beams of multi-section manufactured homes and mobile homes shall be securely fastened together.

1. Metal roof connections to be minimum 30 gauge galvanized metal, 12 inches wide, fastened with #8 x 1 1/4 screws minimum, at 4"on center around perimeter of the entire length of the cap.

2. Wood/shingle roofs fastened with one of the following options:

(i) Minimum 30 gauge galvanized metal, 10 inches wide by length of roof. Fastened with minimum 1 1/2"fasteners at 4 inches on center along entire perimeter of the cap.

(ii) Minimum 5/16 inch by 6 inch lag screws 16 inches on center, entire length of roof.

(iii) 1 1/2 inch by 12 inch 26 gauge galvanized metal straps placed within 2 feet of each end and 8 feet on center entire length of units, fastened with # 8 x 1 1/2 inch screws, 5 each side of ridge joint.

(c) End Walls: End walls of multi-section manufactured homes and mobile homes shall be securely fastened together.

1. Minimum #8 screws 8 inches on center entire height of end walls, with minimum of 1 inch penetration into the receiving member. If toe screw method is used, must have 1 1/2 inch penetration.

2. 1/4 inch lag screws 24 inches on center with minimum 1 1/2"penetration into receiving member.

3. 1 1/2"galvanized strapping placed 12 inches on center, entire height of stud, fastened with #10 nails minimum 2 each end of strap.

4. Siding and trim pieces are to be installed at the connection of the sections.

(d) Roof Covering: The joints at the ridge of the roof shall be secured and weather tight.

(e) Plumbing drain lines must be supported off the ground. Unless specified in other sections of this Rule, all lines under the manufactured home shall be supported every 4' on center.

(f) Crossover, heating, and other ducts: Heating and duct work is to be connected for proper heating/cooling operation.

1. Securely connect each end of the crossover duct underneath each section to the dropout connection;

2. Wrap/cover all seams and joints with approved UL181 tape or equivalent;

3. Wrap or cover exposed metal with insulation to reduce heat loss;

4. Strap and support crossover duct 4 feet on center minimum. Duct must be supported off the ground.

(16) Miscellaneous.

(a) Where the means of egress from a manufactured home is not substantially level, such differences in elevation shall be negotiated by stairs or ramps. (Not applicable to egress windows.)

(b) Auxiliary Structures: All auxiliary structures (such as porches, decks, awning, cabanas, stairs, etc., unless provided and approved by the manufacturer) shall be entirely self-supporting, unless designed and approved by a professional engineer or registered architect. All such structures shall be constructed in accordance with the Georgia State Building Codes or local authority having jurisdiction.

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.18
Authority: O.C.G.A. Secs. 8-2-130, 8-2-133, 8-2-160, 8-2-166, 25-2-1, 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Forms"adopted. F. Oct. 7, 1992; eff. Jan. 1, 1993, as specified by the Agency.
Amended: F. July 22, 1996; eff. Aug. 11, 1996.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule entitled "Installation Instructions"adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Rule 120-3-7-.19. Compliance With Rules and Regulations; Penalties.

(1) All persons who engage in activities covered by this Regulation, the Manufactured Homes Act, the Act and Rules and Regulations promulgated thereunder shall do so in conformity therewith. After notice and hearing as provided in accordance with this Regulation, any person who is found to have violated any of the Rules contained in this Chapter shall be subject to the penalties authorized in O.C.G.A. §§ 8-2-130*et seq.*, 8-2-160 *et seq.*, and 25-2-37, and as may otherwise be authorized by law.

(2) Procedures to enforce these provisions shall include, but not be limited to, the following:

(a) Any person who is in violation of any of these Rules shall be subject to the issuance of an Order to become effective at a later date, subject to the person's right to request a hearing within ten (10) days after that person's receipt of such Order, imposing a fine, suspension, or revocation of licensure.

(b) Any person who is in violation of any of these Rules shall be subject to the issuance of an Order requiring said person to appear before him, then and there to show cause, if any there be, why the Commissioner should not impose a fine, suspension, or revocation of licensure.

(3) Nothing in subparagraph (2), above, shall be construed so as to invalidate the Commissioner's authority to take any action authorized in O.C.G.A. §§ 8-2-130*et seq.*, 8-2-160 *et seq.*, and 25-2-37, and as may otherwise be authorized by law and by these Rules and Regulations, as stated in subparagraph (1), above.

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.19
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Compliance With Rules and Regulations; Penalties"adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Rule 120-3-7-.20. Forms.

(1) Unless otherwise indicated, and to the extent provided, each filing required under this Regulation Chapter is to be made on forms or electronic format obtained from the Commissioner.

(2) Forms may be reproduced and the format of the forms may be altered to accommodate manual or automated processing provided the content is unchanged and the same information is presented in the same order as in the forms or electronic format obtained from the Commissioner.

(3) Any form filed electronically requiring a signature shall contain the electronic signature of the person filing the form, as defined in O.C.G.A. § 10-12-3.

(4) The Commissioner may approve a method or methods of electronic filing.

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.20
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Forms"adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Rule 120-3-7-.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 provisions to other persons or circumstances shall not be affected.

Cite as Ga. Comp. R. & Regs. R. 120-3-7-.21
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Severability' adopted. F. Nov. 30, 2004; eff. Dec. 20, 2004.

Subject 120-3-8. RESERVED.

Subject 120-3-9. RESERVED.

Subject 120-3-10. RULES AND REGULATIONS FOR EXPLOSIVES AND BLASTING AGENTS.

Rule 120-3-10-.01. Promulgation and Purpose.

(1) These Rules and Regulations for Explosives and Blasting Agents are promulgated and adopted by the Georgia Safety Fire Commissioner as contemplated by and pursuant to authority set forth in O.C.G.A. Sections 25-2-4, 25-2-17, and 25-8-9. The manufacture, possession, transportation, distribution or use of explosives within the State of Georgia except as provided in these Rules and as provided in Chapter 7 of Title 16 of the Official Code of Georgia Annotated is a criminal offense and violators shall be subject to criminal prosecution and forfeiture of property as well as administrative penalties as provided in these Rules.

(2) The purpose of these Rules and Regulations is to prevent the loss of life, injury of persons, and loss or damage to property in the handling, use, manufacture, storage, and transportation of explosives and blasting agents. These Rules and Regulations supersede former Rules and Regulations promulgated by the Georgia Safety Fire Commissioner pertaining to explosives and blasting agents when such are in conflict with these Rules and Regulations.

Cite as Ga. Comp. R. & Regs. R. 120-3-10-.01
Authority: O.C.G.A. §§ 25-2-4, 25-2-17, 25-8-9.
History. Original Rule entitled "Promulgation and Purpose"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.

Repealed: New Rule of same title adopted. F. Apr. 17, 2002; eff. May 7, 2002.
Amended: ER. 120-3-10-0.4-.01 adopted. F. and eff. Feb. 17, 2006.
Amended: ER. 120-3-10-0.5-.01 adopted. F. and eff. June 8, 2006.
Amended: Permanent Rule adopted. F. Nov. 1, 2006; eff. Nov. 21, 2006
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-10-.02. Definitions.

The definitions contained herein are in addition to or in clarification of those contained in the adopted standards.

(1) "Applicant"is any person representing or affiliated with the owner of a facility that requires the possession or use of explosives.

(2) "Authority Having Jurisdiction"means the State Fire Marshal of Georgia or his/her designee.

(3) "Blasting Operation"means the use of explosives in the blasting of stone, rock, ore, or any other natural formation or in any construction or demolition work, but shall not include the use of explosives in agricultural operations and private and personal use of explosives in remote areas for such operations as ditching, land clearing, destruction of beaver dams and other such operations when not within a 750 feet of a roadway or inhabited structure.

(4) "Blasting Report"is a report that includes the requirements of O.C.G.A. Section 25-8-8 and meets the requirements of 120-3-10-.06.

(5) "Bulk storage"means storage of any explosive materials or blasting agents.

(6) "Commissioner"means the Georgia Safety Fire Commissioner.

(7) "Competency Card"means the picture identification card issued by the State Fire Marshal establishing an individual's competency in a chosen field of blasting or other use of explosives.

(8) "DOT"means the United States Department of Transportation.

(9) "GPSC"means the Georgia Public Service Commission.

(10) "Individual"means any person, firm, business, partnership, organization, association, corporation, or individual.

(11) "License"or "Explosives License"means the written authority of the State Fire Marshal, issued pursuant to these rules and regulations to manufacture, possess, store, sell, use, or transport explosives and blasting agents and is required by any person who manufactures, buys, sells, possess, stores, uses, or transports explosives.

(12) "Licensed Blaster"is a person who through training and experience is qualified to supervise blasting activities in a specific field of blasting and possesses a Level III Competency Card.

(13) "Manufacturing"means mixing, blending, extruding, assembling, disassembling, chemical synthesis, and other functions involved in making a product or device that is intended to explode.

(14) "Permit"or "Explosives Permit"means the written authority of the judge of the probate court or designated elected county official, issued pursuant to these regulations to purchase for use, and use only, of a designated amount of explosives. A permit is a single or one-time transaction authorization and may not be used for repeated purchase or for a location other than that specified on the permit.

(15) "Responsible Person"means the individual or individuals, designated on an explosive license application, that possess, store, or transport explosives and are approved by the State Fire Marshal's Office to engage, under the direct supervision of an explosives license holder, in any use of explosives.

(16) "Smokeless Propellant"means the propellant referred to in NFPA 495 (2018 Edition) as solid propellants, commonly referred to as smokeless powders, used in small arms ammunition, cannons, rockets, or propellant-actuated devices.

Cite as Ga. Comp. R. & Regs. R. 120-3-10-.02
Authority: O.C.G.A. §§ 25-2-4, 25-2-17, 25-8-9.
History. Original Rule entitled "Administration"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Nov. 16, 1992; eff. Dec. 6, 1992.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.
Repealed: New Rule of same title adopted. F. Apr. 17, 2002; eff. May 7, 2002.
Amended: ER. 120-3-10-0.4-.02 adopted. F. and eff. Feb. 17, 2006.
Amended: ER. 120-3-10-0.5-.02 entitled "Definitions"adopted. F. and eff. June 8, 2006.
Amended: Permanent Rule adopted. F. Nov. 1, 2006; eff. Nov. 21, 2006.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-10-.03. Administration.

(1) Requirements for License or Permit

(a) A License issued by the State Fire Marshal shall be required for the following:

1. For the manufacture of any explosives and blasting agents.

2. To purchase, to offer for sale, sell, give away or otherwise convey, transport, store, possess, or use (except as authorized for use under a Permit)

any explosives or blasting agents, including commercial stocks and the commercial use of smokeless propellant, black powder, and small arms primers.

3. To maintain any facility for unloading, reloading, or transshipment of explosives or blasting agents.

(b) Any individual that is issued a license pursuant to these Rules and Regulations is not exempt from obtaining any other license or permit that may be required by other government agencies.

(c) A Permit issued by the judge of the probate court or designated county official shall be valid under the following conditions:

1. A Permit shall be valid only for personal use and shall not be issued to individuals to conduct commercial blasting or blasting for profit. Commercial blasting or blasting for profit activities requires a license issued by the State Fire Marshal's Office.

2. A Permit shall be valid only for a single transaction and shall only be used in the county where the permit is issued.

3. A Permit shall be valid only for a single transaction and does not authorize storage or transportation. All explosives listed on the Permit must be purchased at one time and used on the day of purchase or returned to the vendor the same day.

4. Explosives purchased under a Permit shall be transported only by an explosives license holder authorized for the transportation of explosives.

(d) The following shall be exempt from License or Permit requirements:

1. Any person may purchase without license or permit and keep on hand for their personal use smokeless propellant powder and small arms primers for hand loading small arms ammunition.

2. All persons or entities moving explosives and blasting agents under the jurisdiction of the Federal Department of Transportation.

3. All members and organizations of the armed forces of the United States or of this state or any of the several states and personnel assigned or attached to such agencies when acting in an official capacity.

4. All law enforcement, fire services and emergency management and regulatory agencies of this State, the United States or any of several states

and personnel assigned or attached to such agencies when acting in their official capacity.

5. All persons or entities using explosive materials in medicines and medicinal agents in forms prescribed by the most recent edition of the official United States Pharmacopoeia or the National Formulary.

6. Any individual, who is otherwise authorized to possess explosives pursuant to Article 4 of Chapter 7 of Title 16 of the Official Code of Georgia Annotated, may transport explosives within the State of Georgia without license or permit required by these Rules provided that the point of origin of the shipment was outside the State of Georgia and the transportation of such explosives is in compliance with the regulations governing the transportation of explosives issued by the United State Department of Transportation.

7. Any individual, who is otherwise authorized to possess explosives pursuant to Article 4 of Chapter 7 of Title 16 of the Official Code of Georgia Annotated, may purchase and possess for sporting, recreational or cultural purposes:

   (i) Not more than 50 pounds of commercially manufactured black powder,

   (ii) Percussion caps, safety and pyrotechnic fuses, quills and slow matches, or friction primers.

(2) License and permit fees:

(a) License fees and Permit fees shall be in accordance with Chapter 2 of Title 25 of the Official Code of Georgia annotated, Section 25-2-4.1, and shall be attached to the application and made payable to the Commissioner.

(3) Application for License, Competency Certificate or Permit:

(a) Application for License:

1. The applicant for a license shall, at his or her own expense, furnish the State Fire Marshal with such information as the State Fire Marshal may require.

2. Any Applicant requesting a license shall make application in an approved format to the State Fire Marshal. The Applicant will designate the Responsible Persons in the application.

3. An application to transport, or which includes transportation of explosives and blasting agents, shall be accompanied by an affidavit that the vehicles to be used to transport have been inspected by a qualified person and found to be in safe condition and in compliance with these regulations. Such inspection may be performed by a certified mechanic, an automotive repair or service garage or similarly recognized inspection stations.

4. An application for license for all permanent explosives storage facilities having quantities exceeding 500 pounds shall be accompanied by complete plans and specifications. Plans and specifications shall be submitted in duplicate to and receive approval by the State Fire Marshal before installation is started. Such plans shall be drawn to scale and be of sufficient detail and clarity as necessary to indicate the nature and character of the proposal and its compliance with this Chapter. One set of the plans shall be retained by the State Fire Marshal and one copy shall be returned to the applicant with the approval or disapproval indicated thereon. A copy of the approved plans shall be kept available at the construction site for inspection by authorized representatives of the State Fire Marshal. Pursuant to O.C.G.A. Section 25-2-4.1, the plans shall be accompanied with the mandatory plan review fee payable to the Commissioner. The plans shall bear the seal and Georgia registration number of the drafting architect or engineer or shall otherwise have the approval of the Safety Fire Commissioner or his designee.

5. An applicant for a license or for designation as a Responsible Person shall be subject to the following conditions:

   (i) Shall be subject to a criminal records check.

   (ii) Shall not have been convicted of a felony.

   (iii) The Responsible Person shall submit a negative drug screen.

6. An applicant for a license or for designation as a Responsible Person must be 21 years of age and shall not be addicted to the use of, have a history of, or be under the influence of intoxicants, narcotics, controlled substances or other dangerous drugs.

7. Responsible Persons shall provide information to indicate that they have training experience and/or a working knowledge of the safe use of explosives.

8. All applicants for a license or for designation as Responsible Persons shall certify that they are familiar with Chapter 120-3-10 of the Commissioner's Rules and Regulations and NFPA 495.

9. All Applicants for a license shall provide documentation of explosives licenses issued by federal authorities, such as the Bureau of Alcohol, Tobacco and Firearms, or by other states.

10. All Applicants for a license shall list on the application the field(s) of blasting or other use of explosives in which the licensee is to engage. All commercial explosive licenses to use explosives will be issued by the Commissioner in the following specified field(s):

    (i) Construction,

    (ii) Surface Mining,

    (iii) Underground Mining.

    (iv) Special Effects

11. All Responsible Persons shall submit to the Commissioner a notarized certification denoting the specific explosive/blasting field in which he or she has successfully been trained or certified.

12. All Responsible Persons shall obtain, and subsequently retain, a "Competency Card"issued by the Commissioner. The "Competency Card"issued by the Commissioner shall clearly state the blasting field or fields in which the licensee for Responsible Person has been licensed or approved to perform. There will be four levels of certification recognized by the State Fire Marshal's Office.

    (i) Level I - Entry level that includes laborers and Bulk Truck Drivers requiring background check and drug testing.

    (ii) Level II - Meet Level I requirements and completion of approved curricula.

    (iii) Level III - Meet Level II requirements and three years experience in a specific field of blasting.

    (iv) Special Effects - Requires that the applicant provide evidence of actual experience in the safe handling and use of explosives for the purpose of creating audible and visual effects for the entertainment industry. This level shall not authorize the use of explosives, fireworks, or pyrotechnics before a proximate audience or within any building or structure. The use of any explosives, fireworks, or pyrotechnics before a proximate audience or within any building or

structure requires a license issued pursuant to Rules and Regulations of the Safety Fire Commissioner, Chapter 120-3-22.

(v) The Commissioner will recognize the following curricula, and other equivalent program(s) approved by the Commissioner as minimum requirements for competency training:

(I) I.S.E.E. Level 1, Blasting Fundamentals, which should include all Federal, State and local regulations,

(II) the Surface Blaster Competency Study Course approved by the Georgia Construction Aggregate Association,

(III) the Certification program developed by the Dimensional Stone Industry or,

(IV) other programs approved by the Commissioner or his/her designee.

(V) Any individual possessing a Level III Competency Certification will be required to take continuing education courses approved by the Commissioner and shall take no less than eight (8) hours every two (2) years.

(VI) Exception to Certification: Applicants for permits to use explosives in agricultural operations and private and personal use of explosives in remote areas for such operations as ditching, land clearing, destruction of beaver dams and other such operations that is not within 750 feet of an occupied structure or roadway.

13. Every Responsible Person must be able to produce a "Competency Card"upon demand of the Commissioner or his or her representative or by any local authority having jurisdiction over blasting activities.

(i) All applications for licensure for designation as a Responsible Person submitted by an applicant shall include in the application, and the annual renewal application, the full name, date of birth, social security number, and address of the applicant or Responsible Person, photo and address of the applicant, including a one (1) inch horizontal by one and one fourth (1¼) inch vertical photograph with the licensee's or Responsible Person's signature below the photograph. The name of the licensee employing the Responsible Person and employer's business name shall be shown on the

application. The application shall indicate such additional information as may be required by the Commissioner or by these rules and regulations. Photographs shall be required and submitted every four years thereafter following the initial date or update of the issuance of a "Competency Card".

(ii) Those exemptions as are established in Chapter 120-3-10 of the Rules of the Safety Fire Commissioner and Chapter 7 of Title 16 of the Official Code of Georgia Annotated shall apply.

(b) Fire Marshal's action on application for License:

1. Upon receipt of an application for license and before the license is issued, the State Fire Marshal may make, or cause to be made, an investigation for the purpose of ascertaining if all requirements of these rules and regulations have been met by the applicant.

2. If the results of the investigation of the State Fire Marshal are found to be in conformity with the requirements of these rules and regulations, the State Fire Marshal shall issue the license upon the payment of the proper fee therefore.

(c) Posting or Availability of License or Permit:

1. Any license or permit issued shall be posted in a location so that the State Fire Marshal, his representatives and inspectors, or any other authorized person may examine it. Such posting may be in the storage facilities, office area and storage magazines. A license issued to a person without fixed storage facilities shall be available at the operation location.

2. A copy of a license issued pursuant to these Rules that authorizes an individual to transport explosives shall be in the possession of the driver of the vehicle.

3. Any facility that is licensed or permitted pursuant to these Rules is subject to inspection by the State Fire Marshal's Office or their representatives, or any law enforcement or fire service official at any time.

4. A Photostat or mechanically reproduced copy of any license or permit may be used for these purposes.

(d) Presenting Evidence of License or Permit:

1. The license or permit issued shall be presented to vendors or other persons selling or otherwise conveying explosives and blasting agents to the license or permit holder. A Photostat or mechanically reproduced copy of the license may be used for this purpose.

(e) Application for Permit:

1. The applicant for a permit to purchase for use and use only explosives or blasting agents shall make application to the judge of the probate court or designated elected county official in writing on a form provided by the judge of the probate court or designated elected county official or its equivalent. Full identification of the applicant shall be made to the official to whom application is made and shall be subject to the following:

   (i) The applicant shall be subject to a criminal records check.

   (ii) The applicant shall not have been convicted of a felony.

   (iii) The applicant shall certify that he or she has a working knowledge of the safe use of explosives and is familiar with the Rules and Regulations of the Commissioner Chapter 120-3-10 and NFPA 495.

   (iv) The applicant shall certify that the permit will not be used by individuals who conduct commercial blasting or blasting for profit.

   (v) The applicant shall be at least 21 years of age and shall not be addicted to the use of or under the influence of intoxicants, narcotics, controlled substances or other dangerous drugs.

(f) Judge of the Probate Court or Designated Elected County Official's action on application for Permit:

1. Upon receipt of a duly executed application for a permit to purchase for use, and use only, the judge of the probate court or designated elected county official shall ascertain to his or her satisfaction that the applicant is the true party named in the application, and if satisfied, he or she may grant and issue the permit. Permits will be issued in quintuplicate, one copy for the issuing officer's files, three copies to the applicant including the original, and one copy for forwarding to the State Fire Marshal. The judge of the probate court or designated elected county official may withhold a permit from any individual when he or she deems issuing such a permit not in the best interest of public safety or security.

2. Explosives and blasting agents are to be used only in the county that the permit is issued.

3. This permit does not authorize storage or transportation.

4. No later than the 10th of each month, the judge of the probate court or designated elected county official will provide the State Fire Marshal's Office documentation of all permits that were issued and returned during the previous month.

(4) Records:

(a) All persons required by these rules and regulations to obtain a license from the State Fire Marshal shall keep an accurate record of all explosives and blasting agents purchased, received, sold, delivered, on hand, used, or otherwise disposed of. Records shall be clear and legible. Records shall be maintained for a minimum period of three years as follows:

1. For distributors, dealers, persons giving away or otherwise conveying explosives and blasting agents, including salesmen where delivery is direct from out of the State and no other record of such a sale is maintained in Georgia, the records shall include at least the following:

(i) The date of sale or transaction.

(ii) The name of person purchasing and/or receiving explosives and blasting agents.

(iii) The license or permit number of the person purchasing or receiving explosives and blasting agents, unless the recipient is exempt from requiring a license or permit, in which case the person must be clearly identified by name and agency to show exempt status and the record or sales slip shall be signed by that person.

(iv) The quantity and description of explosives and blasting agents sold or otherwise disposed of.

(v) The location of the operation where explosives and blasting agents are to be stored, used, delivered to, or otherwise disposed of.

2. For users and other persons possessing and/or storing explosives and blasting agents, the records shall include at least the following:

(i) The date of receipt of explosives and blasting agents.

(ii) The quantity and description of explosives and blasting agents received.

(iii) The date of use or other disposal of explosives and blasting agents and quantity used or disposed of.

(b) Handling of Explosives Permits:

1. Any person who sells, gives away, delivers, or otherwise disposes of or conveys explosives and blasting agents to another person who presents a valid explosives permit shall withdraw two (2) copies of the permit, the original and vendor's copies, at the time of the sale or transaction. The vendor's copy shall be retained by the person selling or disposing of the explosives and blasting agents and the original shall be forwarded to the State Fire Marshal.

2. The person using an explosives permit shall retain the purchaser's copy of the permit which serves as the authorization for him to have the described explosives in his possession.

3. Within one working day or 24 hours, whichever comes first, of expiration of the one-time use permit, the individual issued the permit will return all unused explosives to the vendor and the expired permit to the issuing judge of the probate court or designated elected county official.

(5) The Insurance Commissioner may appoint a Blasting Advisory Committee whose role shall be only to be available to the Commissioner to advise on rule changes, review and issue best practices and safety bulletins and provide advice as deemed appropriate by the Commissioner or their designated liaison to the Committee. The Committee shall meet as determined by the Commissioner but no less than twice per year. The Committee will consist of 8 members; four will serve an initial term of 2 years and four will serve 3 years. The Commissioner shall initially appoint a Chairperson to serve a two year term thereafter the Committee shall elect the Chair in January of each alternate year. The membership of the Committee shall include no less than 1 representative from the aggregate mining industry, 1 representative from the utility contractors industry, 1 representative from the explosives industry, 1 representative from the drilling and blasting industry, 1 representative from the vibration analysis industry, 1 representative from law enforcement, 1 representative of the State Fire Marshal, and 1 representative to be selected from a related industry. The duties of the Committee may include;

(a) A review of incidents involving injury to persons or property damage due to handling, use, manufacture, storage, or transportation of explosives and blasting agents.

(b) Communication on issues dealing with best industry practices related to the handling, use, manufacture, storage or transportation of explosives and blasting agents.

(c) Peer review of complaints related to the use, handling, manufacture, storage, or transportation of explosives and blasting agents.

(d) Peer review of proposed revisions, additions, deletions, or changes to the Georgia Law and/or Rules and Regulations dealing with the use, handling, storage or transportation of explosives and blasting agents; and

(e) Any issue as deemed appropriate by the Insurance Commissioner's Office.

Cite as Ga. Comp. R. & Regs. R. 120-3-10-.03
Authority: O.C.G.A. §§ 25-2-4, 25-2-17, 25-8-9.
History. Original Rule entitled "Definitions"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.
Repealed: New Rule of same title adopted. F. Apr. 17, 2002; eff. May 7, 2002.
Amended: ER. 120-3-10-0.4-.03 adopted. F. and eff. Feb. 17, 2006.
Amended: ER. 120-3-10-0.5-.03 entitled "Administration"adopted. F. and eff. June 8, 2006.
Amended: Permanent Rule adopted. F. Nov. 1, 2006; eff. Nov. 21, 2006.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-10-.04. Administrative Action by Commissioner and Hearings.

(1) Any license, or competency certificate may be refused or a license or competency certificate duly issued may be suspended or revoked, if the Commissioner finds that the applicant for or the holder of the license or competency certificate:

(a) Has violated any provision of Chapter 8 of Title 25 of the Official Code of Georgia Annotated, or any other law or regulation of this state, or any federal law or regulation relating to the manufacture, purchase, use, handling, storage, sale or transportation of explosives or blasting agents;

(b) Has intentionally misrepresented or concealed any material fact in any application for a license, competency certificate or on any form filed with or submitted to the Commissioner or the State Fire Marshal;

(c) Has permitted any person employed by the license or competency certificate applicant or holder, either by direct instruction or by reasonable implication, to violate any provision of Chapter 8 of Title 25 of the Official Code of Georgia Annotated;

(d) Has failed to comply with or has violated any order issued by the Commissioner;

(e) Has shown a lack of trustworthiness or a lack of competence to act as a licensee or competency certificate holder under Chapter 8 of Title 25 of the Official Code of Georgia Annotated;

(f) Has failed to provide documentation or records, or refused to appear in response to any Order entered by the Commissioner or any written demand by the Commissioner, State Fire Marshal or his or her designated representative sent by registered or certified mail or statutory overnight delivery to the last known address of the applicant or holder of a license as shown in the records of the State Fire Marshal;

(g) Has been convicted of a felony, or has an officer, director or owner of the applicant for, or holder of, such license or competency certificate who has been convicted of a felony by a final judgment in any jurisdiction of the United States or in any federal court;

(h) Has had a license, competency certificate or other authority to engage in the manufacture, sale, storage, use or transportation of explosives or blasting agents, refused, revoked, suspended or otherwise disciplined, by any lawful licensing authority of any other jurisdiction or by the United States; or,

(i) Has experienced any event or occurrence involving the manufacture, sale, storage, use or transportation of explosives or blasting agents, resulting in unintended loss or damage to property or resulting in severe bodily injury or loss of life.

(2) A license or competency certificate which is subject to refusal, suspension or revocation may be issued or placed on probation for a period of not less than three months and not longer than 12 months and shall be subject to immediate revocation for cause at any time without a hearing. Any order of probation shall prescribe the terms of probation.

(3) The Commissioner may impose a monetary fine of up to $1,000.00 against the holder of a license or a competency certificate for each and every violation of a provision of Chapter 8 of Title 25 of the Official Code of Georgia Annotated, any of these rules or regulations or any order of the Commissioner.

(4) Any order entered by the Commissioner regarding the refusal, suspension, revocation, or the issuance or placing on probation of any license or competency certificate applicant or holder, or imposing a monetary fine, and any hearing which may result from the same, shall conform insofar as possible to the following:

(a) Any order of the Commissioner refusing, suspending or revoking a license or competency certificate to any applicant or holder, or issuing or placing any license or competency certificate on probation, shall be issued in writing and be signed by the Commissioner and shall state its effective date, shall state concisely its intent and purpose, the grounds on which it is based and the provisions of Title 25 of the Official Code of Georgia Annotated or any rule or regulation of the Commissioner upon which it is to be taken;

(b) Any order or notice may be served by delivery to the license or competency certificate holder or applicant by delivery in person or by mailing it, postage

prepaid, by registered or certified mail or statutory overnight delivery to the principal place of business or the last known address of the applicant for or holder of a license or competency certificate as shown in the records of the State Fire Marshal;

(c) Any person aggrieved by any order of the Commissioner refusing, suspending or revoking a license or competency certificate for any applicant or holder, or issuing or placing any license or competency certificate on probation, or imposing a monetary fine, may make a written demand for a hearing if made within ten days of the date of its receipt;

(d) Any demand for a hearing shall specify in what respects the person requesting the same is aggrieved and the grounds to be relied upon as a basis for the relief to be demanded at the hearing. Unless postponed by mutual consent or by request and for good cause shown, the hearing shall be held within 30 days after receipt by the Commissioner for such hearing;

(e) Pending the hearing and decision following the hearing, the Commissioner may suspend or postpone the effective date of his or her previous action;

(f) The hearing shall be held at the place designated by the Commissioner and shall be open to the public. Not less than ten days in advance, the Commissioner shall give notice of the time and place of the hearing;

(g) The Commissioner shall allow any party to the hearing to appear in person or by counsel, to be present during the giving of all evidence, to examine witnesses, to present evidence in support of their own interest and to have subpoenas issued by the Commissioner;

(h) Formal rules of pleading or evidence need not be observed at any hearing;

(i) Upon written request seasonably made by any party to the hearing, and at their expense, the Commissioner shall cause a full record of the proceedings to be made. If transcribed a copy of such record shall be furnished to the Commissioner without cost to the Commissioner or the state and shall be a part of the Commissioner's record of the hearing;

(j) Within 30 days after termination of the hearing or the transcription and furnishing of a copy of the record of such hearing to the Commissioner, if a record is requested, the Commissioner shall make his or her order thereon covering matters involved in the hearing and shall provide a copy of the order to those persons given notice of the hearing;

(k) The order shall contain a concise statement of the facts as found by the Commissioner, a concise statement of his or her conclusions therefrom, and the

effective date of the order, which may affirm, modify or nullify the action theretofore taken; and,

(l) Any party to the hearing may appeal any order of the Commissioner as provided for by the provisions of Section 25-2-10 of the Official Code of Georgia Annotated.

Cite as Ga. Comp. R. & Regs. R. 120-3-10-.04
Authority: O.C.G.A. §§ 25-2-4, 25-2-17, 25-8-9, 25-8-11.
History. Original Rule entitled "Special Provisions"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.
Repealed: New Rule of same title adopted. F. Apr. 17, 2002; eff. May 7, 2002.
Amended: ER. 120-3-10-0.4-.04 adopted. F. and eff. Feb. 17, 2006.
Amended: ER. 120-3-10-0.5-.04 adopted. F. and eff. June 8, 2006.
Amended: Permanent Rule entitled "Administrative Action by Commissioner and Hearings"adopted. F. Nov. 1, 2006; eff. Nov. 21, 2006
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-10-.05. Special Provisions.

(1) Any person who by license or permit is authorized to manufacture, sell, possess, transport, distribute or use explosives shall report any incident of larceny, fires, accidental explosions and accidents involving explosives and blasting agents as follows:

(a) Within 24 hours of discovering the loss of any explosives or evidence that there has been an attempted theft of any explosives, notify the State Fire Marshal's Office and the nearest regional office of the Georgia Bureau of Investigation (GBI) and the local law enforcement agency having jurisdiction over the location where the loss or attempted theft occurred. The GBI shall also notify the State Fire Marshal's Office of the loss or attempted theft through the GCIC system.

(b) In the event of a fire, accidental detonation or other accident involving explosives, immediately notify the officer in charge of the responding local fire services and emergency personnel of the type, quantity and characteristics of explosives involved and of any special precautions or measures which must be taken to protect life or property. As soon as the incident is under control but no later than the next business day after the incident, notify the State Fire Marshal's Office in writing of the facts and circumstances of the incident.

(c) In the event of a Fly Rock incident that includes any materials leaving the designated blast site, the State Fire Marshal's Office shall be notified of the event and the circumstances connected to the event within 4 hours of the event. NFPA

495 (2018 Edition), Chapter 11.4 Fly Rock shall be the governing guideline for this requirement.

(2) Modification of Requirements:

(a) Upon receipt of a sworn affidavit from the owner stating all relevant facts and circumstances and such other information as may be required, the State Fire Marshal may recommend to the Commissioner that specific requirements of this Chapter and the NFPA codes, standards and recommended practices adopted herein, be modified to allow alternative arrangements that will secure as nearly equivalent measures as are practical for the prevention of injury to persons and property. The Commissioner in his discretion may accept the State Fire Marshal's recommendation and grant the requested modification.

(3) Criminal Penalty for Violations:

(a) Any person who manufactures, sells, possesses, transports, distributes, or uses an explosive except as provided in Chapter 7 of Title 16 and Chapters 2 and 8 of Title 25 of the Official Code of Georgia Annotated shall be subject to criminal prosecution as provided by law.

(b) Any person or entity that is issued a license or permit pursuant to these Rules that violates any provision of these Rules shall be subject to the administrative penalties prescribed by law.

(4) Persons authorized to buy, sell, otherwise convey, possess, handle, use or transport explosives and blasting agents:

(a) No person under the age of 21 years old shall be authorized to buy, sell, otherwise convey, possess, store, use, or transport explosives and blasting agents, except for an active duty member of the armed forces of the United States or of this state or any of the several states and personnel assigned or attached to such agencies when acting in an official capacity.

Cite as Ga. Comp. R. & Regs. R. 120-3-10-.05
Authority: O.C.G.A. §§ 25-2-4, 25-2-17, 25-8-9.
History. Original Rule entitled "Standards for Manufacturer, Storage, Transportation, Handling and Use of Explosives and Blasting Agents"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Nov. 16, 1992; eff. Dec. 6, 1992.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.
Repealed: New Rule of same title adopted. F. Apr. 17, 2002; eff. May 7, 2002.
Amended: ER. 120-3-10-0.4-.05 adopted. F. and eff. Feb. 17, 2006.
Amended: ER. 120-3-10-0.5-.05 adopted. F. and eff. June 8, 2006.
Amended: Permanent Rule entitled "Special Provisions"adopted. F. Nov. 1, 2006; eff. Nov. 21, 2006.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-10-.06. Standards for Manufacture, Storage, Transportation, Handling and Use of Explosives and Blasting Agents.

Unless otherwise stated in this chapter, the following editions of the codes, standards, recommended practices, guides and methods, as published in the *National Fire Codes* (*NFC*) by the National Fire Protection Association (NFPA), as adopted and modified herein, and sections of the *International Fire Code* (*IFC*), as published by the International Code Council (ICC), as adopted and modified herein, shall be the state minimum fire safety standards for the manufacture, storage, transportation, handling and use of explosives and blasting agents.

(1) NFPA 495, 2018 Edition, *Explosives Materials Code* Modifications:

(a) Modifications to Chapter 3:

1. Delete subsection 3.2.2 in its entirety and substitute in its place the following:

   "3.2.2 Authority Having Jurisdiction. The State Fire Marshal of Georgia or his/her designee."

(b) Modification to Chapter 4:

1. Delete section 4.2 in its entirety
2. Delete section 4.3 in its entirety
3. Delete section 4.4 in its entirety
4. Delete section 4.5 in its entirety
5. Delete section 4.6 it its entirety

(c) Modification to Chapter 11:

1. Add a new subsection 11.2.4 to read as follows:

   "11.2.4 The velocity/shock wave of any blast shall not exceed 2"PPV at 40Hz or greater. At lower frequencies use the established limits in the vibration criteria as presented in the U.S. Bureau of Mined RI 8507."

2. Add a new subsection 11.3.3 to read as follows:

   "11.3.3 The air blast criterion as presented in the US Bureau of Mines RI 8485 defines limits on air overpressure resulting from blasting activities and establishes 140dbl as an acceptable level for compliance related to damage to structures."

(2) NFPA 498, (2018 Edition), *Safe Havens and Interchange Lots for Vehicles Transporting Explosives*

Modifications: None

(3) IFC (2018 Edition), *International Fire Code* Modifications:

(a) Modifications to Chapter 56:

1. Delete sections 5601 through 5607 and all related paragraphs there under in their entirety and substitute in their place the following:

"5601 Explosives and blasting. The provisions of Chapter 120-3-10 Rules and Regulations of the Safety Fire Commissioner entitled, 'Rules and Regulations for Explosives and Blasting Agents' shall govern the possession, manufacture, storage, handling, sale and use of explosives, explosive materials and small arms ammunitions."

Cite as Ga. Comp. R. & Regs. R. 120-3-10-.06
Authority: O.C.G.A. §§ 25-2-4, 25-2-17, 25-8-9.
History. Original Rule entitled "Standards for Storage of Ammonium Nitrate"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Nov. 16, 1992; eff. Dec. 6, 1992.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.
Repealed: New Rule entitled "Close Proximity Blasting"adopted. F. Apr. 17, 2002; eff. May 7, 2002.
Amended: ER. 120-3-10-0.4-.06 entitled "Blasting Report"adopted. F. and eff. Feb. 17, 2006.
Amended: ER. 120-3-10-0.5-.06 adopted. F. and eff. June 8, 2006.
Amended: Permanent Rule entitled "Standards for Manufacture, Storage, Transportation, Handling and Use of Explosives and Blasting Agents"adopted. F. Nov. 1, 2006; eff. Nov. 21, 2006.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-10-.07. Blasting Report.

(1) A Blasting Report consisting of a pre-blast report, drilling log and a post-blast record will be required on all blasting events. Individual company forms may be acceptable when approved by the State Fire Marshal's Office and must provide the information required by O.C.G.A. Section 25-8-8.

(2) The licensed blaster must note on the pre-blast report the proximity to the closest structure or roadway and the distance to the nearest seismograph, when required,

(3) The pre-blast report must contain documentation of the following information:

(a) Company, Company License Number, Date, and Location;

(b) Describe Nearest Structure including Distance and Direction from Shot;

(c) Type of Shot with Minimum Planned Scaled Distance or Regression Data;

(d) Max and Min Borehole depth, Borehole diameter, and Max Charge Weight at Closest Distance;

(e) Products, Type of Rock, Pattern with Burden and Spacing, and Powder Factor;

(f) Stemming feet, Stemming Type, and Stemming Length Ratio Relative to Burden;

(g) Cover/Existing Overburden with Amount and Type, and Direction to Open Face;

(h) Date of Bulk Explosive Truck Calibration (if used); and

(i) Conditions with high fly rock potential, including but not limited to over confined shots, lift shots, outfall/wet conditions, spacing and burden exceeding the depth of any borehole in shot, and/or hole deviation. Document measures taken to compensate for high fly rock potential.

(4) A drill log shall be maintained on all blasting events to allow the blaster to take the appropriate action if an anomaly occurs. The licensed blaster must have this drill log available before the loading process begins.

(5) Stemming material shall consist of properly sized crushed stone. When adequate stemming length is not possible, matting of either earthen cover or a man-made material like synthetic rubber to insure proper confinement is required.

(6) A seismograph shall be used at the nearest structure during blasting events that are within 750 feet of the nearest house, public building, school, church, commercial or institutional building and roadway. The velocity/shock wave shall not exceed the established limits of U.S. Bureau of Mines RI 8507; appendix (b).

Exception: Where all pedestrian and vehicular traffic on a roadway can be restricted to a distance of 750 feet or greater from the blast site at the time of the firing of the blast or where a variance is issued by the State Fire Marshal's Office.

(7) Seismographs will be calibrated by manufacturer certified technician at least of one time per year.

(8) Bulk metering equipment will be calibrated by a qualified individual on a quarterly basis.

(9) A signed copy of a blast report for all blasts shall be retained by the blasting firm for a period of three (3) years. Upon request, a copy of the report shall be sent to the State Fire Marshal's Office.

(10) When blasting activities are conducted within 750 feet of an occupied structure or roadway, charge length shall be held to a maximum of 20 feet per deck and hole size

will be limited to a maximum of 4 inches. In addition, there shall be a minimum of 6 foot of earthen cover or a man-made synthetic matting material. All facilities with a valid mining permit issued by the Georgia EPD, Land Branch Division, will be exempt from these requirements.

Cite as Ga. Comp. R. & Regs. R. 120-3-10-.07
Authority: O.C.G.A. §§ 25-2-4, 25-2-17, 25-8-9.
History. Original Rule entitled "Standards for Separation Distance of Ammonium Nitrate and Blasting Agents from Explosives and Blasting Agents"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule entitled "Severability"adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.
Repealed: New Rule entitled "Standards for Storage of Ammonium Nitrate"adopted. F. Apr. 17, 2002; eff. May 7, 2002.
Amended: ER. 120-3-10-0.4-.07 adopted. F. and eff. Feb. 17, 2006.
Amended: ER. 120-3-10-0.5-.07 adopted. F. and eff. June 8, 2006.
Amended: Permanent Rule entitled "Blasting Report"adopted. F. Nov. 1, 2006; eff. Nov. 21, 2006.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-10-.08. Standards for Storage of Ammonium Nitrate.

Unless otherwise stated in this chapter, the following editions of the codes, standards, recommended practices, guides and methods, as published in the *National Fire Codes* (*NFC*) by the National Fire Protection Association (NFPA), as adopted and modified herein shall be the state minimum fire safety standards for the storage, handling and use of solid or liquid ammonium nitrate.

(1) **NFPA 400, (2019 Edition), *Hazardous Materials Code***

Modifications: None

Cite as Ga. Comp. R. & Regs. R. 120-3-10-.08
Authority: O.C.G.A. §§ 25-2-4, 25-2-17, 25-8-9.
History. Original Rule entitled "Forms"adopted. F. Nov. 16, 1992; eff. Dec. 6, 1992.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.
Repealed: New Rule entitled "Severability"adopted. F. Apr. 17, 2002; eff. May 7, 2002.
Amended: ER. 120-3-10-0.4-.08 entitled "Forms"adopted. F. and eff. Feb. 17, 2006.
Amended: ER. 120-3-10-0.5-.08 adopted. F. and eff. June 8, 2006.
Amended: Permanent Rule entitled "Standards for Storage of Ammonium Nitrate"adopted. F. Nov. 1, 2006; eff. Nov. 21, 2006.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-10-.09. Forms.

(1) Unless otherwise indicated, and to the extent provided, each filing required under this Regulation Chapter is to be made on forms or electronic format obtained from the Safety Fire Division.

(2) Forms may be reproduced and may be altered to accommodate manual or automated processing provided the same information is presented in the same order as in the forms or electronic format obtained from the Safety Fire Division.

(3) Any form filed electronically requiring a signature shall contain the electronic signature of the person filing the form, as defined in O.C.G.A. Section 10-12-3.

(4) The Safety Fire Division may approve a method or methods of electronic filing.

Cite as Ga. Comp. R. & Regs. R. 120-3-10-.09
Authority: O.C.G.A. §§ 25-2-4, 25-2-17, 25-8-9.
History. Original Rule entitled "Forms"adopted. F. Apr. 17, 2002; eff. May 7, 2002.
Amended: ER. 120-3-10-0.4-.09 entitled "Notes"adopted. F. and eff. Feb. 17, 2006.
Amended: ER. 120-3-10-0.5-.09 adopted. F. and eff. June 8, 2006.
Amended: Permanent Rule entitled "Forms"adopted. F. Nov. 1, 2006; eff. Nov. 21, 2006
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-10-.10. Notes.

(1) The NFPA codes and standards adopted in this Chapter are on file in the Safety Fire Division and are available for viewing.

(2) Copies of the NFPA codes and standards may be obtained from:

National Fire Protection Association

Batterymarch Park

Quincy, Massachusetts 02269

Phone: 1-800-344-3555

Cite as Ga. Comp. R. & Regs. R. 120-3-10-.10
Authority: O.C.G.A. §§ 25-2-4, 25-2-17, 25-8-9.
History. Original Rule entitled "Severability"adopted as ER. 120-3-10-0.4-.10. F. and eff. Feb. 17, 2006.
Amended: ER. 120-3-10-0.5-.10 adopted. F. and eff. June 8, 2006.
Amended: Permanent Rule entitled "Notes"adopted. F. Nov. 1, 2006; eff. Nov. 21, 2006.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-10-.11. Severability.

If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and the applicability of such provisions to other circumstances shall not be affected thereby.

If you are an individual with a disability and wish to acquire this publication in an alternative format, please contact the ADA Coordinator, Safety Fire Division, Office of Commissioner of Insurance, No. 2 Martin Luther King, Jr. Drive, Atlanta, Georgia 30334 or call (404) 656-2056, TDD (404) 656-4031.

Cite as Ga. Comp. R. & Regs. R. 120-3-10-.11
Authority: O.C.G.A. §§ 25-2-4, 25-2-17, 25-8-9.
History. Original Rule entitled "Severability"adopted. F. Nov. 1, 2006; eff. Nov. 21, 2006.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Subject 120-3-11. RULES AND REGULATIONS FOR FLAMMABLE AND COMBUSTIBLE LIQUIDS.

Rule 120-3-11-.01. Promulgation and Purpose.

(1) These Rules and Regulations for Flammable and Combustible Liquids are promulgated by the Georgia Safety Fire Commissioner pursuant to O.C.G.A. Sections 25-2-4 and 25-2-16.

(2) The purpose of these rules and regulations is to provide precautionary and protective techniques that are reasonable and practical measures for the prevention of injury to persons and property from the storage, transportation and handling of flammable and combustible liquids. These rules and regulations supersede former rules and regulations promulgated by the Georgia Safety Fire Commissioner pertaining to flammable and combustible liquids when such are in conflict with these rules and regulations.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.01
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Rule entitled "Promulgation and Purpose"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Amended: F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Repealed: New Rule of same title adopted. F. June 5, 1997; eff. June 25, 1997.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.
Repealed: New Rule of same title adopted. F. Dec. 16, 2003; eff. Jan. 5, 2004.
Repealed: New Rule of same title adopted. F. Mar. 7, 2008; eff. Mar. 27, 2008.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-11-.02. Definitions.

The definitions contained herein are in addition to and in clarification of the definitions contained in the adopted codes and standards.

(1) AUTHORITY HAVING JURISDICTION. The State Fire Marshal of Georgia.

(2) STORAGE TANK. Any vessel having a liquid capacity that exceeds 230 L (60 gal), is intended for fixed installation, whether on fixed supports or skid supports, and is not used for processing.

(3) COMMISSIONER. The Georgia Insurance and Safety Fire Commissioner.

(4) FULL-SERVICE STATION. Any place of business, or portion thereof, which sells gasoline or diesel fuel at retail and which does not allow customers to dispense the fuel.

(5) MAJOR MODIFICATION. Where the general layout is modified to effect distance requirements, size of tanks, piping locations or additions to tanks, piping systems, dispensers or islands.

(6) NFPA. The National Fire Protection Association.

(7) PERSON. Any individual, firm, partnership, corporation, company, association, joint stock association, and any trustee, receiver, assignee, or personal representative thereof.

(8) PRIVATE-SERVICE STATION. The portion of a commercial, industrial, governmental, or manufacturing property where liquids used as fuels are stored and dispensed into the fuel tanks of motor vehicles that are used in connection with such businesses, by persons within the employ of such businesses.

(9) SELF-SERVICE STATION. Any place of business, or portion thereof, which sells gasoline or diesel fuel at retail and which allows customers to dispense the fuel.

(10) TEMPORARY INSTALLATION. Storage Tanks that are installed for 90 days or less.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.02
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Rule entitled "Administration"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Amended: F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Rule entitled "Definitions"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Amended: F. Nov. 16, 1992; eff. Dec. 6, 1992.
Repealed: New Rule of same title adopted. F. June 5, 1997; eff. June 25, 1997.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.
Repealed: New Rule of same title adopted. F. Dec. 16, 2003; eff. Jan. 5, 2004.
Repealed: New Rule of same title adopted. F. Mar. 7, 2008; eff. Mar. 27, 2008.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-11-.03. Submission of Plans for Storage Installations.

(1) Plans for all proposed flammable or combustible liquid storage tank installations, including major modifications at existing facilities, with more than a 60 gallon capacity for Class I Liquids or a 120 gallon capacity for Class II and Class III liquids must be submitted in duplicate to the State Fire Marshal for approval, and must be in compliance with applicable codes and standards prior to commencement of construction. Exception: Plans for storage tank installations with a storage capacity of 660 gallons or less may be submitted to the local fire authority having jurisdiction, where one exists, for approval. Plans for all proposed storage tank installations of more than 660 gallons capacity (other than self-service stations) submitted to the State Fire Marshal shall be accompanied by the mandatory plan review fee pursuant to O.C.G.A. Section 25-2-4.1. The check shall be made payable to the Safety Fire Commissioner. Pursuant to O.C.G.A. Section 25-2-16, the plans shall bear the seal and Georgia registration number of the responsible architect or engineer or shall otherwise have the approval of the Commissioner or his designee.

(2) Plans shall be submitted in duplicate and shall include, at a minimum, the following:

(a) Scaled site plan (shall include all buildings and property lines)

(b) Storage tank location(s)

(c) Tank Drawings (shall include all piping connections and appurtenances)

(d) Piping, valve, and associated equipment layout and arrangements

(e) Electrical conduit layout and arrangements

(f) Corrosion protection (if applicable)

(g) Equipment list and specifications (shall include make and model of equipment)

(h) Other information necessary to show compliance

(3) Submissions for aboveground storage tanks shall also include the following:

(a) A site approval by a representative of the State Fire Marshal

(b) A Fire Safety Analysis completed by the local fire authority

(4) One set of plans shall be retained by the State Fire Marshal and one copy returned to the applicant with approval or disapproval indicated thereon. A copy of the approved plans shall be kept at the installation site during construction for inspection by authorized representatives of the State Fire Marshal or local authority.

(5) Construction or the storage tank installation, or associated equipment, shall not commence until the plans have been approved and returned to the applicant.

(6) Requests for temporary installations must be made to the State Fire Marshal in writing for approval. Requests shall include a letter of intent, name of applicant, location of storage tanks to be installed, how long the storage tank(s) will be located at the requested location and shall also include the following:

(a) Site plan (shall include all buildings and property lines)

(b) Storage tank location(s) on the site plan

(c) Tank Drawings (shall include all piping connections and appurtenances)

(d) Piping, valve, and associated equipment layout and arrangements

(e) Electrical conduit layout and arrangements

(f) Corrosion protection (if applicable)

(g) Equipment list and specifications (shall include make and model of equipment)

(h) Other information necessary to show compliance

If additional time is necessary for a temporary installation beyond the allowable 90 days, extensions shall be requested in writing at the time the original request is made or before the expiration of the temporary approval. Before tanks may be brought to a site, approval of the temporary request must be granted by the State Fire Marshal and a copy of the approval kept on site. No plan review fee is required for temporary installation requests.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.03
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Rule entitled "Definitions"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Amended: F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Rule entitled "Submission of Plans for Storage Installations"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Amended: F. Nov. 16, 1992; eff. Dec. 6, 1992.
Repealed: New Rule of same title adopted. F. June 5, 1997; eff. June 25, 1997.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.
Repealed: New Rule of same title adopted. F. Dec. 16, 2003; eff. Jan. 5, 2004.
Repealed: New Rule of same title adopted. F. Mar. 7, 2008; eff. Mar. 27, 2008.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency

Rule 120-3-11-.04. Self-Service Stations.

(1) Self-service operations shall be permitted at any service station, including marine self-service fueling stations and aircraft self-service fueling stations, only after a self-service

permit has been issued by the State Fire Marshal in accordance with this Rule. A self-service permit shall not exempt the holder thereof from obtaining any other permits or licenses that may be required by other government agencies.

(2) Application for a self-service station permit shall be made to the State Fire Marshal on the form prescribed and approved by the Commissioner. Pursuant to O.C.G.A. Section 25-2-4.1, each application for a new self-service station permit shall be accompanied by the mandatory permit fee payable to the Safety Fire Commissioner. Plans for any proposed station or major modification of any existing station shall be submitted to the State Fire Marshal with the self-service station permit application.

(a) Plans shall be submitted in duplicate and shall include, at a minimum, the following:

(1) Scaled site plan (shall include all buildings and property lines)

(2) Storage tank location(s)

(3) Tank Drawings (shall include all piping connections and appurtenances)

(4) Piping and valve layout and arrangements

(5) Electrical conduit layout and arrangements

(6) Dispenser arrangements and details

(7) Corrosion protection (if applicable)

(8) Emergency control locations

(9) Equipment list and specifications (shall include make and model of equipment)

(10) Fire Extinguisher location(s)

(11) Other information necessary to show compliance

(b) One set of plans shall be retained by the State Fire Marshal and one copy returned to the applicant with approval or disapproval indicated thereon. A copy of the approved plans shall be kept at the installation site during construction for inspection by authorized representatives of the State Fire Marshal or local authority.

(c) Construction or the storage tank installation, or associated equipment, shall not commence until the plans have been approved and returned to the applicant.

(3) Upon notification of completed construction of a new or modified station, the State Fire Marshal shall direct his authorized representative to inspect the facility. If the authorized

representative determines that all requirements for self-service operations contained in this Chapter have been satisfied, to include written certification of tank and pipe leak testing and installation, he may issue a self-service permit.

(4) The self-service permit shall be posted by the applicant in a conspicuous location on the premises. The self-service permit is nontransferable and shall expire upon a change of ownership, operator, lessee or lessor of the facility. Any issuance of a new self service permit to include change of ownership, operator, lessee or lessor, or to replace lost or destroyed permits requires a permit fee pursuant to O.C.G.A. Section 25-2-4.1.

(5) A self-service permit may be revoked for cause after notice and hearing provided in accordance with Rule 120-3-2-.02 of the Rules of Safety Fire Commissioner; provided, however, that the Commissioner may revoke any self-service permit prior to notice and hearing if he determines upon recommendation of the State Fire Marshal that the situation involves an imminent peril to the public health, safety and welfare and that the situation therefore requires emergency action. An emergency revocation shall contain reasons and findings for the determination, and shall be accompanied by a notice of opportunity for a hearing, which may provide that a hearing will be held, if and only if, the aggrieved person requests a hearing within ten (10) days of receipt of the revocation and notice.

(6) The State Fire Marshal and his authorized representatives may conduct inspections of self-service stations to ascertain whether the stations are operating in compliance with this Chapter.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.04
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Rule entitled "Special Provisions"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Amended: F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Rule entitled "Self-Service Stations"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Amended: F. Nov. 16, 1992; eff. Dec. 6, 1992.
Repealed: New Rule of same title adopted. F. June 5, 1997; eff. June 25, 1997.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.
Repealed: New Rule of same title adopted. F. Dec. 16, 2003; eff. Jan. 5, 2004.
Repealed: New Rule of same title adopted. F. Mar. 7, 2008; eff. Mar. 27, 2008.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-11-.05. Reporting of Fires and Accidents.

(1) As soon as possible, but no later than 8 hours of the incident occurring, all owners, managers or operators of all vehicles, equipment and facilities covered under this Chapter shall notify the State Fire Marshal's Office of all fires involving such vehicles, equipment or facilities, and all accidents involving immediate peril to the public health, safety and welfare and requires emergency action.

(2) As soon as the incident is under control, but no later than 72 hours after the incident, all owners, managers or operators of all such vehicles, equipment or facilities covered under this Chapter shall notify the State Fire Marshal's Office in writing of the facts and circumstances of such incident

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.05
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Rule entitled "Standards for Storage and Handling of Flammable and Combustible Liquids"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Amended: F. June 12, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Amended: F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Rule entitled "Reporting of Fires and Accidents"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Repealed: New Rule of same title adopted. F. June 5, 1997; eff. June 25, 1997.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.
Repealed: New Rule of same title adopted. F. Dec. 16, 2003; eff. Jan. 5, 2004.
Repealed: New Rule of same title adopted. F. Mar. 7, 2008; eff. Mar. 27, 2008.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-11-.06. Adopted Codes and Standards.

Except to the extent modified herein, the following NFPA Codes and Standards are hereby adopted.

(1) **NFPA 30, 2018 Edition, *Flammable and Combustible Liquids Code***

Modifications:

(a) **Modifications to Chapter 6:**

1. Add a new subsection 6.5.6 to read as follows:

"**6.5.6** Signs shall be posted in areas storing or transferring flammable and combustible liquids and shall read:

DANGER - FLAMMABLE LIQUIDS

OPEN FLAMES AND SMOKING

PROHIBITED WITHIN 50 FEET

Lettering shall be white on a red background and shall not be less than 3 inches (76mm) in height and 0.5 inch (12.7 mm) in stroke."

2. Add a new subsection 6.9.6 to read as follows:

   "**6.9.6** No barrels, drums or combustible materials shall be stored beneath or within 3.3 m (10 ft) of any aboveground storage tank."

(b) **Modifications to Chapter 18:**

1. Add a new subsection 18.3.1 to read as follows:

   "**18.3.1** Signs shall be posted in areas where flammable liquids are stored and transferred and shall read:

   DANGER - FLAMMABLE LIQUIDS

   OPEN FLAMES AND SMOKING

   PROHIBITED WITHIN 50 FEET

   Lettering shall be white on a red background and shall not be less than 3 inches (76mm) in height and 0.5 inch (12.7 mm) in stroke."

2. Add a new subsection 18.4.10 to read as follows:

   "**18.4.10** All hoses used within the scope of this code shall be inspected at regular intervals and shall be replaced when they show signs of being deteriorated, weathered or worn."

(c) **Modifications to Chapter 21:**

1. Add a new subsection 21.3.6 to read as follows:

   "**21.3.6** Aboveground tanks and aboveground piping shall be kept painted to prevent corrosion and shall be painted a light reflective color."

2. Add a new paragraph 21.7.1.7 to read as follows:

   "**21.7.1.7** No storage tank shall be filled by gravity from another storage tank unless a suitable device is provided to eliminate the possibility of overflow and a qualified person is in constant attendance and has the means to stop the flow of liquid promptly."

3. Delete paragraph 21.7.2.2 in its entirety and substitute in its place the following:

"**21.7.2.2** Aboveground storage tanks used for bulk storage at bulk plants or chemical plants shall be secured and marked in accordance with NFPA 704, 2007 Edition, *Identification of the Hazards of Materials for Emergency Response*, as to identify the fire hazards of the tank and the tank's contents to the general public and emergency responders. The area in which the tank is located shall be protected from tampering or trespassing with a chain link fence. The fence shall be at least 1.8m (6 ft) high and shall be separated from the tanks by at least 3m (10 ft) and shall have a gate that is secured against unauthorized entry.

Exception: Tanks are not required to be enclosed with a fence if the property on which the tanks are located has a perimeter security fence."

4. Delete subsection 21.8.4 in its entirety and substitute in its place the following:

   "**21.8.4** Each tank shall be maintained liquidtight. Each tank that is leaking shall immediately be emptied of liquid or repaired in a manner acceptable to the authority having jurisdiction."

(d) **Modifications to Chapter 22:**

1. Add a new paragraph 22.4.1.9 to read as follows:

   "**22.4.1.9** For bulk plants and chemical plants only, no aboveground storage tank(s) for Class I flammable liquids shall be erected within 91.4 m (300 ft) of any school, church, hospital, theater, public assembly or public hall. A public hall shall be any building regularly used for public assembly for purposes of amusement, instruction, religious worship or other meetings. Requests for exceptions to this Rule such as the temporary use of skid tanks on construction sites shall be submitted to the State Fire Marshal in accordance with Rule 120-3-11-.08."

2. Delete paragraph 22.11.2.7 in its entirety and substitute in its place the following:

   "**22.11.2.7** Provisions shall be made for draining water from diked areas. Such drains shall be controlled to prevent liquids, other than storm water, from leaving the diked area."

3. Delete subparagraph 22.11.2.7.1 in its entirety and substitute in its place the following:

"**22.11.2.7.1** Control of valves for drainage purposes shall be accessible under fire conditions from outside the dike."

4. Add a new subsection 22.13.5 to read as follows:

   "**22.13.5** Gauges or other means shall be provided to monitor filling or emptying of aboveground tanks. This means shall be visible and accessible to the delivery operator from the point of delivery."

5. Add a new subsection 22.13.6 to read as follows:

   "**22.13.6** Aboveground tanks containing Class I, Class II, or Class IIIA liquids shall be filled through a tight fill connection."

6. Add a new subsection 22.13.7 to read as follows:

   "**22.13.7** Fill connections to aboveground tanks shall have provisions to contain any liquids that may drain from the transfer hose due to connections and disconnections."

(e) **Modifications to Chapter 27:**

1. Delete paragraph 27.3.2 in its entirety and substitute in its place the following:

   "**27.3.2 Tightness of Piping.** Piping systems shall be maintained liquidtight. A piping system that has leaks that constitute a hazard shall immediately be emptied of liquid or repaired in a manner acceptable to the authority having jurisdiction."

(f) **Modifications to Chapter 28:**

1. Add a new paragraph 28.3.1.4 to read as follows:

   "**28.3.1.4** All hoses used within the scope of this code shall be inspected at regular intervals and shall be replaced when they show signs of being deteriorated, weathered or worn."

2. Add a new paragraph 28.3.1.5 to read as follows:

   "**28.3.1.5** Signs shall be posted in areas where flammable liquids are stored and transferred and shall read:

DANGER - FLAMMABLE LIQUIDS

OPEN FLAMES AND SMOKING

PROHIBITED WITHIN 50 FEET

Lettering shall be white on a red background and shall not be less than 3 inches (76mm) in height and 0.5 inch (12.7 mm) in stroke."

3. Delete section 28.9 in its entirety and substitute in its place the following:

"**28.9*** Loading and unloading facilities, for bulk plants, terminals, and chemical plants only, shall be provided with drainage systems or other means to contain spills. These means shall be designed to contain at least 110% of the largest compartment on the loading or off-loading tanker vehicle."

(2) **NFPA 30-A, 2018 Edition,** ***Code for Motor Fuel Dispensing Facilities and Repair Garages***

Modifications:

(a) **Modifications to Chapter 4:**

1. Add a new subsection 4.2.5 to read as follows:

"**4.2.5** Containers and piping shall be identified as to the product stored in them."

2. Add a new subsection 4.2.6 to read as follows:

"**4.2.6** Flammable or combustible liquids shall not be introduced into any leaking or condemned, unapproved or non-labeled storage tank or container. Flammable or combustible liquids shall immediately be removed from any leaking or condemned storage tank. A condemned or red tagged system may be restored to service upon proper corrective actions and with the approval of the authority having jurisdiction. Tanks for the storage of flammable and combustible liquids for dispensing or fueling of motor vehicles are generally required to be underground as a prevalent rule. For exceptions see NFPA 30A. In case of a change over from gasoline to diesel or home heating fuel, etc., the system shall be purged to avoid cross contamination, and the authority having jurisdiction shall be so notified."

3. Add a new subsection 4.2.7 to read as follows:

"**4.2.7** Upon determination by the inspection that a flammable or combustible liquids systems or any part thereof is unsafe to the extent that it endangers life or adjacent properties, the inspector may place an out of service tag (red tag) on the entire system or a specified portion of the system until the dangerous conditions are corrected. The out of service tag (red tag) may be removed only by an authorized representative of the State Fire Marshal's Office."

(b) **Modifications to Chapter 6:**

1. Add a new subsection 6.2.4 to read as follows:

   "**6.2.4** Only those dispensers which are designed, or modified by approved means, and approved for self-service dispensing shall be used for such operations."

2. Add a new subsection 6.2.5 to read as follows:

   "**6.2.5** Dispensers that show serious signs of damage shall be removed from service."

3. Add a new subsection 6.5.4 to read as follows:

   "**6.5.4** Hoses shall be inspected at regular intervals and shall be replaced when they show signs of being deteriorated, weathered or worn."

(c) **Modifications to Chapter 9:**

1. Add a new paragraph 9.2.2.7 to read as follows:

   "**9.2.2.7** During flammable or combustible liquid off loading at public service stations, the area shall be posted and roped or barricaded as appropriate to limit access and prevent or control the source of ignition. The primary responsibility for this safety requirement shall be the truck driver who is delivering the flammable or combustible liquid. However, it shall also be the responsibility of the station attendant to make sure the precautions are followed."

2. Delete paragraph 9.2.5.4 in its entirety and substitute in its place the following:

   "**9.2.5.4 Signs.** An appropriate warning sign shall be conspicuously posted on both faces of the dispensing device or such other place that the Commissioner may approve. The warning shall contain language deemed

appropriate by the Commissioner. The warning may be revised as deemed necessary by the Commissioner in order to address health and safety concerns."

3. Delete paragraph 9.2.5.2 in its entirety and substitute in its place the following:

   "**9.2.5.2 Fire Extinguishers.** Each motor fuel dispensing facility or repair garage shall be provided with fire extinguishers installed, inspected, and maintained as required by NFPA 10. Extinguishers for outside motor fuel dispensing areas shall be provided according to the extra (high) hazard requirements for Class B hazards, except that maximum travel distance to a 80 B:C extinguisher (or multiple extinguishers of equivalent protection) shall be permitted to be 100 feet.

4. Delete subsection 9.2.7 in its entirety and substitute in its place the following:

   "**9.2.7 Housekeeping.** All service station premises shall be kept clean, neat and free from rubbish and trash. Combustible materials other than required stock and supplies shall not be accumulated in storerooms or other areas in or on the premises."

5. Add a new subsection 9.2.10 to read as follows:

   "**9.2.10 Restrictions.** All motor fuel or Class I liquids dispensing equipment operators shall be capable and qualified to operate such equipment and shall not, while operating such equipment, be under the influence of intoxicants, narcotics or other dangerous drugs. Persons under the age of 16, persons incapable of dispensing flammable or combustible liquids by reason of physical or mental incapacity, and persons under the influence of intoxicants, narcotics or other dangerous drugs shall not be permitted to dispense such liquids at any service station open or accessible to the public."

6. Add a new subsection 9.4.5:

   "**9.4.5** A qualified attendant shall be at least 18 years of age, experienced with and physically able to perform the required duties, and not addicted to the use or under the influence of intoxicants, narcotics, or controlled substances. The attendant shall be familiar with all applicable State laws and provisions of these Rules and Regulations. While Class I liquids are being dispensed, the attendant shall not be assigned nor perform any duties that might cause distraction or prevention of properly supervising the dispensing of Class I liquids."

7. Add a new subsection 9.4.6 to read as follows:

   "**9.4.6** Appropriate signs indicating self-service operations shall be clearly posted. Any station which has both self-service and full-service operations shall clearly identify each respective area."

8. Add a new subsection 9.4.7 to read as follows:

   "**9.4.7** The use of portable aboveground skid tanks, with more than a 60 gallon capacity for Class I Liquids or a 120 gallon capacity for Class II or higher liquids shall be prohibited at service stations open to the public."

9. Add a new subsection 9.4.8 to read as follows:

   "**9.4.8** If the requirements of Section 4.3 in NFPA 30A 2018 Edition can not be met, Class II and Class III liquids, such as kerosene and fuel oil, may be stored in aboveground tanks with an aggregate capacity not exceeding 560 gallons at service stations open to the public."

10. Add a new subsection 9.4.9 to read as follows:

    "**9.4.9** The attendant shall, at all times, have a clear and unobstructed view to the dispensers.

11. Add a new subsection 9.4.10 to read as follows:

    9.4.10 Where the attendant view to the dispensers is obstructed, video monitoring of the obstructed dispensing area shall be provided in accordance with the following:

    (1) The attendant shall be in close proximity to the dispensing areas as approved by the authority having jurisdiction.

    (2) There shall be at least two monitors, one on each side of the attendant area in full view of the attendant.

    (3) The cameras used shall have full coverage views of all obstructed fuel dispensing areas.

    (4) The monitors shall have full views of the obstructed dispensing areas displayed at all times.

(5) If the video monitoring system becomes inoperable, self service operations at the obstructed dispensers shall cease until the system is brought back into working order.

(6) The video monitoring shall be approved by the authority having jurisdiction.

12. Delete subsection 9.5.1 in its entirety and substitute in its place the following:

    "**9.5.1** Unattended self-service facilities shall be permitted to operate as long as such unattended self-service facilities are not open to the public."

13. Delete subsection 9.5.5 in its entirety and substitute in its place the following:

    "**9.5.5** Each such location shall be provided with a public telephone to notify the fire department in the event of an emergency within 100 feet of the dispenser(s). Emergency phone numbers and contact points for owner/operator shall also be provided. The numbers shall be clearly visible to the user. "

14. Add a new subsection 9.5.7 to read as follows:

    "**9.5.7** All dispensers are key or card controlled. For the purpose of this requirement, a credit card is not defined as a card."

15. Add a new subsection 9.5.8 to read as follows:

    "**9.5.8** Each key or card holder shall be fully trained in the safety operations and meet the requirements of a qualified attendant for such operation. The owner of such station is responsible for the safe operation of the station and the training and documentation of training of all users thereof. "

16. Add a new subsection 9.5.9 to read as follows:

    "**9.5.9** Each such facility shall first apply for and have a valid self-service permit posted."

(d) **Modifications to Chapter 11:**

1. Add a new subsection 11.4.8 to read as follows:

"**11.4.8** Hoses shall be inspected at regular intervals and shall be replaced when they show signs of being deteriorated, weathered or worn."

(e) **Modifications to Chapter 12:**

1. Add a new subsection 12.2.5 to read as follows:

   "**12.2.5** Hoses shall be inspected at regular intervals and shall be replaced when they show signs of being deteriorated, weathered or worn."

(f) **Modifications to Chapter 14:**

1. Delete section 14.1 in its entirety and substitute in its place the following:

   "**14.1** On-Demand Mobile Fueling (the retail practice of fueling motor vehicles of the general public while the owner's vehicle is parked and might be unattended) shall be prohibited."

2. Delete sections 14.2 - 14.4 in its entirety.

(3) **NFPA 30-B, 2019 Edition,** ***Code for the Manufacture and Storage of Aerosol Products***

Modifications: None

(4) **NFPA 31, 2016 Edition,** ***Standard for the Installation of Oil-Burning Equipment***

Modifications: None

(5) **NFPA 32, 2016 Edition,** ***Standard for Drycleaning Plants***

Modifications:

(a) **Modifications to Chapter 4:**

1. Delete paragraph 4.3.1 in its entirety and substitute in its place the following:

   "**4.3.1** General building and structure design and construction shall be in accordance with State of Georgia adopted building codes, except as modified herein."

(6) **NFPA 33, 2018 Edition,** ***Standard for Spray Application Using Flammable and Combustible Materials***

Modifications: None

(7) **NFPA 34, 2018 Edition,** ***Standard for Dipping and Coating Processes Using Flammable and Combustible Liquids***

Modifications: None

(8) **NFPA 35, 2016 Edition,** ***Standard for the Manufacture of Organic Coatings***

Modifications: None

(9) **NFPA 36, 2017 Edition,** ***Standard for Solvent Extraction Plants***

Modifications: None

(10) **NFPA 37, 2018 Edition,** ***Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines***

Modifications:

(a) **Modifications to Chapter 6:**

1. Delete subsection 6.8.1 in its entirety and substitute in its place the following:

"**6.8.1** Piping shall be in accordance with Chapter 27 of NFPA 30, *Flammable and Combustible Liquids Code*, except that piping shall be steel or other metal and the provisions of 6.8.2 shall apply.

Exception: Nonmetallic piping, excluding nonmetallic flexible connectors as describe in paragraph 6.8.2.1, shall be allowed to be used only underground within the scope of UL 971, Standard for Nonmetallic Underground piping for Flammable Liquids. Nonmetallic piping systems and components shall be listed and installed in accordance with manufacturer's instructions."

(11) **NFPA 326, 2020 Edition,** ***Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair***

Modifications: None

(12) **NFPA 329, 2020 Edition,** ***Recommended Practice for Handling Releases of Flammable and Combustible Liquids and Gases***

Modifications: None

(13) **NFPA 385, 2017 Edition,** ***Standard for Tank Vehicle for Flammable and Combustible Liquids***

Modifications:

(a) **Modifications to Chapter 5:**

1. Delete paragraph 5.4.1.1 in its entirety and substitute in its place the following:

   "**5.4.1.1** The outlets of each cargo tank or compartment used for transportation of Class I, Class II, and Class IIIA liquids having a viscosity less than 45 SUS at 100ºF (37.8ºC), shall be equipped with a self-closing shutoff valve, designed, installed, and operated so as to ensure against the accidental escape of contents.

(b) **Modifications to Chapter 7:**

1. Add a new subsection 7.1.6 to read as follows:

   "**7.1.6** The name and address of the owner shall appear on the sides of the vehicle. The owner's name shall be in letters at least four inches in height with the address lettering as large as will fit in the space available."

(c) **Modifications to Chapter 9:**

1. Add a new subsection 9.1.13 to read as follows:

   "**9.1.13** Vehicles shall be maintained in good operating condition."

2. Add a new subsection 9.1.14 to read as follows:

   "**9.1.14** Any person driving, attending, making deliveries, filling, discharging or repairing tank vehicles shall not be under the influence of intoxicants, narcotics or other dangerous drugs."

3. Add a new subsection 9.1.15 to read as follows:

   "**9.1.15** Intoxicating beverages, narcotics and other dangerous drugs shall not be carried in or on tank vehicles."

4. Add a new subsection 9.2.17 to read as follows:

"**9.2.17** No Class I liquids shall be transferred from tank trucks to motor vehicle fuel tanks or other tanks or containers on any highway, road, street, or alley, except in an emergency."

5. Add a new subsection 9.2.18 to read as follows:

   "**9.2.18** Nothing herein shall prohibit the fueling of machinery or vehicles used in road construction and maintenance, firefighting apparatus or vehicles, equipment used by public authorities or the United States Armed Services, or fuel containers used for such vehicles and equipment."

6. Add a new subsection 9.2.19 to read as follows:

   "**9.2.19** Except for firefighting apparatus, all machinery and vehicle motors shall be shut down while being refueled. Auxiliary motors involved with environmental control in cargo spaces may be kept running if necessary."

7. Add a new subsection 9.2.20 to read as follows:

   "**9.2.20** All tank vehicles shall be provided with spill kits to mitigate any spills that occur.

(14) **NFPA 407, 2017 Edition, *Standard for Aircraft Fuel Servicing***

Modifications: None

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.06
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Rule entitled "Standards for Installation of Oil Burning Equipment"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule entitled "Standards for Transportation of Flammable and Combustible Liquids by Tank Vehicle"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Rule entitled "Adopted Codes and Standards"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Amended: F. Nov. 16, 1992; eff. Dec. 6, 1992.
Repealed: New Rule of same title adopted. F. June 5, 1997; eff. June 25, 1997.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.
Repealed: New Rule of same title adopted. F. Dec. 16, 2003; eff. Jan. 5, 2004.
Repealed: New Rule entitled "Adopted Codes and Standards with Modifications"adopted. F. Mar. 7, 2008; eff. Mar. 27, 2008.
Amended: New title "Adopted Codes and Standards."F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-11-.07. Standards for Transportation of Flammable and Combustible Liquids by other than Tank Vehicle.

(1) Flammable and combustible liquids transported by other than tank vehicles shall be transported as prescribed by this Chapter. Nothing herein shall supersede any rules, regulations, or other transportation requirements when transportation is under the jurisdiction of DOT or GPSC.

(2) Persons driving, attending, making deliveries, or otherwise handling flammable liquids while loading or unloading vehicles shall not be under the influence of intoxicants, narcotics or other dangerous drugs, nor shall same be carried in or on vehicles transporting flammable or combustible liquids.

(3) Only approved containers shall be used. Metal containers meeting the requirements of and containing products authorized by STB, DOT, or GPSC regulations shall be acceptable for use in transporting flammable or combustible liquids by other than tank vehicles. Containers loaded in or on vehicles shall be securely fastened to prevent slipping or overturning.

(4) Vehicles shall be in good operating condition and shall not be overloaded. Every vehicle regularly used for transporting flammable or combustible liquids shall be equipped with at least one fire extinguisher having a rating of 20-BC, permanently mounted and readily accessible to the driver.

(5) Drivers of vehicles transporting flammable or combustible liquids in containers shall be physically able to perform the job, careful, capable, reliable, familiar with traffic laws and the provisions of this Chapter, and shall not be under the influence of intoxicants, narcotics or other dangerous drugs. Smoking shall not be permitted in vehicles when transporting Class I liquids unless all containers loaded thereon are original, unopened containers.

(6) Vehicles transporting 1,000 pounds gross weight or more of flammable liquids shall carry placards on the front, rear and sides which meet DOT requirements for text, color, and size.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.07
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Rule entitled "Standards for Transportation of Flammable and Combustible Liquids by Tank Vehicle"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule entitled "Standards for Transportation of Flammable and Combustible Liquids by Other Than Tank Vehicle"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Rule entitled "Modifications, Additions and Deletions to Adopted Codes and Standards"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Amended: F. Nov. 16, 1992; eff. Dec. 6, 1992.
Repealed: New Rule of same title adopted. F. June 5, 1997; eff. June 25, 1997.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.

Repealed: New Rule of same title adopted. F. Dec. 16, 2003; eff. Jan. 5, 2004.
Repealed: New Rule entitled "Standards for Transportation of Flammable and Combustible Liquids by Other Than Tank Vehicle"adopted. F. Mar. 7, 2008; eff. Mar. 27, 2008.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-11-.08. Request for Modification of Specific Requirements.

Upon receipt of a sworn affidavit from the owner stating all relevant facts and circumstances and such other information as may be required, the State Fire Marshal may recommend to the Commissioner that specific requirements of this Chapter and the NFPA codes, standards and recommended practices adopted herein, be modified to allow alternative arrangements that will secure as nearly equivalent measures as practical for the prevention of injury to persons and property. The Commissioner, in his discretion, may accept the State Fire Marshal's recommendation and grant the requested modification.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.08
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Rule entitled "Standards for Transportation of Flammable Liquids by Other Than Tank Vehicle"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule entitled "Standards for Installation of Oil Burning Equipment"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Rule entitled "Transportation of Flammable and Combustible Liquids by Other Than Tank Vehicle"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Repealed: New Rule of same title adopted. F. June 5, 1997; eff. June 25, 1997.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.
Repealed: New Rule of same title adopted. F. Dec. 16, 2003; eff. Jan. 5, 2004.
Repealed: New Rule entitled "Request for Modification of Specific Requirements"adopted. F. Mar. 7, 2008; eff. Mar. 27, 2008.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-11-.09. Compliance with Rules and Regulations; Penalties.

All persons shall transport, store, handle and use flammable and combustible liquids in conformity with this Chapter. After notice and hearing provided in accordance with Rule 120-3-2-.02 of the Rules of Safety Fire Commissioner, any person who is found to have violated any of the rules contained in this Chapter shall be subject to such penalties as authorized by law.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.09
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Rule entitled "Standards for Storage of Flammable and Combustible Liquids on Farms and Isolated Projects"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule entitled "Standards for Spray Finishing Using Flammable and Combustible Materials"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Rule entitled "Recommended Practices Adopted as Requirements"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.

Amended: F. Nov. 16, 1992; eff. Dec. 6, 1992.
Repealed: New Rule of same title adopted. F. June 5, 1997; eff. June 25, 1997.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.
Repealed: New Rule of same title adopted. F. Dec. 16, 2003; eff. Jan. 5, 2004.
Repealed: New Rule entitled "Compliance with Rules and Regulations; Penalties"adopted. F. Mar. 7, 2008; eff. Mar. 27, 2008.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-11-.10. Severability.

If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and the applicability of such provisions to other circumstances shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.10
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Rule entitled "Standards for Installation of and Prevention of Leakage from Underground Flammable and Combustible Liquids Tanks"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule entitled "Standards for Dip Tanks Containing Flammable or Combustible Liquids"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Rule entitled "Request for Modification of Specific Requirements"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Repealed: New Rule of same title adopted. F. June 5, 1997; eff. June 25, 1997.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.
Repealed: New Rule of same title adopted. F. Dec. 16, 2003; eff. Jan. 5, 2004.
Repealed: New Rule entitled "Severability"adopted. F. Mar. 7, 2008; eff. Mar. 27, 2008.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-11-.11. Notes.

(1) The NFPA codes, standards and recommended practices adopted in this Chapter are on file in the Office of the State Fire Marshal and are available for viewing.

(2) Copies of these NFPA publications may be obtained from:

National Fire Protection Association

Batterymarch Park

Quincy, Massachusetts 02269

Phone: 1-800-344-3555

If you are an individual with a disability and wish to acquire this publication in an alternative format, please contact the ADA Coordinator, Safety Fire Division, Office of

Commissioner of Insurance, No. 2 Martin Luther King Jr. Drive, Atlanta, Georgia 30334, 404 656-2056, TDD 404 656-4031.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.11
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Rule entitled "Standards for Warning Labels for Containers of Flammable Liquids With Flash Points Not in Excess of 150 Degrees F"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule entitled "Standards for the Manufacture of Organic Coatings"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Rule entitled "Compliance With Rules and Regulations; Penalties"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Repealed: New Rule of same title adopted. F. June 5, 1997; eff. June 25, 1997.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.
Repealed: New Rule of same title adopted. F. Dec. 16, 2003; eff. Jan. 5, 2004.
Repealed: New Rule entitled "Notes"adopted. F. Mar. 7, 2008; eff. Mar. 27, 2008.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-11-.12. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.12
Authority: O.C.G.A. Secs. 25-2-1, 25-2-4, 25-2-13, 25-2-16, 33-2-9, 50-13-21.
History. Original Rule entitled "Standards for Cleaning or Safeguarding Small Tanks or Containers"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule entitled "Standards for Solvent Extraction Plants"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Rule entitled "Severability"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Repealed: New Rule of same title adopted. F. June 5, 1997; eff. June 25, 1997.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.
Repealed: New Rule of same title adopted. F. Dec. 16, 2003; eff. Jan. 5, 2004.
Repealed: F. Mar. 7, 2008; eff. Mar. 27, 2008.

Rule 120-3-11-.13. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.13
Authority: O.C.G.A. Secs. 25-2-1, 25-2-4, 25-2-13, 25-2-16, 33-2-9, 50-13-21.
History. Original Rule entitled "Measures for Control of Flammable and Combustible Liquids and Gases in Manholes and Sewers"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule entitled "Standards for the Installation and Use of Stationary Combustion Engines and Gas Turbines"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: F. Nov. 10, 1980; eff. Nov. 30, 1980.
Amended: New Rule entitled "Forms"adopted. F. Nov. 16, 1992; eff. Dec. 6, 1992.
Repealed: New Rule of same title adopted. F. June 5, 1997; eff. June 25, 1997.
Repealed: New Rule of same title adopted. F. July 9, 1998; eff. July 29, 1998.
Repealed: New Rule of same title adopted. F. Dec. 16, 2003; eff. Jan. 5, 2004.
Repealed: F. Mar. 7, 2008; eff. Mar. 27, 2008.

Rule 120-3-11-.14. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.14
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Standards for Storage, Handling and Use of Flammable and Combustible Liquids on Motor Craft"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: F. Nov. 10, 1980; eff. Nov. 30, 1980.

Rule 120-3-11-.15. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.15
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Standards for Storage, Handling and Use of Flammable and Combustible Liquids in Marinas and Boatyards"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: F. Nov. 10, 1980; eff. Nov. 30, 1980.

Rule 120-3-11-.16. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.16
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Standards on Basic Classification of Flammable and Combustible Liquids"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: F. Nov. 10, 1980; eff. Nov. 30, 1980.

Rule 120-3-11-.17. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.17
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Warning Labels for Containers of Flammable Liquids"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: F. Nov. 10, 1980; eff. Nov. 30, 1980.

Rule 120-3-11-.18. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.18
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Standards for Cleaning or Safeguarding Small Tanks or Containers"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: F. Nov. 10, 1980; eff. Nov. 30, 1980.

Rule 120-3-11-.19. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.19
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Measures for Control of Flammable or Combustible Liquids and Gases in Manholes

and Sewers"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: F. Nov. 10, 1980; eff. Nov. 30, 1980.

Rule 120-3-11-.20. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.20
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Standards for Installation of and Prevention of Leakage from Underground Flammable and Combustible Liquids Tanks"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: F. Nov. 10, 1980; eff. Nov. 30, 1980.

Rule 120-3-11-.21. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.21
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Standards for Portable Shipping Tanks"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: F. Nov. 10, 1980; eff. Nov. 30, 1980.

Rule 120-3-11-.22. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.22
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Standards for Construction, Maintenance and Use of Gasoline Blow Torches and Plumbers' Furnaces and Use of Liquefied Petroleum Gas Torches"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: F. Nov. 10, 1980; eff. Nov. 30, 1980.

Rule 120-3-11-.23. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.23
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Standards for Storage of Flammable and Combustible Liquids on Farms and Isolated Projects"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: F. Nov. 10, 1980; eff. Nov. 30, 1980.

Rule 120-3-11-.24. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.24
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Standards for Type Designations, Areas of Use Maintenance and Operations of Powered Industrial Trucks"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: v. Sept. 10, 1980; eff. Nov. 30, 1980.

Rule 120-3-11-.25. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.25
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Standards for the Storage, Handling and Use of Flammable and Combustible Liquids in Motor Freight Terminals"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: F. Nov. 10, 1980; eff. Nov. 30, 1980.

Rule 120-3-11-.26. Repealed.

Cite as Ga. Comp. R. & Regs. R. 120-3-11-.26
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Standards for the Storage, Handling and Use of Flammable and Combustible Liquids in Garages"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: F. Nov. 10, 1980; eff. Nov. 30, 1980.

Subject 120-3-12. RULES AND REGULATIONS FOR THE STORAGE AND HANDLING OF ANHYDROUS AMMONIA.

Authority: O.C.G.A. Secs. 25-2-4, 25-2-13, 25-3-16, 33-2-9, 50-13-21
History. See "Notice"on page 2 of the Rules and Regulations of the Safety Fire DepartmentOriginal Chapter entitled "The Storage and Handling of Anhydrous Ammonia; filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations for the Storage and Handling of Anhydrous Ammonia"adopted. Filed June 3, 1987; effective June 25, 1987, as specified by the Agency.
Amended: F. Aug. 25, 1992; eff. Sept. 14, 1992.
Editor's Note:
In accordance with the O.C.G.A. Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.

Rule 120-3-12-.01. Promulgation and Purpose.

(1) These Rules and Regulations for the Storage and Handling of Anhydrous Ammonia are promulgated by the Georgia Safety Fire Commissioner in accordance with an Act creating the Office of Georgia Safety Fire Commissioner, Georgia Laws, 1949, p. 1057, as amended.

(2) The purpose of these Rules and Regulations is to prevent loss of life, injury of persons, and loss or damage to property in the handling, use, manufacture, storage, and transportation of anhydrous ammonia. These rules and regulations supersede former rules and regulations promulgated by the Georgia Safety Fire Commissioner pertaining to anhydrous ammonia when such are in conflict with these rules and regulations.

Cite as Ga. Comp. R. & Regs. R. 120-3-12-.01
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Chapter entitled "The Storage and Handling of Anhydrous Ammonia" adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Chapter entitled "Rules and Regulations for the Storage and Handling of Anhydrous Ammonia" adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Aug. 25, 1992; eff. Sep. 14, 1992.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-12 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-12-.02. Administration.

(1) It is prohibited for any person to manufacture, sell, store, transport, possess, or use anhydrous ammonia, except in conformance with these rules and regulations.

(2) Requirements for Permit:

(a) It is prohibited for any person to manufacture, sell, store, transport, or store for transportation or sale, anhydrous ammonia in the State of Georgia except by authority of a written permit issued by the State Fire Marshal in conformance with these rules and regulations, provided that no person operating under an Interstate Commerce Commission, Department of Transportation or Georgia Public Service Commission permit, and in accordance with the requirement of those agencies, shall be required to obtain a permit from the State Fire Marshal for transportation or storage for transportation of anhydrous ammonia.

(b) Application for Permit:

1. The applicant for a permit required by these rules and regulations shall, at his own expense, furnish in writing such information as the State Fire Marshal may require concerning the purpose for which the permit is requested.

2. Pursuant to O.C.G.A. Section 25-2-4.1, the application for a permit shall be accompanied by the mandatory permit fee, payable to the Safety Fire Commissioner.

3. Submission of Plans:

(i) Complete plans and specification for all systems involving the storage of over 2,000 water gallons of anhydrous ammonia shall be submitted in duplicate to and receive approval by the State Fire Marshal before installation is started. Such plans shall be drawn to

scale and be of sufficient detail and clarity as necessary to indicate the nature and character of the proposed system and its compliance with this Chapter. One copy of the plans shall be retained by the State Fire Marshal and one copy shall be returned to the applicant with the approval or disapproval indicated thereon. A copy of the approved plans shall be kept available at the construction site for inspection by authorized representatives of the State Fire Marshal. Pursuant to O.C.G.A. Section 25-2-4.1, the plans shall be accompanied by the mandatory plan review fee, payable to the Safety Fire Commissioner. Pursuant to O.C.G.A. Section 25-2-16, the plans shall bear the seal and Georgia registration number of the drafting architect or engineer or shall otherwise have the approval of the Safety Fire Commissioner or his designee.

(ii) For all other systems which require a permit but which involve the storage of 2,000 water gallons or less of anhydrous ammonia, a final inspection shall be obtained from the State Fire Marshal before the permit can be issued.

(3) Records:

(a) All persons required by these rules and regulations to obtain a permit shall keep an accurate record of each sale or delivery. Such records shall be in clear, legible writing showing the name and address of purchasers, the quantity purchased, and the location of the operation at which said anhydrous ammonia is to be used, stored or delivered. Such records shall be kept by such person, firm or corporation in its principal place of business in this State. These records shall be subject to examination by the State Fire Marshal and/or his authorized assistants. The State Fire Marshal and/or his authorized assistants may at any time require any person, firm or corporation to produce such records for the current calendar year and the immediate preceding full calendar year.

(4) Miscellaneous Provisions:

(a) It is prohibited for any person to introduce anhydrous ammonia into any container which does not meet the standards of these rules and regulations.

(b) It is prohibited for any person, firm or corporation to sell, deliver or otherwise convey anhydrous ammonia to any person, firm or corporation not equipped to handle or store same in conformance with the requirements of these regulations.

(c) It shall be prohibited for any person, firm or corporation to introduce anhydrous ammonia into a tank or container which has previously contained liquefied petroleum gas without written permission from the State Fire Marshal.

(5) Revocation of Permit:

(a) The State Fire Marshal may revoke a permit or approval issued under the provisions of the law or regulations in the event there has been any false statement or misrepresentation as to material fact in the application upon which the permit or approval was based.

(b) The permit may be revoked for cause after notice and hearing provided in accordance with Rules 120-3-2-.02 of the Rules of the Safety Fire Commissioner; provided, however, that the Safety Fire Commissioner may revoke any license prior to notice and hearing if he determines, upon recommendation of the State Fire Marshal, that the situation involves an imminent peril to the public health, safety, and welfare and that the situation therefore require emergency action. An emergency revocation shall contain reasons and findings for the determination, and shall be accompanied by a notice of opportunity for a hearing, which may provide that a hearing will be held if and only if the aggrieved person requests a hearing within ten (10) days of receipt of the revocation and notice.

Cite as Ga. Comp. R. & Regs. R. 120-3-12-.02
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Chapter entitled "The Storage and Handling of Anhydrous Ammonia" adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Chapter entitled "Rules and Regulations for the Storage and Handling of Anhydrous Ammonia" adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Aug. 25, 1992; eff. Sep. 14, 1992.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-12 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-12-.03. Definitions.

The definitions contained in this section are in addition to or in clarification of those contained in the adopted standards.

(1) COMMISSIONER. The Georgia Safety Fire Commissioner.

(2) AUTHORITY HAVING JURISDICTION. The State Fire Marshal of Georgia.

(3) ICC. The Interstate Commerce Commission.

(4) DOT. The United States Department of Transportation.

Note: On April 1, 1967, certain function of the U.S. Interstate Commerce Commission (ICC) were transferred to the U.S. Department of Transportation (DOT). An approval of certification label, marking, tag or other document bearing either marking, ICC or DOT, is acceptable wherever these rules and regulations specify ICC approval.

(5) GPSC. The Georgia Public Service Commission.

(6) PERMIT. An anhydrous ammonia permit is the written authority of the State Fire Marshal, issued pursuant to these rules and regulations, to manufacture, sell, transport, or store for transportation or sale, anhydrous ammonia in the State of Georgia.

(7) PERSON. Any individual, firm, co-partnership, corporation, company, association, joint stock association, and including any trustee, receiver, assignee or personal representative thereof.

(8) BULK STORAGE. Storage of bulk liquids, 4,000 gallons or more received by a tank vessel, pipeline, tank car, or tank vehicle for the purpose of distributing.

Cite as Ga. Comp. R. & Regs. R. 120-3-12-.03
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Chapter entitled "The Storage and Handling of Anhydrous Ammonia" adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Chapter entitled "Rules and Regulations for the Storage and Handling of Anhydrous Ammonia" adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Aug. 25, 1992; eff. Sep. 14, 1992.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-12 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-12-.04. Special Provisions.

(1) Reporting of fire or serious accidents:

(a) Every person required by these rules and regulations to have a permit and who suffers a fire or serious accident involving anhydrous ammonia shall make report thereof in writing as soon as possible to the State Fire Marshal. A serious accident shall be interpreted to mean one in which loss of life, hospitalization of persons, or loss or damage to property involving $100.00 or more results from the accident.

(2) Advising appropriate authorities of situations presenting a hazard to the public:

(a) Every person required by these rules and regulations to have a permit and having knowledge of a situation or condition involving anhydrous ammonia which creates

a hazard to the public shall advise local authorities immediately and the State Fire Marshal as soon as practicable.

(3) Modification:

(a) Upon receipt of a sworn affidavit from the owner stating all relevant facts and circumstances and such other information as may be required, the State Fire Marshal may recommend to the Commissioner that specific requirements of this Chapter and the NFPA codes, standards and recommended practices adopted herein, be modified to allow alternative arrangements that will secure as nearly equivalent measures as practical for the prevention of injury to persons and property. The Commissioner in his discretion may accept the State Fire Marshal's recommendation and grant the requested modification.

Cite as Ga. Comp. R. & Regs. R. 120-3-12-.04
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Chapter entitled "The Storage and Handling of Anhydrous Ammonia" adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Chapter entitled "Rules and Regulations for the Storage and Handling of Anhydrous Ammonia" adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Aug. 25, 1992; eff. Sep. 14, 1992.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-12 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-12-.05. Adoption of Standards for the Storage and Handling of Anhydrous Ammonia.

Except to the extent modified herein, the following NFPA Codes and Standards are hereby adopted.

(1) **ANSI / CGA G-2.1-2014*, American National Standard Safety Requirements for the Storage and Handling of Anhydrous Ammonia***

Modifications: None

Cite as Ga. Comp. R. & Regs. R. 120-3-12-.05
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Chapter entitled "The Storage and Handling of Anhydrous Ammonia" adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Chapter entitled "Rules and Regulations for the Storage and Handling of Anhydrous Ammonia" adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Aug. 25, 1992; eff. Sep. 14, 1992.

Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-12 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-12-.06. Severability.

If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and the applicability of such provisions to other circumstances shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-3-12-.06
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Chapter entitled "The Storage and Handling of Anhydrous Ammonia" adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Chapter entitled "Rules and Regulations for the Storage and Handling of Anhydrous Ammonia" adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Aug. 25, 1992; eff. Sep. 14, 1992.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-12 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-12-.07. Forms.

The following form is incorporated to implement this Chapter and O.C.G.A. Section 25-2-4.1.

Title Form Number

Anhydrous Ammonia Application SFD 46

NOTE:

1. A copy of the Standards, TFI-M-1-1981, ANSI k61.1-1981, is on file in the Office of the State Fire Marshal and is available for viewing

Cite as Ga. Comp. R. & Regs. R. 120-3-12-.07
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Chapter entitled "The Storage and Handling of Anhydrous Ammonia" adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Chapter entitled "Rules and Regulations for the Storage and Handling of Anhydrous Ammonia" adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Aug. 25, 1992; eff. Sep. 14, 1992.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or

published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-12 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Subject 120-3-13. RULES AND REGULATIONS FOR WELDING GASES.

Authority: O.C.G.A. Secs. 25-2-4, 25-2-13, 25-2-16
History. See "Notes" on Page 2 of the Rules and Regulations of the Safety Fire Department Original Chapter entitled "Welding Gases" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-13 has been repealed and a new Chapter 120-3-13, of the same title, adopted. Filed November 10, 1980; effective November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Welding Gases"adopted. Filed June 3, 1987; effective June 25, 1987, as specified by the Agency.
Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992
Repealed: New Chapter, same title, adopted. F. Jul. 23, 1998; eff. Aug. 12, 1998.
Editor's Note:
In accordance with the O.C.G.A. Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.

Rule 120-3-13-.01. Purpose.

(1) These Rules and Regulations for Welding Gases are promulgated by the Georgia Safety Fire Commissioner pursuant to O.C.G.A. 25-2-4.

(2) The purpose of these rules and regulations is to provide precautionary and protective techniques that are reasonable and practical measures for the prevention of injury to persons and property from the storage, transportation and handling of welding gases. These rules and regulations supersede former rules and regulations promulgated by the Georgia Safety Fire Commissioner pertaining to welding gases when such are in conflict with these rules and regulations.

Cite as Ga. Comp. R. & Regs. R. 120-3-13-.01
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. See "Notes" on Page 2 of the Rules and Regulations of the Safety Fire Department. Original Chapter entitled "Welding Gases" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-13 has been repealed and a new Chapter 120-3-13, of the same title, adopted. Filed November 10, 1980; eff. November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Welding Gases" adopted. Filed June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992.
Repealed: New Chapter, same title, adopted. F. Jul. 23, 1998; eff. Aug. 12, 1998.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.

Note: Chapter 120-3-13 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-13-.02. Definitions.

The definitions contained herein are in addition to and in clarification of those contained in the adopted standards.

(1) PERSON. Any individual, firm, partnership, corporation, company, association, joint stock association, and any trustee, receiver, assignee, or personal representative thereof.

(2) COMMISSIONER. The Georgia Safety Fire Commissioner.

(3) AUTHORITY HAVING JURISDICTION. The State Fire Marshal of Georgia.

(4) DOT. The United States Department of Transportation.

(5) GPSC. The Georgia Public Service Commission.

(6) NFPA. The National Fire Protection Association.

Cite as Ga. Comp. R. & Regs. R. 120-3-13-.02
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. See "Notes" on Page 2 of the Rules and Regulations of the Safety Fire Department. Original Chapter entitled "Welding Gases" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-13 has been repealed and a new Chapter 120-3-13, of the same title, adopted. Filed November 10, 1980; eff. November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Welding Gases" adopted. Filed June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992.
Repealed: New Chapter, same title, adopted. F. Jul. 23, 1998; eff. Aug. 12, 1998.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-13 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-13-.03. Adopted Standards and Modifications.

Except to the extent modified herein, the following NFPA Codes and Standards are hereby adopted.

(1) **NFPA 51, 2018 Edition,** ***Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes***

Modifications: None

(2) **NFPA 51B, 2019 Edition,** ***Standard for Fire Prevention During Welding, Cutting, and Other Hot Work***

Modifications: None

(3) **NFPA 55, 2020 Edition,** ***Compressed Gases and Cryogenic Fluids Code***

Modifications: None

Cite as Ga. Comp. R. & Regs. R. 120-3-13-.03
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. See "Notes" on Page 2 of the Rules and Regulations of the Safety Fire Department. Original Chapter entitled "Welding Gases" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-13 has been repealed and a new Chapter 120-3-13, of the same title, adopted. Filed November 10, 1980; eff. November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Welding Gases" adopted. Filed June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992.
Repealed: New Chapter, same title, adopted. F. Jul. 23, 1998; eff. Aug. 12, 1998.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-13 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: New title "Adopted Standards and Modifications." F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-13-.04. Transportation of Fuel Gas for Welding and Cutting.

(1) Only approved cylinders and containers as stated in NFPA Standard Number 51, shall be transported. Cylinders and containers loaded in or on vehicles shall be securely fastened to prevent slipping or overturning, and protective caps shall be securely fitted in place whether cylinders or containers are full, partially full or empty.

(2) Vehicles shall be in good operating condition and shall not be overloaded. Every vehicle regularly used for transporting fuel gas cylinders or containers shall be equipped with at least one fire extinguisher having a rating of 20-BC, permanently mounted and readily accessible to the driver.

(3) Drivers of vehicles transporting fuel gas for welding and cutting shall be physically able to perform the job, careful, capable, reliable, familiar with traffic laws and the provisions of this Chapter, and shall not be addicted to or under the influence of intoxicants, narcotics or other dangerous drugs.

(4) Vehicles transporting 1,000 pounds gross weight or more of flammable or nonflammable compressed fuel gas for welding and cutting shall carry placards on the front, rear and sides which meet DOT requirements.

Cite as Ga. Comp. R. & Regs. R. 120-3-13-.04
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. See "Notes" on Page 2 of the Rules and Regulations of the Safety Fire Department. Original Chapter entitled "Welding Gases" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-13 has been repealed and a new Chapter 120-3-13, of the same title, adopted. Filed November 10, 1980; eff. November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Welding Gases" adopted. Filed June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992.
Repealed: New Chapter, same title, adopted. F. Jul. 23, 1998; eff. Aug. 12, 1998.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-13 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-13-.05. Request for Modification of Specific Requirements.

Upon receipt of a sworn affidavit from the owner stating all relevant facts and circumstances and such other information as may be required, the State Fire Marshal may recommend to the Commissioner that specific requirements of this Chapter and the NFPA standards adopted herein be modified to allow alternative arrangements that will secure as nearly equivalent measures as practical for the prevention of injury to persons and property. The Commissioner in his discretion may accept the State Fire Marshal's recommendation and grant the requested modification.

Cite as Ga. Comp. R. & Regs. R. 120-3-13-.05
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. See "Notes" on Page 2 of the Rules and Regulations of the Safety Fire Department. Original Chapter entitled "Welding Gases" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-13 has been repealed and a new Chapter 120-3-13, of the same title, adopted. Filed November 10, 1980; eff. November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Welding Gases" adopted. Filed June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992.
Repealed: New Chapter, same title, adopted. F. Jul. 23, 1998; eff. Aug. 12, 1998.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-13 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-13-.06. Penalties.

After notice and hearing provided in accordance with Rule 120-3-2-.02 of the Rules of Safety Fire Commissioner, any person who is found to have violated any of the rules contained in this Chapter shall be subject to such penalties as authorized by law or Regulation.

Cite as Ga. Comp. R. & Regs. R. 120-3-13-.06
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. See "Notes" on Page 2 of the Rules and Regulations of the Safety Fire Department. Original Chapter entitled "Welding Gases" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-13 has been repealed and a new Chapter 120-3-13, of the same title, adopted. Filed November 10, 1980; eff. November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Welding Gases" adopted. Filed June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992.
Repealed: New Chapter, same title, adopted. F. Jul. 23, 1998; eff. Aug. 12, 1998.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-13 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-13-.07. Severability.

If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and the applicability of such provisions to other circumstances shall not be affected thereby.

NOTES:

1. The NFPA standards adopted in this Chapter are on file in the Office of the State Fire Marshal and are available for viewing.

2. Copies of the NFPA standards may be obtained from:

   National Fire Protection Association

   Batterymarch Park

   Quincy, Massachusetts 02269

   Phone: 1-800-344-3555

   A list of the standards is available at the Office of the State Fire Marshal for viewing.

If you are an individual with a disability and wish to acquire this publication in an alternative format, please contact the ADA Coordinator, Safety Fire Division, Office of Commissioner of Insurance, No. 2 Martin Luther King Jr. Drive, Atlanta, Georgia 30334, 404 656-2056, TDD 404 656-4031.

Cite as Ga. Comp. R. & Regs. R. 120-3-13-.07
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. See "Notes" on Page 2 of the Rules and Regulations of the Safety Fire Department. Original Chapter entitled "Welding Gases" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-13 has been repealed and a new Chapter 120-3-13, of the same title, adopted. Filed November 10, 1980; eff. November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Welding Gases" adopted. Filed June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992.
Repealed: New Chapter, same title, adopted. F. Jul. 23, 1998; eff. Aug. 12, 1998.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-13 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Subject 120-3-14. RULES AND REGULATIONS FOR NATURAL GAS SYSTEMS.

Authority: O.C.G.A. Secs. 25-2-4, 25-2-13, 25-2-16, 33-2-9, 50-13-31
History. See "Notice" on Page 2 of the Rules and Regulations of the Safety Fire Department Original Chapter entitled "Natural Gas Systems" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-14 has been repealed and a new Chapter 120-3-14, of the same title, adopted. Filed November 10, 1980; effective November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Natural Gas Systems" adopted. Filed June 3, 1987; effective June 25, 1987, as specified by the Agency.
Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992.
Amended: F. Oct. 26, 1992; eff. Nov. 15, 1992.
Repealed: New Chapter, same title, adopted. F. Jul. 23, 1998; eff. Aug. 12, 1998.
Editor's Note:
In accordance with the O.C.G.A. Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.

Rule 120-3-14-.01. Promulgation and Purpose.

(1) These Rules and Regulations for Natural Gas Systems are promulgated by the Georgia Safety Fire Commissioner pursuant to O.C.G.A. 25-2-4.

(2) The purpose of these rules and regulations is to provide precautionary and protective techniques that are reasonable and practical measures for the prevention of injury to persons and property from fire and related hazards incident to the installation of natural gas appliances and piping and the use thereof. These rules and regulations supersede former rules and regulations promulgated by the Georgia Safety Fire Commissioner pertaining to Natural Gas Systems and Vehicular Fuel Systems when such are in conflict with these rules and regulations.

Cite as Ga. Comp. R. & Regs. R. 120-3-14-.01
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. See "Notice" on Page 2 of the Rules and Regulations of the Safety Fire Department. Original Chapter entitled "Natural Gas Systems" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-14 has been repealed and a new Chapter 120-3-14, of the same title, adopted. Filed November 10, 1980; eff. November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Natural Gas Systems" adopted. Filed June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992.
Amended: F. Oct. 26, 1992; eff. Nov. 15, 1992.
Repealed: New Chapter, same title, adopted. F. Jul. 23, 1998; eff. Aug. 12, 1998.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-13 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-14-.02. Definitions.

The definitions contained herein are in addition to and in clarification of those contained in the adopted code.

(1) PERSONS. Any individual, firm, partnership, corporation, company, association, joint stock association, and any trustee, receiver, assignee, or personal representative thereof.

(2) COMMISSIONER. The Georgia Safety Fire Commissioner.

(3) AUTHORITY HAVING JURISDICTION. The State Fire Marshal of Georgia.

(4) NFPA. The National Fire Protection Association.

Cite as Ga. Comp. R. & Regs. R. 120-3-14-.02
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. See "Notice" on Page 2 of the Rules and Regulations of the Safety Fire Department. Original Chapter entitled "Natural Gas Systems" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-14 has been repealed and a new Chapter 120-3-14, of the same title, adopted. Filed November 10, 1980; eff. November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Natural Gas Systems" adopted. Filed June 3, 1987; eff. June 25, 1987, as specified by the Agency.

Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992.
Amended: F. Oct. 26, 1992; eff. Nov. 15, 1992.
Repealed: New Chapter, same title, adopted. F. Jul. 23, 1998; eff. Aug. 12, 1998.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-13 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-14-.03. Reporting of Fires and Serious Accidents.

Every person who owns, operates or is responsible for a natural gas system or appliance covered by this Chapter and who suffers a fire or serious accident involving natural gas shall notify the State Fire Marshal's Office as soon as possible but not later than eight hours of the incident occurring. In addition to the initial notification, every person who owns, operates or is responsible for a natural gas system or appliance covered by this Chapter and who suffers a serious accident involving natural gas shall make a written report thereof to the State Fire Marshal within 72 hours. A serious accident shall be one which results in loss of life, hospitalization, or damage to property involving $5,000.00 or more. This applies to piping systems as defined in NFPA 54 and CNG dispensing stations as defined in NFPA 52.

Cite as Ga. Comp. R. & Regs. R. 120-3-14-.03
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. See "Notice" on Page 2 of the Rules and Regulations of the Safety Fire Department. Original Chapter entitled "Natural Gas Systems" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-14 has been repealed and a new Chapter 120-3-14, of the same title, adopted. Filed November 10, 1980; eff. November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Natural Gas Systems" adopted. Filed June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992.
Amended: F. Oct. 26, 1992; eff. Nov. 15, 1992.
Repealed: New Chapter, same title, adopted. F. Jul. 23, 1998; eff. Aug. 12, 1998.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-13 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-14-.04. Compliance with Local Codes.

Whenever counties, municipalities or other local authorities have adopted recognized standards or codes such as the Georgia State Heating and Air Conditioning Code, Georgia State Gas Code or the Southern Standard Gas Code, compliance with such local standards or codes shall be in addition to compliance with the National Fuel Gas Code, NFPA Number 54 (2018 Edition) and NFPA 52 Compressed Natural Gas (CNG) Vehicular Natural Gas Fuel Systems (2019 Edition).

Cite as Ga. Comp. R. & Regs. R. 120-3-14-.04
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. See "Notice" on Page 2 of the Rules and Regulations of the Safety Fire Department. Original Chapter entitled "Natural Gas Systems" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-14 has been repealed and a new Chapter 120-3-14, of the same title, adopted. Filed November 10, 1980; eff. November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Natural Gas Systems" adopted. Filed June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992.
Amended: F. Oct. 26, 1992; eff. Nov. 15, 1992.
Repealed: New Chapter, same title, adopted. F. Jul. 23, 1998; eff. Aug. 12, 1998.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-13 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-14-.05. Adopted Codes and Modifications.

Except to the extent modified herein, the following NFPA codes and standards are hereby adopted:

(1) **NFPA 52, 2019 Edition, *Vehicular Natural Gas Fuel Systems Code*:**

Modifications: None

(2) **NFPA 54, 2018 Edition, *National Fuel Gas Code*:**

Modifications: None

Cite as Ga. Comp. R. & Regs. R. 120-3-14-.05
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. See "Notice" on Page 2 of the Rules and Regulations of the Safety Fire Department. Original Chapter entitled "Natural Gas Systems" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-14 has been repealed and a new Chapter 120-3-14, of the same title, adopted. Filed November 10, 1980; eff. November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Natural Gas Systems" adopted. Filed June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992.
Amended: F. Oct. 26, 1992; eff. Nov. 15, 1992.
Repealed: New Chapter, same title, adopted. F. Jul. 23, 1998; eff. Aug. 12, 1998.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-13 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: New title "Adopted Codes and Modifications." F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-14-.06. Permit Requirements for Dispensing Compressed Natural Gas for Vehicular Fuel.

(1) It is prohibited for any person to dispense compressed natural gas in the state of Georgia except by authority of a written permit issued by the State Fire Marshal in conformance with these rules and regulations.

(2) An application for a permit to dispense compressed natural gas for vehicular fuel shall be submitted to the State Fire Marshal.

(3) Upon receipt of a properly executed application for a permit to dispense compressed natural gas, the State Fire Marshal may make, or cause to be made, an investigation for the purpose of ascertaining if the requirements of these rules and regulations have been complied with, and issue the permit before the system may begin operation.

Cite as Ga. Comp. R. & Regs. R. 120-3-14-.06
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. See "Notice" on Page 2 of the Rules and Regulations of the Safety Fire Department. Original Chapter entitled "Natural Gas Systems" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-14 has been repealed and a new Chapter 120-3-14, of the same title, adopted. Filed November 10, 1980; eff. November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Natural Gas Systems" adopted. Filed June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992.
Amended: F. Oct. 26, 1992; eff. Nov. 15, 1992.
Repealed: New Chapter, same title, adopted. F. Jul. 23, 1998; eff. Aug. 12, 1998.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-13 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-14-.07. Submission of Plans/Fees.

Complete plans and specifications for all systems involving the storage of motor fuel (CNG) shall be submitted in duplicate to and receive approval by the State Fire Marshal before installation is started. Such plans shall be drawn to scale and be of sufficient detail and clarity as necessary to indicate the nature and character of the proposed system and its compliance with this Chapter. One copy of the plans shall be retained by the State Fire Marshal and one copy shall be returned to the applicant with the approval or disapproval indicated thereon. A copy of the approved plans shall be kept available at the construction site for inspection by authorized representatives of the State Fire Marshal. Pursuant to O.C.G.A. Section 25-2-4.1, the plans for each storage facility shall be accompanied by a plan review fee payable to the Safety Fire Commissioner. Pursuant to O.C.G.A. Section 25-2-16, the plans shall bear the seal and Georgia registration number of the drafting architect or engineer or shall otherwise have the approval of the Safety Fire Commissioner or his designee.

Cite as Ga. Comp. R. & Regs. R. 120-3-14-.07
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. See "Notice" on Page 2 of the Rules and Regulations of the Safety Fire Department. Original Chapter entitled "Natural Gas Systems" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-14 has been repealed and a new Chapter 120-3-14, of the same title, adopted. Filed November 10, 1980; eff. November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Natural Gas Systems" adopted. Filed June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992.
Amended: F. Oct. 26, 1992; eff. Nov. 15, 1992.
Repealed: New Chapter, same title, adopted. F. Jul. 23, 1998; eff. Aug. 12, 1998.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-13 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-14-.08. Request for Modification of Specific Requirements.

Upon receipt of a sworn affidavit from the owner stating all relevant facts and circumstances and such other information as may be required, the State Fire Marshal may recommend to the Commissioner that specific requirements of this Chapter and the NFPA codes adopted herein be modified to allow alternative arrangements that will secure as nearly equivalent measures as practical for the prevention of injury to persons and property. The Commissioner in his discretion may accept the State Fire Marshal's recommendation and grant the requested modification.

Cite as Ga. Comp. R. & Regs. R. 120-3-14-.08
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. See "Notice" on Page 2 of the Rules and Regulations of the Safety Fire Department. Original Chapter entitled "Natural Gas Systems" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-14 has been repealed and a new Chapter 120-3-14, of the same title, adopted. Filed November 10, 1980; eff. November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Natural Gas Systems" adopted. Filed June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992.
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Note: Chapter 120-3-13 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-14-.09. Penalties.

After notice and hearing provided in accordance with Rule 120-3-2-.02 of the Rules of Safety Fire Commissioner, any person who is found to have violated any of the rules contained in this Chapter shall be subject to such penalties as authorized by law or Regulation.

Cite as Ga. Comp. R. & Regs. R. 120-3-14-.09
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. See "Notice" on Page 2 of the Rules and Regulations of the Safety Fire Department. Original Chapter entitled "Natural Gas Systems" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-14 has been repealed and a new Chapter 120-3-14, of the same title, adopted. Filed November 10, 1980; eff. November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Natural Gas Systems" adopted. Filed June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992.
Amended: F. Oct. 26, 1992; eff. Nov. 15, 1992.
Repealed: New Chapter, same title, adopted. F. Jul. 23, 1998; eff. Aug. 12, 1998.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-13 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-14-.10. Severability.

If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and the applicability of such provisions to other circumstances shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-3-14-.10
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. See "Notice" on Page 2 of the Rules and Regulations of the Safety Fire Department. Original Chapter entitled "Natural Gas Systems" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-14 has been repealed and a new Chapter 120-3-14, of the same title, adopted. Filed November 10, 1980; eff. November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Natural Gas Systems" adopted. Filed June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992.
Amended: F. Oct. 26, 1992; eff. Nov. 15, 1992.
Repealed: New Chapter, same title, adopted. F. Jul. 23, 1998; eff. Aug. 12, 1998.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-13 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Rule 120-3-14-.11. Forms.

The following form is incorporated to implement this Chapter and O.C.G.A. Section 25-2-4.1:

TITLE FORM NUMBER

Application for Compressed Natural SFD 389

Gas Storage/Dispensing Permit

NOTES:

1. The NFPA codes adopted in this Chapter are on file in the Office of the State Fire Marshal and are available for viewing.

2. Copies of the NFPA codes may be obtained from:

   National Fire Protection Association

   Batterymarch Park

   Quincy, Massachusetts 02269

   Phone: 1-800-344-3555

   A price list of NFPA codes and standards is available at the Office of the State Fire Marshal for viewing.

   If you are an individual with a disability and wish to acquire this publication in an alternative format, please contact the ADA Coordinator, Safety Fire Division, Office of Commissioner of Insurance, No. 2 Martin Luther King Jr. Drive, Atlanta, Georgia 30334, 404 656-2056, TDD 404 656-4031.

Cite as Ga. Comp. R. & Regs. R. 120-3-14-.11
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. See "Notice" on Page 2 of the Rules and Regulations of the Safety Fire Department. Original Chapter entitled "Natural Gas Systems" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Amended: Chapter 120-3-14 has been repealed and a new Chapter 120-3-14, of the same title, adopted. Filed November 10, 1980; eff. November 30, 1980.
Amended: Chapter repealed and a new Chapter entitled "Rules and Regulations of Natural Gas Systems" adopted. Filed June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Sept. 18, 1992; eff. Oct. 8, 1992.
Amended: F. Oct. 26, 1992; eff. Nov. 15, 1992.
Repealed: New Chapter, same title, adopted. F. Jul. 23, 1998; eff. Aug. 12, 1998.
Editor's Note In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-13 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan 1, 2020 as specified by the Agency.

Subject 120-3-15. DRY CLEANING PLANTS AND FLUIDS.

Authority: Ga. L. 1949, pp. 1057, 1058; Ga. L. 1949, pp. 1057, 1063, as amended by Ga. L. 1967, pp. 619, 624 and Ga. L. 1968, p. 1084.
History. See "Notice" on Page 2 of the Rules and Regulations of the Safety Fire Department Original Chapter entitled "Dry Cleaning Plants and Fluids" was filed on January 29, 1968; effective April 1, 1968, as specified by the Agency.
Editor's Note:
In accordance with the O.C.G.A. Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.

Subject 120-3-16. RULES AND REGULATIONS FOR LIQUEFIED PETROLEUM GASES.

Rule 120-3-16-.01. Promulgation and Purpose.

(1) These Rules and Regulations governing the distribution, sale, transportation, storage, handling and use of liquefied petroleum gases are promulgated jointly by the Georgia Safety Fire Commissioner pursuant to O.C.G.A. Sections 25-2-4 and 25-2-16, and the State Fire Marshal pursuant to O.C.G.A. Section 10-1-265.

(2) The purpose of these rules and regulations is to provide precautionary and protective techniques that are reasonable and practical measures for the prevention of injury to persons and property from the storage, transportation and handling of liquefied petroleum gases, and to provide reasonably necessary measures for the protection of the health, welfare, and safety of the public and persons using such materials.

(3) Pursuant to O.C.G.A. Section 10-1-270, no municipality or other political subdivision of this State shall adopt or enforce an ordinance, rule, or regulation in conflict with Article 10 of Chapter 1 of Title 10 of the Official Code of Georgia or with these Rules and Regulations.

(4) The Safety Fire Commissioner and/or the State Fire Marshal of Georgia shall have the authority to act in all matters related to this Chapter, pursuant to O.C.G.A. Sections 25-2-3, 25-2-4, 25-2-5, and 25-2-16.

Cite as Ga. Comp. R. & Regs. R. 120-3-16-.01
Authority: O.C.G.A. §§ 10-1-263, 25-2-3, 25-2-4, 25-2-16.
History. Original Rule entitled "Promulgation and Purpose"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule of same title adopted. F. July 23, 2003; eff. Aug. 12, 2003.
Repealed: New Rule of the same title adopted. F. Jan. 7, 2010; eff. Jan. 27, 2010.

Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-16-.02. Definitions.

The definitions contained herein are in addition to and in clarification of those contained in the adopted codes and standards.

(1) ASME. The American Society of Mechanical Engineers.

(2) AUTHORITY HAVING JURISDICTION. The State Fire Marshal of Georgia.

(3) COMMISSIONER. The Georgia Insurance and Safety Fire Commissioner.

(4) CONFINED SPACE. For the purpose of this Chapter, a space whose volume is less than 50 cubic feet per 1000 Btu per hour (4.8 m3 per kW) of the aggregate input rating of all appliances installed in that space.

(5) CYLINDER EXCHANGE OPERATION. This operation, also referred to as cylinder staging racks or cages, requires specific approval. No product transfer takes place at these holding locations. All cylinders, empty or full, are secured in an approved rack or cage. The cylinder inspection, requalification, reconditioning and product transfer takes place at the licensed dealer's distribution plant (see definition in NFPA 58) by the dealer's properly trained personnel. All cylinders are provided with the required markings, labeling and each requalification is duly recorded for compliance with applicable DOT regulations and NFPA 58, Appendix C.

(6) DEALER IN LIQUEFIED PETROLEUM GAS. Any person who sells or offers to sell liquefied petroleum gas to an ultimate consumer for agricultural, industrial, commercial or domestic use.

(7) DISPENSING OPERATION. A dispensing facility or vehicle fuel dispenser as defined in NFPA 58 and used to dispense liquefied petroleum gas to the ultimate consumer.

(8) DOT. The United States Department of Transportation.

(9) INSTALLATION. The act of installing apparatus, piping, tubing, appliances, and equipment necessary for storing and converting liquefied petroleum gas into flame for light, heat, cooling or power for use by the ultimate consumer.

(10) NFPA. The National Fire Protection Association.

(11) PERSON. Any individual, firm, partnership, corporation, company, association, joint stock association, and any trustee, receiver, assignee or personal representative thereof.

(12) SAFETY FIRE DIVISION. The Safety Fire Division of the Office of Insurance and Safety Fire Commissioner, headed by the State Fire Marshal appointed by the Commissioner.

(13) ULTIMATE CONSUMER. Any person who is the last to purchase liquefied petroleum gas in its liquid or vapor state for agricultural, industrial, commercial or domestic use.

(14) UNCONFINED SPACE. For the purpose of this Chapter, a space whose volume is not less than 50 cubic feet Per 1000 Btu per hour (4.8 m3 per kW) of the aggregate input rating of all appliances installed in that space. Rooms communicating directly with the space in which the appliances are installed, through openings not furnished with doors, are considered a part of the unconfined space. All the space that connects to the region that contains the appliance(s) can be combined to calculate the volume, provided there are no doors intervening.

(15) WALLET CARD. A picture identification card issued by the Georgia State Fire Marshal's Office establishing an individual's certification for a specific area of liquefied petroleum gas industry operations.

Cite as Ga. Comp. R. & Regs. R. 120-3-16-.02
Authority: O.C.G.A. §§ 10-1-263, 25-2-3, 25-2-4, 25-2-16.
History. Original Rule entitled "Administration"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule entitled "Definitions"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule of same title adopted. F. July 23, 2003; eff. Aug. 12, 2003.
Repealed: New Rule of the same title adopted. F. Jan. 7, 2010; eff. Jan. 27, 2010.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-16-.03. Licenses; Fees and other Requirements.

(1) Except as provided herein, no person shall manufacture, distribute, sell or store for sale or transportation, liquefied petroleum gas without a license issued by the Safety Fire Division in accordance with this Chapter.

(2) Only Georgia dealers or owners with a valid license issued by the Safety Fire Division in accordance with this Chapter shall introduce liquefied petroleum gas into a container at any location in the state for storage or dispensing of liquefied petroleum for sale or transportation.

(3) The required one-time license fee pursuant to O.C.G.A. Section 25-2-4.1 shall be submitted with the license application and shall be payable to the Safety Fire Commissioner.

(4) No license shall be required for:

(a) The sale or storage of liquefied petroleum gas in containers meeting DOT specifications and having a maximum water capacity of two and one half (2.5) pounds, such as those used with self-contained hand torches, camp stoves, and similar appliances.

(b) Cylinder exchange and dispensing operations conducted by licensed Georgia Dealers at their bulk plants with a current license. Dealers shall provide a listing of locations of the cylinder exchange racks/cages for inspection and compliance with Chapter 8 of NFPA 58 and other applicable codes.

(c) Ultimate consumer operations.

(5) Every entity who desires to be licensed to sell or distribute liquefied petroleum gas in this state shall have located within the state and within close proximity to the area serviced in Georgia storage capacity for a minimum of 30,000 water gallons, except that entities initially licensed prior to July 1, 1990, may continue to operate with the previously approved 18,000 gallons storage facility. If the 30,000 gallon capacity consists of more than one container, then no storage container used to meet this requirement shall be of a size less than 6,000 gallons. Any person who desires a liquefied petroleum gas dealer license as authorized by O.C.G.A. Title 10, Chapter 1, Article 10 and who has not yet acquired the required storage facility may enter into a bulk storage lease agreement with such qualified person on the forms provided by the Safety Fire Division. Such agreement shall be made in triplicate and the license fee shall be the same as stated in subparagraph (3) of this rule. If the required storage facility is leased or rented, then such storage capacity must be dedicated to the exclusive use of the lessee and must include separate piping and loading/unloading facilities.

(6) Prior to obtaining a license for any of the activities listed in subsection (1) of this Rule, all persons shall furnish the Safety Fire Division with evidence of and shall thereafter maintain the following insurance coverage with an insurer authorized to do business in this State or an insurer regulated pursuant to O.C.G.A. Title 33, Chapter 5, if insurance cannot be obtained from an insurer authorized to do business in this State:

(a) General liability including products and completed operations:

1. $1,000,000 combined single limits if the capacity is more than 2,000 gallons.

2. $500,000 combined single limits if the capacity is 2,000 gallons or less.

(b) Motor vehicle liability (when applicable): $1,000,000 combined single limits.

(c) An insurer which provided such coverage shall notify the Commissioner of any change in coverage.

(7) The name under which a person is licensed shall appear on all delivery tickets, delivery vehicles, and storage facilities. Nothing herein shall prohibit the use of trademarks, symbols or logos in addition to the licensee's name. Nothing herein shall prohibit the use of cash register receipts without the name of the business at portable DOT cylinder filling facilities.

(8) Any license issued pursuant to this Chapter may be suspended or revoked by the Safety Fire Division in accordance with O.C.G.A. Section 10-1-269.

Cite as Ga. Comp. R. & Regs. R. 120-3-16-.03
Authority: O.C.G.A. §§ 10-1-263, 25-2-3, 25-2-4, 25-2-16.
History. Original Rule entitled "Definitions"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule entitled "Licenses; Fees and Other Requirements"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, a specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Amended: F. Oct. 16, 1992; eff. Nov. 5, 1992.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule of same title adopted. F. July 23, 2003; eff. Aug. 12, 2003.
Repealed: New Rule of the same title adopted. F. Jan. 7, 2010; eff. Jan. 27, 2010.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-16-.04. Training Requirements for Georgia Liquefied Petroleum Gas Industry Workers.

(1) Each Georgia liquefied petroleum gas industry worker whose primary duties fall within the scope of Georgia Rules and Regulations 120-3-16 shall be trained in proper handling procedures and shall be certified by the Georgia State Fire Marshal's Office for the particular job function that they perform. The training curriculum shall be the Certified Employee Training Program (CETP) or equivalent program approved by the Georgia State Fire Marshal's Office to include employees engaged as delivery drivers and/or service and installation technicians.

(a) Existing industry workers whose primary duties fall within the scope of Georgia Rules and Regulations 120-3-16 shall be certified. The Georgia State Fire Marshal's Office may define who is an existing industry worker, determine when an existing industry worker must be certified, and develop the criteria for certification of existing industry workers when documentation of prior certification does not exist. One of the following methods will be used as certification criteria:

1. Written or oral examination

2. Work performance review

3. Observation during performance of the job

4. On the job training

(b) New industry workers including seasonal or part-time workers, employed after the effective date of this regulation must comply with certification requirements within 12 months of their original date of hire. Other workers that do not meet the requirements of existing industry workers listed in paragraph 120-3-16-.04(1) (a) above or whose certification has expired as described in subsection 120-3-16-.04(3) must comply with certification requirements within 12 months of the original date of hire, expiration of certification, or re-entry into the liquefied petroleum gas industry. Prior to certification, employees may perform duties for which they have been properly trained as per NFPA 58 and other appropriate regulatory agencies.

(2) Every Georgia liquefied petroleum gas industry worker must acquire a minimum of six hours of Continuing Education Units (CEU) every three years to maintain their certification.

(3) Certification belongs to the Georgia liquefied petroleum gas industry worker and follow the industry worker upon change of employment within the Georgia liquefied petroleum gas industry. A copy of the industry worker's certificate shall be provided to their employer. Certification shall not expire unless:

(a) CEUs required by subsection 120-3-16-.04(2) are not maintained

(b) Industry Worker's employment within the liquefied petroleum gas industry has lapsed for a period of more than one year

(c) The Commissioner deems that revocation of the industry worker's certification is necessary due to gross negligence or violation of this regulation

(4) A wallet card indicating valid certification shall be issued by the Georgia State Fire Marshal's Office to the liquefied petroleum gas industry worker. This wallet card shall be kept with the industry worker at all times during which they are conducting business and shall be made available to authorities, State or Local, upon request. The wallet card shall be issued in the following classes:

(a) Class I: Basic Transfer and Handling

(b) Class II: Delivery

(c) Class III: Service /Installation

(d) Class IV: Bulk Operator

(e) Class V: Delivery and Service / Installation

(5) Certain records regarding certification shall be maintained by the appropriate party and maintained as current.

(a) The Georgia State Fire Marshal's Office shall:

1. Maintain permanent certification records submitted by the Georgia liquefied petroleum gas industry worker

2. Maintain a database of CEU's

3. Notify Certificate holder of upcoming CEU renewal requirements

(b) The Georgia liquefied petroleum gas industry worker shall:

1. Maintain personal CEU's

2. Maintain their wallet card that is issued by the Georgia State Fire Marshal's Office

(c) The licensed dealer in liquefied petroleum gas shall:

1. Maintain employee records indicating the status of certified employment base

(6) A Propane Industry Education Advisory Panel shall be appointed by the Commissioner and shall advise or recommend appropriate continuing education unit curriculum. The panel shall consist of five members: one independent propane marketer, one multi-state propane marketer, one propane industry supplier representative, one at-large member, all to be appointed by the executive committee of the Georgia Propane Gas Association and a representative of the State Fire Marshal. Each member of the advisory panel will serve a three year term. Members of the advisory panel will elect a chairman and vice chairman. The Vice Chairman shall succeed the Chairman.

Cite as Ga. Comp. R. & Regs. R. 120-3-16-.04
Authority: O.C.G.A. §§ 10-1-263, 25-2-3, 25-2-4, 25-2-16.
History. Original Rule entitled "Special Provisions"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule entitled "Submission of Plans"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Amended: F. Oct. 16, 1992; eff. Nov. 5, 1992.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule of same title adopted. F. July 23, 2003; eff. Aug. 12, 2003.
Repealed: New Rule entitled "Training Requirements for Georgia Liquefied Petroleum Gas Industry Workers"adopted. F. Jan. 7, 2010; eff. Jan. 27, 2010.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.

Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-16-.05. Submission of Plans.

(1) Complete plans and specifications for all systems involving the aggregate storage capacity of over 2,000 water gallons of liquefied petroleum gas shall be submitted in duplicate to, and receive approval by, the Safety Fire Division before installation is started. Complete plans and specifications for all systems involving storage of any capacity, used for the dispensing of liquefied petroleum gas as vehicular fuel, and located within 50 ft. of any facility dispensing flammable or combustible liquids as outlined in Georgia Rules and Regulations 120-3-11 shall be submitted in duplicate to, and receive approval by, the Safety Fire Division before installation is started. Pursuant to O.C.G.A. Sections 25-2-4.1 and 10-1-266, the plans shall be accompanied with the plan review fee payable to the Safety Fire Commissioner. Pursuant to O.C.G.A. Section 25-2-16, the plans shall bear the seal and Georgia registration number of the drafting architect or engineer or shall otherwise have the approval of the Safety Fire Division.

(2) Plans shall be submitted in duplicate and shall include, at a minimum, the following:

(a) Scaled site plan (shall include all buildings and property lines)

(b) Storage container location(s)

(c) Container Drawings (shall include all piping connections, valves, and appurtenances)

(d) Container Pier Drawings (if applicable)

(e) Piping, valve, and associated equipment layout and arrangements

(f) Electrical conduit layout and arrangements

(g) Corrosion protection (if applicable)

(h) Equipment list and specifications (shall include make and model of equipment)

(i) A copy of the container data plate (picture, rubbing, marking, etc.)

(j) Other information necessary to show compliance

(3) Submissions for storage containers shall also include the following:

(a) A site approval by a representative of the State Fire Marshal

(b) A Fire Safety Analysis completed by the local fire authority

(4) One set of plans shall be retained by the State Fire Marshal and one copy returned to the applicant with approval or disapproval indicated thereon. A copy of the approved plans shall be kept at the installation site during construction for inspection by authorized representatives of the State Fire Marshal or local authority.

(5) Construction or the storage container installation, or associated equipment, shall not commence until the plans have been approved and returned to the applicant.

(6) In lieu of plans, a final inspection shall be obtained from Safety Fire Division for the following:

(a) All other systems, which may or may not require a license but involve the storage of 2,000 water gallons or less of liquefied petroleum gas, such as, cylinder filling plants open to the public, or dispensing and filling locations at commercial, industrial or mercantile sites.

(b) Cylinder exchange racks or cages which do not require a license. Dealers shall provide a listing of locations of the cylinder exchange racks/cages for inspection and compliance with Chapter 8 of NFPA 58 and other applicable codes.

Cite as Ga. Comp. R. & Regs. R. 120-3-16-.05
Authority: O.C.G.A. §§ 10-1-263, 25-2-3, 25-2-4, 25-2-16.
History. Original Rule entitled "Standards for Installation of Gas Appliances and Piping"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule entitled "Reporting of Fires and Accidents"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980, as specified by the Agency.
Repealed: New Rule of same title adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule of same title adopted. F. July 23, 2003; eff. Aug. 12, 2003.
Repealed: New Rule entitled "Submission of Plans"adopted. F. Jan. 7, 2010; eff. Jan. 27, 2010.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-16-.06. Reporting of Fires and Accidents.

All owners, managers or operators of all vehicles and equipment covered under this Chapter shall as soon as possible, but in no event later than eight hours of the incident occurring, shall notify the Safety Fire Division of all fires involving such vehicles and equipment and all accidents involving the same that may create a hazard to the public. In addition to the initial notification, all owners, managers or operators of all vehicles and equipment covered under this Chapter shall submit a written report to the Safety Fire Division within seventy-two (72) hours of the incident occurring.

Cite as Ga. Comp. R. & Regs. R. 120-3-16-.06
Authority: O.C.G.A. §§ 10-1-263, 25-2-3, 25-2-4, 25-2-16.
History. Original Rule entitled "Standards for Storage and Handling of Liquefied Petroleum Gases"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.

Repealed: New Rule entitled "Grounding of Electrical Appliances Prohibited"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule entitled "Adopted Codes and Standards"adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Oct. 16, 1992; eff. Nov. 5, 1992.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule of same title adopted. F. July 23, 2003; eff. Aug. 12, 2003.
Repealed: New Rule entitled "Reporting of Fires and Accidents"adopted. F. Jan. 7, 2010; eff. Jan. 27, 2010.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-16-.07. Adopted Codes and Standards.

Except to the extent modified herein, the following NFPA codes and standards are hereby adopted:

(1) **NFPA 54, 2018 Edition, *National Fuel Gas Code*:**

Modifications:

(a) **Modifications to Chapter 3:**

1. Delete subsection 3.3.81 in its entirety and substitute in its place the following:

   "**3.3.81 Qualified Agency.** A Georgia licensed dealer in liquefied petroleum gas that is engaged in and is responsible for (1) the installation, testing, or replacement of gas piping or (2) the connection, installation, testing, repair, or servicing of appliances and equipment and that has complied with all the requirements of Georgia Rules and Regulations 120-3-16."

2. Add a new subsection 3.3.106 to read as follows:

   "**3.3.106 Interruption of Service.** Any time when there is a disruption in the flow of gas between the gas supply and the distribution piping, or any portion thereof."

(b) **Modifications to Chapter 10:**

1. Delete subsection 10.22.1 in its entirety and substitute in its place the following:

   "**10.22.1 Prohibited Installations.** Unvented room heaters shall not be installed in bathrooms or bedrooms.

Exception No. 1: One listed wall-mounted unvented room heater equipped with an oxygen depletion safety shutoff system shall be permitted to be installed in a bathroom provided that the input rating shall not exceed 6,000 Btu/hr (1760 W/hr) and combustion and ventilation air is provided as specified in 10.1.2.

Exception No. 2: One listed wall-mounted unvented room heater equipped with an oxygen depletion safety shutoff system shall be permitted to be installed in a bedroom provided that the input rating shall not exceed 10,000 Btu/hr (2930 W/hr) and combustion and ventilation air is provided as specified in 10.1.2.

"NOTE: Exceptions No. 1 and No. 2 are acceptable installations to the Safety Fire Division [refer to 120-3-16-.02 12]."

(2) **NFPA 58, 2020 Edition, *Standard for the Storage and Handling of Liquefied Petroleum Gases*:**

Modifications:

(a) **Modifications to Chapter 4:**

1. Delete Section 4.4 in its entirety and substitute in its place the following:

   "**4.4 Qualifications of Personnel.** Persons who transfer liquid LP-Gas, who are employed to transport LP-Gas, or whose primary duties fall within the scope of this code shall be trained in accordance with Section 120-3-16-.04 of this Rule. Prior to obtaining a license for any of the activities listed in Section 120-3-16-.01 of this Rule, new applicant(s) must provide verification that all responsible persons such as owner or manager, and any employee(s) handling LP-Gas, have received and successfully completed safety training in the proper handling and operating procedures of LP Gas. This training shall be maintained and be kept up to date for the applicant's license to remain valid. The Applicant must be the owner or manager of the business applying for the LP-Gas license."

2. Delete subsections 4.4.1 - 4.4.4 in its entirety.

(b) **Modifications to Chapter 5:**

1. Add a new paragraph 5.2.1.12 to read as follows:

   "**5.2.1.12** The design, fabrication, and marking provisions for containers and features normally associated with container fabrication, such as container

openings, appurtenances required for these openings to make the containers gas tight entities, physical damage protecting devices, and container supports attached to or furnished with the container by the manufacturer shall meet the requirements of this section. All tank distributors or firms who manufacture or sell ASME liquefied petroleum gas containers shall provide each Georgia dealer who purchases such containers with a manufacturer's data sheet for each container as set forth in Section VIII of ASME's Boiler and Pressure Vessel Code. All such data sheets shall be signed by an inspector regularly employed by an insurance company or authorized governmental unit who holds a Certificate of Competency and Commission from the National Board of Boiler and Pressure Vessel Inspectors. All dealers shall file such data sheets as part of their regular records, separated by name of manufacturer and serial number of the container. Such records shall be available during regular office hours for inspection by the Safety Fire Division or authorized agent thereof. This requirement shall also apply to containers which are utilized on trucks, semi-trailers, and trailers. When containers used in this State are purchased by control purchasing departments of companies, corporations, their subdivisions or individuals operating within this State, such records shall be retained by the department, subdivision or individual. Copies of the manufacturer's data sheets shall be available to the representative of the Safety Fire Division upon request."

2. Delete subsection 5.23.2 in its entirety and substitute in its place the following:

   "**5.23.2** Any appliance originally manufactured for operation with a gaseous fuel other than LP-Gas shall not be used with LP-Gas unless it is converted to use LP-Gas, and is tested for performance with LP-Gas before being placed into use. No person shall use liquefied petroleum gas as a source of pressure in operating spray guns and other equipment not specifically designed or intended to use liquefied petroleum gas."

(c) **Modifications to Chapter 6:**

1. Add a new subsection 6.1.4 to read as follows:

   "**6.1.4 General Provisions.** Bulk storage facilities, cylinder filling facilities, and cylinder exchange staging areas shall have emergency contact information posted in a prominent location accessible to persons who might notice leaks, fires or other unsafe conditions. For bulk storage and cylinder filling facilities the letters shall be at least 2 inches high using approximately a 1/4 inch stroke. At cylinder exchange staging areas the letters shall be 3/4

inches high using approximately a 1/8 inch stroke. 'No smoking' signs shall be conspicuously posted."

2. Add a new paragraph 6.8.1.8 to read as follows:

   "6.8.1.8 Piping, tubing or regulators shall be considered well supported when they are rigidly fastened in their intended position."

3. Add a new subsection 6.24.9 to read as follows:

   "**6.24.9_Security and Protection Against Tampering.** Vaporizers shall have fencing or protection against tampering in accordance with 6.21.4 and protection against vehicle collision."

(d) **Modifications to Chapter 7:**

1. Add a new paragraph 7.2.2.20 to read as follows:

   "7.2.2.20 No person shall introduce LP Gas into a container, evacuate a container, or otherwise modify or tamper with a container without the written permission of the container owner.

   Exception: A Georgia dealer in LP-Gas may evacuate a container not owned by such dealer for the purpose of transferring the LP-Gas remaining in the container into a container which is owned by the dealer or the ultimate consumer, provided that the dealer owning the container to be evacuated is notified of the transfer. The Georgia dealer in LP-Gas evacuating the container shall document such notification and shall maintain a record of the notification for a period not less than three years."

(e) **Modifications to Chapter 8:**

1. Add a new subsection 8.2.3 to read as follows:

   "**8.2.3** When cylinders are stored in exchange or storage cages, the name of the lp-gas supplier and the supplier's emergency contact information shall be posted on the front of the cage using letters 3/4 inches high using approximately a 1/8 inch stroke."

(f) **Modifications to Chapter 9:**

1. Add a new subsection 9.1.3 to read as follows:

   "**9.1.3 General Provisions."**

2. Add a new paragraph 9.1.3.1 to read as follows:

   "**9.1.3.1** Drivers shall not be addicted to or under the influence of intoxicants or narcotics, and intoxicating beverages shall not be carried on or consumed in transport vehicles."

3. Add a new paragraph 9.1.3.2 to read as follows:

   "**9.1.3.2** Except during transfer operations, the liquid valve(s) of all tanks and cargo tanks trucks shall be closed by means of self-closing shut-off valves."

4. Add a new paragraph 9.1.3.3 to read as follows:

   "**9.1.3.3** The transfer of L.P. Gas from vehicle to vehicle at any location which is open to and readily accessible to the public and on any public highway, road, street, or alley is allowed only with approval of the Safety Fire Division except in emergency situations."

5. Add a new paragraph 9.4.6.3 to read as follows:

   "**9.4.6.3** In addition, the common name of the product or the words 'LIQUEFIED PETROLEUM GAS' shall be marked on the rear and sides of cargo tanks in letters at least 2 inches high using approximately a 1/4 inch stroke, with red letters upon a white background."

6. Add a new paragraph 9.4.6.4 to read as follows:

   "**9.4.6.4** The name and telephone number of the owner or operator of any vehicle required to be marked shall be displayed on each side of the vehicle in legible lettering."

(3) **NFPA 59, 2012 Edition, *Standard for the Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants*.**

Modifications: None

Cite as Ga. Comp. R. & Regs. R. 120-3-16-.07
Authority: O.C.G.A. §§ 10-1-263, 25-2-3, 25-2-4, 25-2-16.
History. Original Rule entitled "Standards for Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule entitled "Adopted Codes and Standards"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule entitled "Modifications, Additions and Deletions to Adopted Codes and Standards"adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of the same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Oct. 16, 1992; eff. Nov. 5, 1992.

Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule entitled "Vehicles"adopted. F. July 23, 2003; eff. Aug. 12, 2003.
Repealed: New Rule entitled "Adopted Codes and Standards"adopted. F. Jan. 7, 2010; eff. Jan. 27, 2010.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-16-.08. Request for Modification of Specific Requirements.

Upon receipt of a sworn affidavit from the owner stating all relevant facts and circumstances and such other information as may be required, the Safety Fire Division may determine that specific requirements of this Chapter and the NFPA codes and standards adopted herein should be modified to allow alternative arrangements that will secure as nearly equivalent measures as practical for the prevention of injury to persons and property. In their discretion, the Georgia Safety Fire Commissioner and the State Fire Marshal may jointly grant the requested modification.

Cite as Ga. Comp. R. & Regs. R. 120-3-16-.08
Authority: O.C.G.A. §§ 10-1-263, 25-2-3, 25-2-4, 25-2-16.
History. Original Rule entitled "Standards for Use of Liquefied Petroleum Gases on Motor Craft"adopted. F. Jan. 29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule entitled "Modifications, Additions and Deletions to Adopted Codes and Standards"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule entitled "Request for Modification of Specific Requirements"adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule of same title adopted. F. July 23, 2003; eff. Aug. 12, 2003.
Repealed: New Rule of the same title adopted. F. Jan. 7, 2010; eff. Jan. 27, 2010.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-16-.09. Inspections.

Authorized representatives of the Safety Fire Division may conduct inspections of all facilities subject to this Chapter. Upon determination by such inspection that a liquefied petroleum gas system or any part thereof is unsafe to the extent that it endangers life or adjacent properties, the inspector may red tag the entire system or a specified portion thereof. The red tag may be removed only by an authorized representative of the Safety Fire Division. Any system or portion of a system that has been red tagged may no longer be used until the red tag has been removed. In the event of a consumer complaint, fire, or explosion, all owners, managers or operators of all vehicles and equipment covered under this Chapter shall promptly and completely make available for inspection at the request of the Safety Fire Division all records regarding delivery receipts, inspections, installations, leak tests, maintenance, service calls, pressure tests, and tank lease agreements.

Cite as Ga. Comp. R. & Regs. R. 120-3-16-.09
Authority: O.C.G.A. §§ 10-1-263, 25-2-3, 25-2-4, 25-2-16.
History. Original Rule entitled "Standards for Dehydrators and Dryers for Agricultural Products"adopted. F. Jan.

29, 1968; eff. Apr. 1, 1968, as specified by the Agency.
Repealed: New Rule entitled "Request for Modification of Specific Requirements"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule entitled "Compliance With Rules and Regulations; Penalties"adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule entitled "Inspections"adopted. F. July 23, 2003; eff. Aug. 12, 2003.
Amended: ER. 120-3-16-0.7-.09 adopted. F. Mar. 7, 2008; eff. Mar. 3, 2008, the date of adoption.
Amended: ER. 120-3-16-0.10-.09; adopted. F. and eff. July 2, 2008, the date of adoption.
Repealed: New Rule of the same title adopted. F. Jan. 7, 2010; eff. Jan. 27, 2010.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-16-.10. Compliance with Rules and Regulations; Penalties.

All persons shall manufacture, distribute, sell, store, transport, use and otherwise handle liquefied petroleum gases in conformity with this Chapter. After notice and hearing provided in accordance with Rule 120-3-2-.02 of the Rules of Safety Fire Commissioner, or as provided in O.C.G.A. Section 10-1-269, any person who is found to have violated any of the rules contained in this Chapter shall be subject to such penalties as authorized by law or Regulation.

Cite as Ga. Comp. R. & Regs. R. 120-3-16-.10
Authority: O.C.G.A. §§ 10-1-263, 25-2-3, 25-2-4, 25-2-16.
History. Original Rule entitled "Compliance with Rules and Regulations; Penalties"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Rule entitled "Severability"adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule entitled "Compliance with Rules and Regulations; Penalties"adopted. F. July 23, 2003; eff. Aug. 12, 2003.
Repealed: New Rule of the same title adopted. F. Jan. 7, 2010; eff. Jan. 27, 2010.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-16-.11. Forms.

(1) Unless otherwise indicated, and to the extent provided, each filing required under this Regulation Chapter is to be made on forms or electronic format obtained from the Safety Fire Division.

(2) Forms may be reproduced and may be altered to accommodate manual or automated processing provided the same information is presented in the same order as in the forms or electronic format obtained from the Safety Fire Division.

(3) Any form filed electronically requiring a signature shall contain the electronic signature of the person filing the form, as defined in O.C.G.A. Section 10-12-3.

(4) The Safety Fire Division may approve a method or methods of electronic filing.

Cite as Ga. Comp. R. & Regs. R. 120-3-16-.11
Authority: O.C.G.A. §§ 10-1-263, 25-2-3, 25-2-4, 25-2-16.
History. Original Rule entitled "Severability"adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: New Rule entitled "Forms"adopted. F. Oct. 16, 1992; eff. Nov. 5, 1992.
Repealed: New Rule of same title adopted. F. Aug. 6, 1998; eff. Aug. 26, 1998.
Repealed: New Rule of same title adopted. F. July 23, 2003; eff. Aug. 12, 2003.
Repealed: New Rule of the same title adopted. F. Jan. 7, 2010; eff. Jan. 27, 2010.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-16-.12. Notes.

(1) The NFPA codes and standards adopted in this Chapter are on file in the Safety Fire Division and are available for viewing.

(2) Copies of the NFPA codes and standards may be obtained from:

National Fire Protection Association

Batterymarch Park

Quincy, Massachusetts 02269

Phone: 1-800-344-3555

Cite as Ga. Comp. R. & Regs. R. 120-3-16-.12
Authority: O.C.G.A. §§ 10-1-263, 25-2-3, 25-2-4, 25-2-16.
History. Original Rule entitled "Notes"adopted. F. July 23, 2003; eff. Aug. 12, 2003.
Repealed: New Rule of the same title adopted. F. Jan. 7, 2010; eff. Jan. 27, 2010.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-16-.13. Severability.

If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and the applicability of such provisions to other circumstances shall not be affected thereby.

If you are an individual with a disability and wish to acquire this publication in an alternative format, please contact the ADA Coordinator, Safety Fire Division, Office of Commissioner of Insurance, No. 2 Martin Luther King Jr. Drive, Atlanta, Georgia 30334, 404 656-2056, TDD 404 656-4031.

Cite as Ga. Comp. R. & Regs. R. 120-3-16-.13
Authority: O.C.G.A. §§ 10-1-263, 25-2-3, 25-2-4, 25-2-16.
History. Original Rule entitled "Severability"adopted. F. July 23, 2003; eff. Aug. 12, 2003.
Repealed: New Rule of the same title adopted. F. Jan. 7, 2010; eff. Jan. 27, 2010.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Subject 120-3-17. RULES AND REGULATIONS FOR LIQUEFIED NATURAL GAS AND COMPRESSED NATURAL GAS.

Authority: O.C.G.A. Secs. 25-2-4, 25-2-13, 25-3-16, 33-2-9, 50-13-21.
History. Original Chapter entitled "Liquefied Natural Gases"adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Chapter of same title adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Chapter entitled "Rules and Regulations for Liquefied Natural Gases"adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended:F. Oct. 7, 1992; eff. Oct. 27, 1992.
Repealed: New Chapter of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Editor's Note:
In accordance with the O.C.G.A. Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.

Rule 120-3-17-.01. Promulgation and Purpose.

(1) These Rules and Regulations for Liquefied Natural Gas are promulgated by the Georgia Safety Fire Commissioner pursuant to O.C.G.A. 25-2-4.

(2) The purpose of these rules and regulations is to provide precautionary and protective techniques that are reasonable and practical measures for the prevention of injury to persons and property from fire and related hazards incident to the storage and handling of liquefied natural gas and compressed natural gas.

Cite as Ga. Comp. R. & Regs. R. 120-3-17-.01
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Chapter entitled "Liquefied Natural Gases" adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Chapter of the same title adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Chapter entitled "Rules and Regulations for Liquefied Natural Gases" adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Oct. 7, 1992; eff. Oct. 27, 1992.
Repealed: New Chapter of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Editor's Note: In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-17 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-17-.02. Definitions.

The definitions contained herein are in addition to and in clarification of those contained in the adopted standard.

(1) PERSON. Any individual, firm, partnership, corporation, company, association, joint stock association, and any trustee, receiver, assignee, or personal representative thereof.

(2) COMMISSIONER. The Georgia Safety Fire Commissioner.

(3) AUTHORITY HAVING JURISDICTION. The State Fire Marshal of Georgia.

(4) NFPA. The National Fire Protection Association.

Cite as Ga. Comp. R. & Regs. R. 120-3-17-.02
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Chapter entitled "Liquefied Natural Gases" adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Chapter of the same title adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Chapter entitled "Rules and Regulations for Liquefied Natural Gases" adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Oct. 7, 1992; eff. Oct. 27, 1992.
Repealed: New Chapter of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Editor's Note: In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-17 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-17-.03. Submission of Plans/Fees.

(1) Complete plans and specifications for all systems involving the storage of liquefied natural or compressed natural gas shall be submitted to and receive approval by the State Fire Marshal before installation is started. Such plans shall be drawn to scale and be of sufficient detail and clarity as necessary to indicate the nature and character of the proposed system and its compliance with this Chapter. The plans shall be submitted to the State Fire Marshal and one copy shall be returned to the applicant with the approval or disapproval indicated thereon. A copy of the approved plans shall be kept available at the construction site for inspection by authorized representatives of the State Fire Marshal. Pursuant to O.C.G.A. Section 25-2-4.1, the plans shall be accompanied by the mandatory plan review fee payable to the Safety Fire Commissioner. Pursuant to O.C.G.A. Section 25-2-16 the plans shall bear the seal and Georgia registration number of the drafting

architect or engineer or shall otherwise have the approval of the Safety Fire Commissioner or his designee.

Cite as Ga. Comp. R. & Regs. R. 120-3-17-.03
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Chapter entitled "Liquefied Natural Gases" adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Chapter of the same title adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Chapter entitled "Rules and Regulations for Liquefied Natural Gases" adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Oct. 7, 1992; eff. Oct. 27, 1992.
Repealed: New Chapter of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Editor's Note: In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-17 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-17-.04. Reporting of Fires and Serious Accidents.

Every person who owns, operates or is responsible for storage and handling of liquefied natural gas as covered by this Chapter who suffers a fire or serious accident involving liquefied natural gas shall notify the State Fire Marshal's Office as soon as possible but in no event later than eight hours of the incident occurring. In addition to the initial notification, every person who owns, operates or is responsible for storage of liquefied natural gas as covered by this Chapter shall make a written report thereof to the State Fire Marshal's Office as soon as possible, but in no event later than seventy-two (72) hours. A serious accident shall be one which results in loss of life, hospitalization, or damage to property involving $5,000.00 or more.

Cite as Ga. Comp. R. & Regs. R. 120-3-17-.04
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Chapter entitled "Liquefied Natural Gases" adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Chapter of the same title adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Chapter entitled "Rules and Regulations for Liquefied Natural Gases" adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Oct. 7, 1992; eff. Oct. 27, 1992.
Repealed: New Chapter of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Editor's Note: In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-17 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-17-.05. Adopted Standards.

Except to the extent modified herein, the following NFPA codes and standards are hereby adopted:

(1) **NFPA 52, 2019 Edition, *Vehicular Natural Gas Fuel Systems Code*:**

Modifications: None

(2) **NFPA 54, 2018 Edition, *National Fuel Gas Code*:**

Modifications: None

(3) **NFPA 59A, 2019 Edition, *Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)*:**

Modifications: None

Cite as Ga. Comp. R. & Regs. R. 120-3-17-.05
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Chapter entitled "Liquefied Natural Gases" adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Chapter of the same title adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Chapter entitled "Rules and Regulations for Liquefied Natural Gases" adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
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Editor's Note: In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
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Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-17-.06. Request for Modification of Specific Requirements.

Upon receipt of a sworn affidavit from the owner stating all relevant facts and circumstances and such other information as may be required, the State Fire Marshal may recommend to the Commissioner that specific requirements of this Chapter and the NFPA code adopted herein be modified to allow alternative arrangements that will secure as nearly equivalent measures as practical for the prevention of injury to persons and property. The Commissioner in his discretion may accept the State Fire Marshal's recommendation and grant the requested modification.

Cite as Ga. Comp. R. & Regs. R. 120-3-17-.06
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Chapter entitled "Liquefied Natural Gases" adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Chapter of the same title adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Chapter entitled "Rules and Regulations for Liquefied Natural Gases" adopted. F. June 3, 1987; eff.

June 25, 1987, as specified by the Agency.
Amended: F. Oct. 7, 1992; eff. Oct. 27, 1992.
Repealed: New Chapter of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Editor's Note: In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-17 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-17-.07. Penalties.

After notice and hearing provided in accordance with Rule 120-3-2-.02 of the Rules of Safety Fire Commissioner, any person who is found to have violated any of the rules contained in this Chapter shall be subject to such penalties as authorized by law or Regulation.

Cite as Ga. Comp. R. & Regs. R. 120-3-17-.07
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Chapter entitled "Liquefied Natural Gases" adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Chapter of the same title adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Chapter entitled "Rules and Regulations for Liquefied Natural Gases" adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Oct. 7, 1992; eff. Oct. 27, 1992.
Repealed: New Chapter of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Editor's Note: In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-17 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-17-.08. Severability.

If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and the applicability of such provisions to other circumstances shall not be affected thereby.

NOTES:

1. The NFPA code adopted in this Chapter is on file in the Office of the State Fire Marshal and is available for viewing.

2. Copies of the NFPA code may be obtained from:

   National Fire Protection Association

Batterymarch Park

Quincy, Massachusetts 02269

Phone: 1-800-344-3555

A price list of NFPA codes and standards is available at the Office of the State Fire Marshal for viewing.

If you are an individual with a disability and wish to acquire this publication in an alternative format, please contact the ADA Coordinator, Safety Fire Division, Office of Commissioner of Insurance, No. 2 Martin Luther King Jr. Drive, Atlanta, Georgia 30334, 404 656-2056, TDD 404 656-4031.

Cite as Ga. Comp. R. & Regs. R. 120-3-17-.08
Authority: O.C.G.A. §§ 25-2-4, 25-2-16.
History. Original Chapter entitled "Liquefied Natural Gases" adopted. F. Jan. 13, 1971; eff. Jan. 7, 1971, as specified by the Agency.
Repealed: New Chapter of the same title adopted. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Chapter entitled "Rules and Regulations for Liquefied Natural Gases" adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Oct. 7, 1992; eff. Oct. 27, 1992.
Repealed: New Chapter of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Editor's Note: In accordance with the O.C.G.A., Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.
Note: Chapter 120-3-17 "Editor's Note" rescinded. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Subject 120-3-18. RULES AND REGULATIONS FOR FIRE SAFETY INSPECTION AND CERTIFICATION OF MOTOR VEHICLES RACETRACKS AND GRANDSTANDS.

Authority: O.C.G.A. Secs. 25-2-4, 25-2-13, 25-2-16, 33-2-9, 50-13-21
History. Original Chapter entitled "Fire Safety Inspection and Certificate of Motor Vehicle Racetracks and Grandstands"adopted. F. Aug. 17, 1970; eff. June 16, 1970, as specified by the Agency.
Amended: Rule 120-3-18-.02 amended. F. Nov. 10, 1980; eff. Nov. 30, 1980.
Repealed: New Chapter entitled "Rules and Regulations for Fire Safety Inspection and Certification of Motor Vehicle Racetracks and Grandstands"adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Dec. 31, 1992; eff. Jan. 20, 1993.
Editor's Note:
In accordance with the O.C.G.A. Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.

Subject 120-3-19. RULES AND REGULATIONS FOR ENFORCEMENT OF THE GEORGIA FIRE SPRINKLER ACT.

Rule 120-3-19-.01. Promulgation and Purpose.

(1) The Georgia Safety Fire Commissioner in accordance with the authority set forth in the Official Code of Georgia Annotated, Section 25-11-12 promulgates these Rules and Regulations of the Safety Fire Commissioner entitled, "Rules and Regulations for the Enforcement of the Georgia Fire Sprinkler Act."

(2) The purpose of these rules and regulations is to establish the State's minimum requirements for persons who design, install, alter, inspect, maintain, test, service and/or repair water-based fire protection sprinkler systems except for those water-based automatic sprinkler systems for use in single-family dwellings or limited water- based systems permitted to be connected directly to a domestic water supply system as allowed by NFiPA Life Safety Code which has been adopted by the Commissioner's Rules and Regulations.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.01
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Authority"adopted. F. Dec. 22, 1982; eff. Jan. 11, 1983.
Repealed: New Rule entitled "Promulgation and Purpose"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.02. Application.

Whenever the provisions of this Chapter of the Rules and Regulations of the Georgia Safety Fire Commissioner offer alternatives, as far as fire safety requirements are concerned, that were not permissible under previous editions of any Rules and Regulations of the Georgia Safety Fire Commissioner covering the same subject matter, the provisions of this Chapter may be used by the Authority Having Jurisdiction in determining whether a building is in compliance with the provisions of O.C.G.A. Title 25, Chapter 2, of the Georgia Code, and the Rules and Regulations promulgated thereunder.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.02
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Purpose"adopted. F. Dec. 22, 1982; eff. Jan. 11, 1983.
Repealed: New Rule entitled "Application"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.03. Definitions.

(1) "**Authority having jurisdiction**"means the organization, office, or individual responsible for approving equipment, an installation, or a procedure.

(2) "**Certificate**"**or** "**certificate of competency**"means the document issued by the Commissioner to a certificate holder who has demonstrated adequate technical knowledge and ability to design in accordance with recognized standards as adopted by the Commissioner and to perform and supervise the installation, repair, alteration, addition, maintenance, or inspection of water-based fire protection systems.

(3) "**Certificate Holder**"means an individual who has been issued a certificate of competency by the Commissioner.

(4) "**Commissioner**"means the Georgia Safety Fire Commissioner.

(5) "**Construction documents**,""**Documents for construction"or** "**Construction shop drawings**"means documents which set and dictate the installation parameters of water-based fire protection systems.

(6) "**Contract documents**"means the written and/or graphical guideline(s), prepared by a registered architect or engineer, which establish but does not dictate specific criteria for the design parameters of water-based fire protection systems.

(7) "**Direct supervision**,"**or** "**Supervision**"means to personally superintend the design and/or installation of water-based fire protection systems, by personally regulating the activity of a project through intermittent and verifiable personal contact at an installation or installations in progress.

(8) "**Documents**"means those materials used for reference purposes which direct or confirm direction or agreement.

(9) "**Employed full time**"means a minimum of thirty and one half hours of paid service per week, per employer.

(10) "**Fire protection sprinkler contractor**"means an individual, partnership, corporation, association, limited liability company, limited liability partnership, joint venture or other business entity that supervises, performs, or supervises and performs the installation, repair, alteration, addition, maintenance, or inspection of water-based fire protection systems. Such term does not include local building officials, fire inspectors, or insurance inspectors when acting in their official capacities.

(11) "**Fire protection sprinkler contractor license**"means the document issued by the Commissioner to the fire protection sprinkler contractor which authorizes the fire protection sprinkler contractor to engage in the business of fabrication, installation, repair, alteration, maintenance, or inspection of water-based fire protection systems.

(12) "**Fire protection sprinkler system**"means an integrated system of overhead and underground piping designed in accordance with fire protection engineering standards. The installation includes one or more automatic water supplies. The portion of the system above ground is a network of specially sized or hydraulically designed piping installed in a building, structure, or area, generally overhead, to which sprinklers are

attached in a systematic pattern. The valve controlling each system riser is located in the system riser or its supply piping. The system is usually activated by heat from a fire and discharges water over the fire area.

(13) "**Fire protection system designer**"means a person who develops construction shop drawings, construction documents and/or documents for construction pertaining to water-based fire protection systems.

(14) "**Fire protection system designer license**"means a document issued by the Commissioner which authorizes the fire protection system designer to engage in the business of producing construction shop drawings, construction documents and/or documents for construction pertaining to water-based fire protection systems.

(15) "**Fire protection system inspector**"means an individual who performs inspections only on water-based fire protection systems in accordance with applicable codes and standards as adopted by the Commissioner. Such term does not apply to state, local, and insurance inspectors while acting in their official capacities.

(16) "**Fire protection system inspector's license**"means a document issued by the Commissioner, which authorizes the fire protection system inspector to engage in the business of inspecting water-based fire protection systems.

(17) "**Fire pump**"means a pump supplying water at the flow and pressure required by water-based fire protection systems.

(18) "**Foam-water spray system**"means a special system pipe connected to a source of foam concentrate and to a water supply and equipped with foam-water spray nozzles for fire protection agent discharge (foam and water sequentially in that order or in reverse order) and distribution over the area to be protected. System operation arrangements parallel those for foam-water sprinkler systems.

(19) "**Foam-water sprinkler system**"means a special system pipe connected to a source of foam concentrates and to a water supply and equipped with appropriate discharge devices for fire protection agent discharge and distribution over the area to be protected. The piping system is connected to the water supply through a control valve that is usually actuated by operation of automatic detection equipment installed in the same area as the sprinklers. When this valve opens, water flows into the piping system, and foam concentrate is injected into the water. The resulting foam solution discharging through the discharge devices generates and distributes foam. Upon exhaustion of the foam concentrate supply, water discharge will follow and continue until manually shut off. Existing deluge sprinkler systems that have been converted to the use of aqueous film forming foam are classified as foam-water sprinkler systems.

(20) "**Inspection**"means a visual examination of a water-based fire protection system or portion thereof to verify that it appears to be in operating condition and is free of physical damage.

(21) "**Maintenance**"means work performed to keep equipment operable or to make repairs without altering the operation of the water-based system.

(22) "**Private fire service main**"means that pipe and its appurtenances on private property that are one or more of the following:

(a) Between a source of water and the base of the system riser for water-based fire protection systems;

(b) Between a source of water and inlets to foam-making systems;

(c) Between a source of water and the base elbow of private hydrants or monitor nozzles;

(d) Used as fire pump suction and discharge piping outside of a building; and

(e) Beginning at the inlet side of the check valve on a gravity or pressure tank.

(23) "**Private water tank**"means a tank supplying water for water-based fire protection systems which is located on private property.

(24) "**Single-family dwelling**"means any one- and two- family dwelling or one- and two-family row houses (townhouses) separated by a two hour fire wall.

(25) "**Standpipe system**"means an arrangement of piping, valves, hose connections, and allied equipment installed in a building or structure with the hose connections located in such a manner that water can be discharged in streams or spray patterns through attached hoses and nozzles for the purpose of extinguishing a fire, thus protecting a building or structure, its contents, and its occupants. This is accomplished by connection to water supply systems or by pumps, tanks, and other equipment necessary to provide an adequate supply of water-to-hose connections.

(26) "**Superintend**"means the act of directing others' work.

(27) "**Testing**"means a procedure used to determine the status of a system as intended by conducting periodic physical checks on water-based fire protection systems such as, but not limited to, waterflow tests, fire pump tests, alarm tests, and trip tests of dry pipe, deluge, or preaction valves. These tests follow up on the original installation acceptance test(s) at intervals specified in the appropriate standards related to such systems, as adopted by other Rules and Regulations of the Safety Fire Commissioner.

(28) "**Water-based fire protection system**"means any one system or any combination of a number of systems designed to deliver water to an apparatus designed to extinguish or retard the advancement of fire. Such systems include fire protection sprinkler systems, standpipe systems, private fire service mains, fire pumps, private water tanks, water supply fixed systems, foam-water spray systems, and foam-water sprinkler systems. The term "fire sprinkler system"is used interchangeably with this term.

(29) "**Water-spray fixed system**"means a special fixed pipe system connected to a reliable fire protection water supply and equipped with water-spray nozzles for specific water discharge and distribution over the surface or area to be protected. The piping system is connected to the water supply through an automatically or manually activated valve that initiates the flow of water. An automatic valve is activated by operation of automatic detection equipment installed in the same area as the water-spray nozzles.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.03
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Definitions"adopted. F. Dec. 22, 1982; eff. Jan. 11, 1983.
Repealed: New Rule, same title adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.04. Powers and Duties of the Commissioner; Delegation of Authority.

(1) The Commissioner is charged with the duty and responsibility for the enforcement of this chapter.

(2) Any authority, power, or duty vested in the Commissioner by any provision of this chapter may be exercised, discharged, or performed by any deputy, assistant, or other designated employee acting in the Commissioner's name and by his or her delegated authority.

(3) The Commissioner may, at his or her discretion, have the competency and license test prepared by others.

(4) The Commissioner is authorized to enter into a reciprocal agreement with the state fire commissioner or state fire marshal of other states for the waiver of the competency test of any applicant resident in such other jurisdiction, provided that:

   (a) The laws of the other jurisdiction are substantially similar to this chapter; and

   (b) The applicant has no place of business within this state nor is an officer, director, stockholder, or partner in any corporation or partnership doing business in this jurisdiction as a fire protection sprinkler contractor.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.04
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Application for Certificate of Competency"adopted. F. Dec. 22, 1982; eff. Jan. 11, 1983.
Repealed: New Rule entitled "Powers and Duties of the Commissioner; Delegation of Authority"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.05. Application to Become Certificate Holder; Certificate Fee; Demonstration of Applicant's Competence and Knowledge; Limitations on Issuance of Certificate; Expiration and Renewal of Certificate.

(1) Any individual desiring to become a certificate holder shall submit to the Commissioner a completed application on forms prescribed by the Commissioner. Such individual shall remit with his or her application a non-refundable certificate fee of $100.00 plus a one-time filing fee of $50.00 except as otherwise provided by Chapter 11 of Title 25 of the Official Code of Georgia Annotated and this Chapter of the Rules and Regulations. Such fee shall not be prorated for portions of a year.

(2) Prior to obtaining a certificate, the applicant shall demonstrate his or her competence and knowledge of water-based fire protection systems by:

(a) successfully completing a competency test by current certification by NICET at Level III or Level IV in automatic sprinkler system layout and/or by successfully completing such other or additional examinations as the Commissioner may designate. For renewal of such certificate, proof of maintaining NICET Certification at or above Level III in Automatic Sprinkler System Layout is required; and

(b) submitting to the Commissioner a certification from either the state fire commissioner or state fire marshal of another jurisdiction whenever a reciprocal agreement has been entered into between the jurisdiction and the State of Georgia pursuant to the provisions of this chapter.

(3) If the applicant has paid the required fees and has met one of the requirements of subsection (2) of this section, the Commissioner shall issue a certificate of competency in the name of the applicant, unless such applicant has been cited under other provisions of this chapter. Such certificate shall expire annually on December 31st of each year and shall be nontransferable from company to company or person to person.

(4) In no case shall a certificate holder be allowed to obtain a certificate of competency for more than one fire protection sprinkler contractor or more than one office location at a time. If the certificate holder should leave the employment of a fire protection sprinkler contractor or change office locations, he or she must notify the Commissioner in writing within 30 days.

(5) A certificate holder desiring to renew his or her certificate shall submit a renewal application to the Commissioner and remit therewith a renewal fee of $100.00 for the upcoming year, between August 1st and no later than December 1st of the current year.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.05
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Competency Examination"adopted. F. Dec. 22, 1982; eff. Jan. 11, 1983.
Repealed: New Rule entitled "Application to Become Certificate Holder; Certificate Fee; Demonstration of Applicant's Competence and Knowledge; Limitations on Issuance of Certificate; Expiration and Renewal of

Certificate"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.06. Licensing of Each Location; Application; Fee; Prerequisites.

(1) Where a fire protection sprinkler contractor has multiple office locations for the purpose of design, installation, repair, alteration, addition, maintenance, or inspection of water-based fire protection systems, each location shall be separately licensed under the provisions of these regulations.

(2) Any organization or individual desiring to become a fire protection sprinkler contractor shall submit to the Commissioner a completed application on forms prescribed by the Commissioner. Such organization or individual shall remit with his or her application a nonrefundable license fee of $50.00 plus a filing fee of $50.00. Such fee shall not be prorated for portions of a year.

(3) Prior to obtaining a sprinkler contractor's license, the applicant shall:

   (a) Submit to the Commissioner a copy of all and all current certificates of competency held by employees of the applicant; and

   (b) Submit to the Commissioner proof of comprehensive liability insurance coverage. The liability insurance policy shall provide coverage in an amount not less than $1 million and shall cover any loss to property or personal injury caused by the fire sprinkler contractor. The policy must be purchased from an insurer authorized to do business in the State of Georgia.

(4) A fire protection sprinkler contractor license shall expire annually on December 31st of each year. A license holder desiring to renew his or her license shall submit a renewal application to the Commissioner and remit a renewal fee of $50.00 for the upcoming year, between August 1st and no later than December 1st of the current year.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.06
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Affidavits"adopted. F. Dec. 22, 1982; eff. Jan. 11, 1983.
Repealed: New Rule entitled "Licensing of Each Location; Application; Fee; Prerequisites"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.07. Inspectors License.

(1) Any individual desiring to become a fire protection sprinkler system inspector shall submit to the Commissioner a completed application on the prescribed forms. Such individual shall remit with his or her application a nonrefundable license fee of $50.00 plus a fee of $50.00. Such fees shall not be prorated for portions of a year.

(2) Prior to obtaining a license, the applicant shall demonstrate evidence of his or her competence and employment by a sprinkler contractor by successfully completing a competency test. Newly hired applicants, not currently licensed, shall have twenty-four months from the date they are hired to pass all work elements for NICET Level III Certification in Inspection and Testing of Water- Based Systems. No first time applicant shall change their place of employment and be considered as "new applicant". Current license holders shall have twenty-four months from the effective date of these regulations, to pass all work elements for NICET Level III Certification in Inspection and Testing of Water-Based Systems. If these requirements are not met, within the time allotted, the license shall be returned to this office within ten working days after the twenty-four months have lapsed, and shall become null and void. The license shall not be re-issued until these requirements are met.

(3) The applicant shall submit to the Commissioner proof of employment by a licensed fire protection sprinkler contractor who has comprehensive liability insurance coverage. The liability insurance policy shall provide coverage in an amount not less than $1 million and shall cover any loss to property or personal injury caused by the fire protection sprinkler inspector. The policy must be purchased from an insurer authorized to do business in Georgia.

(4) A fire protection sprinkler system inspector license shall expire annually on December 31st of each year. A license holder desiring to renew his or her license shall submit a renewal application to the Commissioner and remit a renewal fee of $50.00 for the upcoming year, between August 1st and no later than December 1st of the current year.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.07
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Inspector's License"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.08. Fire Protection System Designer License.

(1) Any individual desiring to become a fire protection system designer shall submit to the Commissioner a completed application on forms prescribed by him or her. Such individual shall remit with his or her application a nonrefundable license fee of $50.00 plus a onetime filing fee of $50.00. Such fee shall not be prorated for portions of a year.

(2) Prior to obtaining a license, the applicant shall demonstrate his or her competence and knowledge of water-based fire protection systems by:

(a) meeting the provisions of Chapter 15 of Title 43 of the Official Code of Georgia Annotated; or

(b) providing proof that all work elements necessary for NICET Level II Certification in Automatic Sprinkler System Layout have been passed. Current license holders shall have twenty-four months from the adoption of these rules and regulations to

meet this requirement. If this requirement is not met within the time allotted, the license shall be returned to the Commissioner's office within ten working days after the twenty-four months have lapsed, and shall become null and void. The license shall not be re-issued until the foregoing requirement is met.

(3) A fire protection system designer license shall expire on December 31st of each year. A license holder desiring to renew his or her license shall submit a renewal application to the Commissioner and remit a renewal fee of $50.00 for the upcoming year, between August 1st and no later than December 1st of the current year.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.08
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Fire Protection System Designer License"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.09. Requirement that Installation, Repair, etc., Be Performed or Supervised by Certificate Holder.

(1) No person shall act as a fire protection sprinkler contractor unless a certificate holder is employed full time, in office or on site or combination thereof, to supervise or perform the installation, repair, alteration, addition, maintenance, or inspection of water-based fire protection systems.

(2) Supervision shall be verified by the following method: Signed and dated documentation verifying visits to the project site, by the Certificate of Competency holder or their designee who is authorized by the Certificate of Competency holder to sign the site supervision form on behalf of the Certificate of Competency holder. Such documentation shall be kept on the site and shall be available to any Code Official on demand. The Certificate of Competency holder or their designee as described above, and the owner or owner's representative or the general contractor's representative shall sign such documentation. Such documentation shall be on forms prescribed by the Safety Fire Commissioner. Such verification is required unless waived by the Authority Having Jurisdiction, in writing.

(3) Upon project completion, the Certificate of Competency holder shall sign and date the documentation verifying that the completed installation meets all applicable codes and standards adopted by the Safety Fire Commissioner. The Authority Having Jurisdiction shall not waive the requirement, at project completion, for a signed verification indicating that the completed installation meets all applicable codes and standards.

(4) If the only certificate holder employed by a fire protection sprinkler contractor leaves the employment of the fire protection contractor, the contractor shall notify the Commissioner in writing within 30 days. A new certificate holder must be employed by a fire protection sprinkler contractor within 30 days of such notice.

(5) No fire protection sprinkler contractor shall permit any person under his or her employment or control to install, repair, alter, maintain, or inspect any water-based fire protection system unless such person is a certificate holder or is under the supervision of a certificate holder employed by the contractor.

(6) Only fire protection sprinkler contractors or certificate of competency holders shall alter or renovate water-based fire protection systems except as otherwise provided by Chapter 11 of Title 25 of the Official Code of Georgia Annotated and this Chapter of the Rules and Regulations.

(7) Individuals employed by the building owner or a representative of the building owner may repair leaks, repair broken fittings, or perform other routine maintenance that does not alter the piping arrangement or operation of a water-based fire protection system.

(8) Installations shall conform to the Rules and Regulations for the State Minimum Fire Safety Standards as adopted by the Commissioner unless otherwise permitted by Chapter 11 of Title 25 of the Official Code of Georgia Annotated and this Chapter of the Rules and Regulations.

(9) Installations not required by the codes and standards adopted by the Safety Fire Commissioner and whose design criteria and installation requirements have been enacted into law by local county or municipal ordinance, shall be allowed. All other non-code required systems shall meet minimum standards as adopted by the Commissioner, unless otherwise permitted by other sections of this chapter.

(10) It shall be unlawful for any person to begin installation of a fire sprinkler system on any proposed or existing building or structure which comes under the classification in Official Code of Georgia Annotated Section 25-2-13(b)(1) or which comes under the jurisdiction of the Office of the Commissioner pursuant to Official Code of Georgia Annotated Section 25-2-12 without first having drawings of the designed system approved by the appropriate authority having jurisdiction unless otherwise allowed by the Authority Having Jurisdiction; in writing.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.09
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Requirement that Installation, Repair, etc., Be Performed or Supervised by Certificate Holder"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.10. Review of Water-based Fire Protection Shop Drawings.

(1) Water-based fire protection shop drawings shall be reviewed for code compliance with the state minimum standards by a certificate of competency holder.

(2) The reviewing certificate holder's signature, printed name, and certificate number indicating such compliance shall be indicated on all submitted plans.

(3) Non-code compliance dictated by bid documents shall be reported in the following manner. Non-code compliant shop drawings dictated by bid documents plans and or specifications shall list deficiencies printed or typed, item by item, along with codes and/or standards violated on a departmental form. In addition, the following information shall be provided as set forth in the following order:

(a) the name of the facility and project;

(b) the complete physical address of the project including the city and county;

(c) the owner's name;

(d) the responsible architect's or engineer's name responsible for producing the non-code compliant bid documents including their Georgia registration number, business name, business address and business telephone number; and

(e) the Sprinkler Contractor's name, Certificate of Competency holder's name, and Certificate of Competency number and signature. The foregoing items shall be provided and outlined on a departmental form by the Certificate of Competency holder, as stated above and shall be submitted with the shop drawings.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.10
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Review of Water-based Fire Protection Shop Drawings"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.11. Preparation of Water-based Fire Protection System Documents for Construction by Designers.

(1) Only licensed fire protection system designers or other designers under their direct supervision shall prepare water-based fire protection system documents for construction. Certificate of competency holders shall be allowed to prepare water-based fire protection system documents, for construction, for their sprinkler contractor.

(2) All documents shall be representative of code complying water-based fire protection systems complying with the Rules and Regulations for the State Minimum Fire Safety Standards as adopted by the Commissioner unless otherwise permitted by this Chapter of the Rules and Regulations.

(3) All shop drawings shall meet minimum standards of the Rules and Regulations for the State Minimum Fire Safety as adopted by the Commissioner, except for the following:

(a) shop drawings not meeting the codes and standards adopted by the Commissioner whose design has been enacted into law by local county or municipal ordinance;

(b) non-code compliant shop drawings dictated by bid documents of a registered professional engineer or architect. Information regarding such shop drawings shall be provided as specified in 120-3-19-.10; or

(c) non-required systems whose installations do not conform with the provisions of the Rules and Regulations for the State Minimum Fire Safety Standards may be installed if:

1. approved by the Authority Having Jurisdiction; and

2. such installations are reported to and filed with the local responding fire department and the Authority Having Jurisdiction; and

3. such installations are identified as required by the Authority Having Jurisdiction.

(4) The licensed fire protection system designer's signature, printed name, and license number shall be indicated on the shop drawings.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.11
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Preparation of Water-based Fire Protection System Documents for Construction by Designers"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.12. Individuals Authorized to Inspect and Maintain Systems.

(1) All inspections, testing and maintenance of water-based fire protection systems shall be done in accordance with the requirements of NFPA 25 as adopted by the Georgia Safety Fire Commissioner's Rules and Regulations Chapter 120-3-3. All inspections, maintenance, and testing required by NFPA 25 and/or other appropriate standards adopted by Chapter 120-3-3 shall only be performed by licensed fire protection system inspectors, certificate of competency holders, or representatives of the building owner as applicable, unless exempted by this chapter.

(2) Representatives of the building owner shall indicate in writing to the Authority Having Jurisdiction their intent to do such inspections and shall provide to the Authority Having Jurisdiction proof of knowledge and expertise pertaining to the systems to be inspected by providing:

(a) the name and physical location of the facility/facilities to be tested, inspected and maintained by the owner's representative(s);

(b) the names and qualifications of the individual(s) conducting such inspections, testing and maintenance which shall be submitted to the Commissioner for evaluation;

(c) the qualifications for each such individual which shall be set forth in as much detail as possible, including but not limited to, an exacting and detailed outline of their qualifications with dates, type and length of related experience;

(d) resumes prepared by each such individual including a statement describing and setting forth their personal qualifications to do the inspections, testing and maintenance; and

(e) a detailed description of each such individual's knowledge of NFPA 25.

(3) Said representatives of the building owner are exempt only from the license requirements specified in Code Section 25-11-6. All work conducted by said representatives shall be done in accordance with the minimum State Standards as adopted by the Safety Fire Commissioner.

(4) Duly authorized manufacturers' representatives while they are acting in their official capacities are exempt from this chapter.

(5) Inspections and maintenance of water-based fire protection systems owned by a firm, business, or corporation and installed on property under control of the firm, business, or corporation may be performed by an employee of the firm, business, or corporation if annual inspection and maintenance of the water-based system are performed by a current certificate of competency holder or inspector as defined in this chapter. Said employees are exempt from the license requirements specified in Code Section 25-11-6.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.12
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Individuals Authorized to Inspect and Maintain Systems" adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.13. Rules and Regulations; Forms.

The Commissioner may promulgate such rules and regulations as he or she deems necessary to carry out the provisions of this chapter. The Commissioner may also prescribe the forms required for the administration of this chapter.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.13
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Rules and Regulations; Forms"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.14. Valid License Required for Installation or Repair of Underground Facilities or Piping Connected to Water-based Fire Protection Sprinkler Systems; Proof of Contractor's Competency as Requirement for License or Building Permit; Effect of Chapter on Other Laws Regulating Work of Contractors.

(1) The installation or repair of any underground facilities or piping which connects to and furnishes water for the water-based fire protection system shall be performed only by a licensed utility contractor, fire protection sprinkler contractor, or licensed plumber in accordance with the minimum fire safety standards adopted by the Commissioner. The installing contractor shall be responsible for the installation of proper underground facilities and piping which provide an adequate flow of water from the fire protection water supply to the water-based fire protection system.

(2) Evidence of inspection shall be given to the owner or his or her representative in the form of a letter indicating the inspector or certificate of competency holder and the license number or certificate number.

(3) Before any local building official shall issue any license or building permit which authorizes the construction of any building or structure containing a water-based fire protection system, such local official shall require a copy of a valid fire protection sprinkler contractor license from the fire protection sprinkler contractor. The fire protection sprinkler contractor shall be required to pay any fees normally imposed for local licenses or permits, but the local official shall impose no requirements on the fire protection sprinkler contractor to prove competency other than proper evidence of a valid certificate of competency, as issued by the Commissioner.

(4) Nothing in this chapter limits the power of a municipality, county, or the state to require the submission and approval of plans and specifications or to regulate the quality and character of work performed by contractors through a system of permits, fees, and inspections otherwise authorized by law for the protection of the public health and safety.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.14
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Valid License Required for Installation or Repair of Underground Facilities or Piping Connecting to Water-based Fire Protection Sprinkler Systems; Proof of Contractor's Competency as Requirement for Licence or Building Permit; Effect of Chapter on Other Laws Regulating Work of Contractors"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.15. Applicability to Work Performed for State or Political Subdivision; Contract and Bid Requirements for Such Work.

This chapter shall also apply to any fire protection sprinkler contractor performing work for the state or any municipality, county, or other political subdivision. Officials of the state or any municipality, county, or other political subdivision are required to determine compliance with

this chapter before awarding any contracts for the installation, repair, alteration, addition, maintenance, or inspection of a water-based fire protection system. A copy of a valid certificate of competency shall accompany bids tendered for such contracts.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.15
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Applicability to Work Performed for State or Political Subdivision; Contract and Bid Requirements for Such Work"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.16. Authority to Accept Grants for Administration of Chapter.

The Commissioner shall be authorized to receive grants for the administration of this chapter from parties interested in upgrading and improving the quality of water-based fire protection systems, education of the public pertaining to water-based fire protection systems, or the upgrading of fire protection, in general, in the State of Georgia.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.16
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Authority to Accept Grants for Administration of Chapter"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.17. Cease and Desist Order Against Violators; Penalty for Violations; Order Requiring Compliance; Revocation of Certificate for Failure to Comply with Order.

(1) Whenever the Commissioner shall have reason to believe that any individual is or has been engaged in any conduct in violation of any provisions of this chapter, the Commissioner, his or her deputy, his or her assistant, or other designated persons may issue and deliver to the individual an order to cease and desist in such conduct in violation.

(2) Violation of any provision of this chapter or the failure to comply with a cease and desist order is cause for a revocation of any certificate or license issued by the Commissioner for a period of no less than six months and no more than five years. No holder of a certificate or license whose certificate or license has been revoked by order of the Commissioner shall be entitled to obtain another certificate or license for the period of revocation from the effective date of such order. Any order of the Commissioner revoking a certificate or license shall revoke any certificate or license issued prior to the effective date of such order. Any final order issued by the Commissioner under this subsection may be appealed as provided by law.

(3) Any person who violates this chapter or any rule, regulation, or order issued by the Commissioner under this chapter shall be subject to a civil penalty imposed by the Commissioner of not more than $1,000.00 for a first offense, not less than $1,000.00 and

not more than $2,000.00 for a second offense, and not less than $2,000.00 or more than $5,000.00 for a third or subsequent offense for each day a violation persists after such person is notified of the Commissioner's intent to impose such penalty and the right to a hearing with respect to same.

(4) Any order shall contain or be accompanied by a notice of opportunity for hearing which may provide that a hearing will be held if and only if a person subject to the order requests a hearing within ten days of receipt of the order and notice. The order and notice shall be served by delivery by the Commissioner or his or her agent or by registered or certified mail, return receipt requested. Any person who fails to comply with any order under this subsection is guilty of a misdemeanor and may be punished by law.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.17
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Cease and Desist Order Against Violators; Penalty for Violations; Order Requiring Compliance; Revocation of Certificate for Failure to Comply with Order"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.18. Additional Grounds for Revocation or Suspension of Licenses.

In addition to the grounds set forth in Official Code of Georgia Section 25-11-16, it shall be cause for revocation or suspension of any certificate or license issued by the Commissioner if it is determined that the holder has done any one of the following:

(a) Rendered inoperative a water-based fire protection system covered by this chapter, except during a reasonable time during which the system is being repaired, altered, added to, maintained, or inspected;

(b) Falsified any record required to be maintained by this chapter or rules or regulations adopted pursuant to this chapter or current fire codes enforced by the Commissioner;

(c) Improperly installed, repaired, serviced, modified, altered, inspected, or tested a water-based fire protection system;

(d) While holding a certificate or license, allowed another person to use the holder's license or certificate or the holder's license or certificate number;

(e) While holding a certificate or license, used a certificate or licence or certificate number or license number other than his or her own valid certificate or license or certificate number or license number;

(f) Used credentials, methods, means, or practices to impersonate a representative of the Commissioner or the state fire marshal or any local fire chief, fire marshal, or other fire authority having jurisdiction;

(g) Failed to maintain the minimum insurance coverage as set forth in this chapter; or

(h) Failed to maintain the minimum requirements to obtain a certificate of competency or other licenses.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.18
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Additional Grounds for Revocation or Suspension of Licenses"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.19. Failure to Renew Certificate or License.

The failure to renew a certificate or license by the expiration date as set forth in this chapter will cause the certificate or license to become inoperative. A certificate or license which is inoperative because of the failure to renew, shall be restored upon payment of all applicable fees plus a penalty of not more than $250.00 if said fees are paid within ninety days of expiration. After a certificate or license has been inoperative for a period of greater than ninety days because of a failure to renew, no new certificate or license shall be issued unless an initial application is made.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.19
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Failure to Renew Certificate or License"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.20. Request for Modification of Specific Requirements.

Upon receipt of a sworn affidavit stating all relevant facts and circumstances and such other information as may be required, the State Fire Marshal may recommend to the Georgia Safety Fire Commissioner that specific requirements of this Chapter and the codes and standards adopted herein be modified to allow alternative arrangements that will secure as nearly equivalent measures as practical for the prevention of injury to persons and property. The Georgia Safety Fire Commissioner in his or her discretion may accept the State Fire Marshal's recommendation and grant the requested modification.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.20
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Request for Modification of Specific Requirements"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.21. Notes.

(1) The National Fire Protection Association Standards adopted in this Chapter are on file in the Office of the State Fire Marshal and are available for viewing.

(2) Copies of the National Fire Protection Association Standards may be obtained from the National Fire Protection Association.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.21
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Notes"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Rule 120-3-19-.22. Severability.

If any Rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the Rule herein and the applicability of such provisions to other circumstances shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-3-19-.22
Authority: O.C.G.A. Sec. 33-2-9.
History. Original Rule entitled "Severability"adopted. F. Nov. 7, 2001; eff. Nov. 27, 2001.

Subject 120-3-20. ACCESS TO AND USE OF PUBLIC FACILITIES BY HANDICAPPED PERSONS.

Authority: O.C.G.A. Secs. 33-2-9, 25-2-1, *et seq.*
History. Original Chapter entitled "Access to and Use of Public Facilities by Handicapped Persons"adopted. F.June 5, 1997; eff. June 25, 1997..
Editor's Note:
In accordance with the O.C.G.A. Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.

Rule 120-3-20-.01. Promulgation and Purpose.

(1) These rules and regulations of the Safety Fire Commissioner are promulgated to establish the State's minimum accessibility requirements of buildings, structures and facilities as specified in O.C.G.A. § 30-3-7(g) and shall be entitled "Access To and Use of Public Facilities by Handicapped Persons."

(2) A primary purpose of these rules and regulations is to further the policy of the State of Georgia to encourage and enable persons with disabilities or elderly persons to participate fully in the social and economic life of Georgia and to eliminate, insofar as possible, unnecessary physical barriers encountered by persons with disabilities or elderly persons whose ability to participate in the social and economic life of this state is needlessly

restricted when such persons cannot readily use government buildings, public buildings, and facilities used by the public under the jurisdiction of the Safety Fire Commissioner.

(3) Unless otherwise stated in this chapter of the rules and regulations of the Safety Fire Commissioner, the following meets the 2010 Americans with Disabilities Act (ADA) Standards for Accessible Design and shall be the minimum standards for Accessibility to buildings, structures and facilities by individuals with disabilities under the Americans with Disabilities Act ("ADA") of 1990. These rules are to be applied during the design, construction, and alteration of buildings and facilities covered by Titles II and III of the ADA to the extent required by regulations issued by Federal agencies, including the Department of Justice and the Department of Transportation, under the ADA.

Cite as Ga. Comp. R. & Regs. R. 120-3-20-.01
Authority: O.C.G.A. §§ 30-3-1, 30-3-7, 33-2-9, and 50-13-21.
History. Original Chapter entitled "Access to and Use of Public Facilities by Handicapped Persons"adopted. F. June 5, 1997; eff. June 25, 1997.
Adopted: Rule entitled "Promulgation and Purpose"adopted. F. May 23, 2012; eff. Jun. 11, 2012.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.

Rule 120-3-20-.02. Application.

(1) If the start date for construction is on or after March 15, 2012, all newly constructed or altered State and local government facilities must comply with the 2010 ADA Standards for Accessible Design. Before that date and after June 24, 1997, Chapter 120-3-20 is applicable. All other applications for accessibility are prescribed by O.C.G.A. § 30-3-3.

(2) The following minimum adopted standards apply to both State and local government facilities (Title II) and public accommodations and commercial facilities (Title III). The minimum adopted standards consist of ADA Chapters 1 and 2 and Chapters 3 through 10 of the 2004 ADAAG (36 CFR part 1191, appendices B and D, adopted as part of both Title II and Title III 2010 ADA Standards for Accessible Design).

(a) State and local government facilities must follow the requirements of the minimum standards adopted herein and referencing the 2010 ADA Standards for Accessible Design, including both the Title II regulations at 28 CFR 35.151; and the 2004 ADAAG at 36 CFR part 1191, appendices B and D.

(b) Public accommodations and commercial facilities must follow the requirements of the minimum standards adopted herein and referencing the 2010 Standards for Accessible Design, including both the Title III regulations at 28 CFR part 36, subpart D; and the 2004 ADAAG at 36 CFR part 1191, appendices B and D.

(c) In the few instances where requirements between the regulation and the 2004 ADAAG differ, the requirements of 28 CFR 35.151 or 28 CFR, part 36, subpart D, prevail.

(d) (Regarding the 2% of total rental apartments or the minimum of one rental apartment required to be fully accessible or adaptable in apartment complexes of 20 or more units as defined under Section .03(8) of this chapter, the provisions of a Type A unit found in Chapter 10 of the 2003 edition of the ANSI A117 shall be met. 50% of this number of fully accessible or adaptable rental apartment units required by this paragraph shall be adaptable for a roll-in shower stall.

(3) Pursuant to O.C.G.A. § 30-3-3, all government buildings, public buildings, and facilities receiving permits for construction or renovation after July 1, 1995, shall comply with the rules and regulations adopted by the Safety Fire Commissioner which meet ADAAG and establish the minimum state standards for accessibility.

(4) The Board of Regents of the University System of Georgia ("Board of Regents") and the local governing authority having jurisdiction over the buildings not subject to the jurisdiction of the Safety Fire Commissioner as specified in O.C.G.A. § 30-3-7, after consultation with state rehabilitation agencies and other sources as they might determine, are authorized to promulgate such rules, regulations, and procedures as might reasonably be required to implement and enforce their responsibilities under Chapter 3 of Title 30 provided they are not less restrictive than those established by this Chapter.

Cite as Ga. Comp. R. & Regs. R. 120-3-20-.02
Authority: O.C.G.A. §§ 30-3-1, 30-3-3, 30-3-7, 33-2-9, and 50-13-21.
History. Adopted: Rule entitled "Application"adopted. F. May 23, 2012; eff. Jun. 11, 2012.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.

Rule 120-3-20-.03. Definitions.

(1) "ADAAG"means the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities issued by the United States Architectural and Transportation Barriers Compliance Board as set forth in the Federal Register.

(2) "Adaptable"is further explained as follows:

(a) Adaptable refers to features provided for but not actually installed. Such adaptability makes it possible for features required by ADAAG to be added for the occupant without major structural alteration;

(b) Items not installed at the time of construction under the adaptable provisions of ADAAG, and items installed which might need to be removed to provide access, must be installed or removed by the owner at the owner's expense when the dwelling is rented to a person with disabilities, within 30 days after his or her application for occupancy is approved by the owner.

(3) "Safety Fire Commissioner"means the Safety Fire Commissioner provided for in Chapter 2 of Title 25.

(4) "Covered multifamily dwelling"means a building which had first occupancy after March 31, 1993, and consists of four or more units and has an elevator or the ground floor units of a building which consists of four or more units and does not have an elevator.

(5) "Existing Building"means buildings, structures, facilities or conditions which are already in existence or constructed and officially authorized prior to the effective date of the adoption of this Chapter. This definition shall apply to all situations covered by this chapter except where otherwise noted by this chapter.

(6) "Facilities"shall include, but is not limited to, walkways, sidewalks, curbings, parking lots, parks, stadiums, coliseums, and any other man-made or developed area used by the public.

(7) "Government buildings"means all buildings, structures, streets, sidewalks, walkways, and access thereto, which are used by the public or in which persons with disabilities or elderly persons may be employed, that are constructed, leased, or renovated in whole or in part by use of state, county, or municipal funds or the funds of any political subdivisions of the state, and, to the extent not required otherwise by federal law or regulations and not beyond the power of the state to regulate, all buildings and structures used by the public which are constructed or renovated in whole or in part by use of federal funds.

(8) "Public buildings"means all buildings, structures, streets, sidewalks, walkways, and access thereto, which are used by the public or in which persons with disabilities or elderly persons may be employed, that are constructed or renovated by the use of private funds, including rental apartment complexes of 20 units or more and temporary lodging facilities of 20 units or more, but excluding covered multifamily dwellings; provided, however, that this chapter shall require fully accessible or adaptable units in only 2 percent of the total rental apartments, or a minimum of one, whichever is greater, and this chapter shall apply to only 5 percent of the total temporary lodging units, or a minimum of one, whichever is greater; provided, further, that this chapter shall not apply to a private single-family residence or to duplexes or any complex containing fewer than 20 units, or to residential condominiums. Regarding the 2% of the total rental apartments or the minimum of one rental apartment required to be fully accessible or adaptable, the provisions of a Type A unit found in Chapter 10 of the 2003 edition of the ANSI A117 shall be met. Fifty percent of the fully accessible or adaptable rental apartment units required by this paragraph shall be adaptable for a roll-in shower stall.

(9) "Used by the public"as applied to .03(8) of this chapter, shall not include those elements of covered multi- family dwelling complexes used only by members of the immediate dwelling community and their guests, as described in the Federal Fair Housing Amendments Act of 1988 cited in Article 4 of Title 8 of the Official Code of Georgia Annotated.

(10) "Reasonable number"for all government buildings, public buildings, and facilities receiving permits for construction or renovation after July 1, 1995, as used in O.C.G.A. § 30-3-4, shall mean the minimum number as established by ADAAG.

(11) "Reasonable number"for all government buildings, public buildings, and facilities receiving permits for construction or renovation after July 1, 1987, but before July 1, 1995, as used in O.C.G.A. § 30-3-4, shall be defined for each of the following standards to mean:

(a) "Accessible parking spaces for persons with disabilities (American National Standards Institute [ANSI] 4.6.1) in a reasonable number"means the minimum required by the 2010 ADA Standards for Accessible Design, but not less than the number determined as follows:

1. With a total of 1-400 parking spaces provided, then a minimum number of 1 space or 2 percent of the total provided shall be designated as accessible parking spaces in accordance with 120-3-20-.06, whichever is greater.

2. With a total of 401 or more parking spaces is provided, then a minimum number of 8 spaces plus 1 percent of the total provided above 401.

(b) "Accessible entrances (ANSI 4.14) in a reasonable number"means that all primary entrances usually considered major points of pedestrian flow must be accessible to and usable by persons with disabilities;

(c) "Accessible toilet rooms, bathrooms, bathing facilities, and shower rooms (ANSI 4.22) in a reasonable number"means that for every floor which is to be made accessible to and usable by persons with disabilities at least one toilet room, bathroom, bathing facility, and shower room at a reasonable location shall conform to ANSI 4.22; and

(d) "Accessible seating, tables, and work surfaces (ANSI 4.30) in a reasonable number"means the minimum required by the 2010 ADA Standards for Accessible Design, but not less than the following:

1. With a total of 1-50 seats provided, then a minimum number of 2 adjacent spaces shall be provided for wheelchair users.

2. With a total of 51-400 seats provided, then a minimum number of 4 spaces shall be provided including 2 adjacent spaces for wheelchair users.

3. With a total of 401 or more seats provided, then a minimum even number of spaces shall be provided including not less than 1 percent of the total number of spaces located throughout all price ranges or locations, or both.

(12) "Renovation"means:

(a) If any specific component of an elevator is replaced or moved from its existing location to a different location, then the specific component shall be required to meet the ANSI A117.1 Standard, as specified in this Code section, as it applies to that specific component, including an accessible route as defined in the ANSI A117.1 Standard;

(b) Any component of a building, structure, or facility, which is replaced, except for the purpose of repair, or moved, shall be required to meet the ANSI A117.1 Standard as specified in this Code section, including an accessible route as defined in the ANSI A117.1 Standard; or

(c) The resurfacing, restriping, or repainting of any parking facility, whether or not such resurfacing, restriping, or repainting is required to have a permit from the appropriate political subdivision.

Cite as Ga. Comp. R. & Regs. R. 120-3-20-.03
Authority: O.C.G.A. §§ 30-3-2, 30-3-3, 30-3-7, 33-2-9, and 50-13-21.
History. Adopted: Rule entitled "Application"adopted. F. May 23, 2012; eff. Jun. 11, 2012.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015

Rule 120-3-20-.04. State Minimum Accessibility Standards with Modifications.

(1) Covered multifamily dwellings constructed for first occupancy after March 31, 1993, shall be designed and constructed to meet the provisions of O.C.G.A. § 30-3-4 and the 2003 edition of the ANSI A117.1 standard entitled, "Accessible and Usable Buildings and Facilities,"(ICC/ANSI A117.1-2003). See also Public Building Definition (8) under Rule 120-3-20-.03 for additional requirements.

(2) Unless otherwise stated in this chapter, the minimum adopted standards for accessibility in the State shall be the 2010 ADA Standards for Accessible Design for Titles II and III Facilities, published in the Federal Register, September 15, 2010, and taking effect on March 15, 2012.

Cite as Ga. Comp. R. & Regs. R. 120-3-20-.04
Authority: O.C.G.A. §§ 30-3-3, 30-3-7, 33-2-9, and 50-13-21.
History. Adopted: Rule entitled "State Minimum Accessibility Standards with Modifications"adopted. F. May 23, 2012; eff. Jun. 11, 2012.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.

Rule 120-3-20-.05. Request for Modification of Specific Requirements.

(1) In order to receive an exemption from complying fully with a particular standard or specification established herein, the following shall be met:

(a) The person who owns or controls the use of any government building, public building, or facility subject to the requirements of this chapter, shall provide a sworn written statement indicating all circumstances of which the governing authority needs to consider in order to appropriately determine whether full compliance with any particular standard or specification set forth in this chapter is impractical;

(b) The posting of the request for the modification of a particular standard or specification herein shall be made in accordance with the provisions of Title 50; and

(c) Within 45 days of such determination, a written record shall be made by the Safety Fire Commissioner having jurisdiction over building in question setting forth the reasons why it is impractical for the person subject to this chapter to comply fully with the particular standard or specification at issue and also setting forth the extent to which the government building, public building, or facility shall conform with the standard or specification.

(2) The Safety Fire Commissioner or, where applicable, the Board of Regents or the local governing authority having jurisdiction over the buildings in question shall be responsible for making a final determination as to whether or not an exemption shall be granted.

Cite as Ga. Comp. R. & Regs. R. 120-3-20-.05
Authority: O.C.G.A. §§ 30-3-3, 30-3-7, 33-2-9, and 50-13-21.
History. Adopted: Rule entitled "Request for Modification of Specific Requirements"adopted. F. May 23, 2012; eff. Jun. 11, 2012.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.

Rule 120-3-20-.06. Parking Space Designation for Persons with Disabilities.

The requirements for identifying parking spaces for persons with disabilities shall be as specified in O.C.G.A. Title 40, Chapter 6, Article 10, Part 2 entitled, "PARKING FOR PERSONS WITH DISABILITIES."

Cite as Ga. Comp. R. & Regs. R. 120-3-20-.06
Authority: O.C.G.A. §§ 30-3-3, 30-3-7, 33-2-9, 40-6-221 and 50-13-21.
History. Adopted: Rule entitled "Parking Space Designation for Persons with Disabilities"adopted. F. May 23, 2012; eff. Jun. 11, 2012.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.

Rule 120-3-20-.07. Notes.

(1) The 2010 ADA Standards for Accessible Design adopted in this chapter are on file in the Office of the State Fire Marshal and are available for viewing.

Office of Insurance & Safety Fire Commissioner

Safety Fire Division

2 Martin Luther King, Jr. Drive

Suite 620, West Tower

Atlanta, GA 30334

(404) 656-2064

(770) 344-4899 (Fax)

www.oci.ga.gov

(2) The State ADA Coordinator's Office can be found at:

State ADA Coordinator's Office

Georgia State Financing and Investment Commission

The Construction Division

270 Washington Street, Second Floor

Atlanta, Georgia 30334

Phone: 404.463.5645

Fax: 404.463-5650

TTY: 404.657.9993

www.ga.ada.gov

800-514-0383 (TTY)

(3) Reproduction of this document is encouraged. Copies of the 2010 ADA Standards for Accessible Design may be viewed or downloaded from the ADA website (www.ADA.gov). Additional copies may be obtained by calling the ADA Information Line: 800-514-0301 (voice).

http://www.ada.gov/2010ADAstandards_index.htm

Toll-FreeADA Information Line

Call to obtain answers to general and technical questions about the ADA and to order technical assistance materials:

800-514-0301 (voice) 800-514-0383 (TTY)

ADA Regulations and Technical sistance Materials

View or download Department of Justice ADA regulations and technical assistance documents for businesses, and state and local governments including the 2010 ADA Standards for Accessible Design.

Cite as Ga. Comp. R. & Regs. R. 120-3-20-.07
Authority: O.C.G.A. §§ 30-3-3, 30-3-7, 33-2-9, and 50-13-21.
History. Adopted: Rule entitled "Notes"adopted. F. May 23, 2012; eff. Jun. 11, 2012.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.

Rule 120-3-20-.08. Severability.

If any rule or portion thereof contained in this chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and the applicability of such provisions to other circumstances shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-3-20-.08
Authority: O.C.G.A. §§ 30-3-3, 30-3-7, 33-2-9, and 50-13-21.
History. Adopted: Rule entitled "Severability"adopted. F. May 23, 2012; eff. Jun. 11, 2012.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.

Subject 120-3-20A. .

Rule 120-3-20A-.01. .

TESTING THE LINKS FOR VEIWING.

Cite as Ga. Comp. R. & Regs. R. 120-3-20A-.01

Subject 120-3-21. RULES AND REGULATIONS FOR RESIDENTIAL BOARD AND CARE OCCUPANCIES (PERSONAL CARE HOMES). REPEALED.

Authority: O.C.G.A. Secs. 25-2-4, 25-2-13, 33-2-9, 50-13-21.
History. Original Chapter entitled "Rules and Regulations for Residential Board and Care Occupancies (Personal Care Homes)"adopted. F. Sept. 30, 1987; eff. Nov. 1, 1987, as specified by the Agency.
Repealed: New Chapter, same title, adopted. F. Dec. 3, 1990; eff. Jan. 1, 1991, as specified by the Agency.
Editor's Note:
In accordance with the O.C.G.A. Section 50-13-21, the contents of this Chapter are not filed with or published by the Secretary of State; only the name and designation is filed, printed, and distributed. These Regulations are on file in the Office of the Commissioner of Insurance, Safety Fire Department and are open for public examination and copying.

Subject 120-3-22. MANUFACTURING, STORAGE, SALES, EXHIBITIONS AND DISPLAYS OF FIREWORKS AND PYROTECHNICS, USE OF FLAME EFFECTS BEFORE A PROXIMATE AUDIENCE.

Rule 120-3-22-.01. Promulgation and Purpose.

(1) These Rules and Regulations for Fireworks are promulgated by the Georgia Safety Fire Commissioner pursuant to O.C.G.A. Sections 25-2-4 and 25-10-5.

(2) The purpose of these rules and regulations is to provide precautionary and protective techniques that are reasonable and practical measures for the prevention of injury to persons and property from the retail sales, distribution, manufacturing, storage, transportation, and use of Consumer Fireworks, Display Fireworks, and Pyrotechnic Articles as authorized pursuant to Chapter 10 of Title 25 of the Official Code of Georgia Annotated.

Cite as Ga. Comp. R. & Regs. R. 120-3-22-.01
Authority: O.C.G.A. §§ 25-2-4, 25-2-16, 25-10-5.
History. Original Rule entitled "Promulgation and Purpose"adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Amended: ER. 120-3-22-0.2-.01 adopted. F. and eff. June 10, 2003, the date of adoption.
Amended: ER. 120-3-22-0.3-.01 adopted. F. and eff. Oct. 8, 2003, the date of adoption.
Amended: Permanent Rule adopted. F. Jan. 16, 2004; eff. Feb. 5, 2004.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-22-.02. Definitions.

The definitions contained herein are in addition to and in clarification of the definitions contained in the adopted codes and standards.

(1) "Commissioner"means the Georgia Safety Fire Commissioner.

(2) "Consumer fireworks"shall have the same meaning as set forth in O.C.G.A. § 25-10-1(a)(1). Consumer fireworks do not include those items listed in O.C.G.A. § 25-10-1(b).

(3) "Consumer fireworks retail sales facility"shall have the same meaning as provided for by NFPA 1124; provided, however, that such term shall not include a tent, canopy, or membrane structure.

(4) "Distributor"means any person, firm, corporation, association, or partnership which sells consumer fireworks directly to the consumer or to other distributors.

(5) "Fireworks distributor license"means the license issued by the Safety Fire Commissioner that a distributor must maintain in order to legally sell consumer fireworks.

(6) "Fireworks or Pyrotechnics Exhibitions or Displays before a Proximate Audience"means any exhibition or display of fireworks, or any use of pyrotechnic special effects, that occurs within a building or structure or before an audience closer to the pyrotechnic devices than permitted by NFPA 1123, *Code for Fireworks Display*.

(7) "NFPA"means the National Fire Protection Association.

(8) "Nonprofit group"means any entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, any entity incorporated under Chapter 3 of Title 14, the 'Georgia Nonprofit Corporation Code,' or a sponsored organization of a public or private elementary school or secondary school in the state.

(9) "Person"means any individual, firm, partnership, corporation, company, association, joint stock association, and any trustee, receiver, assignee, or personal representative thereof.

(10) "Proper Identification"means a document issued by a governmental agency containing a description of the person or such person's photograph, or both, and giving such person's date of birth, including a passport, military identification card, driver's license, or identification card authorized under Code Sections 40-5-100 through 40-5-104.

(11) "Public exhibition or display of fireworks"means the use of pyrotechnics, display fireworks, consumer fireworks, or any combination of these for any purpose relating to the amusement or entertainment of the public that does not occur within a building or structure or before a proximate audience; provided that such term shall not include the private, personal use of consumer fireworks by the public.

(12) "Qualified Individual"means an individual including but not limited to a Georgia registered architect, a Georgia registered fire protection engineer, a Georgia registered professional engineer, a local building official, a local fire official, an individual certified as a Georgia certified fire inspector or an individual who has a national certification from a national codes organization acceptable to the State Fire Marshal.

(13) "State Fire Marshal"means the State Fire Marshal of Georgia or his or her designee.

(14) "Store"shall have the same meaning as provided for by NFPA 1124; provided, however, that such term shall only include such buildings with at least 4,000 square feet of retail display space and wherefrom:

(a) No more that 25 percent of the retail display space is used for consumer fireworks and items or products as provided for under O.C.G.A. § 25-10-1(b); and

(b) Other items or products which are not consumer fireworks or items or products as provided for under O.C.G.A. § 25-10-1(b)are sold; and provided, further, that such term means a person, firm, corporation, association, or partnership with more than one mercantile location, where all such mercantile locations are collectively known to the public by the same name or share central management.

(15) "Wholesale"means the sale of consumer fireworks within the State of Georgia for resale by others.

Cite as Ga. Comp. R. & Regs. R. 120-3-22-.02
Authority: O.C.G.A. §§ 25-2-4, 25-2-16, 25-10-5.
History. Original Rule entitled "Definitions"adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Amended: ER. 120-3-22-0.2-.02 adopted. F. and eff. June 10, 2003, the date of adoption.
Amended: ER. 120-3-22-0.3-.02 adopted. F. and eff. Oct. 8, 2003, the date of adoption.
Amended: Permanent Rule adopted. F. Jan. 16, 2004; eff. Feb. 5, 2004.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-22-.03. Submission of Plans for Storage Installations.

Plans for all proposed storage facilities of fireworks or modifications of any existing storage facility shall be submitted to the Commissioner as required in Chapter 10 of Title 25 of the Official Code of Georgia Annotated.

(1) At least two sets of plans for storage facilities shall be submitted, drawn to scale and shall be of sufficient clarity and detail to indicate the location, setting, construction, distances and such other information as necessary to indicate compliance with the requirements of this Chapter.

(2) The plans shall bear the seal and Georgia registration number of the drafting architect or engineer or shall otherwise have the approval of the Commissioner or his designee.

(3) Pursuant to O.C.G.A. Section 25-2-4.1, the plans shall be accompanied by the mandatory plan review fee payable to the Commissioner.

(4) One set of plans shall be retained by the Commissioner and one copy shall be returned to the applicant with approval or disapproval indicated thereon. A copy of the approved plans shall be kept available at the construction site for inspection by authorized representatives of the Commissioner.

(5) Construction shall not commence until the plans have been approved and returned to the applicant.

Cite as Ga. Comp. R. & Regs. R. 120-3-22-.03
Authority: O.C.G.A. §§ 25-2-4, 25-2-16, 25-10-5.
History. Original Rule entitled "Submission of Plans for Storage Installations"adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Oct. 26, 1992; eff. Nov. 15, 1992.
Repealed: New Rule of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Amended: ER. 120-3-22-0.2-.03 adopted. F. and eff. June 10, 2003, the date of adoption.
Amended: ER. 120-3-22-0.3-.03 adopted. F. and eff. Oct. 8, 2003, the date of adoption.
Amended: Permanent Rule adopted. F. Jan. 16, 2004; eff. Feb. 5, 2004.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-22-.04. Submission of Plans and Licensing of Fireworks Manufacturers.

(1) Manufacturing operations shall be permitted only after a fireworks manufacturer's license has been issued by the Commissioner in accordance with this rule. A manufacturer's license shall not exempt the holder thereof from obtaining any other permits or licenses that may be required by other government agencies.

(2) Application for a fireworks manufacturer's license shall be made to the Commissioner annually on the form provided and shall be accompanied by a license fee pursuant to O.C.G.A. Section 25-2-4.1.

(3) Plans for all proposed manufacturing facilities or modification of any existing manufacturing facilities shall be submitted to the Commissioner with the fireworks manufacturer's application as provided in O.C.G.A. Section 25-10-3.

(a) At least two sets of plans for fireworks manufacturing facilities shall be submitted, drawn to scale, and shall include a general arrangement layout, location, safety control devices or arrangements, electrical and ventilation arrangements, construction details, emergency control arrangements and such other details, information and specifications as necessary to indicate safe operations.

(b) The plans shall bear the seal and Georgia registration number of the drafting architect or engineer or shall otherwise have the approval of the Commissioner or his designee.

(c) Pursuant to O.C.G.A. Section 25-2-4.1, the plans shall be accompanied by the mandatory plan review fee payable to the Commissioner.

(d) One set of plans shall be retained by the Commissioner and one copy shall be returned to the applicant with approval or disapproval indicated thereon. A copy of the approved plans shall be kept available at the construction site for inspection by authorized representatives of the Commissioner.

(e) Construction shall not commence until the plans have been approved and returned to the applicant.

(4) Upon receipt of a fireworks manufacturer's license application, the Commissioner shall direct his authorized representative to inspect the facility. If the authorized representative determines that all requirements for the manufacturing of fireworks contained in this Chapter have been satisfied, he may recommend that the license be processed.

(5) Upon receipt of the inspection report, the Commissioner shall examine the application and inspection report. If all requirements contained in this Chapter have been satisfied, he shall issue a fireworks manufacturer's license that shall be posted by the applicant in a conspicuous location on the premises. The manufacturer's license is nontransferable and shall expire on December 31 of each year or upon a change in the name, ownership or location of the facility. The current license number shall be recorded on all invoices, shipments, and similar transactions. The license authorizes the manufacture of any fireworks not prohibited by Congress or any federal agency; the possession, transportation, and storage of any such fireworks by any manufacturer thereof; the possession, transportation, or distribution of any such fireworks to a distributor located outside the State; the sale of such fireworks by any such manufacturer to a distributor located outside this State; or the possession and transportation of such fireworks by any manufacturer or contractor or common carrier from the point of manufacture within this State to any point outside this State.

(6) A fireworks manufacturer's license may be revoked for cause after notice and hearing provided in accordance with Rule 120-3-2-.02 of the Rules of Safety Fire Commissioner; provided, however, that the Commissioner may revoke any license prior to notice and hearing if he determines that the situation involves an imminent peril to the public health, safety and welfare and that the situation therefore requires emergency action. An emergency revocation shall contain reasons and findings for the determination, and shall be accompanied by a notice of opportunity for a hearing, which may provide that a hearing will be held if and only if the aggrieved person requests a hearing within ten (10) days of receipt of the revocation and notice.

Cite as Ga. Comp. R. & Regs. R. 120-3-22-.04
Authority: O.C.G.A. §§ 25-2-4, 25-2-16, 25-10-5.
History. Original Rule entitled "Submission of Plans and Licensing of Fireworks Manufacturers"adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Oct. 26, 1992; eff. Nov. 15, 1992.

Repealed: New Rule of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Amended: ER. 120-3-22-0.2-.04 adopted. F. and eff. June 10, 2003, the date of adoption.
Amended: ER. 120-3-22-0.3-.04 adopted. F. and eff. Oct. 8, 2003, the date of adoption.
Amended: Permanent Rule adopted. F. Jan. 16, 2004; eff. Feb. 5, 2004.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-22-.05. Submission of Plans for Consumer Fireworks Retail Sales Facilities.

1. Plans for all proposed consumer fireworks retail sales facilities or major modifications of any existing consumer fireworks retail sales facility in which the total quantity of consumer fireworks on hand at any time will exceed 1,000 pounds gross packaged product weight shall be submitted to, and receive the approval of, the State Fire Marshal prior to consumer fireworks being sold or offered for sale at retail in accordance with the following:

   (a) Plans shall be submitted in duplicate.

   (b) Plans shall be drawn to scale, shall be of sufficient clarity and detail, and shall include all information necessary to indicate compliance with the requirements of this Chapter and NFPA 1124 entitled, *Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles*.

   (c) The plans shall bear the seal and Georgia registration number of the drafting architect or engineer or shall otherwise have the approval of the Commissioner or his designee.

   (d) Pursuant to O.C.G.A. Section 25-2-4.1, the plans shall be accompanied by the mandatory plan review fee payable to the Commissioner.

   (e) One set of plans shall be retained by the Commissioner and one copy shall be returned to the applicant with approval or disapproval indicated thereon. A copy of the approved plans shall be kept available at the CFRS facility and shall be made available to authorized representatives of the State Fire Marshal or qualified individual at the time of inspection.

Cite as Ga. Comp. R. & Regs. R. 120-3-22-.05
Authority: O.C.G.A. §§ 25-2-4, 25-2-16, 25-10-5.
History. Original Rule entitled "Inspections"adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Amended: ER. 120-3-22-0.2-.05 adopted. F. and eff. June 10, 2003, the date of adoption.
Amended: ER. 120-3-22-0.3-.05 adopted. F. and eff. Oct. 8, 2003, the date of adoption.
Amended: Permanent Rule adopted. F. Jan. 16, 2004; eff. Feb. 5, 2004.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: New title "Submission of Plans for Consumer Fireworks Retail Sales Facilities."F. Dec. 13, 2019; eff.

Jan. 1, 2020, as specified by the Agency.

Rule 120-3-22-.06. Inspections.

The Commissioner and his authorized representatives may conduct periodic inspections of fireworks storage installations, manufacturer's facilities, consumer fireworks retail sales facilities, consumer fireworks retail sales stands, consumer fireworks stores, and transportation vehicles to ascertain whether the owners or operators are in compliance with this Chapter.

Cite as Ga. Comp. R. & Regs. R. 120-3-22-.06
Authority: O.C.G.A. §§ 25-2-4, 25-2-16, 25-10-5.
History. Original Rule entitled "Reporting of Fires and Accidents"adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Amended: ER. 120-3-22-0.2-.06 adopted. F. and eff. June 10, 2003, the date of adoption.
Amended: ER. 120-3-22-0.3-.06 adopted. F. and eff. Oct. 8, 2003, the date of adoption.
Amended: Permanent Rule adopted. F. Jan. 16, 2004; eff. Feb. 5, 2004.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: New title "Inspections."F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-22-.07. Reporting of Fires and Accidents.

(1) All owners, managers or operators of all vehicles, equipment, consumer fireworks retail sales facilities, consumer fireworks retail sales stands, consumer fireworks stores, and manufacturing and storage facilities covered under this Chapter shall, as soon as possible but in no event later than eight hours of such incident occurring, notify the Commissioner's Office of all fires involving such manufacturer's vehicles, equipment or facilities and all accidents involving the same that may create a hazard to the public from fire, explosion or related risk. In addition to the initial notification, but in no event later than seventy-two (72) hours, all owners, managers or operators of all vehicles, equipment, consumer fireworks retail sales facilities, consumer fireworks retail sales stands, consumer fireworks stores, and manufacturing and storage facilities covered under this Chapter shall submit a written report to the Commissioner's Office of all fires involving such vehicles, equipment, consumer fireworks retail sales facilities, consumer fireworks retail sales stands, consumer fireworks stores, manufacturing or storage facilities, and all accidents involving the same that may create a hazard to the public from fire, explosion or related risk.

(2) All holders of permits for display or exhibitions of fireworks or pyrotechnics shall, as soon as possible but in no event later than eight hours of such incident occurring, notify the Commissioner's Office of all fires, explosions, or other incidents of any type which result in personal injuries or property damage occurring at a display or exhibition of fireworks or pyrotechnics pursuant to the permit.

Cite as Ga. Comp. R. & Regs. R. 120-3-22-.07
Authority: O.C.G.A. §§ 25-2-4, 25-2-16, 25-10-5.
History. Original Rule entitled "Adopted Codes and Standards"adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Oct. 26, 1992; eff. Nov. 15, 1992.
Repealed: New Rule of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Amended: ER. 120-3-22-0.2-.07 adopted. F. and eff. June 10, 2003, the date of adoption.
Amended: ER. 120-3-22-0.3-.07 entitled "State Minimum Fire Safety Codes and Standards"adopted. F. and eff. Oct. 8, 2003, the date of adoption.
Amended: Permanent Rule adopted. F. Jan. 16, 2004; eff. Feb. 5, 2004.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: New title "Reporting of Fires and Accidents. "F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-22-.08. State Minimum Fire Safety Codes and Standards.

Unless otherwise stated in this Chapter, the following editions of the codes, standards, recommended practices, guides and methods, as published in the *National Fire Codes* (*NFC*) by the National Fire Protection Association (NFPA), as adopted and modified herein shall be the State's minimum fire safety standards related to the manufacturing, storage, transportation, and use of display fireworks and consumer fireworks, the retail sales of consumer fireworks, fireworks or pyrotechnics exhibitions and displays, and the use of flame effects before a proximate audience.

(1) **NFPA 160, 2016 Edition, Standard for the Use of Flame Effects Before a Proximate Audience**

Modifications:

(a) **Modifications to Chapter 5:**

1. Delete subsection 5.1.1 in its entirety and substitute in its place the following:

"**5.1.1 Permit Required.** A use permit issued by the authority having jurisdiction shall be required for the use of flame effects before a proximate audience or within any building or structure.

(2) **NFPA 1123, 2018 Edition, Code for Fireworks Display**

Modifications:

(a) **Modifications to Chapter 3:**

1. Delete subsection 3.3.15 in its entirety and substitute in its place the following:

   "**3.3.15 Fireworks.** Any combustible or explosive composition or any substance or combination of substances or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, including blank cartridges, firecrackers, torpedoes, skyrockets, bombs, sparklers, and other combustibles and explosives of like construction, as well as articles containing any explosive or flammable compound and tablets and other devices containing an explosive substance. The term 'fireworks' shall not include:

   (a) Model rockets and model rocket engines designed, sold, and used for the purpose of propelling recoverable aero models, toy pistol paper caps in which the explosive content averages 0.25 grains or less of explosive mixture per paper cap or toy pistols, toy cannons, toy canes, toy guns, or other devices using such paper caps; nor shall the term 'consumer fireworks' or 'fireworks' include ammunition consumed by weapons used for sporting and hunting purposes; and,

   (b) Wire or wood sparklers of 100 grams or less of mixture per item; other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical compound per tube or a total of 500 grams or less for multiple tubes; snake and glow worms; smoke devices; or trick noise makers which include paper streamers, party peppers, string peppers, snappers, and drop pops each consisting of 0.25 grains or less of 81 explosive mixture."

2. Delete subsection 3.3.15.1 in its entirety and substitute in its place the following:

   "**3.3.15.1 Consumer Fireworks.** Any small fireworks devices containing restricted amounts of pyrotechnic composition, designed primarily to produce visible or audible effects by combustion, that comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission as provided for in Parts 1500 and 1507 of Title 16 of the Code of Federal Regulations, the United States Department of Transportation as provided for in Part 172 of Title 49 of the Code of Federal Regulations, and the American Pyrotechnics Association as provided for in the 2001 American Pyrotechnics Association Standard 87-1, and additionally shall mean Roman candles. The term 'consumer fireworks' shall not include:

(a) Model rockets and model rocket engines designed, sold, and used for the purpose of propelling recoverable aero models, toy pistol paper caps in which the explosive content averages 0.25 grains or less of explosive mixture per paper cap or toy pistols, toy cannons, toy canes, toy guns, or other devices using such paper caps; nor shall the term 'consumer fireworks' or 'fireworks' include ammunition consumed by weapons used for sporting and hunting purposes; and,

(b) Wire or wood sparklers of 100 grams or less of mixture per item; other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical compound per tube or a total of 500 grams or less for multiple tubes; snake and glow worms; smoke devices; or trick noise makers which include paper streamers, party peppers, string peppers, snappers, and drop pops each consisting of 0.25 grains or less of 81 explosive mixture."

3. Delete subsection 3.3.15.2 in its entirety and substitute in its place the following:

   "**3.3.15.2 Display Fireworks.** Any large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as set forth in Part 555 of Title 27 of the Code of Federal Regulations, Part 172 of Title 49 of the Code of Federal Regulations, and American Pyrotechnics Association Standard 87-1. Display fireworks are described as Fireworks, UN0335 and are classified as Explosives, 1.3G by the U.S. Department of Transportation.

(b) **Modifications to Chapter 8:**

1. Add a new paragraph 8.1.3.6 to read as follows:

   "**8.1.3.6** The operator shall be present and shall personally supervise all phases of the public exhibition or display of fireworks."

2. Add a new subsection **8.1.9.3** to read as follows:

   "**8.1.9.3** The pyrotechnics operator shall be present and shall personally supervise all phases of the public exhibition or display of fireworks."

(c) **Modifications to Chapter 10:**

1. Delete subsection 10.1.1 in its entirety and substitute in its place the following:

"**10.1.1** The operator shall be at least 21 years old. Prior to performing the public exhibition or display of fireworks, the operator or the operator's employer shall obtain a permit issued by the judge of the probate court of the county in which the public exhibition or display of fireworks is to be held in accordance with all applicable state laws."

2. Delete subsection 10.1.2 in its entirety and substitute in its place the following:

   "**10.1.2** An operator shall provide evidence of actual experience as an operator or assistant to the authority having jurisdiction. This evidence shall include the following:

   (a) " At least five different affidavits signed by the local fire official or officials responsible for the area or areas that the operator has actively participated in all phases of a public exhibition or display of fireworks in which there were no personal injuries or property damage.

   (b) " A statement providing full details of any such public exhibitions or displays of fireworks in which said operator has participated which resulted in personal injuries or property damage, or an affidavit by the operator certifying that said operator has never participated in any such public exhibition or display of fireworks which resulted in personal injuries or property damage."

3. Delete subsection 10.1.3 in its entirety and substitute in its place the following:

   "**10.1.3** An operator shall provide evidence to the authority having jurisdiction that he/she possess at least one of the following:

   (a) " Certificate(s) of training totaling 20 hours related to fireworks from national organization(s) that promote safety in fireworks displays, or

   (b) " Licensure for fireworks displays by another state which administers a competency test accepted by the Commissioner, or

   (c) " Other training, testing and/or experience acceptable to the Commissioner."

4. Add a new subsection 10.1.4 to read as follows:

"**10.1.4** The individual pyrotechnic operator who will actually conduct the public exhibition or display of fireworks must provide to the authority having jurisdiction proof of employment by said person, firm, corporation, association or partnership desiring to conduct a public exhibition or display of fireworks."

5. Delete section 10.2 in its entirety and substitute in its place the following:

   "**10.2** All assistants shall be at least 18 years old. Each operator shall complete a form on each assistant for each permit being applied for that provides the assistant's age, date of birth, and states the operator's satisfaction as to the qualifications of that assistant."

6. Delete subsection 10.3.1 in its entirety and substitute in its place the following:

   "**10.3.1** Prior to performing the public exhibition or display of fireworks, the person, firm, corporation, association or partnership desiring to conduct a public exhibition or display of fireworks shall obtain and provide a copy of a display permit to conduct a firework(s) display issued by the judge of the probate court of the county in which the public exhibition or display of fireworks is to be held, pursuant to O.C.G.A. Section 25-10-4(a) to the authority having jurisdiction."

7. Delete subsection 10.3.2 in its entirety and substitute in its place the following:

   "**10.3.2** Proof of a bond in the principal sum of $10,000.00, payable to the county in which the public exhibition or display of fireworks is being held and conditioned for the payment of damages which may be caused either to persons or to property by reason of the public exhibition or display of fireworks must be provided or, alternatively, evidence be provided that the applicant carries proper liability insurance for bodily injury in the amount of not less than $25,000.00 for each person and $50,000.00 for each accident and for property damage in the amount of not less than $25,000.00 for each accident and $50,000.00 aggregate, purchased from an insurer authorized to do business in Georgia, or an insurer regulated pursuant to O.C.G.A. Title 33, Chapter 5, if insurance cannot be obtained from an insurer authorized to do business in Georgia."

8. Delete subsection 10.3.4 in its entirety with no substitution.

9. Add a new section 10.4 to read as follows:

"**10.4** Prior to performing the public exhibition or display of fireworks, the person, firm, corporation, association or partnership desiring to conduct a public exhibition or display of fireworks shall provide to the authority having jurisdiction the name and qualifications of every operator and assistant who will participate in the public exhibition or display of fireworks."

10. Add a new subsection 10.4.1 to read as follows:

    "**10.4.1** Prior to performing the public exhibition or display of fireworks, the person, firm, corporation, association or partnership desiring to conduct a public exhibition or display of fireworks shall provide to the authority having jurisdiction a statement signed by the individual pyrotechnic operator who will actually conduct the public exhibition or display of fireworks certifying the operator's satisfaction with the qualifications of each such assistant."

(3) **NFPA 1124, 2006 Edition, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles**

Modifications:

(a) **Modifications to Chapter 7:**

1. Add a new subsection 7.3.25 to read as follows:

   "**7.3.25 Required Signs"**

2. Add a new paragraph 7.3.25.1 to read as follows:

   "**7.3.25.1** Every licensed distributor selling consumer fireworks shall have within the retail display area for consumer fireworks at least one sign which reads as follows:

   PLEASE CHECK YOUR LOCAL ORDINANCES PRIOR TO USING OR

   IGNITING CONSUMER FIREWORKS

   PLEASE USE CONSUMER FIREWORKS IN ACCORDANCE WITH THEIR

AFFIXED CAUTION AND WARNING LABELS

PLEASE BE A GOOD NEIGHBOR AND BE MINDFUL THAT

UNANNOUNCED IGNITION NEAR SOME MILITARY VETERANS AND OTHER

PERSONS AND NEAR SOME PETS CAN BE TRAUMATIC"

3. Add a new subparagraph 7.3.25.1.1 to read as follows:

   "**7.3.25.1.1** Such signs shall be at least 22 inches by 28 inches in size, be printed in at least 40 point boldface type in a color contrasting from such sign's background color, and kept free from obstruction and in plain sight of customers."

4. Add a new paragraph 7.3.25.2 to read as follows:

   "**7.3.25.2** Signs shall be posted throughout the retail display area and shall read:

   Pursuant to O.C.G.A. 25-10-2, it is unlawful to:

   Sell consumer fireworks to any person under 18 years of age. Persons purchasing consumer fireworks must provide the seller proper identification at the time of purchase

   Use consumer fireworks indoors or within the right of way of a public road, street, highway, or railroad of this state.

   Use or ignite, possess, and transport consumer fireworks by any person under 18 years of age."

5. Add a new paragraph 7.3.25.3 to read as follows:

   "**7.3.25.3** Consumer fireworks retail sales facilities, stores, and stands which sell or offer for sale any balloon, bag, parachute, or other similar device which requires fire underneath for propulsion or any floating water lantern or wish lantern which uses a flame to create a lighting effect shall have signs posted throughout the retail display area and customer check out areas which shall read as follows:

   Pursuant to O.C.G.A. 25-10-10, it is unlawful to release or cause to be released any balloon, bag, parachute, or other similar device which requires

fire underneath for propulsion or to release or cause to be released any floating water lantern or wish lantern which uses a flame to create a lighting effect in any public waterway, lake, pond, stream, or river.

(4) **NFPA 1126, 2016 Edition, Standard for the Use of Pyrotechnics before a Proximate Audience**

Modifications:

(a) **Modifications to Chapter 3:**

1. Delete subsection 3.3.39 in its entirety and substitute in its place the following:

"**3.3.43 Proximate Audience.** An audience closer to pyrotechnic devices than permitted by NFPA 1123, *Code for Fireworks Display* or an audience within a building or structure where pyrotechnic devices are used.

(b) **Modifications to Chapter 6:**

1. Add a new subsection 6.1.5 to read as follows:

"**6.1.5** Prior to performing the fireworks or pyrotechnics exhibition or display before a proximate audience, the person, firm, corporation, association or partnership desiring to conduct a public exhibition or display of fireworks shall obtain and provide a copy of a display permit to conduct a proximate audience firework(s) display issued by the judge of the probate court of the county in which the public exhibition or display is to be held, pursuant to O.C.G.A. Section 25-10-4(b) to the authority having jurisdiction."

2. Add a new subsection 6.1.6 to read as follows:

"**6.1.6** Proof of a bond in the principal sum of $10,000.00, payable to the county in which the display is being held and conditioned for the payment of damages which may be caused either to persons or to property by reason of the display must be provided or, alternatively, evidence be provided that the applicant carries proper liability insurance for bodily injury in the amount of not less than $25,000.00 for each person and $50,000.00 for each accident and for property damage in the amount of not less than $25,000.00 for each accident and $50,000.00 aggregate, purchased from an insurer authorized to do business in Georgia, or an insurer regulated pursuant to O.C.G.A. Title 33, Chapter 5, if insurance cannot be obtained from an insurer authorized to do business in Georgia."

3. Add a new subsection 6.1.7 to read as follows:

   "**6.1.7** The person, firm, corporation, association or partnership desiring to conduct a fireworks or pyrotechnics exhibition or display before a proximate audience must provide a copy of the license or amended license issued by the Commissioner to the authority having jurisdiction that indicates that the individual pyrotechnic operator(s) who will actually conduct the proximate audience display or exhibition is licensed under the person, firm, corporation, association or partnership."

4. Delete subsection 6.5.1 in its entirety and substitute in its place the following:

   "**6.5.1** All pyrotechnic operators shall be at least 21 years old. Prior to performing the fireworks or pyrotechnics exhibition or display before a proximate audience, the operator or the operator's employer shall obtain a permit issued by the judge of the probate court of the county in which the public exhibition or display is to be held in accordance with all applicable state laws. In addition, each operator shall provide evidence of actual experience as an operator or assistant to the authority having jurisdiction. This evidence shall include the following:

   (a) " At least five different affidavits signed by the local fire official or officials responsible for the area or areas that the pyrotechnic operator has actively participated in all phases of a fireworks or pyrotechnics exhibition or display before proximate audiences in which there were no personal injuries or property damage.

   (b) " A statement providing full details of any fireworks or pyrotechnics exhibitions or displays before proximate audiences in which said pyrotechnic operator has participated which resulted in personal injuries or property damage, or an affidavit by the pyrotechnic operator certifying that said operator has never participated in any such displays or exhibitions which resulted in personal injuries or property damage."

5. Delete paragraph 6.5.1.1 in its entirety and substitute in its place the following:

   "**6.5.1.1** Each operator shall provide evidence to the authority having jurisdiction that he/she possess at least one of the following:

(a) " Certificate(s) of training totaling 20 hours related to fireworks from national organization(s) that promote safety in fireworks displays, or

(b) " Licensure for fireworks displays by another state which administers a competency test accepted by the Commissioner, or

(c) " Other training, testing and/or experience acceptable to the Commissioner."

6. Delete paragraph 6.5.1.2 in its entirety.

7. Delete subsection 6.5.2 in its entirety and substitute in its place the following:

   "**6.5.2** All assistants shall be at least 18 years old. In addition, a form shall be completed on each assistant for each permit being applied for that provides the assistant's full name, age, date of birth, address, previous experience, and certifies in writing the operator's satisfaction as to the qualifications of that assistant."

8. Add a new subsection 6.5.3 to read as follows:

   "**6.5.3** Prior to performing the fireworks or pyrotechnics exhibition or display before a proximate audience, the person, firm, corporation, association or partnership desiring to conduct a public exhibition or display of fireworks shall provide to the authority having jurisdiction the name and qualifications of every operator and assistant who will participate in the display or exhibition."

9. Add a new subsection 6.5.4 to read as follows:

   "**6.5.4** Prior to performing the fireworks or pyrotechnics exhibition or display before a proximate audience, the person, firm, corporation, association or partnership desiring to conduct a public exhibition or display of fireworks shall provide to the authority having jurisdiction a statement signed by the individual pyrotechnic operator who will actually conduct the display or exhibition certifying the operator's satisfaction with the qualifications of each such assistant."

(c) **Modifications to Chapter 8:**

1. Add a new subsection 8.6.7 to read as follows:

"**8.6.7** The pyrotechnics operator shall be present and shall personally supervise all phases of the proximate audience display or exhibition."

(4) ***International Fire Code*** **(IFC)**

Modifications:

(a) Refer to Chapter 120-3-3, Rules and Regulations of the Safety Fire Commissioner, for adopted edition and any modifications.

Cite as Ga. Comp. R. & Regs. R. 120-3-22-.08
Authority: O.C.G.A. §§ 25-2-4, 25-2-16, 25-10-5.1.
History. Original Rule entitled "Modifications, Additions and Deletions to Adopted Codes and Standards"adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Amended: F. Oct. 26, 1992; eff. Nov. 15, 1992.
Repealed: New Rule of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Amended: ER. 120-3-22-0.2-.08 entitled "Licensing and Permit Requirements for Fireworks or Pyrotechnics Displays"adopted. F. and eff. June 10, 2003, the date of adoption.
Amended: ER. 120-3-22-0.3-.08 entitled "Licensing Requirements for Fireworks or Pyrotechnics Displays Before a Proximate Audience"adopted. F. and eff. Oct. 8, 2003, the date of adoption.
Amended: Permanent Rule adopted. F. Jan. 16, 2004; eff. Feb. 5, 2004.
Repealed: New Rule of the same title adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: New title "State Minimum Fire Safety Codes and Standards."F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-22-.09. Licensing Requirements for Fireworks or Pyrotechnics Exhibitions or Displays before a Proximate Audience.

(1) The applicant for a license must satisfy the Commissioner that all of the following requirements are met before the Commissioner issues a license for fireworks or pyrotechnic exhibitions or displays before a proximate audience:

(a) The applicant shall submit a completed application on a form prescribed by the Commissioner.

(b) The applicant shall submit to the Commissioner proof of a valid comprehensive liability insurance policy purchased from an insurer authorized to do business in Georgia, or an insurer regulated pursuant to O.C.G.A. Title 33, Chapter 5, if insurance cannot be obtained from an insurer authorized to do business in Georgia. The coverage must include bodily injury and property damage, products liability, completed operations, and contractual liability. The proof of insurance must also be provided before any license can be renewed. The minimum amount

of said coverage shall be $1 million or such other amount as specified by the Commissioner. An insurer which provided such coverage shall notify the Commissioner of any change in coverage in writing which falls below the minimal insurance requirements of this regulation.

(c) The applicant shall submit to the Commissioner a list naming each pyrotechnic operator that shall use pyrotechnics or pyrotechnic special effects before a proximate audience or within a building or structure pursuant to the license. Each pyrotechnic operator listed on the application for a license shall give his or her full name, age, date of birth, address, and written permission for a criminal background investigation. The applicant must submit evidence that each such pyrotechnic operator is qualified in accordance with NFPA 1126, *Standard for the Use of Pyrotechnics before a Proximate Audience* as adopted and modified herein.

(d) Any natural person applying for a license, and each pyrotechnic operator listed on the application for a license, must give their permission for a criminal background investigation.

(e) The applicant shall pay the required licensing fee as prescribed in Code Section 25-10-5.

(f) The applicant shall comply with all other applicable portions of these regulations and standards adopted hereunder.

(g) The applicant shall provide any other information deemed necessary by the Commissioner.

(2) The licensee must apply for, and receive, an amended license issued by the Commissioner for any additional pyrotechnic operator employed by a person, firm, corporation, association, or partnership and who is not listed on the original license application. The applicant for an amended license must comply with the requirements of subsections (c) and (d), above, as to the additional pyrotechnic operator.

(3) The licensee must notify the Commissioner in writing within 10 days of the date the licensee withdraws sponsorship of a pyrotechnic operator who is listed on the license application. The reason for the licensee's withdraw of sponsorship must be stated.

Cite as Ga. Comp. R. & Regs. R. 120-3-22-.09
Authority: O.C.G.A. §§ 25-2-4, 25-2-16, 25-10-5.
History. Original Rule entitled "Requests for Modification of Specific Requirements"adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Amended: ER. 120-3-22-0.2-.09 adopted. F. and eff. June 10, 2003, the date of adoption.
Amended: ER. 120-3-22-0.3-.09 adopted. F. and eff. Oct. 8, 2003, the date of adoption.
Amended: Permanent Rule adopted. F. Jan. 16, 2004; eff. Feb. 5, 2004.
Repealed: New Rule entitled "Licensing Requirements for Distributors of Consumer Fireworks"adopted. F. July 24, 2015; eff. Aug. 13, 2015.

Amended: New title "Licensing Requirements for Fireworks or Pyrotechnics Displays Before a Proximate Audience."F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-22-.10. Licensing Requirements for Distributors of Consumer Fireworks.

(1) An applicant for a fireworks distributor license must submit a completed application before a license will be issued.

(2) An application for initial license or annual license renewal must be received by the State Fire Marshal's office and contain the following items before the license application will be considered complete:

(a) The appropriate application on a form prescribed by the Commissioner;

(b) Proper identification showing that said applicant is at least 18 years of age;

(c) Proof of a valid public liability and product liability insurance policy which provides coverage limits of at least $2 million to cover losses, damages, or injuries which might result from the selling of consumer fireworks and which is provided by an insurer authorized to do business in Georgia or procured through a surplus line broker licensed to pursuant to Title 33;

(d) The appropriate license fee as required by Code Sections 25-10-5.1(b)(1) or 25-10-5.1(d)(1), whichever is applicable, payable to the Safety Fire Commissioner; and

(e) Documentation, in the form of an inspection report on a form approved by the State Fire Marshal, that an inspection has been conducted by a qualified individual indicating the consumer fireworks retail sales facility or consumer fireworks retail sales store for which an application for license has been received meets the minimum fire safety and construction requirements of the 2006 edition of the National Fire Protection Association (NFPA) 1124 entitled, *Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles* and as modified herein this chapter. An application for initial license or annual license renewal for distributors selling consumer fireworks from a store shall identify each store location to which an initial or annual license is applicable; and

(f) Signed and notarized Citizenship Affidavit Form (GID-276-EN); and

(g) A copy of the front and back of a secure and verifiable form of identification (list of acceptable forms can be found on the Commissioner's website)

(3) The initial license fee for a fireworks distributor license for a consumer fireworks retail sales facility or wholesale distribution facility shall be $5,000.00, payable to the Safety

Fire Commissioner. Such initial license shall expire on January 31 of the year after such initial license was issued or as provided for in O.C.G.A. Section 25-10-5.1(b)(2).

(4) The annual renewal license fee for a fireworks distributor license for a consumer fireworks retail sales facility or wholesale distribution facility shall be $1,000.00, payable to the Safety Fire Commissioner. Such annual license shall expire on January 31 of the year after such annual license was issued or as provided for in O.C.G.A. Section 25-10-5.1(b)(2).

(5) The initial license fee for a fireworks distributor license for a store shall be $1,500.00 in addition to $250.00 per store location, payable to the Safety Fire Commissioner. Additional store locations may be added to the initial license prior to the expiration of such license upon payment of $250.00 per added store location. The initial license shall expire on January 31 of the year after the initial license was issued or as provided for in O.C.G.A. Section 25-10-5.1(d)(1).

(6) The annual renewal license fee for a fireworks distributor license for a store shall be $1,000.00 in addition to $100.00 per store location, payable to the Safety Fire Commissioner. Additional store locations may be added to the annual license prior to the expiration of such license upon payment of $250.00 per added store location. The annual license shall expire on January 31 of the year after the annual license was issued or as provided for in O.C.G.A. Section 25-10-5.1(d)(2).

(7) A distributor shall submit a completed application for annual renewal of license by December 1 in the year preceding the expiration date of such initial or annual license. When an initial license is issued to a distributor on or after December 1, then such distributor shall apply for an annual license by the first business day of the next year.

(8) A fireworks distributor license shall be nontransferable.

(9) A fireworks distributor license shall be void upon a change in the ownership or upon a change of location of the consumer fireworks retail sales facility or store location.

Cite as Ga. Comp. R. & Regs. R. 120-3-22-.10
Authority: O.C.G.A. §§ 25-2-4, 25-2-16, 25-10-5.1.
History. Original Rule entitled "Compliance With Rules and Regulations; Penalties"adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Amended: ER. 120-3-22-0.2-.10 adopted. F. and eff. June 10, 2003, the date of adoption.
Amended: ER. 120-3-22-0.3-.10 adopted. F. and eff. Oct. 8, 2003, the date of adoption.
Amended: Permanent Rule adopted. F. Jan. 16, 2004; eff. Feb. 5, 2004.
Repealed: New Rule entitled "Registration of Retail Chain Locations"adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: New title "Licensing Requirements for Distributors of Consumer Fireworks."F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-22-.11. Sales of Consumer Fireworks.

(1) Except as provided for herein, the sale of consumer fireworks at retail or wholesale locations shall be permitted only after the seller has obtained a fireworks distributor license.

(2) The fireworks distributor license shall be posted at a prominent location within each location which sells consumer fireworks

(3) The wholesale sale of consumer fireworks shall be conducted from a distribution facility as defined in NFPA 1124, 2006 edition entitled, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, and shall not be conducted from a consumer fireworks retail sales facility, store, or temporary stand.

(4) A consumer fireworks retail sales facility or store shall meet the minimum fire safety and construction requirements of the 2006 edition of the National Fire Protection Association (NFPA) 1124 entitled, *Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles* and as modified herein this chapter. In accordance with the *International Building Code* (IBC), consumer fireworks retail sales facilities and stores having a maximum quantity of consumer fireworks on hand exceeding 500 pounds gross packaged product weight shall have installed an NFPA 13 compliant automatic sprinkler system designed as an Ordinary Hazard Group 2 hazard facility. Where consumer fireworks retail sales facilities and stores have both a maximum quantity of consumer fireworks on hand exceeding 500 pounds gross packaged product weight and a ceiling height exceeding 16 feet, the required NFPA 13 compliant automatic sprinkler system shall be designed as an Extra Hazard Group 1 hazard facility.

(5) It shall be unlawful for any person, firm, corporation, association, or partnership to sell consumer fireworks or any items defined in paragraph (2) of subsection (b) of Code Section 25-10-1 to any person under 18 years of age.

(6) Any person selling any consumer fireworks at the consumer fireworks retail sales facility or store shall be at least 18 years of age; provided however, it shall be lawful for any person who is 16 or 17 years of age to sell or to offer for sale at retail any consumer fireworks, provided that such person is serving as an assistant to a distributor selling consumer fireworks from a temporary consumer fireworks retail sales stand or the nonprofit group directly participating in the operation of a temporary consumer fireworks retail sales stand.

(7) The holder of a wholesale consumer fireworks distributor license shall provide to the Commissioner the names and addresses of all fireworks retailers located in the State of Georgia to which that license holder sells consumer fireworks.

Cite as Ga. Comp. R. & Regs. R. 120-3-22-.11
Authority: O.C.G.A. §§ 25-2-4, 25-2-16, 25-10-2.
History. Original Rule entitled "Severability"adopted. F. June 3, 1987; eff. June 25, 1987, as specified by the Agency.
Repealed: New Rule of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.

Amended: ER. 120-3-22-0.2-.11 entitled "Forms"adopted. F. and eff. June 10, 2003, the date of adoption.
Amended: ER. 120-3-22-0.3-.11 adopted. F. and eff. Oct. 8, 2003, the date of adoption.
Amended: Permanent Rule adopted. F. Jan. 16, 2004; eff. Feb. 5, 2004.
Repealed: New Rule entitled "Sales of Consumer Fireworks"adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-22-.12. Purchase of Consumer Fireworks.

Any individual purchasing fireworks from a consumer fireworks retail sales facility, consumer fireworks retail sales store or a temporary consumer fireworks retail sales stand shall:

(1) Make all purchases in-person and through a face-to face sale;

(2) Be a minimum of 18 years of age; and

(3) Provide proper identification to the seller at the time of such purchase. Such identification shall contain at a minimum the following:

   (a) A description of the person or such person's photograph, or both; and

   (b) The individuals' date of birth.

Cite as Ga. Comp. R. & Regs. R. 120-3-22-.12
Authority: O.C.G.A. §§ 25-2-4, 25-2-16, 25-10-2.
History. Original Rule entitled "Forms"adopted. F. Oct. 26, 1992; eff. Nov. 15, 1992.
Repealed: New Rule of same title adopted. F. July 23, 1998; eff. Aug. 12, 1998.
Amended: ER. 120-3-22-0.2-.12 entitled "Notes"adopted. F. and eff. June 10, 2003, the date of adoption.
Amended: ER. 120-3-22-0.3-.12 adopted. F. and eff. Oct. 8, 2003, the date of adoption.
Amended: Permanent Rule adopted. F. Jan. 16, 2004; eff. Feb. 5, 2004.
Repealed: New Rule entitled "Purchase of Consumer Fireworks"adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-22-.13. Use of Fireworks.

Consumer fireworks may be used, ignited, or caused to be ignited on any day between the hours of 10:00 A.M. and 11:59 P.M. unless during such times the noise from such use or ignition is not in compliance with a noise ordinance of a county or municipal corporation.

Exception 1: *Consumer fireworks may be used, ignited, or caused to be ignited on January 1, the last Saturday and Sunday in May, July 3, July 4, the first Monday in September, and December 31 of each year after the time of 10:00 A.M. and up to and including the time of 11:59 P.M.; and on January 1 of each year beginning at the time of 12:00 Midnight and up to and including the ending time of 1:00 A.M.*

Exception 2: *After having obtained a special use permit as provided for in O.C.G.A. § 25-10-2(a)(3)(D).*

Cite as Ga. Comp. R. & Regs. R. 120-3-22-.13
Authority: O.C.G.A. §§ 25-2-4, 25-2-16, 25-10-5.
History. Original Rule entitled "Severability"adopted as ER. 120-3-22-0.2-.13. F. and eff. June 10, 2003, the date of adoption.
Amended: ER. 120-3-22-0.3-.13 adopted. F. and eff. Oct. 8, 2003, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Jan. 16, 2004; eff. Feb. 5, 2004.
Repealed: New Rule entitled "Use of Fireworks"adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-22-.14. Unlawful Activity.

(1) It shall be unlawful to use fireworks, consumer fireworks, or any items defined in paragraph (2) of subsection (b) of Code Section 25-10-1 indoors or within the right of way of a public road, street, highway, or railroad of this state.

(2) It shall be unlawful for any person, firm, corporation, association, or partnership to sell or offer for sale consumer fireworks at a consumer fireworks retail sales facility, consumer fireworks retail sales store or a temporary consumer fireworks retail sales stand or wholesale distribution facility without maintaining the appropriate license.

(3) It shall be unlawful for any person, firm, corporation, association, or partnership to sell consumer fireworks or any items defined in paragraph (2) of subsection (b) of Code Section 25-10-1 to any person under 18 years of age.

(4) It shall be unlawful to sell consumer fireworks from any motor vehicle or from a trailer towed by a motor vehicle, or from a tent, canopy, or membrane structure.

(5) It shall be unlawful for any person under 18 years of age to use or ignite or cause to be ignited or to possess, manufacture, transport, or store consumer fireworks, except that it shall be lawful for any person who is 16 or 17 years of age to possess or transport consumer fireworks, provided that such person is serving as an assistant to a distributor selling consumer fireworks from a temporary consumer fireworks retail sales stand or the nonprofit group directly participating in the operation of a temporary consumer fireworks retail sales stand and is not transporting such consumer fireworks on a highway which constitutes a part of The Dwight D. Eisenhower System of Interstate and Defense Highways.

(6) It shall be unlawful to release or cause to be released any balloon, bag, parachute, or other similar device which requires fire underneath for propulsion or to release or cause to be released any floating water lantern or wish lantern which uses a flame to create a lighting effect in any public waterway, lake, pond, stream, or river.

Cite as Ga. Comp. R. & Regs. R. 120-3-22-.14
Authority: O.C.G.A. §§ 25-2-4, 25-2-16, 25-10-2.
History. Original Rule entitled "Requests for Modification of Specific Requirements"adopted. F. July 24, 2015; eff. Aug. 13, 2015.

Amended: New title "Unlawful Activity."F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-22-.15. Compliance with Rules and Regulations; Penalties.

(1) All persons shall, manufacture, transport, and store fireworks in conformity with this Chapter. After notice and hearing provided in accordance with Rule 120-3-2-.02 of the Rules of Safety Fire Commissioner, any person who is found to have violated any of the rules contained in this Chapter shall be subject to such penalties as authorized by law and regulation.

(2) Any person who knowingly and willfully makes a false, fictitious, or fraudulent statement of representation in an application executed pursuant to Code section 25-10-5.1 shall be guilty of a violation of Code Section 16-10-20.

(3) Any and all consumer fireworks distributors licenses may be suspended, revoked, refused, or be subject to nonrenewal if the Commissioner finds that a licensee or applicant has:

(a) Violated any provision of this Chapter and O.C.G.A. 25-10; or failed to comply with a cease and desist order issued by the Commissioner or his or her authorized representative

(b) Failed to maintain the minimum insurance coverage as set forth in O.C.G.A. 25-10-5.1(a)(B);

(c) Made a material misstatement or misrepresentation or committed a fraud in obtaining or attempting to obtain a license; or

(d) Failed to notify the Safety Fire Commissioner, in writing, within 30 days after a change of residence, principal business address, or name.

Cite as Ga. Comp. R. & Regs. R. 120-3-22-.15
Authority: O.C.G.A. §§ 25-2-4, 25-2-16, 25-10-2.
History. Original Rule entitled "Unlawful Activity"adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: New title "Compliance with Rules and Regulations; Penalties."F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-22-.16. Requests for Modification of Specific Requirements.

Upon receipt of a sworn affidavit from the owner stating all relevant facts and circumstances and such other information as may be required, the State Fire Marshal may recommend to the Commissioner that specific requirements of this Chapter and the NFPA codes, standards and recommended practices adopted herein, be modified to allow alternative arrangements which will secure as nearly equivalent measures as practical for the prevention of injury to persons and

property. The Commissioner in his discretion may accept the State Fire Marshal's recommendation and grant the requested modification.

Cite as Ga. Comp. R. & Regs. R. 120-3-22-.16
Authority: O.C.G.A. §§ 25-2-4, 25-2-16, 25-10-5.
History. Original Rule entitled "Compliance with Rules and Regulations; Penalties"adopted F. July 24, 2015; eff. Aug. 13, 2015.
Amended: New title "Requests for Modification of Specific Requirements."F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-22-.17. Forms.

(1) Unless otherwise indicated, and to the extent provided, each filing required under this Regulation Chapter is to be made on forms or electronic format approved by the Commissioner.

(2) Forms may be reproduced to accommodate manual or automated processing.

(3) Any form filed electronically requiring a signature shall contain the electronic signature of the person filing the form, as defined in O.C.G.A. Section 10-12-3.

Cite as Ga. Comp. R. & Regs. R. 120-3-22-.17
Authority: O.C.G.A. §§ 25-2-4, 25-2-16, 25-10-3.1, 25-10-3.2, 25-10-5, 25-10-5.1.
History. Original Rule entitled "Forms"adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-22-.18. Notes.

(1) The National Fire Protection Association (NFPA) codes, standards and recommended practices adopted in this Chapter are on file in the office of the State Fire Marshal and are available for viewing.

(2) Copies of the National Fire Protection Association codes and standards may be obtained from:

National Fire Protection Association

1 Batterymarch Park

Quincy, Massachusetts 02269-9101

Main 617-770-3000

Phone: 800-344-3555

http://www.nfpa.org/catalog/

Main 617-770-3000

Phone: 800-344-3555

http://www.nfpa.org/catalog/

(3) Copies of the International Code Council codes are on file in the Office of the State Fire Marshal and are available for viewing. Copies may be obtained from:

International Code Council

1-888 -ICC-SAFE (422-7233) or

http://www.iccsafe.org/

Cite as Ga. Comp. R. & Regs. R. 120-3-22-.18
Authority: O.C.G.A. §§ 25-2-4, 25-2-16, 33-2-9, 50-13-21.
History. Original Rule entitled "Notes"adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Rule 120-3-22-.19. Severability.

If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and the applicability of such provisions to other circumstances shall not be affected thereby.

If you are an individual with a disability and wish to acquire this publication in an alternative format, please contact the ADA Coordinator, Safety Fire Division, Office of Commissioner of Insurance, No. 2 Martin Luther King Jr. Drive, Atlanta, Georgia 30334, 404 656-2056, TDD 404 656-4031.

Cite as Ga. Comp. R. & Regs. R. 120-3-22-.19
Authority: O.C.G.A. §§ 25-2-4, 25-2-16, 25-10-5.
History. Original Rule entitled "Severability"adopted. F. July 24, 2015; eff. Aug. 13, 2015.
Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Subject 120-3-23. RULES AND REGULATIONS FOR INSTALLATION, INSPECTION, RECHARGING, REPAIRING, SERVICING AND TESTING OF PORTABLE FIRE EXTINGUISHERS OR FIRE SUPPRESSION SYSTEMS.

Rule 120-3-23-.01. Promulgation and Purpose.

(1) These rules and regulations for the installation, inspection, recharging, repairing, servicing or testing of portable fire extinguishers and fire suppression systems are promulgated by the Georgia Safety Fire Commissioner in accordance with the Official Code of Georgia Annotated §§ 25-12-15, 33-2-9, and 50-13-21.

(2) The purpose of these rules and regulations is to establish minimum qualifications and standards for companies and their technicians who install, inspect, recharge, repair, service, maintain or test portable fire extinguishers or fire suppression systems and to provide for reasonable and practical measures for protecting persons and property from injury due to portable fire extinguishers or fire suppression systems that are not properly installed, inspected, recharged, repaired, serviced, maintained or tested.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.01
Authority: O.C.G.A. Secs. 25-2-4, 25-12-15, 33-2-9, 50-13-21.
History. Original Rule entitled "Promulgation and Purpose"adopted. F. July 23, 1992; eff. Aug. 12, 1992.
Repealed: New Rule of same title adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.02. Definitions.

(1) "**Acceptable**"means having been inspected by the Commissioner or his/her representative and approved for the intended usage.

(2) "**Approved**"means in addition to being acceptable, as defined herein, a device, practice, or method mandated by a coexistent authority of the Commissioner (such as the D.O.T.).

(3) "**Approved Training**"means any training or continuing education made available by an official company or individual specifically qualified and insured to provide such training (including equipment manufacturers) as acceptable to the Commissioner.

(4) "**Clean Agent**"means an electrically non-conducting, volatile, or gaseous fire-extinguishing agent that does not leave a residue upon evaporation.

(5) "**CO_2**(**Carbon Dioxide**)"means a colorless, odorless, electrically non-conductive inert gas suitable for use in portable extinguishers or fire systems.

(6) "**Commissioner**"means the Georgia Safety Fire Commissioner or his/her designated representative.

(7) "**Continuing Education**"means education, information or training derived from participating and successfully completing a course, class or seminar pertaining to the fire protection industry for the purpose of increasing one's aptitude, knowledge or skill in a particular area or task which is acceptable to and approved by the Commissioner prior to receiving credit units.

(8) "**Credit Units**"means actual hours of active participation in a course, class or seminar pertaining to the fire protection industry for the purpose of increasing one's aptitude, knowledge or skill in a particular area or task. One hour of personal course contact acceptable to the Commissioner will equal one credit unit.

(9) "**DOT**"means the United States Department of Transportation.

(10) "**EMT**"means electrical metallic tubing used for enclosing detection cables, remote pull stations, gas shut offs and electrical wiring.

(11) "**Engineered Special Hazard Fire Suppression System**"means any fire suppression system having pipe lengths, number of fittings, number and types of nozzles, suppression agent flow rates, and nozzle pressures as determined by calculations derived from the appropriate standards of the National Fire Protection Association, whether those calculations are performed by hand or by a computer program or by other method of calculation. These systems may consist of other components, including, but not limited to, detection devices, alarm devices, and control devices as tested and approved by a nationally recognized testing laboratory and shall be manufacturer listed as compatible with the fire suppression system involved.

(12) "**Fire Suppression System**"means any fire-fighting system employing a suppression agent for the purpose of controlling, suppression, or extinguishing a fire in a specific hazard. The suppression agent shall be a currently recognized agent or water additive required to control, suppress, or extinguish a fire. The term fire suppression system shall include engineered special hazard and pre-engineered fire suppression systems as defined in these rules and regulations and shall not include those systems addressed in Chapter 11 of Title 25 of the Official Code of Georgia Annotated.

(13) "**Firm**"means any corporation, business, person, partnership, organization, association, contractor, individual or other entity, engaged in the business of installing, inspecting, altering, maintaining, recharging, repairing or servicing fire extinguishers and fire suppression systems.

(14) **"Full Time Employee"** means an individual who works for the firm and is on payroll for a minimum of thirty and one half hours of paid service per week, per employer.

(15) "**High Pressure Cylinder**"means cylinders and cartridges containing nitrogen or compressed gases at a service pressure higher than 500 psi (3447 kPa) at 70°F (21°C).

(16) "**Hydrostatic Testing**"means cylinder pressure testing by water jacketed test pressure means.

(17) "**Industrial Fire Suppression System**"means a pre-engineered automatic fire extinguishing system provided for the protection of property or equipment as described by the manufacturer other than those systems covered under the definition of kitchen or restaurant fire suppression system.

(18) "**Inspection**"means a thorough examination which is part of the designated or prescribed maintenance of a fire extinguisher or of a fire suppression system to give maximum assurance that the fire extinguisher or fire suppression system is in its proper location, appropriately sized for the hazard it is intended to cover, there is no physical or chemical damage to prevent its proper operation, the extinguisher or system is fully charged and is in proper operating condition. Such procedure shall only be conducted by a properly permitted technician unless otherwise exempted by Chapter 12 of O.C.G.A. Title 25 or by this Chapter. It includes a thorough examination by inspection and any necessary repair or replacement of components as well as, revealing if hydrostatic testing is required.

(19) "**Kitchen or Restaurant Fire Suppression System**"means an automatic fire extinguishing system provided for the protection of grease removal devices, hoods, duct systems, cooking equipment and listed for such use as outlined in National Fire Protection Association Standard 96, *Standard for Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment* edition as adopted and modified by Chapter 120-3-3 Rules and Regulations of the Safety Fire Commissioner, and systems classified under UL300A.

(20) "**License**"means the document issued by the Commissioner which authorizes a firm to engage in the business of installation, repair, alteration, recharging, inspection, maintenance, service or testing of fire suppression systems or portable fire extinguishers.

(21) "**Low Pressure Cylinder**"means those cylinders having an operating or service pressure of 500 psi (3447 kPa) or lower at 70°F (21°C).

(22) "**Maintenance**"means a thorough examination of the portable fire extinguisher or fire suppression system. It is intended to give maximum assurance that a fire extinguisher or fire suppression system will operate effectively and safely. It includes a thorough examination by inspection and any necessary repair or replacement of components as well as, revealing if hydrostatic testing is required.

(23) "**Manufacturer's Certification**"means certification derived from participating and successfully completing a training course issued by the manufacturer or other designated agent or representatives authorized by the original equipment manufacturer.

(24) "**NAFED**"means National Association of Fire Equipment Distributors.

(25) "**NFPA**"means National Fire Protection Association.

(26) "**NICET**"means National Institute for Certification in Engineering Technologies and, when used in this regulation, refers to the Special Hazards Systems program areas.

(27) "**Permit**"means the document issued by the Commissioner which authorizes an individual to install, inspect, repair, recharge, service, or test fire suppression systems or portable fire extinguishers as a direct result of meeting the minimum qualifications herein for which the individual has applied.

(28) "**Portable Fire Extinguisher**"means a portable device containing an extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing a fire. The device must be listed by a nationally recognized testing laboratory. The device must bear a manufacturer's name and serial number. The listings, approvals, and serial numbers may be stamped on the manufacturer's identification and instruction plate or on a separate plate of the testing laboratory soldered or attached to the extinguisher shell in a permanent manner as set forth by the listing or approving organization.

(29) "**Pre-Engineered Fire Suppression System**"means any system having predetermined flow rates, nozzle pressures, and quantities of an extinguishing agent. These systems have specific pipe sizes, maximum and minimum pipe lengths, flexible hose specifications, number of fittings, and number and types of nozzles prescribed by a nationally recognized testing laboratory. The hazards protected by these systems are specifically limited as to the type and size by the testing laboratory based upon actual fire tests. Limitations on hazards that can be protected by these systems are contained in the manufacturer's installation manual, which is referenced as part of the listing.

(30) "**RIN**"means the current retester identification number issued by the DOT or its designated agency, to retest facilities that can then legally perform cylinder requalifications. Only the DOT or its designated agency has the authority to issue such numbers in the United States.

(31) "**Service**"means the performance of an inspection, installation, maintenance or repair of a portable fire extinguisher or fire suppression system.

(32) "**Service Location**"means any location where the inspection, installation, or repair is performed on any portable fire extinguisher or fire suppression system covered by these rules and regulations including mobile service vehicles.

(33) "**Standard**"means any official NFPA publication pertaining to the fire protection industry and addressed in this Chapter.

(34) "**Visual Inspection**"means a monthly "quick check"to determine that a portable fire extinguisher or fire suppression system cylinder is available and has not been discharged. A visual inspection is intended to give reasonable assurance that the extinguisher or system cylinder is fully charged and operable. A visual inspection is done by verifying the extinguisher or system cylinder is in its designated place, it has not been actuated or tampered with, and there is no obvious physical damage or condition that would prevent its operation. This inspection may be conducted by the equipment owner, his/her employee or a written designated representative of the equipment owner and is not to be confused with inspections conducted under the designated or prescribed maintenance procedures of a portable fire extinguisher or fire suppression system.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.02
Authority: O.C.G.A. Secs. 25-2-4, 25-12-15, 33-2-9, 50-13-21.

History. Original Rule entitled "Definitions"adopted. F. July 23, 1992; eff. Aug. 12, 1992.
Repealed: New Rule of same title adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.03. General Requirements Related to Licenses, Amended Licenses, Permits, Amended Permits, Renewals and Associated Fees.

(1) The licenses and permits required by O.C.G.A. Title 25, Chapter 12 and these rules and regulations shall be issued by the Commissioner for each license year beginning January 1 and expiring December 31 of the same year. The application for the renewal of a license or permit shall be filed by November 1.

(2) A license or permit which is invalid because of failure to renew it, shall be restored upon payment of the applicable fee plus a penalty equal to the applicable fee if said fees are paid within ninety (90) days of expiration. After ninety (90) days, the firm and the employees thereof must apply for new licenses and permits as required for an initial license or permit.

(3) Any firm or individual holding a valid license or permit desiring to perform an activity not covered by the current permit may submit an application for an amended license or permit at any time between January 1 and November 1.

(4) The provisions of this Chapter relating to the requirements for obtaining a license or permit shall also apply to applications for an amended license or amended permit and for the renewal of a license or the renewal of a permit. The fee for an amended license, an amended permit, a renewal of a license or the renewal of a permit shall be fifty dollars ($50.00) and twenty-five dollars ($25.00) respectively. The fees for an amended license or permit shall not apply if the new activity or activities are included in an application for a renewal of the annual license or permit.

(5) In addition to the provision of paragraph (4), the application for renewal of a firm's license or an individual's permit must be accompanied by the following:

(a) Proof of training equaling a total of required credit units each year as follows:

i. A minimum of eight (8) credit units must be received each year by a minimum of one full time employee of the firm in each type of license area filed and license type being requested.

Exception: NICET acceptable CPD Continuing Professional Development will be acceptable.

ii. A minimum of eight (8) credit units must be received each year by each employee for each type of permit application filed and permit type being requested.

Exception: NICET acceptable CPD Continuing Professional Development will be acceptable.

(b) Proof of other training or applicable documentation regarding the activity or activities desired to be included on the new amended license or new amended permit.

(6) If any employee should leave the employment of the firm or change office locations, the registered agent of the firm shall notify the Commissioner in writing within 5 business days. The individual's license(s) and/or permit(s) shall be returned to the State Fire Marshal's office with this notification. Failure to provide such notification and returned permit(s) and/or license(s) shall constitute a violation of this Chapter and shall be subject to the provisions of Rules 120-3-23-.15 and 120-3-23-.16. Such permit(s) and/or license(s) shall become null and void immediately upon notification. A new permit and or license shall not be re-issued until the requirements of this Chapter for such permit or license are met.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.03
Authority: O.C.G.A. Secs. 25-2-4, 25-12-7, 25-12-8, 25-12-12, 25-12-15, 25-12-17 to 25-12-19, 33-2-9, 50-13-21.
History. Original Rule entitled "Licenses, Permits, Fees and Related Requirements/Testing by NICET/NAFED"adopted. F. July 23, 1992; eff. Aug. 12, 1992.
Repealed: New Rule entitled "General Requirements Related to Licenses, Amended Licenses, Permits, Amended Permits, Renewals and Associated Fees"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.04. Requirements for Portable Fire Extinguisher License.

A firm may obtain a license to install, inspect, repair, recharge, service or test portable fire extinguishers upon meeting the following requirements:

(a) The applicant for a license to install, inspect, service and test portable fire extinguishers has completed an application form acceptable to the Commissioner.

(b) The applicant for a license to install, inspect, service and test portable fire extinguishers has paid an annual license fee of fifty dollars ($50.00) and a one time non-refundable filing fee of fifty dollars ($50.00) to the Commissioner.

(c) The applicant for a license to install, inspect, service and test portable fire extinguishers has submitted evidence of the firm's registration as a current Georgia Corporation.

(d) The applicant for a license to install, inspect, service and test portable fire extinguishers has submitted to the Commissioner a certificate of liability insurance listing the physical address of the business that provides proof of a valid comprehensive liability insurance

policy purchased from an insurer or surplus lines broker authorized to do business in Georgia. The certificate of liability insurance shall list the Insurance Commissioner as the certificate holder to the address of the Safety Fire Division, 2 Martin Luther King Drive, 620 West Tower, Atlanta, GA 30334. The coverage must include bodily injury and property damage, products liability, completed operations, and contractual liability. The minimum amount of said coverage shall be one million dollars ($1,000,000.00), provided, however, the amount of insurance required may be higher if so specified by the Commissioner. An insurer which provides such coverage shall notify the Commissioner of any change in coverage.

(e) The applicant for a license to install, inspect, service and test portable fire extinguishers has submitted to the State Fire Marshal's Office the following:

1. A letter on company letter head indicating the areas the company intends to provide services.

2. A minimum of three (3) samples of all service tags, maintenance labels, test labels, service collars, non-compliance tags and high pressure cylinder stamps to be used by the company as indicated by the above service letter received, meeting the requirements of Rule 120-3-23-.14. Where stamps are allowed to utilized, ink stamped impressions showing the applicants DOT (RIN) number shall be submitted with a copy of the firm's DOT approvals and renewals. Tags, labels and collars may be printed and established for any period of time. However, after each printing, a minimum of three newly printed sample tags, labels and collars must be forwarded to the State Fire Marshal's office as indicated in this paragraph and under Rule 120-3-23-.14.

(f) The applicant for a license to install, inspect, service or test portable fire extinguishers has submitted to the Commissioner evidence of compliance with one of the following:

1. The applicant has maintained a valid permit issued by the Commissioner to install, inspect, service or test portable fire extinguishers for a minimum of a three year period; or

2. Proof of one full time employee of the firm that has maintained a valid permit issued by the Commissioner to install, inspect, service or test portable fire extinguishers for a minimum of a three year period.

(g) The applicant for a license to install, inspect, service or test portable fire extinguishers has submitted to the Commissioner evidence of compliance with one of the following:

1. Current certification as a Portable Fire Extinguisher Technician by the National Association of Fire Equipment Distributors (NAFED); or

2. Proof of one full time employee of the firm with documentation of current certification as a Portable Fire Extinguisher Technician by the National Association of Fire Equipment Distributors (NAFED); or

3. Current certification or testing by other nationally recognized organizations as deemed appropriate and acceptable by the Commissioner; or

4. Proof of one full time employee of the firm with documentation of current certification or testing by other nationally recognized organizations as deemed appropriate and acceptable by the Commissioner; or

5. Current certification from the manufacturer of the portable fire extinguisher denoting the portable fire extinguisher and areas in which the applicant has been successfully trained and certified.

6. Proof of one full time employee of the firm with current certification from the manufacturer of the portable fire extinguisher denoting the portable fire extinguisher and areas in which the applicant has been successfully trained and certified.

(h) An inspection by means as determined by the Commissioner has determined that the minimum equipment listed below for the activities the applicant requested to be licensed to perform was present at the service location and/or in each mobile service vehicle utilized by the firm.

1. Proper wrenches with non-serrated jaws or strap wrenches.

2. Non-serrated needle nose pliers or valve puller.

3. Inspection light suitable for internal inspection of extinguisher cylinders.

4. Accurate weighing scales in pound increments for extinguisher cylinder inspection and filling.

5. Accurate weighing scales in ounce increments for extinguisher cartridge inspection and/or filling.

6. Fixed vise appropriately sized for its intended use.

7. A supply of extinguishing agent(s) or compatibly listed agent(s) appropriate for the types of extinguishers the firm requests to fill, and facilities for the proper storage of extinguishing agents as set forth by the specifications from the agent manufacturer.

8. Commercial dry nitrogen supply with a dew point of -60°F (-51°C) or lower (CGA nitrogen specification G10.1, grades D through P) and pressure regulator with supply and regulated pressure gages calibrated and suitable for properly pressurizing portable fire extinguishers.

9. Equipment shall be on hand at the stationary facility location and each service vehicle for leak testing pressurized extinguishers. Use of a spray bottle containing a soap solution for leak testing pressurized extinguishers is permitted.

10. A supply of adapters, fittings, tools and equipment required for properly servicing, repairing, maintaining and/or recharging all extinguishers the firm solicits or accepts for service, repair, maintenance or recharge. These needs shall be based on the service or recharge specifications of the extinguisher manufacturer and is not intended to prohibit the use of compatibly listed parts meeting the specifications of the extinguisher manufacturer.

11. Closed recovery system(s) and storage to remove and store dry chemicals and/or clean agent from extinguisher cylinders during servicing.

12. Inventory of manufacturer or compatibly listed spare parts for all extinguishers the firm solicits or accepts for service, repair, maintenance or recharge based on the service or recharge specifications of the extinguisher manufacturer.

13. A copy of the applicable standards of the National Fire Protection Association currently adopted by the Commissioner, and copies of installation, service and maintenance manuals from the manufacturer of each make or brand of extinguisher or system the firm installs, services, recharges, repairs, or maintains.

14. A supply of required service, maintenance and test tags meeting the provisions of Rule 120-3-23-.14 of this Chapter.

15. Appropriate replacement extinguishers for exchange if extinguishers are removed for service.

(i) If the applicant includes in the request for a license the request for hydrostatic testing of low pressure DOT or non-DOT regulated extinguisher cylinders, in addition to the appropriate minimum equipment listed in subparagraphs (h)1.-15., the applicant must possess low pressure hydrostatic testing equipment as follows:

1. Appropriate, hydrostatic test equipment for low-pressure extinguishercylinders and hoses equipped with a shutoff nozzle as well as manuals in accordance with DOT and the applicable NFPA Standards.

2. Approved drying method for low-pressure extinguishercylinders and hoses equipped with a shutoff nozzle after the hydrostatic test in accordance with DOT requirements and NFPA 10.

3. Adequate safety cage for hydrostatic testing of low pressure extinguishercylinders and hoses equipped with a shutoff nozzle in accordance with DOT requirements and NFPA 10.

4. Low-pressure hydrostatic test labels for DOT or non-DOT regulated extinguisher cylinders containing at least the minimum information required by paragraph (5) of Rule 120-3-23-.14.

   Exception to (i): The provisions in subparagraph (i) shall not apply to a primary firm that accepts low-pressure extinguisher cylinders for hydrostatic testing by a secondary firm which is licensed and equipped to provide this service. The secondary firm actually hydrostatically testing the cylinder must properly label the cylinder in conformance with paragraph (5) of Rule 120-3-23-.14 of this Chapter. The primary firm must properly tag the fire extinguisher in accordance with Rule 120-3-23-.14.

(j) If the applicant includes in the request for a license for the hydrostatic testing of high-pressure DOT regulated extinguisher cylinders, in addition to the appropriate minimum equipment listed in subparagraphs (h)1.-15., the applicant must submit with the application a copy of its DOT approvals and renewals.

Exception: The provisions in subparagraph (j) shall not apply to a firm that accepts high-pressure cylinders for hydrostatic testing by another firm which is licensed and equipped to provide this service. The firm actually hydrostatically testing the cylinder must properly stamp the cylinder with their current DOT (RIN) number when required by DOT regulations.

(k) If the applicant includes in the request for a license activities that involve the transfer of clean agent fire suppression agents, in addition to the minimum equipment listed in subparagraphs (h)1.-15., the applicant must have the following equipment:

1. Listed clean agent filling equipment/pumping station and/or closed recovery system at the clean agent recharge location only for each type of clean agent being utilized.

2. Chemical supply tank(s) for each type of clean agent extinguisher being serviced.

   Exception to (k): The provisions in (k) shall not apply to the primary firm that accepts clean agent extinguishers for recharge by a secondary firm which is licensed and equipped to provide this service. The secondary firm actually recharging and servicing the extinguisher must properly install a service collar onto the clean agent extinguisher cylinder in conformance with paragraph (5) of Rule 120-3-23-.14 of this Chapter. The primary firm must tag the clean agent fire extinguisher after conducting a proper maintenance inspection on the clean agent fire extinguisher.

(l) If the applicant includes in the request for a license the service, maintenance, repair or recharge of CO_2 fire extinguishers the following equipment shall be provided at the service location(s) in addition to the appropriate minimum equipment listed in subparagraphs (h)1.-15., the firm must have the following equipment:

1. A CO_2 cascade system for proper filling of CO_2 portable fire extinguisher cylinders; or

2. An approved electric pump system for proper filling of CO_2 portable fire extinguisher cylinders; or

3. An approved pneumatic pump system for proper filling of CO_2 portable fire extinguishers cylinders; or

4. An alternate system for proper filling of CO_2 portable fire extinguisher cylinders based on new technology may be used provided the level of safety prescribed by the appropriate standard is not lowered and the system is approved by the Commissioner after being evaluated.

5. If the applicant includes in the request for a license to service or recharge CO_2 fire extinguishers, then in addition to one of the four items above, equipment which allows for the complete immersion of the valve assembly shall be on hand at the stationary facility location for leak testing pressurized CO_2 portable fire extinguisher cylinders.

   Exception to (l): The provisions in (l) shall not apply to a primary firm that accepts CO_2 extinguishers for recharge by secondary firm which is licensed and equipped to provide this service provided the primary firm tags the CO_2 fire extinguisher after conducting a proper maintenance inspection on the CO_2 fire extinguisher.

(m) Nothing shall preclude the Commissioner from verifying by an announced or unannounced re-inspection of the service location and/or in each mobile service vehicle utilized by the firm that such equipment listed and required in subparagraphs (h) through (l) exists and is readily available. The Commissioner may give the registered agent of the firm up to 30 days as deemed appropriate by him/her to correct any deficiencies discovered by such inspection. Furthermore, nothing shall preclude the Commissioner from verifying such evidence of notification, certification or testing as required in subparagraph (g) and experience as required in subparagraph (f).

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.04
Authority: O.C.G.A. Secs. 25-2-4, 25-12-4, 25-12-7, 25-12-9 to 25-12-11, 25-12-13, 25-12-15, 33-2-9, 50-13-21.
History. Original Rule entitled "Adopted Codes and Standards"adopted. F. July 23, 1992; eff. Aug. 12, 1992.
Repealed: New Rule entitled "Requirements for Portable Fire Extinguisher License"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.05. Requirements for Portable Fire Extinguisher Technician Permit.

An individual may obtain a permit to install, inspect, repair, recharge, service or test portable fire extinguishers upon meeting the following requirements.

(a) The applicant for a permit to install, inspect, repair, recharge, service or test portable fire extinguishers has submitted a completed permit application form acceptable to the Commissioner.

(b) The applicant for a permit to install, inspect, repair, recharge, service or test portable fire extinguishers has paid an annual permit fee of twenty-five dollars ($25.00) and a one time non-refundable filing fee of twenty-five dollars ($25.00) to the Commissioner if the applicant is a new employee of the firm.

(c) The applicant for a permit to install, inspect, repair, recharge, service or test portable fire extinguishers has submitted evidence of employment by a firm properly licensed to install, inspect, service and test portable fire extinguishers.

(d) The applicant for a permit to install, inspect, repair, recharge, service or test portable fire extinguishers has submitted to the Commissioner the following required for processing of the permit:

1. A current color headshot digital photograph, taken with a three (3) Megapixel camera or better, and saved at the lowest resolution available in a jpeg or jpg format.

2. A completed signature form attached to the application containing three (3) individual signatures of the applicant within the designated areas. The signatures shall be a true representation of the applicant's normal signature and shall be in black ink using a medium point pen. Fine point pens shall not be acceptable.

(e) The applicant for a permit to install, inspect, repair, recharge, service or test portable fire extinguishers has submitted to the Commissioner evidence of compliance with one of the following.

1. Certification as a Portable Fire Extinguisher Technician by the National Association of Fire Equipment Distributors (NAFED); or

2. Certification or testing by other nationally recognized organizations as deemed appropriate and acceptable by the Commissioner; or

3. Current certification from the manufacturer of the portable fire extinguisher denoting the portable fire extinguisher and areas in which the applicant has been successfully trained and certified.

(f) Nothing shall preclude the Commissioner from verifying such evidence of notification, certification or testing as required in subparagraph (e).

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.05
Authority: O.C.G.A. Secs. 25-2-4, 25-2-9, 25-12-4, 25-12-8, 25-12-10, 25-12-12, 25-12-13, 25-12-15, 33-2-9, 50-13-21.
History. Original Rule entitled "Specifications for Service, Maintenance and Test Tags"adopted. F. July 23, 1992; eff. Aug. 12, 1992.

Repealed: New Rule entitled "Requirements for Portable Fire Extinguisher Technician Permit"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.06. Requirements for Pre-Engineered Kitchen or Restaurant Fire Suppression System License.

(1) A firm may obtain a license to install, inspect, repair, recharge, service or test pre-engineered kitchen or restaurant fire suppression systems upon meeting the following requirements:

(a) The applicant for a license to install, inspect, service and test pre-engineered kitchen or restaurant fire suppression systems has completed an application form acceptable to the Commissioner.

(b) The applicant for a license to install, inspect, service and test pre-engineered kitchen or restaurant fire suppression systems has paid an annual license fee of fifty dollars ($50.00) and a one time non-refundable filing fee of fifty dollars ($50.00) to the Commissioner.

(c) The applicant for a license to install, inspect, service or test pre-engineered kitchen or restaurant fire suppression systems has submitted evidence of the firm's registration as a current Georgia Corporation.

(d) The applicant for a license to install, inspect, service and test pre-engineered kitchen or restaurant fire suppression systems has submitted to the Commissioner a certificate of liability insurance listing the physical address of the business that provides proof of a valid comprehensive liability insurance policy purchased from an insurer or surplus lines broker authorized to do business in Georgia. The certificate of liability insurance shall list the Insurance Commissioner as the certificate holder to the address of the Safety Fire Division, 2 Martin Luther King Drive, 620 West Tower, Atlanta, GA 30334. The coverage must include bodily injury and property damage, products liability, completed operations, and contractual liability. The minimum amount of said coverage shall be one million dollars ($1,000,000.00), provided, however, the amount of insurance required may be higher if so specified by the Commissioner. An insurer which provides such coverage shall notify the Commissioner of any change in coverage.

(e) The applicant for a license to install, inspect, service and test pre-engineered kitchen or restaurant fire suppression systems has submitted to the State Fire Marshal's Office the following:

1. A letter on company letter head indicating the areas the company intends to provide services.

2. A minimum of three (3) samples of all service tags, maintenance labels, test labels, non-compliance tags and high pressure cylinder stamps to be used by the company as indicated by the above service letter received, meeting the requirements of Rule 120-3-23-.14. Where stamps are allowed to utilized, ink stamped impressions showing the applicants DOT (RIN) number shall be submitted with a copy of the firm's DOT approvals and renewals. Tags and labels may be printed and established for any period of time. However, after each printing, a minimum of three newly printed sample tags or labels and collars must be forwarded to the State Fire Marshal's office as indicated in this paragraph and under Rule 120-3-23-.14.

(f) The applicant for a license to install, inspect, service or test pre-engineered kitchen or restaurant fire suppression systems has submitted to the Commissioner evidence of compliance with one of the following:

1. The applicant has maintained a valid permit issued by the Commissioner to install, inspect, service or test pre-engineered kitchen or restaurant fire suppression systems for a minimum of a three year period; or

2. Proof of one full time employee of the firm that has maintained a valid permit issued by the Commissioner to install, inspect, service or test pre-engineered kitchen or restaurant fire suppression systems for a minimum of a three year period.

Exception to (f): Applicants that meet the provisions of subparagraph (g)1. or (g)6. denoted below.

(g) The applicant for a license to install, inspect, service or test pre-engineered kitchen or restaurant fire suppression systems has submitted to the Commissioner evidence of compliance with one of the following:

1. Current certification from the manufacturer of the pre-engineered kitchen or restaurant fire suppression system denoting the specific system and areas in which the applicant has been successfully trained and certified; or

2. Notification from the National Institute of Certification in Engineering Technologies (NICET) denoting the successful completion of Level III, Technician certification exam requirements for Special Hazards Suppression Systems; or

3. Current certification as a Pre-Engineered Kitchen Fire Extinguishing System Technician by the National Association of Fire Equipment Distributors (NAFED); or

4. Current certification or testing by other nationally recognized organizations as deemed appropriate and acceptable by the Commissioner; or

5. Proof of one full time employee of the firm with documentation of current certification as a Pre-Engineered Kitchen Fire Extinguishing System Technician by the National Association of Fire Equipment Distributors (NAFED); or

6. Proof of one full time employee of the firm with documentation of current certification from the manufacturer of the pre-engineered kitchen or restaurant fire suppression system denoting the specific system and areas in which the full time employee has been successfully trained and certified; or

7. Proof of one full time employee of the firm with documentation of notification from the National Institute of Certification in Engineering Technologies (NICET) denoting the successful completion of Level III, Technician certification exam requirements for Special Hazards Suppression Systems; or

8. Proof of one full time employee of the firm with documentation of current certification or testing by other nationally recognized organizations as deemed appropriate and acceptable by the Commissioner.

(h) An inspection by means as determined by the Commissioner has determined that the minimum equipment listed below for the activities the applicant requested to be licensed to perform was present at the service location and/or in each mobile service vehicle utilized by the firm.

1. Proper wrenches with non-serrated jaws or strap wrenches.

2. Non-serrated needle nose pliers or valve puller.

3. Inspection light suitable for internal inspection of pre-engineered kitchen or restaurant fire suppression system cylinders.

4. Accurate weighing scales in pound increments for pre-engineered kitchen or restaurant fire suppression system cylinders inspection and filling.

5. Accurate weighing scales in ounce increments for pre-engineered kitchen or restaurant fire suppression system cartridge inspection and/or filling.

6. Fixed vise appropriately sized for its intended use.

7. A supply of extinguishing agent(s) or compatibly listed agent(s) appropriate for the types of pre-engineered kitchen or restaurant fire suppression

systems the firm requests to fill, and facilities for the proper storage of extinguishing agents as set forth by the specifications from the agent manufacturer.

8. Commercial dry nitrogen supply with a dew point of -60°F (-51°C) or lower (CGA nitrogen specification G10.1, grades D through P) and pressure regulator with supply and regulated pressure gages calibrated and suitable for properly pressurizing pre-engineered kitchen or restaurant fire suppression system.

9. Equipment shall be on hand at the stationary facility location and each service vehicle for leak testing pressurized pre-engineered kitchen or restaurant fire suppression system cylinders. Use of a spray bottle containing a soap solution for leak testing pressurized system cylinders or their installations is permitted.

10. A supply of adapters, fittings, tools and equipment required for properly servicing, repairing, maintaining and or recharging all systems the firm solicits or accepts for service, repair, maintenance or recharge. These needs shall be based on the service or recharge specifications of the pre-engineered kitchen or restaurant fire suppression system manufacturer and is not intended to prohibit the use of compatibly listed parts meeting the specifications of the pre-engineered kitchen or restaurant fire suppression system manufacturer.

11. Inventory of manufacturer or compatibly listed spare parts to include system detector and control parts as applicable for all pre-engineered kitchen or restaurant fire suppression systems the firm solicits or accepts for service, repair, maintenance or recharge based on the service or recharge specifications of the systems manufacturer.

12. A copy of the applicable standards of the National Fire Protection Association currently adopted by the Commissioner, and copies of installation, service and maintenance manuals from the manufacturer of each make or brand of pre-engineered kitchen or restaurant fire suppression system the firm installs, services, recharges, repairs, or maintains.

13. A supply of required service, maintenance and test tags meeting the provisions of Rule 120-3-23-.14 of this Chapter.

14. Pipe threader and associated tools and dies.

15. Appropriate replacement cylinders for exchange if pre-engineered kitchen or restaurant fire suppression system cylinders are removed for service.

(i) If the applicant includes in the request for a license the request for hydrostatic testing of low pressure DOT or non-DOT regulated pre-engineered kitchen or restaurant fire suppression system cylinders, in addition to the appropriate minimum equipment listed in subparagraphs (h)1.-15. the applicant must possess low pressure hydro testing equipment as follows:

1. Appropriate, hydrostatic test equipment for low-pressure cylinders as well as manuals in accordance with DOT and the applicable NFPA Standards.

2. Adequate safety cage for hydrostatic testing of low pressure pre-engineered kitchen or restaurant fire suppression system cylinders in accordance with DOT requirements and the applicable NFPA Standards.

3. Low-pressure hydrostatic test labels for DOT or non-DOT regulated pre-engineered kitchen or restaurant fire suppression system cylinders containing at least the minimum information required by paragraph (5) of Rule 120-3-23-.14 of this Chapter.

   Exception to (i): The provisions in subparagraph (i) shall not apply to a primary firm that accepts low-pressure pre-engineered kitchen or restaurant fire suppression system cylinders for hydrostatic testing by a secondary firm which is licensed and equipped to provide this service. The secondary firm actually hydrostatically testing the cylinder must properly label the cylinder in conformance with paragraph (5) of Rule 120-3-23-.14 of this Chapter.

(j) If the applicant includes in the request for a license for the hydrostatic testing of high-pressure DOT regulated pre-engineered kitchen or restaurant fire suppression system cylinders, in addition to the appropriate minimum equipment listed in subparagraphs (h)1.-15., the applicant must submit with the application a copy of its DOT approvals and renewals.

Exception: The provisions in subparagraph (j) shall not apply to a primary firm that accepts high-pressure pre-engineered kitchen or restaurant fire suppression system cylinders for hydrostatic testing by firm which is licensed and equipped to provide this service. The firm actually hydrostatically testing the cylinder must properly stamp the cylinder with their current DOT (RIN) number when required by and in conformance with DOT regulations.

(k) Nothing shall preclude the Commissioner from verifying by an announced or unannounced re-inspection of the service location and/or in each mobile service vehicle utilized by the firm that such equipment listed and required in subparagraphs (h) through

(j) exists and is readily available. The Commissioner may give the registered agent of the firm up to 30 days as deemed appropriate by him/her to correct any

deficiencies discovered by such inspection. Furthermore, nothing shall preclude the Commissioner from verifying such evidence of notification, certification or testing as required in subparagraph (g) and experience as required in subparagraph (f).

(2) Any license issued under the provisions of subparagraph (g)1. or subparagraph (g)6. due to certification received from the manufacturer shall be considered a restricted license to only allow the firm and the permit holder(s) to install, inspect, service and test those pre-engineered kitchen or restaurant fire suppression systems whom certification is received and filed with the Commissioner. Such restricted license shall not constitute any additional approvals as a license for the installation, inspection servicing or testing of any other pre-engineered kitchen or restaurant fire suppression system. In addition, such license will automatically restrict the firm's permit applicant(s) and permit holder(s) activities operating under the firm's license regardless of their qualifications.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.06
Authority: O.C.G.A. Secs. 25-2-4, 25-12-3, 25-12-7, 25-12-9 to 25-12-11, 25-12-13, 25-12-15, 33-2-9, 50-13-21.
History. Original Rule entitled "Compliance with Rules and Regulations; Suspension or Revocation of Licenses and Permits; Penalties"adopted. F. July 23, 1992; eff. Aug. 12, 1992.
Repealed: New Rule entitled "Requirements for Pre-Engineered Kitchen or Restaurant Fire Suppression System License"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.07. Requirements for Pre-Engineered Kitchen or Restaurant Fire Suppression System Technician Permit.

(1) An individual may obtain a permit to install, inspect, repair, recharge, service or test pre-engineered kitchen or restaurant fire suppression systems upon meeting the following requirements:

(a) The applicant for a permit to install, inspect, repair, recharge, service or test pre-engineered kitchen or restaurant fire suppression systems has submitted a completed permit application form acceptable to the Commissioner.

(b) The applicant for a permit to install, inspect, repair, recharge, service, or test pre-engineered kitchen or restaurant fire suppression systems has paid an annual permit of twenty-five dollars ($25.00) and a one time non-refundable filing fee of twenty-five dollars ($25.00) to the Commissioner if the applicant is a new employee of the firm.

(c) The applicant for a permit to install, inspect, repair, recharge, service or test pre-engineered kitchen or restaurant fire suppression systems has submitted evidence of employment by a firm properly licensed to install, inspect, service and test pre-engineered kitchen fire suppression systems.

(d) The applicant for a permit to install, inspect, repair, recharge, service or test pre-engineered kitchen or restaurant fire suppression systems has submitted to the Commissioner the following required for processing of the permit:

1. A current color headshot digital photograph, taken with a three (3) Megapixel camera or better, and saved at the lowest resolution available in a jpeg or jpg format.

2. A completed signature form attached to the application containing three (3) individual signatures of the applicant within the designated areas. The signatures shall be a true representation of the applicant's normal signature and shall be in black ink using a medium point pen. Fine point pens shall not be acceptable.

(e) The applicant for a permit to install, inspect, repair, recharge, service or test pre-engineered kitchen or restaurant fire suppression systems has submitted to the Commissioner evidence of compliance with one of the following:

1. Current certification from the manufacturer of the pre-engineered kitchen or restaurant fire suppression system denoting the specific system and areas in which the applicant has been successfully trained and certified; or

2. Notification from the National Institute of Certification in Engineering Technologies (NICET) denoting the successful completion of Level II, Technician certification exam requirements for Special Hazards Suppression Systems; or

3. Current certification as a Pre-Engineered Kitchen Fire Extinguishing System Technician by the National Association of Fire Equipment Distributors (NAFED); or

4. Current certification or testing by other nationally recognized organizations as deemed appropriate and acceptable by the Commissioner,

(f) Nothing shall preclude the Commissioner from verifying such evidence of notification, certification or testing as required in subparagraph (e).

(2) Any permit issued under the provisions of subparagraph (e)1. due to certification received from the manufacturer shall be considered a restricted permit to only allow the firm's permit holder(s) to install, inspect, service and test those pre-engineered kitchen or restaurant fire suppression systems whom certification is received and filed with the Commissioner under the firm's license. Such restricted permit shall not constitute any additional approvals as a permit for the installation, inspection, servicing or testing of any other pre-engineered kitchen or restaurant fire suppression system regardless of the permit holder's qualifications.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.07
Authority: O.C.G.A. Secs. 25-2-4, 25-12-3, 25-12-8 to 25-12-10, 25-12-12, 25-12-13, 25-12-15, 33-2-9, 50-13-21.
History. Original Rule entitled "Local Jurisdictions"adopted. F. July 23, 1992; eff. Aug. 12, 1992.
Repealed: New Rule entitled "Requirements for Pre-Engineered Kitchen or Restaurant Fire Suppression System Technician Permit"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.08. Requirements for Pre-Engineered Industrial Fire Suppression System License.

(1) A firm may obtain a license to install, inspect, repair, recharge, service or test pre-engineered industrial fire suppression systems upon meeting the following requirements:

(a) The applicant for a license to install, inspect, service and test pre-engineered industrial fire suppression systems has completed an application form acceptable to the Commissioner.

(b) The applicant for a license to install, inspect, service and test pre-engineered industrial fire suppression systems has paid an annual license fee of fifty dollars ($50.00) and a one time non-refundable filing fee of fifty dollars ($50.00) to the Commissioner.

(c) The applicant for a license to install, inspect, service and test pre-engineered industrial fire suppression systems has submitted evidence of the firm's registration as a current Georgia Corporation.

(d) The applicant for a license to install, inspect, service and test pre-engineered industrial fire suppression systems has submitted to the Commissioner a certificate of liability insurance listing the physical address of the business that provides proof of a valid comprehensive liability insurance policy purchased from an insurer or surplus lines broker authorized to do business in Georgia. The certificate of liability insurance shall list the Insurance Commissioner as the certificate holder to the address of the Safety Fire Division, 2 Martin Luther King Drive, 620 West Tower, Atlanta, GA 30334. The coverage must include bodily injury and property damage, products liability, completed operations, and contractual liability. The minimum amount of said coverage shall be one million dollars ($1,000,000.00), provided, however, the amount of insurance required may be higher if so specified by the Commissioner. An insurer which provides such coverage shall notify the Commissioner of any change in coverage.

(e) The applicant for a license to install, inspect, service and test pre-engineered industrial fire suppression systems has submitted to the State Fire Marshal's Office the following:

1. A letter on company letter head indicating the areas the company intends to provide services.

2. A minimum of three (3) samples of all service tags, maintenance labels, test labels, non-compliance tags and high pressure cylinder stamps to be used by the company as indicated by the above service letter received, meeting the requirements of Rule 120-3-23-.14. Where stamps are allowed to utilized, ink stamped impressions showing the applicants DOT (RIN) number shall be submitted with a copy of the firm's DOT approvals and renewals. Tags and labels may be printed and established for any period of time. However, after each printing, a minimum of three newly printed sample tags and labels must be forwarded to the State Fire Marshal's office as indicated in this paragraph and under Rule 120-3-23-.14.

(f) The applicant for a license to install, inspect, service or test pre-engineered industrial fire suppression systems has submitted to the Commissioner evidence of compliance with one of the following:

1. The applicant has maintained a valid permit issued by the Commissioner to install, inspect, service or test pre-engineered industrial fire suppression systems for a minimum of a three year period; or,

2. Proof of one full time employee of the firm that has maintained a valid permit issued by the Commissioner to install, inspect, service or test pre-engineered industrial fire suppression systems for a minimum of a three year period.

Exception to (f): Applicants that meet the provisions of subparagraph (g)1. or subparagraph (g)6. denoted below.

(g) The applicant for a license to install, inspect, service and test pre-engineered industrial fire suppression systems has submitted to the Commissioner evidence of compliance with the following:

1. Current certification from the manufacturer of the pre-engineered industrial fire suppression system denoting the specific system and areas in which the applicant has been successfully trained and certified; or

2. Notification from the National Institute of Certification in Engineering Technologies (NICET) denoting the successful completion of Level III, Technician certification exam requirements for Special Hazards Suppression Systems; or

3. Current certification as a Pre-Engineered Industrial Fire Extinguishing System Technician by the National Association of Fire Equipment Distributors (NAFED); or

4. Current certification or testing by other nationally recognized organizations as deemed appropriate and acceptable by the Commissioner; or

5. Proof of one full time employee of the firm with documentation of current certification as a Pre-Engineered Industrial Fire Extinguishing System Technician by the National Association of Fire Equipment Distributors (NAFED); or

6. Proof of one full time employee of the firm with documentation of current certification from the manufacturer of the pre-engineered industrial fire suppression system denoting the specific system and areas in which the full time employee has been successfully trained and certified; or

7. Proof of one full time employee of the firm with documentation of notification from the National Institute of Certification in Engineering Technologies (NICET) denoting the successful completion of Level III, Technician certification exam requirements for Special Hazards Suppression Systems; or

8. Proof of one full time employee of the firm with documentation of current certification or testing by other nationally recognized organizations as deemed appropriate and acceptable by the Commissioner.

(h) An inspection by means as determined by the Commissioner has determined that the minimum equipment listed below for the activities the applicant requested to be licensed to perform was present at the service location and/or in each mobile service vehicle utilized by the firm.

1. Proper wrenches with non-serrated jaws or strap wrenches.

2. Non-serrated needle nose pliers or valve puller.

3. Inspection light suitable for internal inspection of pre-engineered industrial fire suppression system cylinders.

4. Accurate weighing scales in pound increments for pre-engineered industrial fire suppression system cylinder inspection and filling.

5. Accurate weighing scales in ounce increments for pre-engineered industrial fire suppression system cartridge inspection and/or filling.

6. Fixed vise appropriately sized for its intended use.

7. A supply of extinguishing agent(s) or compatibly listed agent(s) appropriate for the types of pre-engineered industrial fire suppression systems the firm

requests to fill, and facilities for the proper storage of extinguishing agents as set forth by the specifications from the agent manufacturer.

8. Commercial dry nitrogen supply with a dew point of -60°F (-51°C) or lower (CGA nitrogen specification G10.1, grades D through P) and pressure regulator with supply and regulated pressure gages calibrated and suitable for properly pressurizing pre-engineered industrial fire suppression system.

9. Equipment, which allows for the complete immersion of a cylinder, shall be on hand at the stationary facility location for leak testing pressurized pre-engineered industrial fire suppression system cylinders. Service vehicles may use a spray bottle containing a soap solution for leak testing pressurized system cylinders or their installations.

10. A supply of adapters, fittings, tools and equipment required for properly servicing, repairing, maintaining and or recharging all pre-engineered industrial fire suppression systems the firm solicits or accepts for service, repair, maintenance or recharge. These needs shall be based on the service or recharge specifications of the pre-engineered industrial fire suppression system manufacturer and is not intended to prohibit the use of compatibly listed parts meeting the specifications of the pre-engineered industrial fire suppression system manufacturer.

11. Inventory of manufacturer or compatibly listed spare parts to include system detector and control parts as applicable for all pre-engineered industrial fire suppression systems the firm solicits or accepts for service, repair, maintenance or recharge based on the service or recharge specifications of the systems manufacturer.

12. A copy of the applicable standards of the National Fire Protection Association currently adopted by the Commissioner, and copies of installation, service and maintenance manuals from the manufacturer of each make or brand of pre-engineered industrial fire suppression system the firm installs, services, recharges, repairs, or maintains.

13. A supply of required service, maintenance and test tags meeting the provisions of Rule 120-3-23-.14 of this Chapter.

14. Pipe threader and associated tools and dies.

15. Appropriate replacement cylinders for exchange if pre-engineered industrial fire suppression system cylinders are removed for service.

(i) If the applicant includes in the request for a license the request for hydrostatic testing of low pressure DOT or non-DOT regulated pre-engineered industrial fire

suppression system cylinders, in addition to the appropriate minimum equipment listed in subparagraphs (h)1.-15., the applicant must possess low pressure hydrostatic testing equipment as follows:

1. Appropriate, hydrostatic test equipment for low-pressure cylinders as well as manuals in accordance with DOT and the applicable NFPA Standards.

2. Approved drying method for low-pressure pre-engineered industrial fire suppression system cylinders after the hydrostatic test in accordance with DOT requirements and the applicable NFPA Standards.

3. Adequate safety cage for hydrostatic testing of low pressure pre-engineered industrial fire suppression system cylinders in accordance with DOT requirements and the applicable NFPA Standards.

4. Low-pressure hydrostatic test labels for DOT or non-DOT regulated pre-engineered industrial fire suppression system cylinders containing at least the minimum information required by Paragraph (5) of Rule 120-3-23-.14 of this Chapter.

   Exception to (i): The provisions in subparagraph (i) shall not to apply to a primary firm that accepts low-pressure pre-engineered industrial fire suppression system cylinders for hydrostatic testing by a secondary firm which is licensed and equipped to provide this service. The secondary firm actually hydrostatically testing the pre-engineered industrial fire suppression system cylinder must properly label the cylinder in conformance with paragraph (5) of Rule 120-3-23-.14 of this Chapter. The primary firm must properly tag the pre-engineered industrial fire suppression system after proper inspection and maintenance is performed.

(j) If the applicant includes in the request for a license for the hydrostatic testing of high-pressure DOT regulated pre-engineered industrial fire suppression system cylinders, in addition to the appropriate minimum equipment in listed in listed in subparagraphs (h)1.-15., the applicant must submit with the application a copy of its DOT approvals and renewals.

Exception: The provision in subparagraph (j) shall not apply to a primary firm that accepts high-pressure pre-engineered industrial fire suppression system cylinders for hydrostatic testing by a secondary firm which is licensed and equipped to provide this service. The secondary firm actually hydrostatically testing the pre-engineered industrial fire suppression system cylinder must properly stamp the cylinder with their current DOT (RIN) number when required by and in conformance with this Chapter and DOT regulations.

(k) If the applicant includes in the request for a license activities that involve the transfer of clean agent pre-engineered industrial fire suppression agents, in addition to the minimum equipment listed in subparagraphs (h)1.-15., the applicant must have the following equipment:

1. Listed clean agent filling equipment/pumping station and/or closed recovery system at the clean agent recharge location only for each type of clean agent being utilized.

2. Chemical supply tank(s) for each type of clean agent extinguisher being serviced.

Exception to (k): The provisions in (k) shall not apply to the primary firm that accepts clean agent pre-engineered industrial fire suppression system cylinders for recharge by a secondary firm which is licensed and equipped to provide this service. The secondary firm actually recharging and servicing the pre-engineered industrial fire suppression system cylinders must properly install a service collar onto the pre-engineered industrial fire suppression system cylinders in conformance with paragraph (5) of Rule 120-3-23-.14 of this Chapter. The primary firm must tag the pre-engineered industrial fire suppression system cylinders with their company tag in conformance with Rule 120-3-23-.14 of this Chapter after conducting a proper maintenance inspection.

(l) If the applicant includes in the request for a license the service, maintenance, repair or recharge of CO_2 pre-engineered fire suppression systems the following equipment shall be provided at the service location(s) in addition to the appropriate minimum equipment listed in subparagraphs (h)1.-15., the applicant must have the following equipment:

1. CO_2 cascade system for proper filling of CO_2 pre-engineered industrial fire suppression system cylinders; or

2. An approved electric pump system for proper filling of CO_2 pre-engineered industrial fire suppression system cylinders; or

3. An approved pneumatic pump system for proper filling of CO_2 pre-engineered industrial fire suppression system cylinders; or

4. An alternate system for proper filling of CO_2 pre-engineered industrial fire suppression system cylinders based on new technology may be used provided the level of safety prescribed by the appropriate standard is not lowered and the system is approved by the Commissioner after being evaluated.

5. Approved drying method for low-pressure pre-engineered industrial fire suppression system cylinders after the hydrostatic test in accordance with DOT requirements and the applicable NFPA Standards.

6. Equipment shall be on hand at the stationary facility location and each service vehicle for leak testing pressurized pre-engineered industrial fire suppression system cylinders. Use of a spray bottle containing a soap solution for leak testing pressurized pre-engineered industrial fire suppression system cylinders is permitted.

   Exception to (l): The provisions in subparagraph (l) shall not apply to a primary firm that accepts CO_2 pre-engineered industrial fire suppression system cylinders for recharge by a secondary firm which is licensed and equipped to provide this service provided the primary firm tags the CO_2 fire extinguisher after conducting a proper maintenance inspection on the CO_2 pre-engineered industrial fire suppression system cylinders.

(m) Nothing shall preclude the Commissioner from verifying by an announced or unannounced re-inspection of the service location and/or in each mobile service vehicle utilized by the firm that such equipment listed and required in subparagraphs (g) through (k) exists and is readily available. The Commissioner may give the registered agent of the firm up to 30 days as deemed appropriate by him/her to correct any deficiencies discovered by such inspection. Furthermore, nothing shall preclude the Commissioner from verifying such evidence of notification, certification or testing as required in subparagraph (g) and experience as required in subparagraph (f).

(2) Any license issued under the provisions of subparagraph (g)1. or subparagraph (g)6. due to certification received from the manufacturer shall be considered a restricted license to only allow the firm and the permit holder(s) to install, inspect, service and test those pre-engineered industrial fire suppression systems whom certification is received and filed with the Commissioner. Such restricted license shall not constitute any additional approvals as a license for the installation, inspection servicing or testing of any other pre-engineered industrial fire suppression system. In addition, such license will automatically restrict the firm's permit applicant(s) and permit holder(s) activities operating under the firm's license regardless of their qualifications.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.08
Authority: O.C.G.A. Secs. 25-2-4, 25-12-3, 25-12-7 to 25-12-11, 25-12-13, 25-12-15, 33-2-9, 50-13-21.
History. Original Rule entitled "Delegation of Authority by the Commissioner"adopted. F. July 23, 1992; eff. Aug. 12, 1992.
Repealed: New Rule entitled "Requirements for Pre-Engineered Industrial Fire Suppression System License"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.09. Requirements for Pre-Engineered Industrial Fire Suppression System Technician Permit.

(1) An individual may obtain a permit to install, inspect, repair, recharge, service or test pre-engineered industrial fire suppression system upon meeting the following requirements:

(a) The applicant for a permit to install, inspect, repair, recharge, service or test pre-engineered industrial fire suppression systems has submitted a completed permit application form acceptable to the Commissioner.

(b) The applicant for a permit to install, inspect, repair, recharge, service, or test pre-engineered industrial fire suppression systems has paid an annual permit of twenty-five dollars ($25.00) and a one time non-refundable filing fee of twenty-five dollars ($25.00) to the Commissioner if the applicant is a new employee of the firm.

(c) The applicant for a permit to install, inspect, repair, recharge, service or test pre-engineered industrial fire suppression systems has submitted evidence of employment by a firm properly licensed to install, inspect, service and test pre-engineered industrial fire suppression systems.

(d) The applicant for a permit to install, inspect, repair, recharge, service or test pre-engineered industrial fire suppression systems has submitted to the Commissioner the following required for processing of the permit:

1. A current color headshot digital photograph, taken with a three (3) Megapixel camera or better, and saved at the lowest resolution available in a jpeg or jpg format.

2. A completed signature form attached to the application containing three (3) individual signatures of the applicant within the designated areas. The signatures shall be a true representation of the applicant's normal signature and shall be in black ink using a medium point pen. Fine point pens shall not be acceptable.

(e) The applicant for a permit to install, inspect, repair, recharge, service or test pre-engineered industrial fire suppression systems has submitted to the Commissioner evidence of compliance with one of the following:

1. Current certification from the manufacturer of the pre-engineered industrial fire suppression system denoting the specific system and areas in which the applicant has been successfully trained and certified.

2. Notification from the National Institute of Certification in Engineering Technologies (NICET) denoting the successful completion of Level II,

Technician certification exam requirements for Special Hazards Suppression Systems.

3. Current certification as a Pre-Engineered Industrial Fire Extinguishing System Technician by the National Association of Fire Equipment Distributors (NAFED).

4. Current certification or testing by other nationally recognized organizations as deemed appropriate and acceptable by the Commissioner.

(f) Nothing shall preclude the Commissioner from verifying such evidence of notification, certification or testing as required in subparagraph (e).

(2) Any permit issued under the provisions of subparagraph (e)1. due to certification received from the manufacturer shall be considered a restricted permit to only allow the firm's permit holder(s) to install, inspect, service and test those pre-engineered industrial fire suppression systems whom certification is received and filed with the Commissioner under the firm's license. Such restricted permit shall not constitute any additional approvals as a permit for the installation, inspection servicing or testing of any other pre-engineered industrial fire suppression system regardless of the permit holder's qualifications.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.09
Authority: O.C.G.A. Secs. 25-2-4, 25-12-3, 25-12-7 to 25-12-13, 25-12-15, 33-2-9, 50-13-21.
History. Original Rule entitled "Disposition of Fees Collected; Authority to Receive Grants and Gifts"adopted. F. July 23, 1992; eff. Aug. 12, 1992.
Repealed: New Rule entitled "Requirements for Pre-Engineered Industrial Fire Suppression System Technician Permit"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.10. Requirements for Engineered Special Hazard Fire Suppression System License.

(1) A firm may obtain a license to install, inspect, repair, recharge, service or test engineered special hazard fire suppression systems upon meeting the following requirements:

(a) The applicant for a license to install, inspect, service and test engineered special hazard fire suppression systems has completed an application form acceptable to the Commissioner.

(b) The applicant for a license to install, inspect, service and test engineered special hazard fire suppression systems has paid an annual license fee of fifty dollars ($50.00) and a one time non-refundable filing fee of fifty dollars ($50.00) to the Commissioner.

(c) The applicant for a license to install, inspect, service and test engineered special hazard fire suppression systems has submitted evidence of the firm's registration as a current Georgia Corporation.

(d) The applicant for a license to install, inspect, service and test engineered special hazard fire suppression systems has submitted to the Commissioner a certificate of liability insurance listing the physical address of the business that provides proof of a valid comprehensive liability insurance policy purchased from an insurer or surplus lines broker authorized to do business in Georgia. The certificate of liability insurance shall list the Insurance Commissioner as the certificate holder to the address of the Safety Fire Division, 2 Martin Luther King Drive, 620 West Tower, Atlanta, GA 30334. The coverage must include bodily injury and property damage, products liability, completed operations, and contractual liability. The minimum amount of said coverage shall be one million dollars ($1,000,000.00), provided, however, the amount of insurance required may be higher if so specified by the Commissioner. An insurer which provides such coverage shall notify the Commissioner of any change in coverage.

(e) The applicant for a license to install, inspect, service and test engineered special hazard fire suppression systems has submitted to the State Fire Marshal's Office the following:

1. A letter on company letter head indicating the areas the company intends to provide services.

2. A minimum of three (3) samples of all service tags, maintenance labels, test labels, non-compliance tags and high pressure cylinder stamps to be used by the company as indicated by the above service letter received, meeting the requirements of Rule 120-3-23-.14. Where stamps are allowed to utilized, ink stamped impressions showing the applicants DOT (RIN) number shall be submitted with a copy of the firm's DOT approvals and renewals. Tags and labels may be printed and established for any period of time. However, after each printing, a minimum of three newly printed sample tags and labels must be forwarded to the State Fire Marshal's office as indicated in this paragraph and under Rule 120-3-23-.14.

(f) The applicant for a license to install, inspect, service or test engineered industrial fire suppression systems has submitted to the Commissioner evidence of compliance with one of the following:

1. The applicant has maintained a valid permit issued by the Commissioner to install, inspect, service or test engineered industrial fire suppression systems for a minimum of a three year period; or,

2. Proof of one full time employee of the firm that has maintained a valid permit issued by the Commissioner to install, inspect, service or test

engineered industrial fire suppression systems for a minimum of a three year period.

Exception to (f): Applicants that meet the provisions of subparagraph (g)1. or subparagraph (g)7. denoted below.

(g) The applicant for a license to install, inspect, service and test engineered special hazard fire suppression systems has submitted to the Commissioner evidence of compliance with one of the following:

1. Current certification from the manufacturer of the engineered special hazard fire suppression system denoting the specific system and areas in which the applicant has been successfully trained and certified.

2. Notification from the National Institute of Certification in Engineering Technologies (NICET) denoting certification at or above Level IV in Special Hazards Suppression Systems.

3. Current certification or testing by other nationally recognized organizations as deemed appropriate and acceptable by the Commissioner; or

4. Notification from the National Institute of Certification in Engineering Technologies (NICET) denoting the successful completion of Level III, Technician certification exam requirements for Special Hazards Suppression Systems and has maintained a current license for the past five years.

5. Proof of one full time employee of the firm with documentation of current certification from the manufacturer of the engineered special hazard fire suppression system denoting the specific system and areas in which the full time employee has been successfully trained and certified.

6. Proof of one full time employee of the firm with documentation of notification from the National Institute of Certification in Engineering Technologies (NICET) denoting certification at or above Level IV in Special Hazards Suppression Systems.

7. Proof of one full time employee of the firm with documentation of current certification or testing by other nationally recognized organizations as deemed appropriate and acceptable by the Commissioner.

8. Proof of one full time employee of the firm with documentation of notification from the National Institute of Certification in Engineering Technologies (NICET) denoting the successful completion of Level III, Technician certification exam requirements for Special Hazards

Suppression Systems and has maintained a current license for the past five years.

(h) An inspection by means as determined by the Commissioner has determined that the minimum equipment listed below for the activities the applicant requested to be licensed to perform was present at the service location and/or in each mobile service vehicle utilized by the firm.

1. Proper wrenches with non-serrated jaws or strap wrenches.

2. Non-serrated needle nose pliers or valve puller.

3. Inspection light suitable for internal inspection of engineered special hazard fire suppression system cylinders.

4. Accurate weighing scales in pounds increments for engineered special hazard fire suppression system cylinder inspection and filling.

5. Accurate weighing scales in ounce increments for engineered special hazard fire suppression system cartridge inspection and/or filling.

6. Fixed vise appropriately sized for its intended use.

7. A supply of extinguishing agent(s) or compatibly listed agent(s) appropriate for the types of engineered special hazard fire suppression systems the firm requests to fill, and facilities for the proper storage of extinguishing agents as set forth by the specifications from the agent manufacturer.

8. Commercial dry nitrogen supply with a dew point of -60°F (-51°C) or lower (CGA nitrogen specification G10.1, grades D through P) and pressure regulator with supply and regulated pressure gages calibrated and suitable for properly pressurizing engineered special hazard fire suppression system.

9. Equipment shall be on hand at the stationary facility location for leak testing pressurized non-CO_2 engineered special hazard fire suppression system cylinders. A leak detector is acceptable. In addition, a spray bottle containing a soap solution for leak testing pressurized system cylinders or their installations.

10. A supply of adapters, fittings, tools and equipment required for properly servicing, repairing, maintaining and or recharging all engineered special hazard fire suppression systems the firm solicits or accepts for service, repair, maintenance or recharge. These needs shall be based on the service or recharge specifications of the engineered special hazard fire suppression system manufacturer and is not intended to prohibit the use of compatibly

listed parts meeting the specifications of the engineered special hazard fire suppression system manufacturer.

11. Closed recovery system(s) and storage to remove and store dry chemicals and/or clean agent where required by the manufacturer from engineered special hazard fire suppression system cylinders during servicing.

12. Inventory of manufacturer or compatibly listed spare parts to include system detector and control parts as applicable for all engineered special hazard fire suppression systems the firm solicits or accepts for service, repair, maintenance or recharge based on the service or recharge specifications of the systems manufacturer.

13. A copy of the applicable standards of the National Fire Protection Association currently adopted by the Commissioner, and copies of installation, service and maintenance manuals from the manufacturer of each make or brand of engineered special hazard fire suppression system the firm installs, services, recharges, repairs, or maintains.

14. A supply of required service, maintenance and test tags meeting the provisions of Rule 120-3-23-.14 of this Chapter.

15. Pipe threader and associated tools and dies.

16. Appropriate replacement cylinders for exchange if engineered special hazard fire suppression system cylinders are removed for service.

(i) If the applicant includes in the request for a license the request for hydrostatic testing of low pressure DOT or non-DOT regulated engineered special hazard fire suppression system cylinders, in addition to the appropriate minimum equipment listed in subparagraphs (h)1.-16., the applicant must possess low pressure hydro testing equipment as follows:

1. Appropriate, hydrostatic test equipment for low-pressure cylinders as well as manuals in accordance with DOT and the applicable NFPA Standards.

2. Approved drying method for low-pressure engineered special hazard fire suppression system cylinders after the hydrostatic test in accordance with DOT requirements and the applicable NFPA Standards.

3. Adequate safety cage for hydrostatic testing of low pressure engineered special hazard fire suppression system cylinders in accordance with DOT requirements and the applicable NFPA Standards.

4. Low-pressure hydrostatic test labels for DOT or non-DOT regulated engineered special hazard fire suppression system cylinders containing at least the minimum information required by paragraph (5) of Rule 120-3-23-.14 of this Chapter.

   Exception to (i): The provision in subparagraph (i) shall not to apply to a primary firm that accepts low-pressure engineered special hazard fire suppression system cylinders for hydrostatic testing by a secondary firm which is licensed and equipped to provide this service. The secondary firm actually hydrostatically testing the engineered special hazard fire suppression system cylinder must properly label the cylinder in conformance with paragraph (5) of Rule 120-3-23-.14 of this Chapter.

(j) If the applicant includes in the request for a license for the hydrostatic testing of high-pressure DOT regulated engineered special hazard fire suppression system cylinders, in addition to the appropriate minimum equipment listed in subparagraphs (h)1.-16., the applicant must submit with the application a copy of its DOT approvals and renewals.

Exception: The provision in subparagraph (j) shall not apply to a primary firm that accepts high-pressure engineered special hazard fire suppression system cylinders for hydrostatic testing by a secondary firm which is licensed and equipped to provide this service. The secondary firm actually hydrostatically testing the engineered special hazard fire suppression system cylinder must properly stamp the cylinder with their current DOT (RIN) number in conformance with this Chapter and DOT regulations.

(k) If the applicant includes in the request for a license activities that involve the transfer of clean agent engineered special hazard fire suppression agents, in addition to the minimum equipment listed in subparagraphs (h)1.-16., the applicant must have the following equipment:

1. Listed clean agent filling equipment/pumping station and/or closed recovery system at the clean agent recharge location only for each type of clean agent being utilized.

2. Chemical supply tank(s) for each type of clean agent extinguisher being serviced.

   Exception to (k): The provisions in (k) shall not apply to a primary firm that accepts Clean agent engineered special hazard fire suppression system cylinders for recharge by a secondary firm which is licensed and equipped to provide this service. The primary firm must properly tag the engineered

special hazard fire suppression system cylinders with their company tag in conformance with Rule 120-3-23-.14 of this Chapter.

(l) If the applicant includes in the request for a license the service, maintenance, repair or recharge of CO_2 engineered special hazard fire suppression systems the following equipment shall be provided at the service location(s) in addition to the appropriate minimum equipment listed in subparagraphs (h)1.-16., the applicant must have the following equipment:

1. CO_2 cascade system for proper filling of CO_2 engineered special hazard fire suppression system cylinders; or

2. An approved electric pump system for proper filling of CO_2 engineered special hazard fire suppression system cylinders; or

3. An approved pneumatic pump system for proper filling of CO_2 engineered special hazard fire suppression system cylinders; or

4. An alternate system for proper filling of CO_2 engineered special hazard fire suppression system cylinders based on new technology may be used provided the level of safety prescribed by the appropriate standard is not lowered and the system is approved by the Commissioner after being evaluated.

Exception to (l): The provisions in subparagraph (l) shall not apply to a primary firm that accepts CO_2 engineered special hazard fire suppression system cylinders for recharge by a secondary firm which is licensed and equipped to provide this service. The primary firm must properly tag the engineered special hazard fire suppression system cylinders with their company tag in conformance with Rule 120-3-23-.14 of this Chapter.

(m) Nothing shall preclude the Commissioner from verifying by an announced or unannounced re-inspection of the service location and/or in each mobile service vehicle utilized by the firm that such equipment listed and required in subparagraphs (h) through (l) exists and is readily available. The Commissioner may give the registered agent of the firm up to 30 days as deemed appropriate by him/her to correct any deficiencies discovered by such inspection. Furthermore, nothing shall preclude the Commissioner from verifying such evidence of notification, certification or testing as required in subparagraph (g) and experience as required in subparagraph (f).

(2) Any license issued under the provisions of subparagraph (g)1. or subparagraph (g)5. due to certification received from the manufacturer shall be considered a restricted license to only allow the firm and the permit holder(s) to install, inspect, service and test those engineered special hazard fire suppression systems whom certification is received and

filed with the Commissioner. Such restricted license shall not constitute any additional approvals as a license for the installation, inspection servicing or testing of any other engineered special hazard fire suppression system. In addition, such license will automatically restrict the firm's permit applicant(s) and permit holder(s) activities operating under the firm's license regardless of their qualifications.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.10
Authority: O.C.G.A. Secs. 25-2-4, 25-12-3, 25-12-7, 25-12-9 to 25-12-11, 25-12-13, 25-12-15, 33-2-9, 50-13-21.
History. Original Rule entitled "Effective Dates"adopted. F. July 23, 1992; eff. Aug. 12, 1992.
Repealed: New Rule entitled "Requirements for Engineered Special Hazard Fire Suppression System License"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.11. Requirements for Engineered Special Hazard Fire Suppression System Technician Permit.

(1) An individual may obtain a permit to install, inspect, repair, recharge, service or test engineered special hazard fire suppression systems upon meeting the following requirements:

(a) The applicant for a permit to install, inspect, repair, recharge, service or test engineered special hazard fire suppression systems has submitted a completed permit application form acceptable to the Commissioner.

(b) The applicant for a permit to install, inspect, repair, recharge, service, or test engineered special hazard fire suppression systems has paid an annual permit of twenty-five dollars ($25.00) and a one time non-refundable filing fee of twenty-five dollars ($25.00) to the Commissioner if the applicant is a new employee of the firm.

(c) The applicant for a permit to install, inspect, repair, recharge, service or test engineered special hazard fire suppression systems has submitted evidence of employment by a firm properly licensed to install, inspect, service and test engineered special hazard fire suppression systems.

(d) The applicant for a permit to install, inspect, repair, recharge, service or test engineered special hazard fire suppression systems has submitted to the Commissioner the following required for processing of the permit:

1. A current color headshot digital photograph, taken with a three (3) Megapixel camera or better, and saved at the lowest resolution available in a jpeg or jpg format.

2. A completed signature form attached to the application containing three (3) individual signatures of the applicant within the designated areas. The signatures shall be a true representation of the applicant's normal signature

and shall be in black ink using a medium point pen. Fine point pens shall not be acceptable.

(e) The applicant for a permit to install, inspect, repair, recharge, service or test engineered special hazard fire suppression systems has submitted to the Commissioner evidence of compliance with subparagraphs 1., 2., 3. or 4. Nothing shall preclude the Commissioner from verifying such evidence of certification or exam requirements.

1. Current certification from the manufacturer of the engineered special hazard fire suppression system denoting the specific system and areas in which the applicant has been successfully trained and certified; or

2. Notification from the National Institute for Certification in Engineering Technologies (NICET) denoting certification at or above Level III in Special Hazards Suppression Systems; or

3. Current certification or testing by other nationally recognized organizations as deemed appropriate and acceptable by the Commissioner; or

4. Notification from the National Institute of Certification in Engineering Technologies (NICET) denoting the successful completion of Level II, Technician certification exam requirements for Special Hazards Suppression Systems and has maintained a current permit for the past five years.

(f) Nothing shall preclude the Commissioner from verifying such evidence of notification, certification or testing as required in subparagraph (e).

(2) Any permit issued under the provisions of subparagraph (e)1 due to certification received from the manufacturer shall be considered a restricted permit to only allow the firm's permit holder(s) to install, inspect, service and test those engineered special hazard fire suppression systems whom certification is received and filed with the Commissioner under the firm's license. Such restricted permit shall not constitute any additional approvals as a permit for the installation, inspection, servicing or testing of any other engineered special hazard fire suppression system regardless of the permit holder's qualifications.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.11
Authority: O.C.G.A. Secs. 25-2-4, 25-12-3, 25-12-8 to 25-12-10, 25-12-12, 25-12-13, 25-12-15, 33-2-9, 50-13-21.
History. Original Rule entitled "Severability"adopted. F. July 23, 1992; eff. Aug. 12, 1992.
Repealed: New Rule entitled "Requirements for Engineered Special Hazard Fire Suppression System Technician Permit"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.12. Requirements for Technician Training Provisional Permit.

To provide for a training program, an individual may obtain a provisional permit. Such permit shall not permit an individual to install, inspect, recharge, repair, service or test fire suppression systems or portable fire extinguishers without the direct and immediate supervision of a person whom is properly permitted by the Commissioner to install, inspect, recharge, repair, service or test fire suppression systems or portable fire extinguishers. A provisional permit may be issued to an applicant upon meeting the following requirements:

(a) The applicant for a provisional permit to install, inspect, repair, recharge, service or test portable fire extinguishers, pre-engineered kitchen fire suppression systems, pre-engineered industrial fire suppression systems and/or engineered special hazard fire suppression systems under the direct and immediate supervision of a person whom is properly permitted by the Commissioner has submitted a completed provisional permit application form acceptable to the Commissioner.

(b) The applicant for a provisional permit to install, inspect, repair, recharge, service or test portable fire extinguishers, pre-engineered kitchen fire suppression systems, pre-engineered industrial fire suppression systems and/or engineered special hazard fire suppression systems under the direct and immediate supervision of a person whom is properly permitted by the Commissioner has paid an annual permit of twenty-five dollars ($25.00) for each permit type and a one time non-refundable filing fee of twenty-five dollars ($25.00) to the Commissioner if the applicant is a new employee of the firm.

(c) The applicant for a provisional permit to install, inspect, repair, recharge, service or test portable fire extinguishers, pre-engineered kitchen fire suppression systems, pre-engineered industrial fire suppression systems and/or engineered special hazard fire suppression systems under the direct and immediate supervision of a person whom is properly permitted by the Commissioner has submitted evidence of employment by a firm properly licensed to install, inspect, service and test portable fire extinguishers, pre-engineered kitchen fire suppression systems, pre-engineered industrial fire suppression systems and/or engineered special hazard fire suppression systems.

(d) The applicant for a permit to install, inspect, repair, recharge, service or test portable fire extinguishers, pre-engineered kitchen fire suppression systems, pre-engineered industrial fire suppression systems and/or engineered special hazard fire suppression systems under the direct and immediate supervision of a person whom is properly permitted by the Commissioner has submitted to the Commissioner the following required for processing of the permit:

1. A current color headshot digital photograph, taken with a three (3) Megapixel camera or better, and saved at the lowest resolution available in a jpeg or jpg format.

2. A completed signature form attached to the application containing three (3) individual signatures of the applicant within the designated areas. The signatures shall be a true representation of the applicant's normal signature and shall be in black ink using a medium point pen. Fine point pens shall not be acceptable.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.12
Authority: O.C.G.A. Secs. 25-12-3, 25-12-4, 25-12-8 to 25-12-10, 25-12-12, 25-12-13, 25-12-15, 33-2-9, 50-13-21.
History. Original Rule entitled "Requirements for Technician Training Provisional Permit"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.13. Adopted Codes and Standards.

(1) Any portable fire extinguisher s required by any state law, state rule or regulation or by any locally adopted law, ordinance, code or standard must be installed, inspected, repaired, recharged, serviced, or tested only by a properly licensed firm and permitted technician in accordance with the applicable state law, state rule or regulation or any locally adopted law, ordinance, code or standard.

(2) Any fire suppression system s required by any state law, state rule or regulation or by any locally adopted law, ordinance, code or standard must be installed, inspected, repaired, recharged, serviced, or tested only by a properly licensed firm and permitted technician in accordance with the applicable state law, state rule or regulation or any locally adopted law, ordinance, code or standard except as otherwise provided for in this Chapter.

(3) Any portable fire extinguisher or any fire suppression system service record tag shall meet the provisions of paragraphs (2) and (3) of Rule 120-3-23-.14 and shall also have noted on it the following by the service technician:

(a) The agent weight.

(b) The hydrostatic testing due date for the cylinder as applicable.

(4) Any portable fire extinguisher that has not been maintained in accordance with NFPA 10 or any fire suppression system that has not been maintained in its original design capacity or any fire suppression system that has been expanded to meet an expanded hazard without meeting the manufacturer's installation requirements shall be tagged with a non-compliance tag meeting the provisions of paragraph (7) of Rule 120-3-23-.14. Records of inspections, tests, and maintenance of the system(s) and its components shall be made available to the authority having jurisdiction by the following methods:

(a) Maintained at the firm's business address for review by the authority having jurisdiction for a minimum period of two years.

(b) On non-compliant or impaired portable fire extinguishers and non-compliant or impaired fire suppression systems, a copy of the inspection report shall be forwarded to the authority having jurisdiction by the firm.

(5) The fire suppression system control panels requiring batteries shall note battery replacement due date on the service tag as applicable. The control panel batteries shall also be marked in permanent marking ink with the date of the battery installation.

(6) **NFPA 10, *Standard for Portable Fire Extinguishers***

Modifications:

(a) Refer to Chapter 120-3-3, Rules and Regulations of the Safety Fire Commissioner for adopted edition and any modifications.

(7) **NFPA 11, *Standard for Low-, Medium-, and High-Expansion Foam***

Modifications:

(a) Refer to Chapter 120-3-3, Rules and Regulations of the Safety Fire Commissioner for adopted edition and any modifications.

(8) **NFPA 12, *Standard on Carbon Dioxide Extinguishing Systems***

Modifications:

(a) Refer to Chapter 120-3-3, Rules and Regulations of the Safety Fire Commissioner for adopted edition and any modifications.

(9) **NFPA 12A, *Standard on Halon 1301 Fire Extinguishing Systems***

Modifications:

(a) Refer to Chapter 120-3-3, Rules and Regulations of the Safety Fire Commissioner for adopted edition and any modifications.

(10) **NFPA 17, *Standard for Dry Chemical Extinguishing Systems***

Modifications:

(a) Refer to Chapter 120-3-3, Rules and Regulations of the Safety Fire Commissioner for adopted edition and any modifications.

(11) **NFPA 17A, *Standard for Wet Chemical Extinguishing Systems***

Modifications:

(a) Refer to Chapter 120-3-3, Rules and Regulations of the Safety Fire Commissioner for adopted edition and any modifications.

(12) **NFPA 18, *Standard on Wetting Agents***

Modifications:

(a) Refer to Chapter 120-3-3, Rules and Regulations of the Safety Fire Commissioner for adopted edition and any modifications.

(13) **NFPA 96, *Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations***

Modifications:

(a) Refer to Chapter 120-3-3, Rules and Regulations of the Safety Fire Commissioner for adopted edition and any modifications.

(14) **NFPA 2001, *Standard on Clean Agent Fire Extinguishing Systems***

Modifications:

(a) Refer to Chapter 120-3-3, Rules and Regulations of the Safety Fire Commissioner for adopted edition and any modifications.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.13
Authority: O.C.G.A. Secs. 25-2-4, 25-12-15, 33-2-9, 50-13-21.
History. Original Rule entitled "Adopted Codes and Standards"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.14. Specifications for Service Tags, Maintenance Labels, Test Labels, Service Collars, Non-Compliance Tags and High Pressure Cylinder Stamp Filing Requirements.

(1) A basic service record tag is required to be attached on all portable fire extinguishers or any fire suppression systems required by any state law, state rule or regulation or by any locally adopted law, ordinance, code or standard.

(2) A new service record tag shall be attached to each portable fire extinguisher and to each fire suppression system by a wire, plastic retainer, or be self adhering when a new portable fire extinguisher or fire suppression system is put into service or each time any service is performed. The tags which are affixed directly to the portable fire extinguisher shell or to a fire suppression system cylinder by adhesion shall be applied to the back of such units so as not to obstruct or interfere with the manufacturer's instructions or existing labels. Where a multiple cylinder fire suppression system is involved, the tag

requirements shall apply to each cylinder, each control head, each hand pull and control panel where applicable. Basic service record tags may be printed and established for any period of time. After each printing, a minimum of three sample tags must be forwarded to the State Fire Marshal's office. A basic service record tags shall be light yellow in color at least three (3) inches by five and one-half (5 1/2) inches and shall contain the following information:

(a) Name of the firm installing or servicing the portable fire extinguisher.

(b) The street address of the firm installing or servicing the portable fire extinguisher.

(c) The mailing address of the firm installing or servicing the portable fire extinguisher if different from the street address.

(d) The phone number of the firm installing or servicing the portable fire extinguisher.

(e) The license number of the firm installing or servicing the portable fire extinguisher.

(f) The name and permit number of the technician who installed or serviced the portable fire extinguisher.

(g) Serial number of the portable fire extinguisher installed or serviced.

(h) Clear indication of the service performed on the portable fire extinguisher.

(i) Indication of the type of portable fire extinguisher involved.

(j) The month and year the service was performed.

(k) The words, "DO NOT REMOVE".

(3) A new service record tag shall be attached to each fire suppression system by a wire, plastic retainer, or be self adhering when a new fire suppression system is put into service or each time any service is performed. The tags which are affixed directly to the fire suppression system cylinder by adhesion shall be applied to the back of such units so as not to obstruct or interfere with the manufacturer's instructions or existing labels. Where a multiple cylinder fire suppression system is involved, the tag requirements shall apply to each cylinder, each control head, each hand pull and control panel where applicable. Basic service record tags may be printed and established for any period of time. After each printing, a minimum of three sample tags must be forwarded to the State Fire Marshal's office. A basic service record tags shall be light blue in color at least three (3) inches by five and one-half (5 1/2) inches and shall contain the following information:

(a) Name of the firm installing or servicing the fire suppression system.

(b) The street address of the firm installing or servicing fire suppression system.

(c) The mailing address of the firm installing or servicing the fire suppression system if different from the street address.

(d) The phone number of the firm installing or servicing the fire suppression system.

(e) The license number of the firm installing or servicing the fire suppression system.

(f) The name and permit number of the technician who installed or serviced the fire suppression system.

(g) Serial number of the cylinder(s) of a fire suppression system installed or serviced.

(h) Clear indication of the service performed on the fire suppression system.

(i) Indication of the type of fire suppression system involved.

(j) The month and year the service was performed.

(k) The words, "DO NOT REMOVE".

(4) A six-year maintenance label shall be required on each portable fire extinguisher or fire suppression system where such maintenance is required. The six-year maintenance label shall be affixed on the exterior of the portable fire extinguisher or fire suppression system cylinder(s). Each time the six-year service is performed, the previously affixed label shall be removed prior to affixing a new tag. This label shall not be used for recording hydrostatic test information. Six-year maintenance label may be printed and established for any period of time. After each printing, a minimum of three sample labels must be forwarded to the State Fire Marshal's office. The six-year maintenance label shall be a blue metallic, self-voiding decal and shall contain the following information:

(a) The name of the firm performing the six-year maintenance.

(b) The license number of the firm performing the six-year maintenance.

(c) The permit number of the technician performing the six-year maintenance.

(d) The initials of the technician performing the six-year maintenance.

(e) The month, day and year the six-year maintenance was performed.

(f) The words, "SIX-YEAR MAINTENANCE RECORD".

(5) A low-pressure hydrostatic test label shall be required on each portable fire extinguisher or fire suppression system where such test is required. The low-pressure hydrostatic test label shall be affixed on the exterior of the portable fire extinguisher or fire suppression system cylinder(s). Each time the low-pressure hydrostatic test is performed, the previously affixed label shall be removed prior to affixing a new tag. This label shall not

be used for recording six-year maintenance information. Low-pressure hydrostatic test tags may be printed and established for any period of time. After each printing, a minimum of three sample labels must be forwarded to the State Fire Marshal's office. The low-pressure hydrostatic test label shall be a silver metallic, self-voiding decal and shall contain the following information:

(a) The name of the firm performing the low-pressure hydrostatic test.

(b) The license number of the firm performing the low-pressure hydrostatic test.

(c) The permit number of the technician performing the low-pressure hydrostatic test.

(d) The initials of the technician performing the low-pressure hydrostatic test.

(e) The month, day and year the low-pressure hydrostatic test was performed.

(f) The words "LOW-PRESSURE HYDROSTATIC TEST RECORD".

(6) A verification of service collar shall be required to be located around the neck of each portable fire extinguisher each time the portable fire extinguisher is opened up for any type of maintenance or for any other service. A new verification of service collar shall be installed and the previously provided verification of service collar removed each time internal service is performed for any purpose. The verification of service collar shall not interfere with the operation of the portable fire extinguisher. Verification of service collars may be printed and established for any period of time. After each printing, a minimum of three sample collars must be forwarded to the State Fire Marshal's office. The verification of service collar shall be a singular piece of uninterrupted material forming a hole of a size that will not permit the collar assembly to move over the neck of the container unless the valve assembly of the portable fire extinguishers is completely removed and shall contain the following information:

(a) The name of the firm performing the internal service.

(b) The license number of the firm performing the internal service.

(c) The permit number of the technician performing the six-year maintenance.

(d) The initials of the technician performing the internal service.

(e) The month and year the internal service was performed.

Exception No. 1: Stored pressure system cylinders that have undergone maintenance before November 2007.

Exception No. 2: Non-stored pressure cylinders such as cartridge cylinders for cartridge-operated systems do not require a "Verification of Service"collar for the cartridge.

(7) A Non-compliance record tag shall be required on any fire extinguisher or fire suppression system that has not been maintained in its original design capacity or has been expanded to meet an expanded hazard without meeting the manufacturer's installation requirements. The non-compliance tag shall be attached to the fire extinguisher or fire suppression system by a wire or plastic retainer. These tags shall not be affixed directly to the extinguisher shell or to a system cylinder by adhesion. Where a multiple cylinder system is involved, the tag requirements shall apply to each cylinder, each control head, each hand pull and control panel as applicable. The non-compliance tag shall remain on the portable fire extinguisher or fire suppression system until it is in compliance with the applicable standards of the National Fire Protection Association referenced in Rule 120-3-23-.11. Non-compliance record tags may be printed and established for any period of time. After each printing, a minimum of three sample tags must be forwarded to the State Fire Marshal's office. A non-compliance record tag shall be red in color and shall be at least three (3) inches by five and one-half (5 1/2) inches and shall contain the following information:

(a) Name of the firm servicing the portable fire extinguisher or fire suppression system.

(b) The street address of the firm servicing the portable fire extinguisher or fire suppression system.

(c) The mailing address of the firm servicing the portable fire extinguisher or fire suppression system if different from the street address.

(d) The phone number of the firm servicing the portable fire extinguisher or fire suppression system.

(e) The license number of the firm servicing the portable fire extinguisher or fire suppression system.

(f) The name and permit number of the technician who serviced the portable fire extinguisher or fire suppression system.

(g) Serial number of the portable fire extinguisher or as appropriate, the cylinder(s) of a fire suppression system.

(h) Clear indication of the reason for the non-compliance on the portable fire extinguisher or fire suppression system.

(i) Indication of the type of portable fire extinguisher or fire suppression system involved.

(j) The month and year the service was performed.

(k) The words, "DO NOT REMOVE".

(8) All high pressure cylinders shall be stamped with the firms current DOT (RIN) number in accordance with and when required by DOT regulations. A copy of the firm's DOT approvals and renewals shall be provided with the application request for a license for the hydrostatic testing of any high-pressure DOT regulated cylinders.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.14
Authority: O.C.G.A. Secs. 25-12-15, 33-2-9, 50-13-21.
History. Original Rule entitled "Specifications for Service Tags, Maintenance Labels, Test Labels, Service Collars, Non-Compliance Tags and High Pressure Cylinder Stamp Filing Requirements"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.15. Cease and Desist Order Against Violators; Order Requiring Compliance; Suspension or Revocation of Licenses and Permits for Failure to Comply with Order; Penalties for Violations.

(1) Whenever the Commissioner shall have reason to believe that any individual is or has been engaged in any conduct in violation of any provision of Chapter 12 of Title 25 of the Official Code of Georgia, this Chapter or any other rule or regulation adopted and promulgated pursuant thereto, the Commissioner, his or her deputy, his or her assistant, or other designated persons may issue and deliver to the individual an order to cease and desist in such conduct in violation.

(a) An order of suspension shall state the period of time of such suspension, which period may not be in excess of two year from the date of such order.

(b) An order of revocation shall state the period of time of such revocation, which period may not be in excess of five years from the date of the order.

(c) Such order shall effect suspension or revocation of the license or permit then held by the person. During such period no license or permit shall be issued to such person.

(2) Any order shall contain or be accompanied by a notice of opportunity for hearing which may provide that a hearing will be held if and only if a person subject to the order requests a hearing within ten days of receipt of the order and notice. The order and notice shall be served by delivery by the Commissioner or his or her agent or by registered or certified mail, return receipt requested. Any person who fails to comply with any order under this subsection is guilty of a misdemeanor and may be punished by law.

(3) Violation of any provision of this chapter or the failure to comply with a cease and desist order is cause for denial, non-renewal, revocation or suspension of any license or permit issued by the Commissioner. No holder of a license or permit whose license or permit has been revoked or suspended by order of the Commissioner shall be entitled to obtain another license or permit for the period of revocation or suspension from the effective date of such order. If, during the period between the beginning of proceedings and the

entry of an order of suspension or revocation by the Commissioner, a new license or permit has been issued to the person so charged, the order of the Commissioner revoking or suspending a license or permit shall revoke or suspend any license or permit issued prior to the effective date of such order with respect to such new license or permit held by such person. Any final order issued by the Commissioner under this subsection may be appealed as provided by law.

(4) Any person who violates any provision of Chapter 12 of Title 25 of the Official Code of Georgia, this Chapter or any other rule, regulation, or order issued by the Commissioner under this chapter shall be subject to a civil penalty imposed by the Commissioner in the amounts as specified in O.C.G.A. § 25-12-18 for each day a violation persists after such person is notified of the Commissioner's intent to impose such penalty and the right to a hearing with respect to same.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.15
Authority: O.C.G.A. Secs. 25-12-15, 25-12-17 to 25-12-19, 33-2-9, 50-13-21.
History. Original Rule entitled "Cease and Desist Order Against Violators; Order Requiring Compliance; Suspension or Revocation of Licenses and Permits for Failure to Comply with Order; Penalties for Violations"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.16. Enforcement; Additional Grounds for Revocation or Suspension of Licenses and Permits.

(1) The violation of any provision of Chapter 12 of Title 25 of the Official Code of Georgia, this Chapter or any other rule or regulation adopted and promulgated pursuant thereto, by any person who possesses a license or permit is cause for revocation or suspension of such licenses or permit by the Commissioner.

(2) It shall be unlawful for any firm or individual to install, inspect, recharge, repair, service, or test a portable fire extinguisher, as defined by these rules and regulations in this state except in conformity with the provisions of Chapter 12 of Title 25 of the Official Code of Georgia, this Chapter, any current fire code or standard enforced by the Commissioner or regulation adopted and promulgated pursuant thereto,

(a) It shall be unlawful for any firm or individual to install, inspect, recharge, repair, service, or test a portable fire extinguisher in which the individual technician or firm is not properly licensed or permitted. Every licensee or permittee must be able to produce a valid license or valid permit, as appropriate, upon demand of the Commissioner or his representative or by any local authority having jurisdiction for fire protection or prevention or by any person for whom the licensee or permittee solicits to perform any of the activities covered by this Chapter.

(b) It shall be unlawful for any firm or individual to install, inspect, recharge, repair, service or test any portable fire extinguisher without attaching the required tag or tags as required by these this Chapter.

(c) It shall be unlawful for any individual not to complete the required tag or tags in detail, including the actual month, day and year the work was performed on the portable fire extinguisher.

(3) It shall be unlawful for any firm or individual to install, inspect, recharge, repair, service, or test any fire suppression system, as defined by these rules and regulations in this state except in conformity with the provisions of Chapter 12 of Title 25 of the Official Code of Georgia, this Chapter, any current fire code or standard enforced by the Commissioner or any other rule or regulation adopted and promulgated pursuant thereto,

(a) It shall be unlawful for any firm or individual to install, alter, inspect, recharge, repair, service, or test a fire suppression system in which the individual technician or firm is not properly licensed or permitted. Every licensee or permittee must be able to produce a valid license or valid permit, as appropriate, upon demand of the Commissioner or his representative or by any local authority having jurisdiction for fire protection or prevention or by any person for whom the licensee or permittee solicits to perform any of the activities covered by this Chapter.

(b) It shall be unlawful for any firm or individual to install, alter, inspect, recharge, repair, service or test any fire suppression system without attaching the required tag or tags as required by this Chapter.

(c) It shall be unlawful for any individual not to complete the required tag or tags in detail, including the actual month, day and year the work was performed on the fire protection system.

(4) It shall be unlawful for any firm or individual to use a tag not meeting the specifications set forth in this Chapter under Rule 120-3-23-.14.

(5) It shall be unlawful for any firm or individual to use credentials, methods, means, or practices to impersonate a representative of another competing firm.

(6) It shall be unlawful for any firm or individual to fail to maintain the minimum comprehensive liability insurance coverage as set forth in paragraph (3) of section 25-12-11 of Chapter 12 of Title 25 of the Official Code of Georgia and in this Chapter.

(7) It shall be unlawful for any firm or individual to falsify any record required to be maintained by Chapter 12 of Title 25 of the Official Code of Georgia, NFPA code or standard or this Chapter.

(8) It shall be unlawful for any individual with a provisional permit to install, inspect, recharge, repair, service or test a fire suppression system s or portable fire extinguisher s without the direct and immediate supervision of a person whom is properly permitted by the Commissioner to install, inspect, recharge, repair, service or test such fire suppression system or portable fire extinguisher.

(9) In addition to the grounds set forth above in paragraphs (1) through (8), it is specific cause for revocation or suspension of an individual's license by the Commissioner if he determines that an individual who works for the licensee has:

(a) Improperly installed, recharged, repaired, serviced, or tested a portable fire extinguisher;

(b) Rendered inoperative a portable fire extinguisher covered by these rules and regulations, except during a reasonable time the portable fire extinguisher is being inspected, recharged, repaired, serviced, or tested;

(c) Improperly installed, added to, altered, recharged, repaired, maintained, serviced, or tested a fire suppression system;

(d) Rendered inoperative a fire suppression system covered by these rules and regulations, except during a reasonable time the fire suppression system is being installed, altered, recharged, repaired, maintained, serviced, or tested;

(e) Falsified any record required to be maintained by any provision of Chapter 12 of Title 25 of the Official Code of Georgia, this Chapter, current fire code or standard enforced by the Commissioner or any other rule or regulation s promulgated pursuant thereto;

(f) While holding a permit or license, allowed another person to use the permit or license, permit number or license number, used a license or permit, or used a license number or permit number other than his/her own valid license or permit or license number or permit number;

(g) Used or permitted the use of any license or license number by an individual or organization other than his/her own valid license or license number;

(h) Used or permitted the use of any permit or permit number by an individual or organization other than his/her own valid permit or permit number;

(i) Used credentials, methods, means, or practices to impersonate a representative of the Commissioner or the State Fire Marshal or any other local fire chief, fire marshal, or other fire authority having jurisdiction;

(j) Failed to maintain the minimum comprehensive liability insurance coverage as set forth in paragraph (3) of section 25-12-11 of Chapter 12 of Title 25 of the Official Code of Georgia and in these rules and regulations.

(k) Failed to maintain the minimum requirements to obtain a license.

(l) Engaged in the business of installing, inspecting, recharging, repairing, servicing, or testing portable fire extinguishers or fire suppression systems except in

conformity with the provisions of Chapter 12 of Title 25 of the Official Code of Georgia and this Chapter.

(10) In addition to the grounds set forth above in paragraphs (1) through (8), it is specific cause for revocation or suspension of an individual's permit by the Commissioner, if he/she determines that the permit holder has:

(a) Improperly installed, recharged, repaired, serviced, or tested a portable fire extinguisher;

(b) Rendered inoperative a portable fire extinguisher covered by these rules and regulations, except during a reasonable time the portable fire extinguisher is being inspected, recharged, repaired, serviced, or tested;

(c) Improperly installed, altered, recharged, repaired, maintained, serviced, or tested a fire suppression system;

(d) Rendered inoperative a fire suppression system covered by these rules and regulations, except during a reasonable time the fire suppression system is being installed, altered, recharged, repaired, maintained, serviced, or tested;

(e) Falsified any record required to be maintained by Chapter 12 of Title 25 of the Official Code of Georgia, this Chapter, current fire code or standard enforced by the Commissioner or any other rule or regulation;

(f) While holding a permit or license, allowed another person to use the permit or license, permit number or license number, used a license or permit, or used a license number or permit number other than his/her own valid license or permit or license number or permit number;

(g) Used or permitted the use of any license or license number by an individual or organization other than his/her own valid license or license number;

(h) Used or permitted the use of any permit or permit number by an individual or organization other than his/her own valid permit or permit number;

(i) Used any credential(s), method(s), means, or practice(s) to impersonate a representative of the Commissioner or State Fire Marshal or any local fire chief, fire marshal, or other fire authority;

(j) Failed to maintain the minimum requirements to obtain a permit.

(k) Engaged in the business of installing, inspecting, recharging, repairing, servicing, or testing portable fire extinguishers or fire suppression systems except in conformity with the provisions of Chapter 12 of Title 25 of the Official Code of Georgia and this Chapter.

(11) Any person, firm or corporation shall be guilty of a misdemeanor if or when they willfully or intentionally:

(a) Violate any provision of Chapter 12 of Title 25 of the Official Code of Georgia, this Chapter, current fire code or standard enforced by the Commissioner or any order, rule, or regulation of the Commissioner promulgated pursuant thereto;

(b) Obliterate the serial number on a fire suppression system or portable fire extinguisher for the purpose of falsifying service records;

(c) Improperly install, recharge, repair, service, or test any such fire suppression system or any such portable fire extinguisher;

(d) Allow another person to use their permit, license, permit number or license number;

(e) Use or permitted the use of any license, permit, license number or permit number by an individual or organization other than his/her own valid license or permit or license number or permit number;

(f) Use or permitted the use of any license, permit, license number or permit number by an individual or organization other than the one to whom the license is issued;

(g) Use any credential(s), method(s), mean(s), or practice(s) to impersonate a representative of the Commissioner or State Fire Marshal or any local fire chief, fire marshal, or other fire authority; or

(h) Engage in the business of installing, inspecting, recharging, repairing, servicing, or testing portable fire extinguishers or fire suppression systems except in conformity with the provisions of Chapter 12 of Title 25 of the Official Code of Georgia and this Chapter.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.16
Authority: O.C.G.A. Secs. 25-2-17, 25-2-18, 25-12-15, 25-12-19, 33-2-9, 50-13-21.
History. Original Rule entitled "Enforcement; Additional Grounds for Revocation or Suspension of Licenses and Permits"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.17. Local Jurisdictions.

(1) Nothing in Chapter 12 of Title 25 of the Official Code of Georgia or in these rules and regulations limits the power of a municipality, a county, or the state to require the submission and approval of plans and specifications or to regulate the quality and character of work performed by contractors through a system of permits, fees, and inspections otherwise authorized by law for the protection of the public health and safety.

(2) No municipality or county shall impose any other requirements on persons licensed or permitted by the Commissioner as set forth in Chapter 12 of Title 25 of the Official Code of Georgia to prove competency to conduct any activity covered by said license or permit.

(3) The provisions of this chapter do not apply to fire chiefs, fire marshals, fire inspectors, or insurance company inspectors with regard to the routine visual inspection of fire suppression systems or portable fire extinguishers.

(4) The provisions of these rules and regulations do not apply to any firm that engages only in the routine visual inspection of fire suppression systems or portable fire extinguishers owned by the firm and installed on property under the control of said firm. Any individual employed by a firm or governmental entity that engages in installing, inspecting, recharging, repairing, servicing, or testing of portable fire extinguishers or fire suppression systems owned by the firm and installed on property under the control of said firm shall remain subject to the rules and regulations adopted pursuant to this Chapter.

(5) The fees required by this chapter shall not apply to employees of federal, state, or local governments or to members of legally organized fire departments while acting in their official capacities.

(6) Any official of any municipality or county who discovers violations or receives complaints should report the information to the Safety Fire Division of the Commissioner of Insurance.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.17
Authority: O.C.G.A. Secs. 25-12-6, 25-12-15, 33-2-9, 50-13-21.
History. Original Rule entitled "Local Jurisdictions"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.18. Delegation of Authority by the Commissioner.

Any authority, power, duty or duty vested in the Commissioner by a provision of Chapter 12 of Title 25 of the Official Code of Georgia may be exercised, discharged, or performed by a deputy, assistant, or other designated employee acting in the Commissioner's name and by his delegated authority.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.18
Authority: O.C.G.A. Secs. 25-12-15, 25-12-20, 33-2-9, 50-13-21.
History. Original Rule entitled "Delegation of Authority by the Commissioner"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.19. Failure to Renew Certificate, Permit or License.

The failure to renew a certificate or license by the expiration date as set forth in this chapter will cause the certificate or license to become inoperative. A certificate or license which is inoperative because of the failure to renew, shall be restored upon payment of all applicable fees

plus a penalty of not more than $250.00 if said fees are paid within ninety days of expiration. After a certificate or license has been inoperative for a period of greater than ninety days because of a failure to renew, no new certificate or license shall be issued unless an initial application is made.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.19
Authority: O.C.G.A. Secs. 25-12-9, 25-12-15, 25-12-18, 33-2-9, 50-13-21.
History. Original Rule entitled "Failure to Renew Certificate, Permit or License"adopted. F.Oct. 11, 2007; eff. Oct. 31, 2007; eff. .

Rule 120-3-23-.20. Request for Modification of Specific Requirements.

Upon receipt of a sworn affidavit stating all relevant facts and circumstances and such other information as may be required, the State Fire Marshal may recommend to the Georgia Safety Fire Commissioner that specific requirements of this Chapter and the codes and standards adopted herein be modified to allow alternative arrangements that will secure as nearly equivalent measures as practical for the prevention of injury to persons and property. The Georgia Safety Fire Commissioner in his or her discretion may accept the State Fire Marshal's recommendation and grant the requested modification.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.20
Authority: O.C.G.A. Secs. 25-12-15, 25-12-20, 33-2-9, 50-13-21.
History. Original Rule entitled "Request for Modification of Specific Requirements"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007..

Rule 120-3-23-.21. Effective Dates.

The provisions of Chapter 12 of Title 25 of the Official Code of Georgia became effective on July 1, 1991. The issuance of licenses and permits required by Chapter 12 under these revised Rules and Regulations shall be in full compliance with this Chapter upon its effective date.

Exception No. 1. For renewal of current licenses and current permits issued prior to January 1, 2008, successful passage of the current state testing for portable fire extinguishers and pre-engineered restaurant fire suppression system will be accepted as compliance with paragraph (g) under Rule 120-3-23-.04, paragraph (e) under Rule 120-3-23-.05, paragraph (g) under Rule 120-3-23-.06, and paragraph (e) under Rule 120-3-23-.07. State testing under reprinted NAFED test for compliance requirements for licenses and permits shall cease by September 1, 2008. Effective October 1, 2008, applicants who previously relied on state testing will be required to instead seek certification from NAFED or to otherwise comply with the requirements of these regulations, as amended.

Exception No. 2: For renewal of current licenses and current permits issued prior to January 1, 2008, for pre-engineered industrial fire suppression systems and engineered special hazard fire successful systems, a maximum of 4 hours in each area of approved training or other training acceptable to this office will be accepted for compliance with paragraph (5) under Rule 120-3-

23-.03 if received after January 1, 2005, but prior to January 1, 2007. Any training hours previously approved by this office received after January 1, 2007, will receive full credit hours for appropriate and approved training for compliance with paragraph (5) under Rule 120-3-23-.03.

Exception No. 3: For renewal of current licenses and current permits issued prior to October 1, 2007, for engineered fire suppression systems under the existing company name, compliance with paragraph (g)4. under Rule 120-3-23-.10and(e)4. under Rule 120-3-23-.11 is not required provided the current company licenses and its technicians current permits have been maintained and have not lapse from the date issued. A maximum of 4 hours of approved training or other training acceptable to this office will be accepted for compliance with paragraph (5) under Rule 120-3-23-.03 if received after January 1, 2005, but prior to January 1, 2007, for the renewal of current licenses and current permits for engineered fire suppression systems. Any training hours previously approved by this office received after January 1, 2007, will receive full credit hours for appropriate and approved training for compliance with paragraph (5) under Rule 120-3-23-.03.

Exception No. 4: The service record tag requirement of paragraph (3) of Rule 120-3-23-.14 shall be effective upon the adoption of this Chapter with the exception of the new color blue. Blue service record tag requirements of paragraph (3) of Rule 120-3-23-.14 shall be effective January 1, 2009. All companies will be required to submit blue service record tags by January 1, 2009, even if they have received a license for the 2009 calendar year. A yellow service record tag meeting the requirements of paragraph (3) of Rule 120-3-23-.14 will be acceptable for any system serviced before January 1, 2009.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.21
Authority: O.C.G.A. Secs. 25-12-15, 33-2-9, 50-13-21.
History. Original Rule entitled "Effective Dates"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.22. Notes.

(1) The codes, standards and recommended practices of the National Fire Protection Association (NFPA) adopted in this Chapter are on file in the Office of the State Fire Marshal and are available for viewing.

(2) Copies of the National Fire Protection Association publications may be purchased from:

National Fire Protection Association

1 Batterymarch Park

Quincy, MA 02169-7471

Tele (888) 344-3555

Fax (617) 770-0700

www.nfpa.org

(3) Copies of NICET publications and information are available from:

National Institute for Certification in Engineering Technology

1420 King Street

Tele (888)-IS-NICET

www.nicet.org

(4) NAFED publications and information are available from:

National Association of Fire Equipment Distributors

104 South Michigan Avenue, Suite 300

Chicago, IL 60603

Tele (312) 263-8100

Fax (312) 263-8111

www.nafed.org

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.22
Authority: O.C.G.A. Secs. 25-12-15, 33-2-9, 50-13-21.
History. Original Rule entitled "Notes"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Rule 120-3-23-.23. Severability.

If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and the applicability of such provisions shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-3-23-.23
Authority: O.C.G.A. Secs. 25-12-15, 33-2-9, 50-13-21.
History. Original Rule entitled "Severability"adopted. F. Oct. 11, 2007; eff. Oct. 31, 2007.

Subject 120-3-24. RULES AND REGULATIONS FOR LOSS PREVENTION DUE TO COMBUSTIBLE DUST EXPLOSIONS AND FIRE.

Rule 120-3-24-.01. Promulgation and Purpose.

(1) These rules and regulations of the Safety Fire Commissioner entitled, "Rules and Regulations for the State Minimum Fire Safety Standards for Loss Prevention Due to Combustible Dust Explosions and Fire,"are promulgated as specified in the Official Code of Georgia Annotated, (O.C.G.A.) Section 25-2-4.

(2) The primary purpose of these rules and regulations is to establish the state minimum fire safety standards for specific industry groups that have experienced either frequent combustible dust incidents or combustible dust incidents with catastrophic consequences and prescribe technical requirements related to building construction and to provide safety measures for operations to prevent and mitigate fires and dust explosions in facilities that handle combustible particulate solids. It further develops requirements for the training of employees to assist them in identifying fire hazards, developing safety procedures, evacuation plans, conducting safety drills and requires the reporting of manufacturing processes, incidents of fire, employee training, the practice of and participation in fire safety and emergency evacuation drills.

Cite as Ga. Comp. R. & Regs. R. 120-3-24-.01
Authority: O.C.G.A. Secs. 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Promulgation and Purpose"adopted as ER. 120-3-24-0.8-.01. F. Mar. 7, 2008; eff. Mar. 6, 2008, as specified by the Agency.
Amended: ER. 120-3-24-0.11-.01 adopted. F. and eff. July 2, 2008, the date of adoption.
Amended: ER. 120-3-24-0.12-.01 adopted. F. and eff. Oct. 29, 2008, the date of adoption.
Amended: ER. 120-3-24-0.13-.01 adopted. F. Feb. 26, 2009; eff. Feb 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.14-.01 adopted. F. and eff. June 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.15-.01 adopted. F. and eff. Oct. 19, 2009, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.

Rule 120-3-24-.02. Application.

(1) (a) Pursuant to O.C.G.A. 25-2-4, rules and regulations adopted by the Safety Fire Commissioner shall have the force and effect of law and shall have statewide application as being the state minimum fire safety standards and shall not require adoption by a municipality or county. The governing authority of any municipality or county in this state is authorized to enforce the state minimum fire safety standards on all buildings and structures that have operations involving the manufacturing, processing, and/or handling combustible particulate solids including manufacturing processes that create combustible dust for those specific industry groups that have experienced either frequent combustible dust incidents or combustible dust incidents with catastrophic consequences and are identify by the Standard Industrial Classification (SIC) Code listed in (b) under this Rule. Regardless of enforcement by local governing authorities, any business which that has under its control, facilities where the manufacturing, processing, and/or

handling combustible particulate solids are taking place shall comply with this Chapter including those manufacturing processes that create combustible dust except as specified herein.

(b) For the purpose of this Chapter, operations involving the manufacturing, processing, and/or handling combustible particulate solids including manufacturing processes that create combustible dust for specific industry groups that have experienced either frequent combustible dust incidents or combustible dust incidents with catastrophic consequences are as follows:

SIC	NAICS	Industries with either frequent or catastrophic combustible dust incidents:
2046	**311221**	**Wet Corn Milling**
4911	**221112**	**Electric Services -- Establishments engaged in the generation, transmission, and/or distribution of electric energy for sale**
2041	**311211**	**Flour and Other Grain Mill Products**
2493	**321219**	**Reconstituted Wood Products**
2899	**325510, 325998**	**Chemicals and Chemical Preparations, Not Elsewhere Classified**
2099	**311212**	**Prepared foods and miscellaneous food specialties, not elsewhere classified**
3471	**332813**	**Electroplating, Plating, Polishing, Anodizing, and Coloring**
3341	**331314**	**Secondary Smelting and Refining of Nonferrous Metals**
2834	**325412**	**Pharmaceutical Preparations**
2499	**321920, 321219**	**Wood Products, Not Elsewhere Classified**
2421	**321113**	**Sawmills and Planing Mills, General**
2062	**311312**	**Cane Sugar Refining**
2063	**311313**	**Beet Sugar (Establishments primarily engaged in manufacturing sugar from sugar beets.**
3061	**326291**	**Molded, Extruded, and Lathe-Cut Mechanical Rubber Goods**
3714	**336322**	**Motor Vehicle Parts and Accessories**
3365	**331524**	**Aluminum Foundries**
723	**115114, 115111**	**Crop Preparation Services for Market, Except Cotton Ginning**
2052	**311821**	**Fresh cookies, crackers, pretzels, and similar "dry"bakery products**

2087	**311930**	**Flavoring extracts, syrups, powders, and related products, not elsewhere classified**
2221	**313210**	**Broadwoven Fabric Mills, Manmade Fiber and Silk**
2262	**313311**	**Finishers of Broadwoven Fabrics of Manmade Fiber and Silk**
2299	**313111**	**Textile Goods, Not Elsewhere Classified**
2431	**321911**	**Millwork**
2434	**33711**	**Wood Kitchen Cabinets**
2439	**321213, 321214**	**Structural Wood Members, Not Elsewhere Classified**
2452	**321992**	**Prefabricated Wood Buildings and Components**
2511	**337122**	**Wood Household Furniture, Except Upholstered**
2591	**337920**	**Drapery Hardware and Window Blinds and Shades**
2819	**325188, 325998, 331311**	**Industrial Inorganic Chemicals, Not Elsewhere Classified**
2821	**325211**	**Plastic Materials, Synthetic Resins, and Nonvulcanizable Elastomers**
2823	**325221**	**Cellulosic Manmade Fibers**
2841	**325611**	**Soap and Other Detergents, Except Specialty Cleaners**
2851	**32551**	**Paints, Varnishes, Lacquers, Enamels, and Allied Products**
2861	**325191**	**Gum and Wood Chemicals**
3011	**326211**	**Tires and Inner Tubes**
3069	**326299**	**Fabricated Rubber Products, Not Elsewhere Classified**
3081	**326113**	**Unsupported Plastics Film and Sheet**
3082	**326121**	**Unsupported Plastics Profile Shapes**
3086	**326140, 326150**	**Plastics Foam Products**
3087	**325991**	**Custom Compounding of Purchased Plastics Resins**
3089	**326199**	**Plastics Products, Not Elsewhere Classified**
3291	**327910**	**Abrasive Products**
3313	**331312**	**Alumina and Aluminum Production and Processing**
3334	**331312**	**Primary Production of Aluminum**
3354	**331316**	**Aluminum Extruded Products**
3363	**331521**	**Aluminum Die-Castings**
3369	**331528**	**Nonferrous Foundries, Except Aluminum and Copper**
3398	**332811**	**Metal Heat Treating**

3441	**332431**	**Metal Cans**
3469	**332116**	**Metal Stampings, Not Elsewhere Classified**
3479	**332812**	**Coating, Engraving, and Allied Services, Not Elsewhere Classified**
3496	**332618**	**Miscellaneous Fabricated Wire Products**
3499	**332999**	**Fabricated Metal Products, Not Elsewhere Classified**
3548	**335129**	**Electric and Gas Welding and Soldering Equipment**
3644	**335932**	**Noncurrent-Carrying Wiring Devices**
3761	**336414**	**Guided Missiles and Space Vehicles**
3799	**333924**	**Transportation Equipment, Not Elsewhere Classified**
3995	**339995**	**Burial Caskets**
3999	**321999, 325998, 326199**	**Manufacturing Industries, Not Elsewhere Classified**
4221	**493130**	**Farm product warehousing and storage**
4952	**221320**	**Sanitary treatment facilities.**
4953	**562920**	**Refuse Systems**
5093	**423930**	**Scrap and waste materials**
5162	**424610**	**Plastics materials and basic forms and shapes**

(c) Notwithstanding paragraph (b), these regulations do not cover those operations and installation governed by other specific regulations promulgated for specific processes and purposes specified in Title 25 of the Official Code of Georgia. These regulations are not applicable to any building or structure which is used exclusively for agricultural purposes as defined in paragraph (4.1) of Code Section 1-3-3 of the Official Code of Georgia and which is located in an unincorporated area. Furthermore, this regulation shall not be applicable to any building or structure that is covered under the Federal regulations 29 CFR 1910.272, of the Occupational Safety and Health Administration entitled "Grain Handling Facilities."

(d) The provisions of this Chapter reflect what is believed to be necessary to provide an acceptable degree of protection from the hazards addressed by this Chapter and the standards adopted therein at the time this Chapter was promulgated. Unless otherwise specified, the provisions of this Chapter or the standards adopted herein, the adopted Codes and standards shall not apply to facilities, equipment, structures, or installations that existed or were approved for construction prior to March 7, 2008.

(e) Any new construction modification or renovation shall comply with the new construction provisions and operation provisions established within this Chapter and the standards adopted herein whether such construction requires permitting or

approval at the state or local level. Any modification or renovation of existing equipment or any installation of new equipment or any new processes shall comply with the new provisions established within this Chapter and the standards adopted herein whether such modification, renovation of existing equipment or any installation of new equipment or any new processes requires permitting or approval at the state or local level.

(f) This standard shall apply to facilities on which construction has begun and where specified in the Codes and standards adopted herein, the provisions of such Code or standard shall be retroactive.

(g) The retroactive requirements of the Codes and standards adopted herein shall be permitted to be modified if their application clearly would be impractical in the judgment of the authority having jurisdiction, and only where it is clearly evident that a reasonable degree of safety is provided.

(h) Pursuant to O.C.G.A. 25-2-13(f), the municipal governing authority in any incorporated area or the county governing authority in any unincorporated area of the state shall have the authority to enact such ordinances as it deems necessary to perform fire safety inspections and related activities for those buildings and structures not covered by O.C.G.A. 25-2-13 and are covered by this Chapter.

(2) Whenever the provisions of this chapter of the Rules and Regulations of the Safety Fire Commissioner offer alternatives, as far as fire safety requirements are concerned, that were not permissible under previous editions of any Rules and Regulations of the Safety Fire Commissioner covering the same subject matter, the provisions of this chapter may be used by the authority having jurisdiction in determining whether a building is in compliance with the provisions of O.C.G.A. Title 25, Chapter 2, and the rules and regulations promulgated there under.

Cite as Ga. Comp. R. & Regs. R. 120-3-24-.02
Authority: O.C.G.A. Secs. 25-2-4, 25-2-13, 50-13-21.
History. Original Rule entitled "Application"adopted as ER. 120-3-24-0.8-.02. F. Mar. 7, 2008; eff. Mar. 6, 2008, as specified by the Agency.
Amended: ER. 120-3-24-0.11-.02 adopted. F. and eff. July 2, 2008, the date of adoption.
Amended: ER. 120-3-24-0.12-.02 adopted. F. and eff. Oct. 29, 2008, the date of adoption.
Amended: ER. 120-3-24-0.13-.02 adopted. F. Feb. 26, 2009; eff. Feb 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.14-.02 adopted. F. and eff. June 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.15-.02 adopted. F. and eff. Oct. 19, 2009, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.

Rule 120-3-24-.03. Definitions.

(1) "Authority Having Jurisdiction"shall mean for the purpose of this chapter, the organization, office, or individual responsible for approving equipment, materials, an installation, or a procedure.

(2) "Building Official"shall mean for the purpose of this chapter, the officer or other designated authority charged with the administration and enforcement of the International Building Code, or a duly authorized representative.

(3) "Business"shall mean, for the purpose of this chapter, any firm corporation, business, person, partnership, organization, association, contractor, individual or other entity, engaged in manufacturing, processing, and/or handling combustible particulate solids including manufacturing processes that create combustible dust.

(4) "Combustible Dust"shall mean, for the purpose of this chapter, any finely divided solid material that is 420 microns or smaller in diameter (material passing a U.S. No. 420 microns or smaller in diameter (material passing a U.S. No. 40 Standard Sieve) and presents a fire or explosion hazard when dispensed and ignited in air. (From NFPA 654)

(5) "Combustible Particulate Solid"shall mean, for the purpose of this chapter, any combustible solid material, composed of distinct particles or pieces, regardless of size, shape, or chemical composition. Combustible particulate solids include dusts, fibers, fines, chips, chunks, flakes, or mixtures of these.

(6) "Commissioner"shall mean, for the purpose of this chapter, the Georgia Safety Fire Commissioner or his/her designated representative.

(7) "Existing Building"shall mean for the purpose of this chapter, buildings, structures, facilities or conditions which are already in existence or constructed and officially authorized prior to March 7, 2008. This definition shall apply to all situations covered by this chapter except where otherwise noted by this chapter or as otherwise deemed a proposed building or structure as specified in Chapter 2 of Title 25.

(8) "Fire Chief"shall mean for the purpose of this chapter, the chief officer of the fire department serving the jurisdiction, or a duly authorized representative.

(9) "Fire Official"shall mean for the purpose of this chapter, the fire chief or other designated authority charged with the administration and enforcement of the codes and standards adopted herein, or a duly authorized representative.

(10) "Fire Wall"shall mean, for the purpose of this chapter and O.C.G.A. Code Sections 25-2-4 and 25-2-13, walls of any approved noncombustible materials and have sufficient structural stability under fire conditions to allow collapse of construction on either side without collapse of the wall for the duration of time indicated by the required fire-resistance rating.

(11) "Full Time Employee"shall mean, for the purpose of this chapter, an individual who works for the firm and is on payroll for a minimum of thirty and one half hours of paid service per week, per employer.

(12) "ICC Code"shall mean, for the purposes of the Safety Fire Commissioner's Rules and Regulations, any of the codes, or portions thereof, as published by the International Code Council (ICC) and as adopted and modified as set forth in this Chapter or any other chapter of the Safety Fire Commissioner's Rules and Regulations.

(13) "Material Safety Data Sheet (MSDS)"shall mean for the purpose of this chapter, a form containing data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill handling procedures. The exact format of an MSDS can vary from source to source.

(14) "NFPA Code or Standard"shall mean, for the purposes of the Safety Fire Commissioner's Rules and Regulations, any of the codes and /or standards, or portions thereof, as published by the National Fire Protection Association (NFPA) and as adopted and modified in this chapter or any other chapter of the Safety Fire Commissioner's Rules and Regulations.

(15) "Occupied Story"shall mean, for the purpose of this chapter and the codes and standards adopted herein, a story subject to be by people on a regular basis. Stories used exclusively for mechanical equipment rooms, elevator penthouses and similar spaces are not occupiable stories.

(16) "Primary Level of Exit Discharge"shall mean, for the purpose of this chapter that story which is level with or above finished grade by more than 50% of the cubic volume of the occupiable story. Building levels below the primary level shall not count as a story in determining the height of a building.

(17) "Stories"shall mean, for the purpose of O.C.G.A. Section 25-2-13(b)(1) and the codes and standards adopted herein, that level starting at the primary level of exit discharge and ending at the highest occupiable story. A building level below the primary level shall not count as a story in determining the height of a building.

Cite as Ga. Comp. R. & Regs. R. 120-3-24-.03
Authority: O.C.G.A. Secs. 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Definitions"adopted as ER. 120-3-24-0.8-.03. F. Mar. 7, 2008; eff. Mar. 6, 2008, as specified by the Agency.
Amended: ER. 120-3-24-0.11-.03 adopted. F. and eff. July 2, 2008, the date of adoption.
Amended: ER. 120-3-24-0.12-.03 adopted. F. and eff. Oct. 29, 2008, the date of adoption.
Amended: ER. 120-3-24-0.13-.03 adopted. F. Feb. 26, 2009; eff. Feb 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.14-.03 adopted. F. and eff. June 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.15-.03 adopted. F. and eff. Oct. 19, 2009, the date of adoption.

Amended: Permanent Rule of same title adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.

Rule 120-3-24-.04. Registration of Industry and Manufacturing Processes and Compliance with Codes and Standards Adopted.

(1) All new and existing facilities that have operations involving the manufacturing, processing, and/or handling combustible particulate solids shall register by electronic means with the Commissioner including any industry that has manufacturing processes which create combustible dust. So as to allow for an orderly implementation of the on line data registration and reporting system, entities are directed to the following link http://www.gainsurance.org/safetymfg/home.aspx to determine exact registration and reporting dates for industries of concern. The particular industry will be identified by posting the SIC Codes (Standard Industrial Classification Codes) that appear in a company's disseminated EDGAR filings (the Electronic Data Gathering, Analysis, and Retrieval system) that indicates the company's type of business. The posting will provide a minimum of 30 days notice prior to the due date of their first electronic report. Such notification will begin no later than July 1, 2010. Each facility of the industry type posted for the notification for registering and reporting shall use the same link;http://www.gainsurance.org/safetymfg/home .aspx to complete the registration process and file any additional data or report required to be filed that has been deemed necessary by the Commissioner to ensure compliance with these rules and regulations.

(a) Registration shall indicate the following regarding the individual industry facility and information shall be kept current:

Industry InformationGeo Code Location

Facility Name: Latitude:

Physical Address: Street, City, Zip code Longitude:

Mailing Address: Street, City, Zip code County:

Main Telephone Number Census Tract:

SIC and NAICS Codes Census Block:

(b) Registration shall indicate the following regarding the individual whom management has designated to be responsible for filing electronic reports as required by this Chapter. This individual shall be known as the "Authorized Agent"and contact information for the Authorized Agent shall be kept current:

Authorized Agent

Contact name:

Telephone Number:

E-mail Address:

(c) Other information deemed necessary by the Commissioner which may include but is not limited to emergency information, equipment type, possible ignition sources, process/industry type corporate and physical facility information.

(2) Material safety data sheets for products being processed or used during the manufacturing process shall be kept on file and readily available and accessible upon request and/or in the event of an emergency and shall contain all pertinent data regarding the properties of the particular substances involved in the manufacturing process. Such data sheets shall provide information for workers and emergency personnel on procedures for handling or working with that substance in a safe manner, and shall includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill handling procedures. All material safety data sheets on file shall be made current anytime there is an update, addition, or modification to existing material safety data sheets or when there are changes in the materials being process, stored, or handled.

(3) Detailed information shall be recorded and kept on file anytime changes occur in the operation process, new equipment is introduced, changes occur in existing equipment, and/or changes occur in the materials being processed, stored, or handled. This information shall be readily available and accessible upon request and/or in the event of an emergency.

(4) In addition, all operations of manufacturing, processing, and/or handling combustible particulate solids including manufacturing processes that create combustible dust covered under this Chapter shall comply with the provisions specified herein with the exclusion of the existing building construction as specified. Any new construction modification or renovation shall comply with the new construction provisions and operation provisions established within this Chapter and the standards adopted herein whether such construction requires permitting or approval at the state or local level. Any modification or renovation of existing equipment or any installation of new equipment or any new processes shall comply with the new provisions established within this Chapter and the standards adopted herein whether such modification, renovation of existing equipment or any installation of new equipment or any new processes requires permitting or approval at the state or local level.

Cite as Ga. Comp. R. & Regs. R. 120-3-24-.04
Authority: O.C.G.A. Secs. 25-2-4, 25-2-39, 33-2-9, 50-13-21.
History. Original Rule entitled "Registration of Industry and Manufacturing Processes and Compliance with Codes and Standards Adopted"adopted as ER. 120-3-24-0.8-.04. F. Mar. 7, 2008; eff. Mar. 6, 2008, as specified by the Agency.

Amended: ER. 120-3-24-0.11-.04 adopted. F. and eff. July 2, 2008, the date of adoption.
Amended: ER. 120-3-24-0.12-.04 adopted. F. and eff. Oct. 29, 2008, the date of adoption.
Amended: ER. 120-3-24-0.13-.04 adopted. F. Feb. 26, 2009; eff. Feb 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.14-.04 adopted. F. and eff. June 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.15-.04 adopted. F. and eff. Oct. 19, 2009, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.

Rule 120-3-24-.05. Fire Safety Information and Training to be Reported.

(1) Management responsible for employee's safety shall designate an individual to be responsible for filing electronic reports as required by this Chapter. This individual shall be known as the "Authorized Agent"and contact information for the Authorized Agent shall be kept current.

(2) Designated individual shall electronically report on an annual basis that the following required items have been addressed and completed where applicable:

Initial training for new employees

Annual refresher training for employees

Emergency plans have been developed, reviewed and updated

Monthly notification of hazards is provided to employees

Emergency response team training

Emergency response team drills

(3) Verification by written affidavit certifying annually that the required emergency plans, drills, training and monthly notifications have been completed for the past calendar year will be required to be uploaded.

Cite as Ga. Comp. R. & Regs. R. 120-3-24-.05
Authority: O.C.G.A. Secs. 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "State Minimum Fire Safety Standards with Modifiations"adopted as ER. 120-3-24-0.8-.05. F. Mar. 7, 2008; eff. Mar. 6, 2008, as specified by the Agency.
Amended: ER. 120-3-24-0.11-.05 adopted. F. and eff. July 2, 2008, the date of adoption.
Amended: ER. 120-3-24-0.12-.05 adopted. F. and eff. Oct. 29, 2008, the date of adoption.
Amended: ER. 120-3-24-0.13-.05 adopted. F. Feb. 26, 2009; eff. Feb 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.14-.05 adopted. F. and eff. June 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.15-.05 adopted. F. and eff. Oct. 19, 2009, the date of adoption.
Amended: Permanent Rule entitled "Fire Safety Information and Training to Be Reported"adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.

Rule 120-3-24-.06. State Minimum Fire Safety Standards with Modifications.

(1) Unless otherwise stated in this chapter, the edition of the *International Fire Code (IFC),* and the following editions of the codes, standards, recommended practices, guides and methods, as published in the *National Fire Codes (NFC)* by the National Fire Protection Association (NFPA), as adopted and modified in this Chapter, shall be herein established as the state minimum fire safety standards for all buildings and structures that have operations involving the manufacturing, processing, and/or handling combustible particulate solids including manufacturing processes that create combustible dust. Where any of the adopted publications of the NFPA references NFPA 1 or NFPA 5000, it shall be construed that such references apply to the *International Fire Code (IFC)* or the *International Building Code (IBC)* respectively, as adopted by this Chapter, Chapter 120-3-3 and the Georgia Department of Community Affairs. Where the IFC or IBC does not specifically address the referenced issue, NFPA 1 or NFPA 5000 may be applied subject to the approval of the authority having jurisdiction.

(2) ***International Fire Code* (IFC), 2006 Edition**

Modifications:

(a) **Modifications to Chapter 1:**

1. Delete section 101.1 in its entirety an substitute in its place the following:

   "**101.1 Title.The *International Fire Code,* 2006 edition, published by the International Code Council, when used in conjunction with this Chapter, shall be known as a *Georgia State Minimum Fire Prevention Code,* hereafter referred to as 'this code'."**

2. Delete section 101.3 in its entirety and substitute in its place the following:

   "**101.3 Purpose and intent. The primary purpose of this *Code,* as adopted, is to provide, along with other adopted codes and standards, for the reasonable minimum protection of life and property from the hazards created by fire, smoke, explosion, or panic created from a fear of fire or smoke. It is intended that the purposes of this *Code* be accomplished by:**

   (1) Coordinating application and enforcement of its provisions with those of other applicable laws, rules, regulations, codes, and standards; and,

   (2) By coordinating the application of its provisions, where possible, with educational programs or efforts designed to bring about changes in high risk attitudes and behaviors that are the root causes of most fire related problems in Georgia; and

   (3) By encouraging or requiring informational and awareness programs designed to make the citizens of Georgia aware of their responsibilities for compliance with this *Code* as well as the other Rules and Regulations of the Safety Fire Commissioner. The intent of

this *Code* is to establish the minimum requirements, consistent with nationally recognized good practice, for providing a reasonable level of life safety and property protection from the hazards of fire, explosion, or dangerous conditions in new and existing buildings, structures, and premises and to provide safety to fire fighters and emergency responders during emergency operations."

3. Add an exception to section 102.1 to read as follows:

   "Exception: This *Code* does not apply to one- and two-family dwellings or one- and two-family row houses (townhouses) separated by a 2-hour fire wall containing not more than three dwelling units per structure."

4. Add an exception to section 102.2 to read as follows:

   "Exception: This *Code* does not apply to one- and two-family dwellings or one- and two-family row houses (townhouses) separated by a 2-hour fire wall containing not more than three dwelling units per structure."

5. Delete section 102.3 in its entirety and substitute in its place the following:

   "**102.3 Change of use or occupancy.** No change shall be made in use or occupancy of any building or structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure is made to comply with the requirements of this *Code*, as may be applicable, as well as those of the *International Building Code (IBC),* as adopted by the Department of Community Affairs. Pursuant to O.C.G.A. 25-2-14, due to a change of use or occupancy of a building or structure the building or structure shall be treated as a proposed (new) building. (Refer to 103.3 of this *Code* regarding the requirements applicable to proposed (new) buildings and structures.)"

6. Delete section 102.4 in its entirety and substitute in its place the following:

   "**102.4 Application of the building code.** The design and construction of proposed (new) buildings and structures shall comply with the *International Building Code (IBC),* as modified and adopted by the Georgia Department of Community Affairs. Repairs, alterations, additions, changes in use of occupancy classification, or changes in buildings or structures required by provisions of the *IFC,* and which are within the scope of the *IBC,* shall be made in accordance with the *IBC,* for purposes of this Chapter..

7. Delete section 102.5 in its entirety and insert in its place the following:

   "**102.5 Historic Buildings.** Refer to 102.1 and 102.2 regarding the application of this *Code* to existing buildings. Except to the extent required by applicable laws of Georgia, the provisions of this *Code* are not mandatory for buildings or structures identified and

classified by the state, or as appropriate, a local jurisdiction, as historic buildings when such buildings or structures are judged by the fire code official to be safe and in the public interest of health, safety and welfare. When evaluating the safety of historic buildings the fire official should consult O.C.G.A. Title 8, Chapter 2 Article 3 entitled, 'Uniform Act for the Application of Building and Fire Related Codes to Existing Buildings,' and the provisions of O.C.G.A. Sections 25-2-13(b)(3) & 25-2-13(b)(4), and NFPA Standard 914, *Code for Fire Protection of Historic Structures*, as adopted by this Chapter as a recommended practice."

8. Delete section 102.6 in its entirety and substitute in its place the following:

   "**102.6 Referenced codes and standards.** Where the provisions of this *Code* or the standards referenced thereby and in Chapter 45 of this *Code* do not apply to the specific subjects, situations or conditions encountered that involve risks to life and property from the hazards of fire, panic from fear of fire or smoke, or related hazards, compliance with the applicable chapters of the Rules and Regulations of the Safety Fire Commissioner shall be evidence of compliance with this *Code*."

9. Add a new section 102.10 to read as follows:

   "**102.10 Coordination of provisions.** This *Code* shall apply to all buildings, structures and facilities as provided in subsections 102.1 and 102.2, and shall be utilized in conjunction with codes and standards specified in**Table 102.10**entitled, "**CODES REFERENCE GUIDE."**

Table 102.10: CODES REFERENCE GUIDE		
Area	**Primary**	**Supplement**
Occupancy Classification	LSC	IBC
Building Construction Types		
Including allowable height,		
allowable building areas, and the	IBC	LSC
requirements for sprinkler protection		
related to minimum building		
construction types.		
Means of Egress	LSC	NONE
Standpipes	IBC	IFC
Interior Finish	LSC	NONE
HVAC Systems	IMC	NONE
Vertical Openings	LSC	NONE

Sprinkler Systems minimum construction standard	LSC	NONE
Fire Alarm Systems	LSC	NONE
Smoke Alarms and Smoke Detection Systems	State Statute and LSC	NONE
Portable Fire Extinguishers	IFC	NONE
Cooking Equipment	LSC and NFPA 96	NONE
Fuel Fired Appliances	IFGC	NFPA 54
Liquid Petroleum Gas	NFPA 58 NFPA 52	NFPA 54 or IFGC
Compressed Natural Gas		NONE

10. Delete section 103 and all sections there under in their entirety and substitute in its place the following:

"SECTION 103

GENERAL PROVISIONS FOR EXISTING AND PROPOSED (NEW) BUILDINGS.

"**103.1 General Provisions.** The administration, enforcement and penalty provisions of O.C.G.A. Title 25, Chapter 2, and the administrative provisions of the various chapters of the Rules and Regulations of the Safety Fire Commissioner shall apply to and regulate the application and enforcement of this *Code* by the Safety Fire Division of the Office of the Safety Fire Commissioner.

NOTE: Nothing herein shall be construed as prohibiting any local jurisdiction from adopting the deleted portions of Chapter 1 of this *Code* for local purposes, provided, however, local amendments shall not be less restrictive than this *Code*, and other codes and standards as adopted by the various chapters of the Rules and Regulations of the Safety Fire Commissioner.

103.1.1 The provisions of O.C.G.A. Title 25, Chapter 2, and other applicable state laws, and the applicable provisions of various chapters of the Rules and Regulations of the Safety Fire Commissioner regarding the requirements for certificates, licenses, permits, plan reviews, inspections, approvals, fees, etc. shall apply and are in addition to any requirements of local jurisdictions. Local authorities having jurisdiction need to be consulted to determine if rules and regulations of the local jurisdiction regarding the requirements for local certificates, licenses, permits, plan reviews, inspections, approvals, fees, etc. also apply.

103.1.1.1 The administrative, operational, and maintenance provisions of this *Code*, with regard to the Safety Fire Division of the Office of the Georgia Safety Fire Commissioner, shall be limited to the scope and intents and purposes of the Official Code of Georgia Annotated (O.C.G.A.) Title 25, Chapter 2, and the Commissioner's Rules and Regulations.

103.1.1.1.1 Pursuant to O.C.G.A. 25-2-13(d), every person who owns or controls the use of any building, part of a building, or structure described in O.C.G.A 25-2-13 (b)(1), which because of floor area, height, location, use or intended use as a gathering place for large groups, or use or intended use by or for the aged, the ill, the incompetent, or the imprisoned, constitutes a special hazard to property or to the life and safety on account of fire or panic from fear of fire, must so construct, equip, maintain, and use such building or structure as to afford every reasonable and practical precaution and protection against injury from such hazards. No person who owns or controls the use or occupancy of such a building or structure shall permit the use of the premises so controlled for any such specially hazardous use unless he has provide d such precautions against damage to property or injury to persons by these hazards as are found and determined by the Commissioner in the manner described in O.C.G.A. 25-2-13(d) to be reasonable and practical.

103.2Existing buildings. Every building and structure existing as of April 1, 1968, which building or structure is listed in paragraph (1) of subsection (b) of O.C.G.A 25-2-13 shall comply with the minimum fire safety standards in the Rules and Regulations of the Safety Fire Commissioner promulgated pursuant to O.C.G.A. 25-2 which were in effect at the time such building or structure was constructed.

Exception 1: Any nonconformance noted under the electrical standards adopted at the time such building or structure was constructed shall be corrected in accordance with the current electrical standards adopted pursuant to O.C.G.A. 25-2.

Exception 2: A less restrictive provision contained in any subsequently adopted minimum fire safety standard pursuant to O.C.G.A. 25-2, may be applied to any existing building or structure.

103.2.1 **Existing buildings to be deemed a proposed building.** For the purposes of O.C.G.A. 25-2-14(b), any existing building or structure listed in paragraph (1) of subsection (b) of O.C.G.A. 25-2-13 and which comes under the jurisdiction of the Office of the Safety Fire Commissioner, pursuant to O.C.G.A. 25-2-12, shall be deemed to be a proposed (new) building in the event such building or structure is subject to substantial renovation, a fire or other hazard of serious consequence, or a change in the classification of occupancy. The term "substantial renovation", for purposes of this subsection means any construction project involving exits or internal features of such building or structure costing more than the building's or structure's assessed value

according to county tax records at the time of such renovation (O.C.G.A. 25-2-14). Where a change of classification is involved, also refer to 102.3 of this *Code*.

103.3 Proposed (new) buildings and additions to existing buildings:

103.3.1 Pursuant to O.C.G.A. 25-2-14.1(b), every proposed building and structure listed in paragraph (1) of subsection (b) of O.C.G.A. 25-2-13 shall comply with the adopted minimum fire safety standards that were in effect on the date that plans and specifications therefore were received by the state fire marshal, the proper local fire marshal, or state inspector for review and approval.

103.3.2 Plans and specifications for all proposed buildings which come under classification in paragraph (1) of subsection (b) of O.C.G.A. 25-2-13 and which come under the jurisdiction of the Office of the Safety Fire Commissioner pursuant to O.C.G.A. 25-2-12 shall be submitted to and receive approval by either the state fire marshal, the proper local fire marshal, or state inspector before any state, municipal, or county building permit may be issued or construction started (O.C.G.A. 25-2-14(a)). All such plans and specifications submitted as required by O.C.G.A. 25-2-14(a)shall be accompanied by a fee in the amount provided in O.C.G.A. 25-2-4.1 and shall bear the seal and Georgia registration number of the drafting architect or engineer or shall otherwise have the approval of the Commissioner.

103.3.3 Pursuant to O.C.G.A. 25-2-37(a), it shall be unlawful for any person to begin construction on any proposed building or structure which comes under the classification in paragraph (1) of subsection (b) of O.C.G.A 25-2-13 and which comes under the jurisdiction of the Office of the Safety Fire Commissioner pursuant to O.C.G.A. 25-2-12 without first having plans approved in accordance with O.C.G.A. 25-2-14.

103.4Proposed building construction and completion. Pursuant to O.O.G.A. 25-2-14(b), a complete set of plans and specifications approved as set forth in 103.3 shall be maintained on the construction site, and construction shall proceed in compliance with the state minimum fire safety standards under which such plans and specifications were approved. The owner of any such building or structure or his authorized representative shall notify the state fire marshal, the proper local fire marshal, or state inspector upon completion of approximately 80 percent of the construction thereof and shall apply for a certificate of occupancy when construction of such building or structure is completed.

103.5Certificate of occupancy required. Pursuant to O.C.G.A. 25-2-14(c), every building or structure which comes under classification in paragraph (1) of subsection (b) of O.C.G.A. 25-2-13 and which comes under the jurisdiction of the Office of the Safety Fire Commissioner pursuant to O.C.G.A. 25-2-12 shall have a certificate of occupancy issued by the state fire marshal, the proper local fire marshal, or state inspector before such building or structure may be occupied. Such certificates of occupancy shall be issued for each business establishment within the building, shall carry a charge in the

amount provided in O.C.G.A. 25-2-4.1, shall state the occupant load for such business establishment or building, shall be posted in a prominent location within such business establishment or building, and shall run for the life of the building, except as provided in O.C.G.A. 25-2-14(d). (See 103.2.1of the IFC, as adopted by this Chapter.)"

11. The provisions of section 105, PERMITS, are not adopted for purposes of this Chapter. Local governing authorities may adopt the provisions for local purposes. Refer to section 103.3 with regard to permits required by the Rules and Regulations of the Safety Fire Commissioner.

12. Delete section 107.6 in its entirety and substitute in its place the following:

    "107.6Overcrowding and Life Safety Hazards. Overcrowding or admittance of any person beyond the approved capacity of a building or a portion thereof shall not be allowed. The Fire Code Official, upon finding any overcrowded conditions or obstructions in aisles, passageways or other means of egress, or upon finding any condition which constitutes a life safety hazard, shall be authorized to cause the event to be stopped until such condition or obstruction is corrected. A structure, building, individual room or designated portion thereof shall be deemed to be overcrowded if the number of occupants exceeds one person per 5 sq. ft. of open net floor area of such room or space when fixed seating is not provided. In addition, a structure, building, room or designated portion thereof shall be deemed overcrowded if the total number of occupants exceeds the exit capacity of the structure, building, room or area involved."

13. The provisions of section 108, BOARD OF APPEALS, are not adopted for purposes this Chapter. Local governing authorities may adopt the provisions for local purposes.

14. Delete section 109.3 and all sections there under in their entirety and substitute in its place the following:

    "**109.3 Violation penalties.** Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this *Code*, shall be guilty of violation of Code Section 25-2-37 of the Official Code of Georgia Annotated. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

    109.3.1 Abatement of violation. In addition to the imposition of the penalties herein described, the fire code official is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

(b) **Modifications to Chapter 2:**

1. Delete section 201.3 in its entirety and substitute in its place the following:

   "**201.3 Terms defined in other codes.** Where terms are not defined in this *Code* and are defined in the *International Building Code (IBC),* the *International Fuel Gas Code (IFGC),* the *International Mechanical Code (IMC),* or codes and standards of the National Fire Protection Association (NFPA), as adopted by this Chapter and other Rules and Regulations of the Safety Fire Commissioner, such terms shall have the meanings ascribed to them as in those codes and standards."

2. Add the following definitions to section 202:

   "**Day-care Center-** A day-care facility subject to licensure or commission by the

   Department of Human Resources where more than 12 clients receive care."

   "**Group Day-care Home**- A day-care facility subject to licensure or commission by the Department of Human Resources where at least seven but not more than 12 clients receive care."

   "Personal Care Home/Assisted Living Facility- Any building or part thereof that is used for the lodging or boarding of residents, not related by blood or marriage to the owners or operators, for the purpose of providing personal care services and licensed as a personal care home or assisted living facility."

   "**Residential Occupancies.** Occupancies, as specified in the scope of this standard, include the following, as defined in Chapter 2 of this *Code*, or the *IBC*, or by State law, or by the Rules and Regulations of the Georgia Safety Fire Commissioner:

   (1) Apartment buildings,

   (2) Lodging and rooming houses,

   (3) Board and care facilities,

   (4) Hotels, motels, and dormitories,

   (5) Personal care homes and assisted living facilities,

   (6) Day-care centers and group day-care homes."

(c) **Modifications to Chapter 3:**

1. Delete section 303.5 in its entirety and substitute in its place the following:

"**303.5 Fire Extinguishers.** There shall be at least one portable fire extinguisher complying with Section 906 and with a minimum 2-A:40-B:C rating within 25 feet (7620 mm) of each asphalt (tar) kettle during the period such kettle is being utilized, and a minimum of one additional portable fire extinguisher with a minimum 3-A:40-B:C rating on the roof being covered."

2. Add new exceptions 4, 5, 6, 7 and 8 to section 308.3.7 to read as follows:

"**4.** In Group A public assembly occupancies having an occupant load greater than 300, a minimum ceiling height of 25 feet and that are protected throughout by an approved, supervised automatic sprinkler system installed in accordance with NFPA 13, as adopted by this Chapter, pyrotechnic special effect devices shall be permitted to be used on stages before proximate audiences for ceremonial or religious purposes, as part of a demonstration in exhibits, or as part of a performance, provided that precautions satisfactory to the authority having jurisdiction are taken to prevent ignition of any combustible material and use of the pyrotechnic device complies with NFPA 1126, *Standard for the Use of Pyrotechnics before a Proximate Audience*, as adopted by Chapter 120-3-22 Rules and Regulations of the Safety Fire Commissioner. The ceiling height may be lowered to a minimum of 15 feet upon approval of the authority having jurisdiction having witnessed a demonstration shot of all types of devices being used in the display.

5. In Group A public assembly occupancies having an occupant load greater than 300, a minimum ceiling height of 25 feet and that are protected throughout by an approved, supervised automatic sprinkler system installed in accordance with NFPA 13, as adopted by this Chapter, flame effects before an audience shall be permitted in accordance with NFPA 160, *Standard for Flame Effects Before an Audience*, as adopted by Chapter 120-3-22 Rules and Regulations of the Safety Fire Commissioner. The ceiling height may be lowered to a minimum of 15 feet upon approval of the authority having jurisdiction having witnessed a demonstration of all types of devices being used in the display.

6. On stages and platforms as a necessary part of a performance in public assembly occupancies having an occupant load greater than 300, a minimum ceiling height of 25 feet and that are protected throughout by an approved, supervised automatic sprinkler system installed in accordance with NFPA 13, as adopted by this Chapter. The ceiling height may be lowered to a minimum of 15 feet upon approval of the authority having jurisdiction having witnessed a demonstration of all types of devices being used in the display.

7. In Group A public assembly occupancies having an occupant load greater than 100 with fixed seating, a minimum ceiling height of 25 feet and that have a minimum of two certified fire fighters on site with proper fire fighting equipment as determined by the local fire official, pyrotechnic special effect devices shall be permitted to be used on

stages before proximate audiences for ceremonial or religious purposes, as part of a demonstration in exhibits, or as part of a performance, provided that precautions satisfactory to the authority having jurisdiction are taken to prevent ignition of any combustible material and use of the pyrotechnic device complies with NFPA 1126, *Standard for the Use of Pyrotechnics before a Proximate Audience*, as adopted by Chapter 120-3-22 Rules and Regulations of the Safety Fire Commissioner. The ceiling height may be lowered to a minimum of 15 feet upon approval of the authority having jurisdiction having witnessed a demonstration shot of all types of devices being used in the display.

8. In public assembly occupancies having an occupant load greater than 100 with fixed seating, a minimum ceiling height of 25 feet and that have a minimum of two certified fire fighters on site with proper fire fighting equipment as determined by the local fire official, flame effects before an audience shall be permitted in accordance with NFPA 160, *Standard for Flame Effects Before an Audience*, as adopted by this Chapter. The ceiling height may be lowered to a minimum of 15 feet upon approval of the authority having jurisdiction having witnessed a demonstration of all types of devices being used in the display."

3. Add a new section 308.7 to read as follows:

"**308.7 Portable Cooking Equipment.** Portable cooking equipment that is not flue-connected shall be permitted only as follows:

(1) Equipment fueled by small heat sources that can be readily extinguished by water, such as candles or alcohol-burning equipment, including solid alcohol, shall be permitted to be used, provided that precautions satisfactory to the authority having jurisdiction are taken to prevent ignition of any combustible materials.

(2) Candles shall be permitted to be used on tables used for food service where securely supported on substantial noncombustible bases located to avoid danger of ignition of combustible materials and only where approved by the authority having jurisdiction.

(3) Candle flames shall be protected.

(4) "Flaming sword"or other equipment involving open flames and flamed dishes, such as cherries jubilee or crépe suzette, shall be permitted to be used, provided that precautions subject to the approval of the authority having jurisdiction are taken.

(5) Listed and approved LP-Gas commercial food service appliances shall be permitted to be used where in accordance with NFPA 58, Liquefied Petroleum Gas Code."

4. Delete section 310.1 and all sections there under in their entirety and substitute in its place the following:

"**310.1 General.** The smoking or carrying of a lighted pipe, cigar, cigarette or any other type of smoking paraphernalia or material is prohibited in buildings, structures, or areas, or portions of buildings, structures, or areas, as indicated is this section, or in any other section of this *Code* or in any other code or standard, as adopted by the Rules and Regulations of the Safety Fire Commissioner."

5. Add a new section 316 to read as follows: "SECTION 316 LABORATORIES,

   316.1 **General.** Laboratories in which chemicals are used shall comply with NFPA 45, as adopted by this Chapter.

   Exception: Laboratories in I-2 (healthcare) occupancies and in medical and dental offices, shall comply with NFPA 99, as adopted by this Chapter."

(d) **Modifications to Chapter 4:**

1. Add a new paragraph 4 and renumber the remaining paragraphs in section 404.2 to read as follows:

   "404.2 Where required. An approved fire safety and evacuation plan shall be prepared and maintained for the following occupancies and buildings.

   1. Group A, other than Group A occupancies used exclusively for purposes of religious worship that have an occupant load less than 2,000.

   2. Group B buildings having an occupant load of 500 or more persons or more than 100 persons above or be low the lowest level of exit discharge.

   3. Group E.

   4. Group F.

   5. Group H.

   6. Group I.

   7. Group R-1.

   8. Group R-2 college and university buildings.

   9. Group R-4.

10. High-rise buildings.

11. Group M buildings having an occupant load of 500 or more persons or more than 100 persons above or be low the lowest level of exit discharge.

12. Covered malls exceeding 50,000 square feet (4645 m2) in aggregate floor area.

13. Underground buildings.

14. Buildings with an atrium and having an occupancy in Group A, E or M."

2. Delete section 405 and all sections there under in their entirety and substitute in its place the following:

"SECTION 405

EMERGENCY EVACUATION DRILLS

405.1 General. Emergency evacuation drills complying with the provisions of this section shall be conducted at least annually in the occupancies listed in Section 404.2 or when required by the fire code official. Drills shall be designed in cooperation with the local authorities.

405.2 Frequency. Required emergency evacuation drills shall be held at the intervals specified in Table 405.2 or more frequently where necessary to familiarize all occupants with the drill procedure.

405.3 Leadership. Responsibility for the planning and conduct of drills shall be assigned to competent persons designated to exercise leadership.

405.4 Time. Drills shall be held at unexpected times and under varying conditions to simulate the unusual conditions that occur in case of fire.

405.5 Record keeping. Records shall be maintained on site and available for inspection by the Fire Code Official of all required emergency evacuation drills for three years. Such records shall include the following information:

1. Identity of the person conducting the drill.

2. Date and time of the drill.

3. Notification method used.

4. Staff members on duty and participating.

5. Number of occupants evacuated.

6. Special conditions simulated.

7. Problems encountered.

8. Weather conditions when occupants were evacuated.

9. Time required to accomplish complete evacuation. Records of drills conducted shall be maintained

TABLE 405.2 FIRE AND EVACUATION DRILL FREQUENCY AND PARTICIPATION		
GROUP OROCCUPANCY	**FREQUENCY**	**PARTICIPATION**
Group A	Quarterly	Employees
Group Bc	Annually	Employees
Group Ee	Monthlya	All occupants
Group F & H	Annually on each shift	Employees
Group I	Quarterly on each shift	Employeesb
Group R-1	Quarterly on each shift	Employees
Group R-2d	Four annually	All occupants
Group R-4	Quarterly on each shift	Employeesb
High-rise buildings	Annually	Employees

a. The frequency shall be allowed to be modified in accordance with Section 408.3.2.

b. Fire and evacuation drills in residential care assisted living facilities shall include complete evacuation of the premises in accordance with Section 408.10.5. Where occupants receive habilitation or rehabilitation training, fire prevention and fire safety practices shall be included as part of the training program.

c. Group B buildings having an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of exit discharge.

d. Applicable to Group R-2 college and university buildings in accordance with Section 408.3.

e. Drills shall be reported electronically to the Office of the Safety Fire Commissioner.

405.6 Notification. Where required by the fire code official, prior notification of emergency evacuation drills shall be given to the fire code official.

405.7 Initiation. Where a fire alarm system is provided, emergency evacuation drills shall be initiated by activating the fire alarm system.

405.8 Accountability. As building occupants arrive at the assembly point, efforts shall be made to determine if all occupants have been successfully evacuated or have been accounted for.

405.9 Recall and reentry. An electrically or mechanically operated signal used to recall occupants after an evacuation shall be separate and distinct from the signal used to initiate the evacuation. The recall signal initiation means shall be manually operated and under the control of the person in charge of the premises or the official in charge of the incident. No one shall reenter the premises until authorized to do so by the official in charge."

3. Add an exception to section 406.2 to read as follows:

"**Exception: Child care-giver training.** A minimum of five hours initial fire safety training and recommendation for receipt of a certificate of merit for successful completion of the training shall be required for all directors, operators and all staff members of day-care centers and group day-care homes as defined by the Life Safety Code adopted by this Chapter. The curriculum for the fire safety training shall receive written approval by the State Fire Marshal's Office and be taught by an instructor registered with the Safety Fire Commissioner's Office. All staff members shall receive this training within 90 days from receipt of a license, being commissioned or the opening of a new center or home. Any new staff member shall receive a minimum of five hours initial fire safety training and recommendation for receipt of a certificate of merit for successful completion of the training within 90 days of employment. In addition, a minimum of two hours fire safety refresher training recommendation for receipt of a certificate of merit for successful completion of the training shall be required for all directors, operators and all staff members of day-care centers and group day-care homes every three years from the date initial training is received. The curriculum for the fire safety refresher training shall receive written approval by the State Fire Marshal's Office and be taught by an instructor registered with the Safety Fire Commissioner's Office."

4. Add new sections 408.2.3 and 408.2.3.1 to read as follows:

"**408.2.3 Crowd Managers.** Assembly occupancies having occupant loads of 100 or more shall be provided with a minimum of one trained crowd manager or crowd manager supervisor. Where the occupant load exceeds 250, additional trained crowd managers or crowd manager supervisors shall be provided at a ratio of 1:250, crowd manager/supervisor to occupants, respectively, unless otherwise permitted by the following:

(1) This requirement shall not apply to assembly occupancies used exclusively for religious worship with an occupant load not exceeding 2000.

(2) With the exception of assembly occupancies noted above where alcoholic beverages are consumed, the ratio of trained crowd managers to occupants shall be permitted to be reduced where, in the opinion of the authority having jurisdiction, the existence of an approved, supervised sprinkler system and the nature of the event warrant.

408.2.3.1 The crowd manager shall receive approved training in crowd management techniques."

5. Delete sections 408.4 through 408.11 all sections there under in their entirety and substitute in their place the following:

"408.4 Group F occupancies. Group F occupancies shall comply with the requirements of Sections 408.4.1 through 408.4.4 and Sections 401 through 407.

408.4.1 Plans and diagrams. In addition to the requirements of Section 404 and Section 407.6, plans and diagrams shall be maintained in approved locations indicating any hazardous areas within the facility and locations of exits.

408.4.2 Plan updating. The plans and diagrams required by Section 408.4.1 shall be maintained up to date and the fire code official and fire department shall be informed of all major changes.

408.4.3 Emergency response team. Responsible persons shall be designated as the on-site emergency response team and trained to be liaison personnel for the fire department. These persons shall aid the fire department in preplanning emergency responses, identifying hazardous locations and be familiar with the chemical nature of any hazardous material stored on site. An adequate number of personnel for each work shift shall be designated.

408.4.3.1 Disaster training. Malfunctions of the process should be simulated and emergency actions undertaken. Disaster drills that simulate a major catastrophic situation

should be undertaken periodically with the cooperation and participation of public fire, police, and other local community emergency units nearby cooperating plants if involved.

408.4.4 Employee Training. The requirements of Sections 408.4.4.1 thru 408.4.6 shall be for new employees and shall be also be applied retroactively with a completion date of January 1, 2011, for existing employees.

408.4.4.1 Initial Training. Initial training shall be provided to employees and contractors who are involved in operating, maintaining, and supervising facilities that handle combustible particulate solids. Initial training shall ensure that all employees are knowledgeable about the following:

(1) Hazards of their workplace

(2) General orientation, including plant safety rules

(3) Process description

(4) Equipment operation, safe startup and shutdown, and response to upset conditions

(5) The necessity for proper functioning of related fire and explosion protection systems

(6) Equipment maintenance requirements and practices

(7) Housekeeping requirements

(8) Emergency response plans

408.4.4.2 Re fresher Training. Emergency plans and procedures, including information that is covered in Section 408.4.4.1, shall be provided to and reviewed annually by all employees and contractors who are involved in operating, maintaining, and supervising facilities that handle combustible particulate solids.

408.4.5 Notification of Hazards. Notification of hazards shall be by means of internal written or electronic correspondence, postings of information at conspicuous locations and/or by other means to disseminate information to employees to ensure they are knowledgeable about the hazards of their workplace. Required notifications shall include such topics as prescribed in 408.4.4.1.

408.4.5.1 Notification Frequency. All employees shall receive monthly notification of hazards and safety information related to the industry's operation.

408.4.6 Certification. For those industries having operations involving the manufacturing, processing, and/or handling combustible particulate solids including

manufacturing processes that create combustible dust listed under Rule 120-3-24-.02(1)(b), the employer's authorized agent shall electronically file to the Safety Fire Commissioner a written affidavit certifying annually that the training and monthly notifications required by Section 408.4.4.1 have been completed for the past calendar year.

408.4.7 Emergency drills. Emergency drills of the on-site emergency response team shall be conducted on a regular basis but not less than once annually. Records of drills conducted shall be maintained on site and available for inspection by the Fire Code Official.

408.5 Group H occupancies. Group H occupancies shall comply with the requirements of Sections 408.5.1 through 408.5.4 and Sections 401 through 407.

408.5.1 Plans and diagrams. In addition to the requirements of Section 404 and Section 407.6, plans and diagrams shall be maintained in approved locations indicating the approximate plan for each area, the amount and type of HPM stored, handled and used, locations of shutoff valves for HPM supply piping, emergency telephone locations and locations of exits.

408.5.2 Plan updating. The plans and diagrams required by Section 408.5.1 shall be maintained up to date and the fire code official and fire department shall be informed of all major changes.

408.5.3 Emergency response team. Responsible persons shall be designated as the on-site emergency response team and trained to be liaison personnel for the fire department. These persons shall aid the fire department in preplanning emergency responses, identifying locations where HPM is stored, handled and used, and be familiar with the chemical nature of such material. An adequate number of personnel for each work shift shall be designated.

408.5.3.1Disaster training. Malfunctions of the process should be simulated and emergency actions undertaken. Disaster drills that simulate a major catastrophic situation should be undertaken periodically with the cooperation and participation of public fire, police, and other local community emergency units nearby cooperating plants if involved.

408.5.4Employee Training. The requirements of Sections 408.5.4.1 thru 408.5.6 shall be for new employees and shall be also be applied retroactively with a completion date of January 1, 2011, for currently existing employees.

408.5.4.1Initial Training. Initial training shall be provided to employees who are involved in operating, maintaining, and supervising facilities that handle combustible

particulate solids. Initial training shall ensure that all employees are knowledgeable about the following:

(1) Hazards of their workplace

(2) General orientation, including plant safety rules

(3) Process description

(4) Equipment operation, safe startup and shutdown, and response to upset conditions

(5) The necessity for proper functioning of related fire and explosion protection systems

(6) Equipment maintenance requirements and practices

(7) Housekeeping requirements

(8) Emergency response plans

408.5.5Notification of Hazards. All employees shall receive monthly notification of hazards and safety information related to the industry's operation.

408.5.5.1Notification Frequency. Notification of hazards shall be by means of internal written or electronic correspondence, postings of information at conspicuous locations and/or by other means to disseminate information to employees to ensure they are knowledgeable about the hazards of their workplace. Monthly notifications can include such topics as prescribed in 408.5.4.1.

408.5.6Certification. For those industries having operations involving the manufacturing, processing, and/or handling combustible particulate solids including manufacturing processes that create combustible dust listed under Rule 120-3-24-.02(1)(b), the employer's authorized agent shall electronically file to the Safety Fire Commissioner a written affidavit certifying annually that the training and monthly notifications required by Section 408.5.4.1 have been completed for the past calendar year.

408.5.7Emergency drills. Emergency drills of the on-site emergency response team shall be conducted on a regular basis but not less than once every three months. Records of drills conducted shall be maintained and available for inspection by the Fire Code Official.

408.6Group I-1 occupancies. Group I-1 occupancies shall comply with the requirements of Sections 408.6.1 through 408.6.5 and Sections 401 through 406.

408.6.1Fire safety and evacuation plan. The fire safety and evacuation plan required by Section 404 shall include special staff actions including fire protection procedures necessary for residents and shall be amended or revised upon admission of any resident with unusual needs.

408.6.2Staff training. Employees shall be periodically instructed and kept informed of their duties and responsibilities under the plan. Such instruction shall be reviewed by the staff at least every two months. A copy of the plan shall be readily available at all times within the facility.

408.6.3Resident training. Residents capable of assisting in their own evacuation shall be trained in the proper actions to take in the event of a fire. The training shall include actions to take if the primary escape route is blocked. Where the resident is given rehabilitation or habilitation training, training in fire prevention and actions to take in the event of a fire shall be a part of the rehabilitation training program.

Residents shall be trained to assist each other in case of fire to the extent their physical and mental abilities permit them to do so without additional personal risk.

408.6.4Drill frequency. Emergency evacuation drills shall be conducted at least six times per year, two times per year on each shift. Twelve drills shall be conducted in the first year of operation. Drills are not required to comply with the time requirements of Section 405.4.

408.6.5Resident participation. Emergency evacuation drills shall involve the actual evacuation of residents to a selected assembly point.

Exception: Actual exiting from windows shall not be required. Where a drill scenario includes the escape from windows, Opening the window and signaling for assistance shall be acceptable.

408.7Group I-2 occupancies. Group I-2 occupancies shall comply with the requirements of Sections 408.7.1 and 408.7.2 and Sections 401 through 406. Drills are not required to comply with the time requirements of Section 405.4.

408.7.1 Evacuation not required. During emergency evacuation drills, the movement of patients to safe areas or to the exterior of the building is not required.

408.7.2 Coded alarm signal. When emergency evacuation drills are conducted after visiting hours or when patients or residents are expected to be asleep, a coded announcement is allowed instead of audible alarms.

408.8 Group I-3 occupancies. Group I-3 occupancies shall comply with the requirements of Sections 408.8.1 through 408.8.4 and Sections 401 through 406.

408.8.1 Employee training. Employees shall be instructed in the proper use of portable fire extinguishers and other manual fire suppression equipment. Training of new staff shall be provided promptly upon entrance on duty. Refresher training shall be provided at least annually.

408.8.2 Staffing. Group I-3 occupancies shall be provided with 24-hour staffing. Staff shall be within three floors or 300 feet (9144 mm) horizontal distance of the access door of each resident housing area. In Use Conditions 3, 4 and 5, as defined in Chapter 2, the arrangement shall be such that the staff involved can start release of locks necessary for emergency evacuation or rescue and initiate other necessary emergency actions within 2 minutes of an alarm.

Exception: Staff shall not be required to be within three floors or 300 feet (9144 mm) in areas in which all locks are unlocked remotely and automatically in accordance with Section 408.4 of the *International Building Code*.

408.8.3 Notification. Provisions shall be made for residents in Use Conditions 3, 4 and 5, as defined in Chapter 2, to readily notify staff of an emergency.

408.8.4 Keys. Keys necessary for unlocking doors installed in a means of egress shall be individually identifiable by both touch and sight.

408.9 Group R-1 occupancies. Group R-1 occupancies shall comply with the requirements of Sections 408.8.1 through 408.8.3 and Sections 401 through 406.

408.9.1 Evacuation diagrams. A diagram depicting two evacuation routes shall be posted on or immediately adjacent to every required egress door from each hotel, motel or dormitory sleeping unit.

408.9.2 Emergency duties. Upon discovery of a fire or suspected fire, hotel, motel and dormitory employees shall perform the following duties:

1. Activate the fire alarm system, where provided.

2. Notify the public fire department.

3. Take other action as previously instructed.

408.9.3 Fire safety and evacuation instructions. Information shall be provided in the fire safety and evacuation plan required by Section 404 to allow guests to decide whether

to evacuate to the outside, evacuate to an area of refuge, remain in place, or any combination of the three.

408.10 Group R-2 occupancies. Group R-2 occupancies shall comply with the requirements of Sections 408.10.1 through 408.10.3 and Sections 401 through 406.

408.10.1 Emergency guide. A fire emergency guide shall be provided which describes the location, function and use of fire protection equipment and appliances accessible to residents, including fire alarm systems, smoke alarms, and portable fire extinguishers. The guide shall also include an emergency evacuation plan for each dwelling unit.

408.10.2 Maintenance. Emergency guides shall be reviewed and approved in accordance with Section 401.2.

408.10.3 Distribution. A copy of the emergency guide shall be given to each tenant prior to initial occupancy.

408.11 Group R-4 occupancies. Group R-4 occupancies shall comply with the requirements of Sections 408.11.1 through 408.11.5 and Sections 401 through 406.

408.11.1 Fire safety and evacuation plan. The fire safety and evacuation plan required by Section 404 shall include special staff actions, including fire protection procedures necessary for residents, and shall be amended or revised upon admission of a resident with unusual needs.

408.11.2 Staff training. Employees shall be periodically instructed and kept informed of their duties and responsibilities under the plan. Such instruction shall be reviewed by the staff at least every two months. A copy of the plan shall be readily available at all times within the facility.

408.11.3 Resident training. Residents capable of assisting in their own evacuation shall be trained in the proper actions to take in the event of a fire. The training shall include actions to take if the primary escape route is blocked. Where the resident is given rehabilitation or habilitation training, training in fire prevention and actions to take in the event of a fire shall be a part of the rehabilitation training program. Residents shall be trained to assist each other in case of fire to the extent their physical and mental abilities permit them to do so without additional personal risk.

408.11.4 Drill frequency. Emergency evacuation drills shall be conducted a total of six times per year, two of which occur twice a year on each shift. Twelve drills shall be conducted in the first year of operation. Drills are not required to comply with the time requirements of Section 405.4.

408.11.5 Resident participation. Emergency evacuation drills shall involve the actual evacuation of residents to a selected assembly point and shall provide residents with experience in exiting through all required exits. All required exits shall be used during emergency evacuation drills.

Exception: Actual exiting from windows shall not be required. Opening the window and signaling for help shall be an acceptable alternative.

408.12 Covered mall buildings. Covered mall buildings shall comply with the provisions of Sections 408.12.1 through 408.12.3.

408.12.1 Lease plan. A lease plan shall be prepared for each covered mall building. The plan shall include the following information in addition to that required by Section 404.3.2:

1. Each occupancy, including identification of tenant.

2. Exits from each tenant space.

3. Fire protection features, including the following:

3.1. Fire department connections.

3.2. Fire command center.

3.3. Smoke management system controls.

3.4. Elevators and elevator controls.

3.5. Hose valves outlets.

3.6. Sprinkler and standpipe control valves.

3.7. Automatic fire-extinguishing system areas.

3.8. Automatic fire detector zones.

3.9. Fire barriers.

408.12.1.1 Approval. The lease plan shall be submitted to the fire code official for approval, and shall be maintained on site for immediate reference by responding fire service personnel.

408.12.1.2 Revisions. The lease plans shall be revised annually or as often as necessary to keep them current. Modifications or changes in tenants or occupancies shall not be made without prior approval of the fire code official and building official.

408.12.2 Tenant identification. Each occupied tenant space provided with a secondary exit to the exterior or exit corridor shall be provided with tenant identification by business name and/or address. Letters and numbers shall be posted on the corridor side of the door, be plainly legible and shall contrast with their background.

Exception: Tenant identification is not required for anchor stores.

408.12.3 Maintenance. Unoccupied tenant spaces shall be:

1. Kept free from the storage of any materials.

2. Separated from the remainder of the building by partitions of at least 0.5-inch-thick (12.7 mm) gypsum board or an approved equivalent to the underside of the ceiling of the adjoining tenant spaces.

3. Without doors or other access openings other than one door that shall be kept key locked in the closed position except during that time when opened for inspection.

4. Kept free from combustible waste and be broom swept clean."

(e) **Modifications to Chapter 5:**

1. Add a new section 501.5 to read as follows:

   "**501.5** Where buildings or facilities fall under the jurisdiction of the Georgia Safety Fire Commissioner as set forth in the Official Code of Georgia Annotated (O.C.G.A.), Title 25, Chapter 2, except for State owned facilities, it is intended that the provisions of Chapter 5 that primarily relate to fire department response, access to facilities, access to building interiors, key boxes, premises identification, fire department connection locations, and fire hydrant locations be administered by the local Fire Chief and/or Fire Code Official responsible for providing fire or other emergency response to the buildings or facilities. With regard to State owned facilities, that are not provided with a facility fire department, it is intended that the local Fire Chief and/or Fire Code Official have input in the planning of facilities with regard to the noted provisions covered by Chapter 5."

2. Delete section 503.1.1 in its entirety and substitute in its place the following:

   "503.1.1 Buildings and facilities. Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction as determined by the local Fire Chief and/or Fire

Code Official of the responding fire department or agency. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet (45.7 m) of all portions of the facility or any portion of the exterior wall of the first story of the building as measured by an approved route around the exterior of the building or facility."

"**Exception:**The local Fire Chief and/or Fire Code Official of the responding fire department or agency is authorized to increase the dimension of 150 feet (45.7 m) where:

"1. The building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.

"2. Fire apparatus access roads cannot be installed because of location on property, topography, waterways, nonnegotiable grades or other similar conditions, and an approved alternative means of fire protection is provided.

"3. There are not more than two Group R-3 or Group U occupancies."

3. Add a new section 504.1.1 to read as follows:

"**504.1.1 Access Doors.** For fire fighting purposes, there shall be at least one access door in each 100 linear feet (30.5 m) or major fraction thereof of the exterior walls which face the access roadways required by Section 503, unless otherwise required in this code section. In exterior walls designed with continuous rolling dock doors, which face access roadways, there shall be at least one access door in each 200 linear feet (61 m) or fraction thereof. Required access doors shall be a minimum of 3 feet (0.9 m) wide and 6 feet 8 inches (2 m) high and shall be accessible without use of a ladder. Rolling doors are acceptable for such purposes in buildings protected throughout by an approved automatic sprinkler system(s) unless otherwise approved for unsprinklered buildings by the local Fire Chief and /or Fire Code Official."

4. Delete section 508.5.1 in its entirety and substitute in its place the following:

"**508.5.1 Where required.** Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 500 feet (152 m) from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrant mains shall be provided where required by the local Fire Chief and/or Fire Code Official of the responding fire department or agency.

"Exceptions:

"1. For group R-3 and Group U occupancies, the distance requirement shall be 600 feet (183 m).

"2. For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, the distance requirement shall be 600 feet (183 m)."

(f) **Modifications to Chapter 6:**

1. Add a new section 601.3 to read as follows:

   "**601.3** Where reference is made in this *Code* to the *International Electrical Code*, it shall be construed as referencing NFPA 70, *National Electrical Code* (*NEC*) as adopted by this Chapter."

2. Delete section 603.1.4 in its entirety and substitute in its place the following:

   "**603.1.4 Fuel Oil.** The grade of fuel oil used in a burner shall be that for which the burner is approved and as stipulated by the manufacturer. The use of crankcase oil or any other oil containing gasoline shall not be used except as permitted in NFPA 31, *Standard for the Installation of Oil-Burning Equipment*, as adopted by Chapter 120-3-11, Rules and Regulations of the Safety Fire Commissioner."

3. Delete section 603.4 in its entirety and substitute in its place the following. Section 603.4.1 remains unchanged.

   "**603.4 Portable heaters.** Liquefied petroleum gas fuel fired, or liquid fuel fired space heating devices designed to be portable are prohibited in all portions of occupancies in Groups A, E, F, I, R-1, R-2, R-3 and R-4.

   Exceptions:

   1. In emergency conditions, when approved by the authority having jurisdiction, equipment designed to be portable may be used for a specified time provided such equipment is properly protected and separated from combustibles as specified by the manufacturer's instructions and the authority having jurisdiction.

   2. Listed and approved unvented fuel-fired heaters in one- and two- family dwellings and portable outdoor gas-fired heating appliances used outside one- and two-family dwellings.

   3. Portable outdoor gas-fired heating appliances are allowed in accordance with Section 603.4.2."

4. Add a new section 603.4.2 to read as follows:

603.4.2Portable outdoor gas-fired heating appliances. Portable gas-fired heating appliances located outdoors shall be in accordance with Sections 603.4.2.1 through 603.4.2.3.4.

603.4.2.1Location. Portable outdoor gas-fired heating appliances shall be located in accordance with Sections 603.4.2.1.1 through 603.4.2.1.4.

603.4.2.1.1Prohibited locations. The storage or use of portable outdoor gas-fired heating appliances is prohibited where any of the following exist:

1. Inside any occupancy when connected to the fuel gas container.

2. Inside tents, canopies and membrane structures.

3. On exterior balconies in accordance with NFPA 58.

603.4.2.1.2 Clearance to buildings. Portable outdoor gas-fired heating appliances shall be located at least 5 feet from buildings.

603.4.2.1.3 Clearance to combustible materials. No portion of portable outdoor gas-fired heating appliances shall be located beneath, or closer than 5 feet to combustible overhangs, awnings, sunshades or similar combustible attachments buildings and combustible decorations.

603.4.2.1.4 Proximity to exits. Portable outdoor gas-fired heating appliances shall not be located within 10 feet of exits or exit discharges.

603.4.2.2 Installation and operation. Portable outdoor gas-fired heating appliances shall be installed and operated in accordance with Sections 603.4.2.2.1 through 603.4.2.2.4.

603.4.2.2.1 Listing and approval. Only listed and approved heating appliances utilizing a fuel gas container that is integral to the appliance shall be used.

603.4.2.2.2 Installation and maintenance Portable outdoor gas-fired heating appliances shall be installed and maintained in accordance with the manufacturer's instructions.

603.4.2.2.3 Tip-over switch. Portable gas-fired heating appliances shall be equipped with a tilt or tip-over switch that automatically shuts off the flow of gas if the appliance is tilted more than 15 degrees from vertical.

603.4.2.2.4 Guard against contact. The heating element or combustion chamber shall be permanently guarded so as to prevent accidental contact by persons or material.

603.4.2.3 Gas container. Fuel gas containers for portable outdoor gas-fired heating appliances shall comply with Sections 603.4.2.3.1 through 603.4.2.3.4.

603.4.2.3.1 Approved containers. Only approved U.S. DOT or ASME gas containers shall be used.

603.4.2.3.2 Container replacement. Replacement of gas containers in the heating appliance shall not be conducted while the public is present.

603.4.2.3.3 Container capacity. The maximum individual capacity of gas containers used in connection with portable gas-fired heating appliances shall not exceed 20 pounds.

603.4.2.3.4 Indoor storage prohibited. Gas containers shall not be stored inside of buildings except in accordance with Section 3809.9."

5. Delete section 605.10 and substitute in its place the following: Sections 605.10.1 through 605.10.4 remain unchanged.

"**605.10Portable, electric space heaters.**Portable, electric heaters are prohibited in all portions of occupancies in Groups A, E, F, R-1, R-2, and R-4. Where permitted, portable electric space heaters shall comply with Sections 605.10.1 through 605.10.4."

6. Add a new section 605.11 to read as follows:

"**605.11 Separation from Transformers.**Space separation for transformers shall be as follows:

"(1) Transformer pad locations shall be a minimum of 10 feet (3 m) from any building, building overhangs, canopies, exterior walls, balconies, exterior stairs and/or walkways connected to the building.

"(2) Transformer pad edges shall be not less than 14 feet (4.3 m) from any doorway.

"(3) Transformer pad edges shall be not less than 10 feet (3 m) from any window or other opening.

"(4) If the building has an overhang, the 10 foot (3 m) clearance shall be measured from a point below the edge of the overhang only if the building is three stories or less. If the building is four stories or more, the 10 foot (3 m) clearance shall be measured from the outside building wall.

"(5) Fire escapes, outside stairs, and covered walkways attached to or between buildings, shall be considered as part of the building.

"*Exception No. 1: For (1), transformer pads may be located closer to noncombustible walls than the above required minimum clearances upon written approval of the authority having jurisdiction, however, in no case shall the transformer location be less then 3 feet (0.9 m) from the building.*

"Exception No. 2: Transformer pads existing prior to December 31, 1994, are exempted from this requirement. When buildings are modified, reductions in space separations may be less than the above required minimum clearances upon written approval of the authority having jurisdiction."

7. Delete sections 609.1 and 609.2 in their entirety and substitute in their place the following:

"**609.1 General.**Commercial kitchen exhaust hoods and residential cooking appliances in commercial and public buildings shall comply with the requirements of NFPA 96, *Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations,* as adopted by this Chapter.

8. Delete section 609.2 in its entirety and substitute in its place the following:

"**609.2 Where required.**A commercial hood complying with NFPA 96 shall be installed at or above all commercial cooking appliances and domestic cooking appliances used for commercial purposes that produce grease laden vapors.

Exception: Except as provided for in the scoping provisions subsection 1.1.4 of NFPA 96 as adopted by this Chapter."

(g) **Modifications to Chapter 7:**

1. Add a new section 703.5 to read as follows:

   "**703.5 Barrier Identification.** All fire and/or smoke barriers or walls shall be effectively and permanently identified with signs or stenciling above a decorative ceiling and/or in concealed spaces with letters a minimum of 2 inches (51 mm) high on a contrasting background spaced a maximum of 12 feet (3.7 m) on center with a minimum of one per wall or barrier. The hourly rating shall be included on all rated barriers or walls. Suggested wording '(__) Hour Fire and Smoke Barrier-Protect All Openings.'
   "**Exception:**Existing stenciling acceptable to the authority having jurisdiction."

2. Delete section 704.1 in its entirety and substitute in its place the following:

"**704.1 Enclosures.** The provisions of NFPA 101 as adopted by this Chapter shall govern the enclosures requirements of vertical shafts, including but not limited to stairways and service and utility shafts. (Refer to Table 102.10, CODES REFERENCE GUIDE)"

3. Delete Table 704.1 in its entirety.

4. Delete section 704.2 in its entirety and substitute in its place the following:

"**704.2 Opening protectives.** The provisions of NFPA 101, *Life Safety Code,* as adopted by this Chapter, shall govern the protection of openings in fire rated enclosures and barriers, including the self-closing or automatic closing of opening protectives."

(h) **Modifications to Chapter 8:**

1. Delete section 801.1 in its entirety and substitute in its place the following:

"**SECTION 801 GENERAL, 801.1 Scope.** The provisions of NFPA 101, *Life SafetyCode,* as adopted by this Chapter, shall govern interior finish and interior trim in proposed (new) and existing buildings. Sections 805, 806, 807, and 808 of this *Code* shall govern decorative vegetation, decorative materials other than decorative vegetation, and furniture and furnishings in proposed (new) and existing buildings. (Refer to**Table102.10, CODES REFERENCE GUIDE**)"

(i) **Modifications to Chapter 9:**

1. Delete section 901.4.2 in its entirety and substitute in its place the following:

"901.4.2Provisions in excess of the minimum *Code* requirements shall, as a minimum, be installed to meet the provisions of the currently adopted code(s) and/or standard(s) which may be applicable to the provision at the time of its installation. Any non-required fire protection system which is added onto, or interconnected with, any required fire protection system (of a similar type), shall be designed, installed, and maintained in accordance with the provisions of the currently adopted code(s) and/or standard(s) which may be applicable to the provision at the time of its installation.

"Exceptions:

"1. Other installations not conforming with the provisions of the currently adopted code(s) and/or standard(s) applicable to the provision at the time of its installation if such installations are reported and filed with the local responding fire department and the authority having jurisdiction. In addition such systems shall be identified as required by the authority having jurisdiction.

"2. Non-required systems designed, reviewed, installed and approved in accordance with local codes and/or ordinances."

2. Add a new section 901.6.3 to read as follows:

   "**901.6.3** Automatic sprinkler systems and other water based fire extinguishing systems, including fire pumps, required or installed, shall be maintained in accordance with NFPA 25, *Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems,* adopted by this Chapter. A certificate of inspection, as specified by NFPA 25, shall be retained on file at the facility and shall be made available to the Fire Code Official upon request for review for a period of at least three years."

3. Delete section 901.7.2 and substitute in its place the following:

   "**901.7.2 Tag Required.**

   (a) A tag shall be used to indicate that a system, or portion thereof, has been removed from service.

   (b) For water based fire protection systems the tagging provisions of NFPA 25, *Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems,* as adopted by this shall apply."

4. Delete section 903.2 in its entirety and substitute in its place the following:

   "**903.2 Where required.** (a) Approved automatic sprinkler systems for proposed (new) and existing buildings and structures shall be installed as required by the applicable provisions of NFPA *101, Life Safety Code,* as adopted by this Chapter, provided, however, the *International Building Code* shall govern the requirements for sprinkler protection that is related to minimum building construction types. (Refer to**Table 102.10, CODES REFERENCE GUIDE**) In addition, an automatic sprinkler system may be required by other NFPA standards adopted by this Chapter or other Rules and Regulations of the Safety Fire Commissioner."

   Exception: Spaces or areas in telecommunications buildings used exclusively for telecommunications equipment, associated electrical power distribution equipment, batteries and standby engines, provided those spaces or areas are equipped throughout with a supervised automatic fire alarm system, and are separated from the remainder of the building by fire barriers consisting of walls and floor/ceiling assemblies having a fire resistance rating of not less than 2-hours.

   NOTE:NFPA 76, *Recommended Practice for the Fire Protection of Telecommunications Facilities,* should be consulted. Refer to the edition adopted as a recommended practice by this Chapter."

5. Add a new section 903.2.1 to read as follows:

   "**903.2.1** The requirements for the installation, design, and testing of automatic sprinkler systems shall be as applicable, NFPA 13, *Standard for the Installation of Sprinkler Systems*, NFPA 13D, *Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes,* or NFPA 13R, *Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height,* as adopted and modified by this Chapter."

6. Delete section 904.2.1 in its entirety and substitute in its place the following:

   "904.2.1**Commercial hood and duct systems.** Each required commercial kitchen exhaust hood and duct system required by Section 610 to have a commercial hood complying with NFPA 96 shall be protected with an approved automatic fire-extinguishing system installed in accordance with this code."

7. Delete section 904.11 in its entirety and substitute in its place the following: "904.11 Fire Protection for Cooking Operations."

   "**904.11.1** The requirements for as well as the design, installation, protection and maintenance of cooking equipment, shall be as required by NFPA 101, *Life Safety Code* and NFPA 96, *Standard for the Ventilation Control and Fire Protection of Commercial Cooking Operations,* as adopted by this Chapter. (Refer to Table 102.10, CODES REFERENCE GUIDE)"

   "**904.11.2** Fire suppression systems approved for the protection of commercial cooking equipment shall be designed, installed, and maintained in accordance with the applicable standards adopted in this Chapter."

8. Delete section 905.1 in its entirety and substitute in its place the following:

   "905.1**General.** The State's minimum requirements for standpipe systems shall be as required by this *Code,* and the *International Building Code.* Standpipe systems shall be designed, installed and tested in accordance with NFPA 14, *Standard for the Installation of Standpipe, and Hose Systems* as adopted by this Chapter. (Refer to Table 102.10, CODE REFERENCE GUIDE)"

9. Delete section 906.1 in its entirety and substitute in its place the following:

   "906.1**Portable Fire Extinguishers - General.** Portable fire extinguishers shall be installed in all buildings, structures and facilities falling under this *Code* and O.C.G.A. 25-2. For any other building, structure, facility, or condition or special hazard, portable fire extinguishers shall be provided as may be required by this *Code* in Table 906.1, or by

various codes and standards adopted by this Chapter. (Refer to Table 102.10, CODES REFERENCE GUIDE)."

10. Delete section 906.2 in its entirety and substitute in its place the following:

"906.2**General requirements.** The selection, distribution, installation, and maintenance of portable fire extinguishers shall comply with NFPA 10, *Standard for Portable Fire Extinguishers*, as adopted by this Chapter.

Exceptions:

"1. The maximum travel distance to reach an extinguisher shall not apply to the spectator seating portions of Group A-5 occupancies."

2. Thirty-day inspections shall not be required and maintenance shall be allowed to be once every three years for dry-chemical or halogenated agent portable fire extinguishers that are supervised by a listed and approved electronic monitoring device, provided that all of the following conditions are met:

(a) Electronic monitoring shall confirm that extinguishers are properly positioned, properly charged and unobstructed.

(b) Loss of power or circuit continuity to the electronic monitoring device shall initiate a trouble signal.

(c) The extinguishers shall be installed inside of a building or cabinet in a noncorrosive environment.

(d) Electronic monitoring devices and supervisory circuits shall be tested every three years when extinguisher maintenance is performed.

(e) A written log of required hydrostatic test dates for extinguishers shall be maintained by the owner to ensure that hydrostatic tests are conducted at the frequency required by NFPA 10.

3. In Group E occupancies, in lieu of locating fire extinguishers in corridors and normal paths of travel as specified in NFPA 10, *Standard for Portable Fire Extinguishers*, fire extinguishers may be located in rooms that open directly onto such corridors and pathways provided all of the following are met:

(a) The room in which such extinguishers are placed are located in close proximity to that portion of the corridor where a fire extinguisher would otherwise be placed in accordance with NFPA 10; *Standard for Portable Fire Extinguishers*,

(b) A sign which states in white letters at least one inch in height on a red background, 'FIRE EXTINGUISHER LOCATED IN THIS ROOM,' is placed on the corridor wall immediately adjacent to the entrance way of each such room so that it can be clearly seen at all times;

(c) The rooms in which such extinguishers are placed shall be constantly supervised during school hours; and

(d) Those rooms cannot be subject to being locked at any time the building is occupied."

11. Delete section 906.9 in its entirety and substitute in its place the following:

"906.9**Height above floor.** Portable fire extinguishers having a gross weight not exceeding 40 pounds (18 kg) shall be installed so that its top is not more than 54 inches and not less than 48 inches above the floor. Hand-held portable fire extinguishers having a gross weight exceeding 40 pounds (18 kg) shall be installed so that its top is mot more than 3.5 feet (1067 mm) above the floor. The clearance between the floor and the bottom of installed hand-held extinguishers shall not be less than 4 inches (102mm)."

12. Delete section 907.1 in its entirety and substitute in its place the following, while retaining existing subsections:

"**907.1 Fire Alarm Systems - General.** The State's minimum requirements for fire alarm systems shall be as required by NFPA 101, *Life Safety Code* as adopted by this Chapter. Fire alarm systems shall be installed, tested, and maintained in accordance with NFPA 72, *National Fire Alarm Code,* as adopted by this Chapter."

13. Delete sections 907.2 through 907.16 in their entirety and without substitution.

14. Delete section 909.1 in its entirety and substitute in its place the following:

"**909.1 Scope and purpose.**This section applies to mechanical or passive smoke control systems when they are required for proposed (new) buildings or portions thereof by provisions of the *Life Safety Code (LSC)* or this *Code,* as adopted by this Chapter, or by provisions of the *International Building Code (IBC),* as adopted by the Department of Community Affairs, The purpose of this section is to establish minimum requirements for the design, installation, and acceptance testing of smoke control systems that are intended to provide a tenable environment for the evacuation or relocation of occupants. These provisions are not intended for the preservation of contents, the timely restoration of operations, or for assistance in fire suppression or overhaul activities. Smoke control systems regulated by this section serve a different purpose than the smoke- and heat-venting provisions found in Section 910. Mechanical smoke control systems shall not be considered exhaust systems under Chapter 5 of the International Mechanical Code (IMC)."

15. Delete section 909.2 in its entirety and substitute in its place the following:

"**909.2 General design requirements.** Buildings, structures, or portions thereof required by provisions of the *Life Safety Code (LSC)* or this *Code*, as adopted by this Chapter, or by provisions of the *International Building Code*, as adopted by the Department of Community Affairs, to have a smoke control system or systems shall have such systems designed in accordance with the applicable requirements of Section 909 of this *Code* and the generally accepted and well established principles of engineering relevant to the design. The construction documents shall include sufficient information and detail to describe adequately the elements of the design necessary for the proper implementation of the smoke control systems. These documents shall be accompanied with sufficient information and analysis to demonstrate compliance with these provisions."

16. Add a new section 909.2.1 to read as follows:

"**909.2.1 Smoke Control. For the purposes of 909.2 the following publications shall be considered as providing the generally accepted and well established principals of engineering relevant to design of required smoke control systems.**

(1) NFPA 92A, *Standard for Smoke Control Systems Utilizing Barriers and Pressure Differences*

(2) NFPA 92B, *Standard for Smoke Management Systems in Malls, Atria, and Large Areas*

(3) NFPA SPP-53, *Smoke Control in Fire Safety Design*

(4) ASHRAE/SFPE, *Design of Smoke Management Systems*

(5) ASHRAE, *Guideline 5: Guideline for Commissioning Smoke Management Systems*"

(6) NFPA *101, Life Safety Code* (For non-mandatory guidance involving systems for existing detention and correction facilities refer to A.23.3.1.3 of the 2000 Edition)

17. Add a new section 914.7.3 to read as follows:

"**914.7.3 Limited Use Special Amusement Buildings: Special amusement buildings not open to the public in excess of 45 days shall be permitted, provided all of the following conditions are met:**

1. Portable fire extinguishers with a minimum of a 2A: 10B :C rating are placed at each activity or viewing station;

2. A smoke detection system is placed throughout the facility with a detector located at each activity or viewing station and located throughout corridors and halls not to exceed a spacing more than 15 feet (4.6 m) from a wall or more than 30 feet (9.1 m) on center;

3. Emergency lighting shall be provided which will cause illumination of the means of egress upon activation of the fire alarm, any required smoke detector, or upon loss of power;

4. Personnel dedicated for the sole purpose of providing a fire watch shall be stationed at each activity or viewing station. Such personnel shall be provided with a direct communication device for communication with all other stations throughout the facility. In addition such personnel shall be provided with appropriate training for the operation of portable fire extinguishing equipment;

5. Communication to the responding fire department of emergency dispatch center is available from the facility;

6. The facility shall be posted prohibiting smoking with smoking receptacles located a minimum of 15 feet (9.1 m) from the structure;

7. A fire tour is conducted throughout the structure every hour and documentation of the time the tour was conducted including the name of personnel conducting the fire tour is maintained. Such documentation shall be readily available to the code official upon request."

(j) **Modifications to Chapter 10:**

1. Delete sections 1001 through 1027 in their entirety and substitute in their place the following:

   "**1001.1 General. Proposed (new) and existing buildings or portions thereof shall be provided with means of egress and related safeguards as set forth by NFP A 101, *Life Safety Code,* as adopted by this Chapter. (Refer to Table 102.10, CODES REFERENCE GUIDE)"**

2. Add the following section 1001.2 to read as follows:

   "**1001.2 Overcrowding and Life Safety Hazard Prevention. Overcrowding or admittance of any person beyond the approved capacity of a building or a portion thereof shall not be allowed. It is the responsibility of the manager and the person in charge of a building, structure, or portion thereof not to allow an overcrowded condition or any condition which constitutes a life safety hazard to exist, and to take prompt action to remedy an overcrowded condition or life safety hazard when**

evidence of such a condition is noted, or when advised or ordered by the Fire Code Official or his/her representative. (Refer to 107.6)"

3. Delete section 1028.1 in its entirety and substitute in its place the following:

   "1028.1**General.** The means of egress and related safeguards for buildings and structures or portions thereof shall be maintained in accordance with this section and with the provisions of NFPA 101, *Life Safety Code,* as adopted by this Chapter."

4. Delete section 1028.4 in its entirety and substitute in its place the following:

   "**1028.4 Exit signs, emergency lighting, and emergency power systems. Exit signs shall be properly maintained and shall be operable when a building or structure is occupied. Emergency lighting and emergency power for exit signs shall be maintained so as to be in a state of operational readiness at any time a building or structure is occupied. Emergency generators and power systems shall be tested and maintained as set forth by 604.3 of this *Code."***

(k) **Modifications to Chapter 11:**

1. Delete section 1103.5 in its entirety and substitute in its place the following:

   "1103.5**Dispensing of flammable and combustible liquids.** No dispensing, transfer or storage of flammable or combustible liquids shall be permitted inside any building or structure.

   "Exceptions:

   "1. As provided in Chapter 34 of this *Code,* provided the provisions are not less protective than the provisions of any applicable codes and standards adopted by the Rules and Regulations of the Safety Fire Commissioner.

   "2. When the procedures used follow the guidelines and requirements set forth in NFPA 410 - *Standard for Aircraft Maintenance,* adopted by this Chapter."

2. Delete sections 1106.1 through 1106.21.1 in their entirety and substitute in their place a new paragraph 1106.1 to read as follows:

   "**1106.1 Aircraft motor vehicle fuel-dispensing stations and Airport Fuel Systems. All aircraft motor vehicle fuel-dispensing stations and airport fuel systems shall be in accordance with Chapter 120-3-11 Rules and Regulations of the Safety Fire Commissioner entitled, 'Rules and Regulations for Flammable and Combustible Liquids'."**

3. Delete section 1107.1 in its entirety and substitute in its place the following:

"**1107.1 General.** Helistops and heliports shall be maintained in accordance with Section 1107. Helistops and heliports on buildings or structures shall be constructed in accordance with the *IBC* and the requirements set forth by NFPA 418, *Standard for Heliports,* adopted by this Chapter."

(l) **Modification to Chapter 22:**

1. Delete sections 2201.1 through 2201.6 in their entirety and substitute in their place a new paragraph 2201.1 to read as follows:

   "**2201.1 Scope. Automotive motor fuel-dispensing facilities, marine motor fuel-dispensing facilities, fleet vehicle motor fuel-dispensing facilities and repair garages shall be in accordance with Chapter 120-3-11 Rules and Regulations of the Safety Fire Commissioner entitled, 'Rules and Regulations for Flammable and Combustible Liquids'."**

   Exception: This chapter shall apply to hydrogen motor fuel-dispensing and generation facilities as specified in section 2209 and repair garages where referenced by subsection 406.6, entitled, 'Repair Garages,' of the *International Building Code.*

2. Delete sections 2203 through 2208 and all other paragraphs there under and section 2210 all other paragraphs there under in their entirety without substitution.

(m) **Modification to Chapter 27:**

1. Add two new exceptions 11 and 12 to section 2701.1 to read as follows:

   "**11. Storage, transportation, use, dispensing, mixing and handling of Flammable and Combustible Liquids as outlined in Chapter 120-3-11 Rules and Regulations of the Safety Fire Commissioner entitled, 'Rules and Regulations for Flammable and Combustible Liquids.'**

   12. Storage, handling, and transportation of liquefied petroleum gas (LP-Gas) and the installation of LP-gas equipment pertinent to systems for such use as outlined Chapter 120-3-16 Rules and Regulations of the Safety Fire Commissioner entitled, 'Rules and Regulations for Liquefied Petroleum Gases'."

2. In Table 2703.11.1, add superscript "k"to Oxidizers in the Material column and add the following footnote "k"to read as follows:

   "**k. Group M occupancies with Class 2 and Class 3 oxidizers exceeding these quantities shall include fire protection in accordance with section 7.4 of NFPA 430, *Code for theStorage of Liquid and Solid Oxidizers* adopted by this Chapter."**

(n) **Modifications to Chapter 33:**

1. Delete sections 3301 through 3307 and all related paragraphs there under in their entirety and substitute in their place the following:

   "**3301. Explosives and blasting. The provisions of Chapter 120-3-10 Rules and Regulations of the Safety Fire Commissioner entitled, 'Rules and Regulations for Explosives and Blasting Agents' shall govern the possession, manufacture, storage, handling, sale and use of explosives, explosive materials and small arms ammunitions."**

2. Delete section 3308.1 in its entirety and substitute in its place the following:

   "3308.1**GENERAL PROVISIONS.** In addition to the requirements of this Section for the display of fireworks the provisions of O.C.G.A. Title 25, Chapter 2, and Chapter 120-3-22, Rules and Regulations of the Safety Fire Commissioner, shall apply. Where there may be a conflict between a provision of this Section and a provision of the above referenced law or regulation, the provision of the above referenced law or regulation shall apply. Nothing in this chapter shall be construed to prohibit the use of fireworks by railroads or other transportation agencies for the signal purposes or illumination, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports or for the use by military organizations."

3. Delete section 3308.11 in its entirety and substitute in its place the following:

   "3308.11**Retail display and sale.** (a) Fireworks as define d in the Official Code of Georgia (O.C.G.A.) Title 25, Chapter 10 in 25-10-1 (a)(1) shall not be made available for sale at retail or wholesale, except as provided in O.C.G.A. 25-10. (b) Non-explosive sparkling devices as define d in O.C.G.A. 25-10-1(b)are permitted for retail sales to the public, provided, however, it is unlawful for any such devices to be sold to any person under 18 years of age (O.C.G.A. 25-10-2(b)(1). In addition, it is unlawful to sell such items to any person by any means other than an in-person, face-to-face sale. Further, such person shall provide proper identification to the seller at the time of such purchase. The term 'proper identification' means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth and includes without being limited to, a passport, military identification card, driver's license, or an identification card authorized under O.C.G.A. Sections 40-5-100 through 40-5-104. (c) In areas where devices are stored or displayed for retail sales, at least one pressurized-water type portable fire extinguisher complying with NFPA 10, as adopted by this Chapter shall be located not more than 20 feet and not closer than 15 feet from the storage or display location. In addition, "NO SMOKING"signs complying with Section 310 shall be conspicuously posted in areas of such storage or display, unless in a building where smoking is clearly marked as prohibited."

(o) **Modification to Chapter 34:**

1. Add a new nonapplicability paragraph number 10 to section 3401.2 to read as follows:

   "**10. The storage, transportation, use, dispensing, mixing and handling of Flammable and Combustible Liquids as outlined in Chapter 120-3-11 Rules and Regulations of the Safety Fire Commissioner entitled, 'Rules and Regulations for Flammable and Combustible Liquids'."**

(p) **Modifications to Chapter 38:**

1. Delete Chapter 38 in its entirety and substitute in its place the following:

   "**CHAPTER 38 LIQUEFIED PETROLEUM GASES.**The provisions relating to the storage and handling of liquefied petroleum gases shall be those in NFPA 58, *LiquefiedPetroleum Gas Code,* as adopted by Chapter 120-3-16, Rules and Regulations of the Safety Fire Commissioner. (Refer to Table 102.10), CODES REFERENCE GUIDE)"

(q) **Modifications to Chapter 45:**

1. Delete Chapter 45 in its entirety and substitute in its place the following:

   "**CHAPTER 45 REFERENCED STANDARDS.** Replace the ICC EC - 06 ICC *Electrical Code* reference with the *Georgia State Minimum Standard Electrical Code* (*National Electrical Code*). The following are the section numbers where such references exist:

   603.1.3, 603.1.7, 603.5.2, 604.2.16.1, 604.2.16.2, 605.1, 605.3, 605.4, 605.9, 606.16, 904.3.1, 907.6, 909.11, 909.12.1, 909.16.3, 1106.3.4, 1204.2.3, Table 1304.1, 1404.7, 1503.2.1, 1503.2.1.1, 1503.2.1.4, 1503.2.5, 1504.6.1.2.2, 1504.9.4, 1604.5, 1703.2.1, 1803.7.1, 1803.7.2, 1803.7.3, 1903.4, 2004.1, 2201.5, 2205.4, 2208.8.1.2.4, 2209.2.3, 2211.3.1, 2211.8.1.2.4, 2403.12.6.1, 2404.15.7, 2606.4, 2703.7.3, 2703.8.7.1, 2703.9.4, 2704.7, 2705.1.5, 3003.7.6, 3003.8, 3003.16.11, 3003.16.14, 3203.7, 3203.7.2, 3403.1, Table 3403.1.1, 3403.1.3, 3404.2.8.12, 3404.2.8.17, 3406.2.8, 3503.1.5, 3503.1.5.1, 3606.5.5, 3606.5.6, 3704.2.2.8

   Replace the NFPA Standard Reference numbers with the year edition with the same NFPA Standard Reference numbers and titles however; each year edition shall be those as adopted by the Rules and Regulations of the Georgia Safety Fire Commissioner Chapters 102-3-3, 120-3-10, 120-3-11 and 120-3-12. The following are the Standard Reference numbers and the section numbers where such references exist:

   NFPA National Fire Protection Association; Batterymarch Park; Quincy, MA

02269

Standard Referenced reference in code

By number and title section number

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10 Portable Fire Extinguishers .... Table 901.6.1, 906.2, 906.3,

Table 906.3(1), Table 906.3(2), 2106.3

11 Low-, Medium-, High-expansion Foam 904.7, 3404.2.9.1.2

11A Medium- and High-expansion Foam Systems 904.7, 3404.2.9.1.2

12 Carbon Dioxide Extinguishing Systems . . . . Table 901.6.1, 904.8, 904.11

12A Halon 1301 Fire Extinguishing Systems ..... Table 901.6.1, 904.9

13 Installation of Sprinkler Systems . . . . Table 704.1, 903.3.1.1, 903.3.2, 903.3.5.1.1, 903.3.5.2, 904.11, 905.3.4, 907.9, 2301.1, 2304.2, Table 2306.2, 2306.9, 2307.2, 2307.2.1, 2308.2.2, 2308.2.2.1, 2310.1, 2501.1, 2804.1, 2806.5.7, 3404.3.3.9, Table 3404.3.6.3(7), 3404.3.7.5.1, 3404.3.8.4

13D Installation of Sprinkler Systems in One- and Two-family Dwellings and Manufactured Homes 903.3.1.3, 903.3.5.1.1

13R Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height 903.3.1.2, 903.3.5.1.1, 903.3.5.1.2, 903.4

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15 Water Spray Fixed Systems for Fire Protection 3404.2.9.1.3

16 Installation of Foam-water Sprinkler and Foam-water Spray Systems 904.7, 904.11

17 Dry Chemical Extinguishing Systems ..... Table 901.6.1, 904.6, 904.11

17A Wet Chemical Extinguishing Systems ..... Table 901.6.1, 904.5, 904.11

20 Installation of Stationary Pumps for Fire Protection 913.1, 913.2, 913.5.1

22 Water Tanks for Private Fire Protection 508.2.2

24 Installation of Private Fire Service Mains and their Appurtenances 508.2.1, 909.5

25 Inspection, Testing and Maintenance of Water-based Fire Protection Systems ..... 508.5.3, Table 901.6.1, 904.7.1, 912.6, 913.5,

30 Flammable and Combustible Liquids Code . . . 403.6.2, 3403.6.2.1, 3404.2.7, 3404.2.7.1, 3404.2.7.2, 3404.2.7.3.6, 3404.2.7.4, 3404.2.7.6, 3404.2.7.7, 3404.2.7.8, 3404.2.7.9, 3404.2.9.2, 3404.2.9.3, 3404.2.9.5.1.1, 3404.2.9.5.1.2, 3404.2.9.5.1.3, 3404.2.9.5.1.4, 3404.2.9.5.1.5, 3404.2.9.5.2, 3404.2.9.6.4, 3404.2.10.2, 3404.2.11.4, 3404.2.11.5.2, 3404.2.12.1, 3404.3.1, 3404.3.6, 3404.3.7.2.3,3404.3.7.5.1, 3404.3.8.4, 3406.8.3

30A Code for Motor Fuel-dispensing Facilities and Repair Garages 2201.4, 2201. 5, 2201.6, 2206.6.3, 2210.1

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31 Installation of Oil-burning Equipment 603.1.7, 603.3.1, 603.3.3

32 Dry Cleaning Plants 1207.1, 1207.3

33 Spray Application Using Flammable or Combustible Materials 1504.3.2

34 Dipping and Coating Processes Using Flammable or Combustible Liquids 1505.3, 1505.4.1.1

35 Manufacture of Organic Coatings 2001.3, 2005.4

40 Storage and Handling of Cellulose Nitrate Film 306.2

51 Design and Installation of Oxygen-fuel Gas Systems for Welding, Cutting and Allied Processes 2601.5, 2607.1, 2609.1

51A Acetylene Cylinder Charging Plants 2608.1

52 Compressed Natural Gas (CNG) Vehicular Fuel System Code 3001.1

55 Standard for the Storage, Use and Handling of Compressed Gases and Cryogenic Fluids in Portable and Stationery Containers Cylinders and Tanks 2209.2.1, 3201.1, 3501.1, 4001.1

57 Liquefied Natural Gas (LNG) Vehicular Fuel System Code 3001.1

58 Liquefied Petroleum Gas Code 3801.1, 3803.1, 3803.2.1, 3803.2.1.2, 3803.2.1.7, 3803.2.2, 3804.1, 3804.3.1, 3804.4, 3806.2, 3806.3, 3807.2, 3808.1, 3808.2, 3809.11.2, 3811.3

59A Production, Storage and Handling of Liquefied Natural Gas (LNG) 3001.1, 3201.1

61 Prevention of Fires and Dust Explosions in Agricultural and Food Products Facilities ..... Table 1304.1

69 Explosion Prevention Systems ..... 911.1, 911.3, Table 1304.1

72 National Fire Alarm Code ..... 509.1, Table 901.6.1, 903.4.1, 904.3.5, 907.2, 907.2.1.1, 907.2.10, 907.2.10.4, 907.2.11.2, 907.2.11.3, 907.2.12.2.3, 907.2.12.3, 907.3, 907.5, 907.6, 907.10.2, 907.11, 907.15, 907.17, 907.18, 907.20, 907.20.2, 907.20.5

80 Fire Doors and Fire Windows 703.2, 1008.1.3.3

85 Boiler and Combustion System Hazards Code . . .. Table 1304.1

86 Ovens and Furnaces 2101.1

92B Smoke Management Systems in Malls, Atria and Large Spaces 909.8

99 Health Care Facilities 3006.4

101 Life Safety Code 1025.6.2

110 Emergency and Standby Power Systems . . 604.1, 604.3, 604.4, 913.5.2, 913.5.3

111 Stored Electrical Energy Emergency and Standby Power Systems 604.1, 604.3, 604.4

120 Coal Preparation Plants .... .Table 1304.1

160 Flame Effects Before an Audience 308.3.6

211 Chimneys, Fireplaces, Vents and Solid Fuel-Burning Appliances 603.2

230 Fire Protection of Storage 2301.1, 2308.4, 2310.1, 2501.1, 3404.3.3.9

241 Safeguarding Construction, Alteration, and Demolition Operations 1401.1

260 Methods of Tests and Classification System for Cigarette Ignition Resistance of Components of Upholstered Furniture 805.1.1.1, 805.2.1.1, 805.3.1.1

261 Method of Test for Determining Resistance of Mock-Up Upholstered Furniture Material Assemblies to Ignition by Smoldering Cigarettes 805.2.1.1, 805.3.1.1

265 Method of Fire Tests for Evaluating Room Fire Growth Contribution of Textile Wall Coverings in Full Height Panels and Walls 803.5.1, 803.5.1.1, 803.5.1.2

286 Standard Method of Fire Tests for Evaluating Contribution of Wall and Ceiling Interior Finish to Room Fire Growth 803.1, 803.1.2, 803.1.2.1, 803.5.1

303 Fire Protection Standard for Marinas and Boatyards 905.3.7

385 Tank Vehicles for Flammable and Combustible Liquids 3406.5.4.5, 3406.6, 3406.6.1

407 Aircraft Fuel Servicing 1106.2, 1106.3

409 Aircraft Hangars 914.8.2, 914.8.5

430 Storage of Liquid and Solid Oxidizers 4004.1.4

484 Combustible Metals, Metal Powders, and Metal Dusts . . . . Table 1304.1

490 Storage of Ammonium Nitrate.....3301.1.5

495 Explosive Materials Code..... 911.1, 911.4, 3301.1.1, 3301.1.5, 3302.1, 3304.2, 3304.6.2, 3304.6.3, 3304.7.1, 3305.1, 3306.1, 3306.5.2.1, 3306.5.2.3, 3307.1, 3307.9, 3307.11, 3307.15

498 Safe Havens and Interchange Lots for Vehicles Transporting Explosives.....3301.1.2

505 Powered Industrial Trucks, Including Type Designations, Areas of Use, Maintenance, and Operation 2703.7.3

654 Prevention of Fire and Dust Explosions from the Manufacturing, Processing and Handling of Combustible Particulate Solids.....Table 1304.1

655 Prevention of Sulfur Fires and Explosions..... Table 1304.1

664 Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities .....Table 1304.1, 1905.3

701 Methods of Fire Tests for Flame-propagation of Textiles and Films.....806.2, 807.1, 807.1.2, 807.2, 807.4.2.2, 1703.5

703 Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Materials.....803.4

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1122 Model Rocketry..... 3301.1.4

1123 Fireworks Display.....3302.1, 3304.2, 3308.1, 3308.2.2, 3308.5, 3308.6

1124 Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles.....3302.1, 3304.2, 3305.1, 3305.3, 3305.4, 3305.5

1125 Manufacture of Model Rocket and High Power Rocket Motors.....3301.1.4

1126 Use of Pyrotechnics Before a Proximate Audience.....3304.2, 3305.1, 3308.1, 3308.2.2, 3308.4, 3308.5

1127 High Power Rocketry..... 3301.1.4

2001 Clean Agent Fire Extinguishing Systems..... Table 901.6.1, 904.10"

(3) **NFPA 10, 2007 Edition,** ***Standard for Portable Fire Extinguishers***

Modifications:

(a) **Modifications to Chapter 7:**

1. Delete 7.1.4.1 in its entirety and insert in its place the following:

"**7.1.4.1 Service tags, maintenance labels, test labels, service collars, non-compliance tags and high pressure cylinder stamps shall be attached to each portable fire extinguisher as specified in Chapter 120-3-23 Rules and Regulations of the Safety Fire Commissioner or as otherwise specified in its requirements.**

(4) **NFPA 11, 2005 Edition, *Standard for Low-, Medium-, and High-Expansion Foam***
Modifications: None

(5) **NFPA 12, 2008 Edition, *Standard on Carbon Dioxide Extinguishing Systems***
Modifications: None

(6) **NFPA 12A, 2009 Edition, *Standard on Halon 1301 Fire Extinguishing Systems***
Modifications: None

(7) **NFPA 13, 2010 Edition, *Standard for the Installation of Sprinkler Systems***
Modifications:

(a) **Modification to Chapter 4:**

1. Add a new Section 4.5 to read as follows:

"**4.5 Modification of Existing Sprinkler Systems. In existing sprinkler systems, heads may be relocated from original installation locations. All alterations or modifications to existing branch lines shall be submitted with hydraulic calculations if work is outside of scope of subsections 4.5.1 through 4.5.4. New hydraulic data nameplate shall be placed on any modified system at the riser or sectional valve along with the existing hydraulic data nameplate.**

"**4.5.1 One additional sprinkler may be added to an original installation location if the additional sprinkler is in a remotely located or non-communicating compartment from the existing or relocated sprinkler.**

"**4.5.2 Two sprinklers may be added to an existing branch line if the additional sprinklers are in remotely located or non-communicating compartments from the existing or relocated sprinkler.**

"**4.5.3 New branch lines added to existing cross mains shall be sized the same as the existing branch lines.**

"**4.5.4 No more than two heads shall be supplied from 1 inch (25.4 mm) pipe unless the existing system was calculated to supply more than two heads. In such case, the calculated maximum for 1 inch (25.4 mm) pipe shall take precedence.**"

(b) **Modification to Chapter 8:**

1. Add an Annex A.8.15.4.1 to 8.15.4.1 to read as follows:

   "A.8.15.4.1 It is the intent of this section to apply the requirement for draft stops and closely spaced sprinklers to openings in fire rated floor/ceiling assemblies. It is not the intent of this section to require draft stops and closely spaced sprinklers to the perimeter around mezzanines, raised platforms, lofts or other places where stairs or escalators ascend to a floor or landing that is open to the space below.

2. Renumber existing 8.15.4.2 to 8.15.4.2.1 and add a new 8.15.4.2.2 to read as follows:

   "8.15.4.2.2 Draft stops required by Section 8.15.4.1 shall not be required in Light and Ordinary Hazard Occupancies utilizing quick response sprinklers throughout."

3. Add a new exception to paragraph 8.15.5.3 to read as follows:

   "*Exception: Sprinklers may be omitted from elevator machine rooms which are two-hour fire rated and are provided with smoke detection interconnected to the building fire alarm system.*"

(c) **Modification to Chapter 16:**

1. Delete subparagraph 16.2.5.1.2(3) in its entirety and substitute in its place the following:

   "(3) Shelves shall be slatted using a minimum nominal 2 inch (51 mm) thick by maximum nominal 6 inch (152.4 mm) wide slat held in place by spacers secured to the racks that maintain a minimum 2 inch (51 mm) opening between each slat."

(d) **Modification to Chapter 17:**

1. Delete subparagraph 17.2.5.1.2(3) in its entirety and substitute in its place the following:

"(3) Shelves shall be slatted using a minimum nominal 2 inch (51 mm) thick by maximum nominal 6 inch (152.4 mm) wide slat held in place by spacers secured to the racks that maintain a minimum 2 inch (51 mm) opening between each slat."

(e) **Modification to Chapter 18:**

1. In Table 18.4(d), change the number of sprinklers in the 25.2 Nominal K-factor rows from "12 (see Note 2)"to "15 (see Note 5)"and add the following Note 5: "5. The design area shall consist of the hydraulically most demanding area of 15 sprinklers, consisting of five sprinklers on each of three branch lines. The design area shall include a minimum operating area of 1,200 square feet (111.5 sq m)."

(f) **Modification to Chapter 22:**

1. Add a new 22.1.2.1 to read as follows:

   "**22.1.2.1 Where plan review notes returned with submitted plans or comments on submitted plans by the authority having jurisdiction (AHJ), indicating the need for corrections, such corrections shall be ma de by the Fire Protection Sprinkler Designer. Only after the needed corrections are made and shown on corrected plans shall changes by installation personnel be allowed. Corrected plans shall be kept at the project site and shall be firmly attached to the set of plans stamped as approved with comments by the AHJ. Submitted plans returned without the approval stamp of the AHJ shall have corrections made and be resubmitted to the AHJ for review and approval. The installation of a system shall not be allowed where plans have been returned without an approval stamp until corrected plans have been submitted, reviewed, and stamped as approved by the AHJ."**

2. Add new items to subsection 22.1.3 to read as follows:

   "(47) Type of construction, (i.e. obstructed or unobstructed as defined in Section 3.7), and the distance between the sprinkler deflector and the structure in exposed structure areas.

   "(48) Indicate the system is a NFPA 13 designed system.

   "(49) Owner's Certificate, provided in accordance with Section 4.3.

"(50) Name, number and signature of Certificate of Competency & Designer."

3. Add a new subsection 22.4.4.10.3 to read as follows:

   "**22.4.4.10.3 There shall be a minimum 10 psi (0.69 bar) cushion between the hydraulically calculated sprinkler system demand and supply when there is a backflow prevention device present.**

   "*Exception: 10 psi (0.69 bar) cushion may be lowered with permission of the authority having jurisdiction.*"

4. Add a new subparagraph 22.4.4.10.4 to read as follows:

   "**22.4.4.10.4 There shall be a minimum 15 psi (1.03 bar) cushion between the hydraulically calculated sprinkler system demand and supply in systems that do not have a backflow prevention device.**

   "Exception: 15 psi (1.05 bar) cushion may be lowered with permission of the authority having jurisdiction."

(g) **Modification to Chapter 23:**

1. Add a new paragraph 23.2.1.3 to read as follows:

   "**23.2.1.3 A water test taken to determine the period of highest demand and made not more than six months prior to plan submittal shall be submitted to the authority having jurisdiction with all new system designs."**

(8) **NFPA 14, 2007 Edition, *Standard for the Installation of Standpipe, and Hose Systems***

Modifications:

(a) **Modifications to Chapter 1:**

1. Delete Section 1.1 in its entirety and substitute in its place the following:

   "**1.1 Scope.** The State's minimum requirements for standpipes shall be established by the *IFC* and *IBC* (Refer to Table 102.10, CODES REFERENCE GUIDE found in Chapter 120-3-3 Rules and Regulations) of the *IFC,* as adopted by Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner). In addition, the requirements for occupant hoses are eliminated for new and existing buildings subject to the approval of the

authority having jurisdiction. Where the installation of standpipes and/or hose systems is required, this standard covers the minimum requirements for the installation of standpipes and hose systems for buildings and structures. This standard does not cover requirements for periodic inspection, testing, and maintenance of standpipe systems. *(See NFPA 25, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems.)*"

(b) **Modification to Chapter 7:**

1. Delete 7.8.1 in its entirety and substitute in its place the following:

   "**7.8.1 Hydraulically designed standpipe systems shall be designed to provide the waterflow rate required by Section 7.10 at a minimum residual pressure of 100 psi (6.9 bar) at the outlet of the hydraulically most remote 2-1/2 inch (65 mm) hose connection and 65 psi (4.5 bar) at the outlet of the hydraulically most remote 1-1/2 (38 mm) hose station.**

   Exception No. 1: Where the local Fire Chief or local Fire Code Official having fire suppression jurisdiction permits lower than 100 psi (6.9 bar) for 2-1/2 inch (65 mm) hose connections, based upon local suppression tactics, the pressure shall be permitted to be reduced to not less than 65 psi (4.5 bar).

   Exception No. 2: Where the building is protected throughout by a supervised automatic sprinkler system and the building is not a high-rise, as defined in 3.3.9, the minimum residual pressure provisions shall not be mandatory when the standpipe system piping is a minimum of eight inches (8") nominal diameter.

   Exception No. 3: Existing high-rise buildings, as defined in 3.3.9, that are protected throughout by a supervised automatic sprinkler system shall be permitted a reduction of the minimum residual pressure requirement of 100 psi (6.9 bar) at the hydraulically most remote 2-1/2 inch (63.5 mm) hose connection to 65 psi (4.5 bar)."

2. Delete 7.8.2.1 in its entirety and substitute in its place the following:

   "**7.8.2.1 Pipe schedule designed standpipe systems shall have piping sized in accordance with the pipe schedule inTable 7.8.2.1to provide the required waterflow rate at a minimum residual pressure of 100 psi (6.9 bar) at the topmost 2-1/2 inch (65 mm) hose connection and 65 psi (4.5 bar) at the topmost 1-1/2 inch (38 mm) hose connection. Exception No. 1: Where the local Fire Chief or local Fire Code Official having fire**

suppression jurisdiction permits lower than 100 psi (6.9 bar) for 2-1/2 inch (65 mm) hose connections, based upon local suppression tactics, the pressure shall be permitted to be reduced to not less than 65 psi (4.5 bar).

Exception No. 2: Where the building is protected throughout by a supervised automatic sprinkler system and the building is not a high-rise, as defined in 3.3.9, the minimum residual pressure provisions shall not be mandatory when the standpipe system piping is a minimum of eight inches (8") nominal diameter.

Exception No. 3: Existing high-rise buildings, as defined in 3.3.9, that are protected throughout by a supervised automatic sprinkler system shall be permitted a reduction of the minimum residual pressure requirement of 100 psi (6.9 bar) at the hydraulically most remote 2-1/2 inch (63.5 mm) hose connection to 65 psi (4.5 bar)."

(c) **Modification to Chapter 9:**

1. Add a new subsection 9.1.6 to read as follows:

"**9.1.6 A letter certifying that all pressure restricting and pressure reducing equipment is installed and set per NFPA requirements and manufacturer's instructions shall be presented to the inspector along with test certificates at the time of final inspection."**

(9) **NFPA 15, 2007 Edition, *Standard for Water Spray Fixed Systems for Fire Protection***

Modifications: None

(10) **NFPA 16, 2007 Edition, *Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems***

Modifications: None

(11) **NFPA 17, 2009 Edition, *Standard for Dry Chemical Extinguishing Systems***

Modifications:

(a) **Modification to Chapter 1:**

1. Delete Section 1.6 in its entirety and substitute in its place the following:

"**1.6 * Qualifications. Only persons who are properly trained and licensed under the requirements of Chapter 120-3-23, Rules and Regulations of the Safety Fire Commissioner, shall be considered competent to design, install, and service dry chemical systems."**

(b) **Modification to Chapter 9:**

1. Delete subsection 9.7.2 in its entirety and substitute in its place the following:

   "9.7.2 Only persons trained and licensed under the requirements of Chapter 120-3-23, Rules and Regulations of the Safety Fire Commissioner, shall be considered competent to design, install, and service dry chemical extinguishing systems, in accordance with this standard and the manufacturer's instructions."

(c) **Modification to Chapter 11:**

1. Delete subsection 11.4.2 in its entirety and substitute in its place the following:

   "11.4.2 Systems shall be recharged by persons who are properly trained and licensed under the requirements of Chapter 120-3-23, Rules and Regulations of the Safety Fire Commissioner, in accordance with the manufacturer's listed installation and maintenance manual."

(12) **NFPA 17A, 2009 Edition, *Standard for Wet Chemical Extinguishing Systems*** Modifications:

(a) **Modification to Chapter 7:**

1. Delete Section 1.7 in its entirety and substitute in its place the following:

   "**1.7 * Qualifications. Only persons who are properly trained and licensed under the requirements of Chapter 120-3-23, Rules and Regulations of the Safety Fire Commissioner, shall be considered competent to design, install, and service wet chemical systems."**

2. Delete subsection 7.3.3* in its entirety and substitute in its place the following:

   "**7.3.3 * At least semiannually, maintenance shall be conducted by persons who are trained and licensed under the requirements of Chapter 120-3-23, Rules and Regulations of the Safety Fire**

Commissioner, in accordance with the manufacturer's listed installation and maintenance manual."

3. Delete subsection 7.4.2 in its entirety and substitute in its place the following:

   "**7.4.2 Systems shall be recharged by persons who are properly trained and licensed under the requirements of Chapter 120-3-23, Rules and Regulations of the Safety Fire Commissioner, in accordance with the manufacturer's listed installation and maintenance manual."**

4. Add a new paragraph 7.5.2.4 to read as follows:

   "**7.5.2.4** Each stored pressure system agent cylinder that has undergone maintenance or hydrostatic testing that includes internal examination, or that has been recharged shall have 'Verification of Service' collar located around the neck of the cylinder. The collar shall contain a single circular piece of uninterrupted material forming a hole of a size that will not permit the collar assembly to move over the neck of the cylinder unless the valve is completely removed. The collar shall not interfere with the operation and actuation of the system cylinder. The 'Verification of Service' collar shall c omply with the requirements of NFPA 10, *Standard for Portable Fire Extinguishers,* as adopted by Chapter 120-3-3, Rules and Regulations of the Safety Fire Commissioner.

   "*Exception No. 1: Stored pressure system cylinders undergoing maintenance before March 1, 2002.*

   "Exception No. 2: Non-stored pressure cylinders such as cartridge cylinders for cartridge-operated systems do not require a "Verification of Service. collar for the cartridge."

(13) **NFPA 18, 2006 Edition, *Standard on Wetting Agents***

Modifications: None

(14) **NFPA 18A, 2007 Edition, *Standard on Water Additives for Fire Control; and Vapor Mitigation***

Modifications: None

(15) **NFPA 20, 2010 Edition, *Standard for the Installation of Stationary Pumps for Fire Protection***

Modifications:

(a) **Modification to Chapter 4:**

1. Add a new paragraph 4.6.4.3 to read as follows:

"**4.6.4.3** At 150% rated capacity or below, the pump suction supply shall not drop below 20 psi (1.38 bar).

Exception: Suction supply pressure may be lowered upon approval of the authority having jurisdiction."

(16) **NFPA 22, 2008 Edition, *Standard for Water Tanks for Private Fire Protection***

Modifications: None

(17) **NFPA 24, 2010 Edition, *Standard for the Installation of Private Fire Service Mains and Their Appurtenances***

Modifications:

(a) **Modifications to Chapter 4:**

1. Delete 4.1.3 (10) in its entirety and substitute in its place the following:

"(10) Size, location, and piping arrangement of fire department connections as approved by the local Fire Chief or the local Fire Code Official having jurisdiction."

(b) **Modifications to Chapter 13:** 1. Delete Section 13.1 in its entirety and substitute in its place the following:

"**13.1 Private Service Mains.**

"**13.1.1 No pipe smaller than a nominal 8 inches (203 mm) in diameter shall be used to supply more than one hydrant or one hydrant on dead end mains over 500 feet (152 m).** ***"Exception: Other installations, new or existing, acceptable to and approved by the authority having jurisdiction. NOTE: Pipe sizing should be based upon good engineering practices based on the projected water demand, fire fighting capabilities and water supply characteristics.***

"**13.1.2 No pipe smaller than a nominal 8 inches (203 mm) in diameter shall be used to supply one hydrant and automatic extinguishing systems.**

"Exception: Other installations, new or existing, acceptable to and approved by the authority having jurisdiction. NOTE: Pipe sizing should be based upon good engineering practices based on the projected water demand, f ire fighting capabilities and water supply characteristics.

"**13.1.3 No pipe smaller than a nominal 8 inches (203 mm) in diameter shall be used to supply more than one hydrant and automatic extinguishing systems on looped ma ins over 1,000 feet (305 m).**

"Exception: Other installations, new or existing, acceptable to and approved by the authority having jurisdiction, the approval shall include a letter from the local responding fire department. NOTE: Pipe sizing should be based upon good engineering practices based on the projected water demand, fire fighting capabilities and water supply characteristics."

(18) **NFPA 25, 2008 Edition, *Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems***

Modifications:

(a) **Modifications to Chapter 4:**

1. Delete subsection 4.3.1 in its entirety and substitute in its place the following:

   "**4.4.1 Records of inspections, tests, and maintenance of the system(s) and its components shall be made available to the authority having jurisdiction by the following methods:**

   (1) Maintained on site for review by the authority having jurisdiction for a minimum of a three year period.

   (2) On non-compliant or impaired systems a copy of the inspection report shall be forwarded to the authority having jurisdiction by the owner and/or the occupant."

2. Add a new subsection 4.3.6 to read as follows:

   "4.4.6 Tagging.

4.4.6.1 Inspection Tag.

(a) After inspection and testing, an Inspection Tag shall be completed indicating all work that has been done, and then attached to the system in such a position as to permit convenient inspection and not hamper its activation or operation. A new Inspection Tag shall be attached to each system each time an inspection and test service is performed.

(b) Inspection Tags must be**GREEN** in color having a minimum dimension of 133 mm (5 1/4 inches) in height and 67 mm (2 5/8 inches) in width.

(c) Inspection tags shall bear the following information in an easily read format:

1. '**DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL**.' This particular information shall be in a minimum of 10pt type and in all capital letters.

2. The licensed Fire Sprinkler Contractor's name and physical address;

3. The license number of the Fire Sprinkler Contractor;

4. The license number of the fire sprinkler inspector;

5. The licensed fire sprinkler inspector's signature;

6. The day, month and year (to be punched);

7. The facility name and address.

(d) Inspection Tags may be printed and established for any period of time. After each printing, a minimum of three sample tags must be forwarded to the State Fire Marshal's office.

(e) An Inspection Tag shall only be removed by an authorized representative of a licensed fire sprinkler contractor.

(f) Should impairments or noncompliance items be found, the licensed inspector shall notify the building owner or his representative and the authority having jurisdiction in writing of all noncompliance items and/or impairments found. A fire sprinkler system compliance Inspection Tag shall not be installed on each system until the impairments or

noncompliance items have been corrected and each system has been re-inspected and found to be in a state of operational readiness.

4.4.6.2 Noncompliance Tag.

(a) If a fire sprinkler system is found in noncompliance with the applicable NFPA standards, a completed Noncompliance Tag shall be attached to the main control valve of each system to indicate that corrective action is necessary.

(b) Noncompliance Tags must be YELLOW in color having a minimum dimension of 133 mm (5 1/4 inches) in height and 67 mm (2 5/8 inches) in width.

(c) Noncompliance Tags shall bear the following information in an easily read format:

1. 'DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL-SYSTEM NOT IN COMPLIANCE WITH NFPA STANDARDS.' This particular information shall be in a minimum of 10pt type and in all capital letters.

2. The licensed Fire Sprinkler Contractor's name and physical address;

3. The license number of the Fire Sprinkler Contractor;

4. The license number of the fire sprinkler inspector;

5. The licensed fire sprinkler inspector's signature;

6. The day, month and year (to be punched);

7. The noncompliance issue(s);

8. The facility name and address.

(d) Noncompliance Tags may be printed and established for any period of time. After each printing, a minimum of three sample tags must be forwarded to the State Fire Marshal's office.

(e) The signature of the licensee on a Noncompliance Tag certifies the impairments listed on the label cause the system to be out of compliance with NFPA standards.

(f) A Noncompliance Tag shall only be removed by an authorized representative of a licensed fire sprinkler contractor upon re-inspection of the fire sprinkler system.

(g) A letter of noncompliance conditions shall be sent to the building owner or authorized representative within five working days of the date of the inspection.

4.4.6.3 Impairment Tag.

(a) Should impairments constitute an emergency impairment as defined in this standard, then the inspector shall complete and attach an Impairment Tag to the main control valve of each system and the fire department connection to indicate that corrective action is necessary.

(b) Impairment Tags must be RED in color having a minimum dimension of 133 mm (5 1/4 inches) in height and 67 mm (2 5/8 inches) in width.

(c) Impairment Tags shall bear the following information in an easily read format:

1. 'DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL.' This particular information shall be in a minimum of 10pt type and in all capital letters.

2. The licensed Fire Sprinkler Contractor's name and physical address;

3. The license number of the Fire Sprinkler Contractor;

4. The license number of the fire sprinkler inspector;

5. The licensed fire sprinkler inspector's signature;

6. The day, month and year (to be punched);

7. The emergency impairment(s);

8. The facility name and address.

(d) Impairment Tags may be printed and established for any period of time. After each printing, a minimum of three sample tags must be forwarded to the State Fire Marshal's office.

(e) The signature of the licensee on an Impairment Tag certifies the impairments listed on the label cause the system to be out of compliance with NFPA standards.

(f) An Impairment Tag shall only be removed by an authorized representative of a licensed fire sprinkler contractor upon re-inspection of the fire sprinkler system.

(g) A letter of emergency impairment conditions shall be sent to the building owner or authorized representative and to the occupant within 24 hours of the time of the inspection. The building owner and/or occupant shall notify the authority having jurisdiction within 24 hours of the time of the impairment notification."

(b) **Modifications to Chapter 6:**

1. Add a new exception to subsection 6.1 to read as follows:

   "Exception: In new and existing buildings, the requirements for hose for occupant use are eliminated, subject to the approval of the authority having jurisdiction."

(19) **NFPA 30, 2008 Edition, *Flammable and Combustible Liquids Code***

Modifications: None

(20) **NFPA 30B, 2007, *Code for the Manufacture and Storage of Aerosol Products***

Modifications: None

(21) **NFPA 31, 2006 Edition, *Standard for the Installation of Oil-Burning Equipment***

Modifications: None

(22) **NFPA 33, *2007* Edition, *Standard for Spray Application Using Flammable or Combustible Materials***

Modifications: None

(23) **NFPA 34, 2007 Edition, *Standard for Dipping and Coating Processes Using Flammable or Combustible Liquid s***

Modifications: None

(24) **NFPA 35, 2005 Edition, *Standard for the Manufacture of Organic Coatings***

Modifications: None

(25) **NFPA 36, 2009 Edition,** ***Standard for Solvent Extraction Plants***

Modifications: None

(26) **NFPA 37, 2006 Edition,** ***Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines***

Modifications: None

(27) **NFPA 40, 2007 Edition,** ***Standard for the Storage and Handling of Cellulose Nitrate Film***

Modifications: None

(28) **NFPA 42, 2002 Edition,** ***Code for the Storage of Pyroxylin Plastic***

Modifications: None

(29) **NFPA 45, 2004 Edition,** ***Standard on Fire Protection for Laboratories Using Chemicals***

Modifications: None

(30) **NFPA 51, 2007 Edition,** ***Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes***

Modifications: None

(31) **NFPA 51B, 2009 Edition,** ***Standard for Fire Prevention During Welding, Cutting, and Other Hot Work***

Modifications: None

(32) **NFPA 53, 2004 Edition,** ***Recommended Practice on Materials, Equipment, and Systems Used in Oxygen-Enriched Atmospheres***

Modifications:

(a) **Modifications to Chapter 1:**

1. Delete section 1.1 in its entirety and substitute in its place the following:

"**1.1 Scope. This document establishes the minimum criteria for the safe use of oxygen (liquid/gaseous) and the design of systems for use in oxygen and oxygen-enriched atmospheres (OEAs).**"

(33) **NFPA 54, 2009 Edition,** ***National Fuel Gas Code***

Modifications: None

(34) **NFPA 55, 2010 Edition,** ***Standard for the Storage, Use, and Handling of Compressed and Liquefied Gases in Portable Cylinders***

Modifications: None

(35) **NFPA 58, 2008 Edition,** ***Liquefied Petroleum Gas Code*** Modifications: None

(36) **NFPA 59, 2008 Edition,** ***Utility LP-Gas Plant Code*** Modifications: None

(37) **NFPA 61, 2008 Edition,** ***Standard for the Prevention of Fires and Dust Explosions in Agricultural and Food Processing Facilities***

Modifications:

(a) **Modifications to Chapter 12:**

1. Delete section 12.5 in its entirety and substitute in it place the following:

   "**12.5 Emergency Planning and Preparedness.** Each facility shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code,* as adopted by this Chapter."

(38) **NFPA 68, 2007 Edition,** ***Standard on Explosion Protection by Deflagration Venting***

Modifications:

(a) **Modifications to Chapter 6:**

1. Delete subsection 6.8.2 in its entirety and substitute in its place the following:

"6.8.2 A vent duct shall have a cross sectional area at least as great as that of the vent itself but shall be limited to no more than 150% of the vent itself at any point in the vent duct. [Hey]"

(b) **Modifications to Chapter 7:**

1. Delete equation 7.2.2.6 in its entirety and substitute in its place the following:

$$\Delta A_i = A_v \bullet \left[\frac{(0.0075) \bullet M^{0.5} \bullet K_G^{0.5}}{n^{0.3} \bullet V \bullet P_{red}^{0.2}} \right]$$

(7.2.2.6)

where:

A_v= vent area calculated by Equation 7.2.2

M = mass of vent panel (kg/m^2)

2. Delete equation 7.3.3.2 in its entirety and substitute in its place the following:

$$A_v = [(0.127 \log_{10} K_G - 0.0567) P_{red}^{0.582} + 0.175 P_{red}^{0.572} (P_{stat} - 0.1)] V^{2/3}$$

(7.3.3.2)

where:

KG <= 550 bar-m/sec

P_{red} <= 2 bar and at least 0.05 bar > P_{stat}

P_{stat} <= 0.5 bar

V <= 1000 m3

Initial pressure before <= 0.2 bar ignition

3. Delete subparagraph 7.3.3.6.1 in its entirety and substitute in its place the following:

"**7.3.3.6.1**When the mass of the vent panel is less than or equal to 40 kg/m^2, Equation 7.3.3.6.2 shall be used to determine whether an incremental increase in vent area is needed and the requirements of 7.3.3.7 shall be used to determine the value of the increase."

4. Delete equation 7.3.3.6.2 in its entirety and substitute in its place the following:

$$M_T = \left[6.67 \cdot \left(P_{red}^{0.2}\right) \cdot \left(n^{0.3}\right) \cdot \left(\frac{V}{K_G^{0.5}}\right)\right]^{1.67}$$

(7.3.3.6.2)

where:

M_T = threshold mass (kg/m2)

P_{red} = bar

n = number of panels

V > 1 m^3

5. Delete equation 7.3.3.7 in its entirety and substitute in its place the following:

$$\Delta A_i = A_v \bullet \left[\frac{(0.0075) \bullet M^{0.6} \bullet K_G^{0.5}}{n^{0.3} \bullet V \bullet P_{red}^{0.2}}\right]$$

(7.3.3.7)

where:

M = mass of vent panel (kg/m^2)

A_v = vent area calculated by Equation 7.3.3.2

(c) **Modification to Chapter 8:**

1. Delete paragraph 8.2.7.1 in its entirety and substitute in its place the following:

"8.2.7.1When the mass of the vent panel is less than or equal to 40 kg/m^2, Equation 8.2.7.2 shall be used to determine whether an incremental increase in vent area is needed and the requirements of 8.2.8 shall be used to determine the value of that increase."

2. Delete equation 8.2.7.2 in its entirety and substitute in its place the following:

$$M_T = \left[6.67 \cdot \left(P_{red}^{0.2}\right) \cdot \left(n^{0.3}\right) \cdot \left(\frac{V}{K_{St}^{0.5}}\right)\right]^{1.67}$$

(8.2.7.2)

where:

M_T = threshold mass (kg/m^2)

P_{red} = bar

n = number of panels

V = volume (m^3)

3. Add a new paragraph 8.2.7.3 to read as follows:

"**8.2.7.3** Where M is greater than 40 kg/m^2, it shall be permitted to use the procedure provided in Annex G."

4. Delete subsection 8.2.8 in its entirety and substitute in its place the following:

"**8.2.8**For M > Mt, the required vent area, A_{v3}, shall be calculated as follows:"

5. Delete equation 8.2.8 in its entirety and substitute in its place the following:

$$A_{v3} = A_{v2} \bullet \left[1 + \frac{(0.0075) \bullet M^{0.6} \bullet K_{st}^{0.5}}{n^{0.3} \bullet V \bullet P_{red}^{0.2}}\right]$$

(8.2.8)

where:

A_{v2} = vent area calculated by Section 8.2.2.6, Equation 8.2.6.7, or Equation 8.2.6.8, as applicable

M = mass of vent panel (kg/m^2)

6. Delete Table 8.5.10 in its entirety and substitute in its place the following:

Table 8.5.10 Combination Rules and Limitations for NFPA 68 Dust Models

Model	**Application**
Vent ducts	0.8<=P_0<=1.2 bar-abs Panel density <= 40 kg/m^2 Allow partial volume *1<= L/D<=6* (calculate vent duct effect last)
Partial volume	Allow vent duct Panel density <= 40 kg/m^2 0.8<=P_0<= 1.2 bar-abs *1<= L/D<=6* (calculate vent duct effect last)
Elevated initial pressure	No vent duct Panel density <= M_T and <= 40 kg/m^2 0.2 <= P_0<= 4 bar-g Full volume deflagration *1<= L/D<=6* (calculate elevated initial pressure effect last)

Panel inertia	$0.8 <= P_0 <= 1.2$ bar-a Panel density <= 40 kg/m^2 Allow partial volume $1 <= L/D <= 6$

7. Delete paragraph 8.7.1 (2) in its entirety and substitute in its place the following:

   "8.7.1 (2) Locate the vents as shown in Figure 8.7.1(c) and Figure 8.7.1(d), and bags are either completely removed or shortened so that they do not extend below the top of the vent for a distance of one vent diameter from the vent. In addition, the bags which extend below the top of the vent shall be verified by test to be rigid enough to remain in place during venting, or shall be restrained from passing through the vent. For this case, the vent area shall be permitted to be calculated on the basis of the dirty side only; that is, calculate the volume below the tube sheet, and subtract out the volume occupied by the bags."

8. Delete paragraph 8.7.1 (3) in its entirety and substitute in its place the following:

   "8.7.1 (3) Locate the vents such that the bottom of the vent(s) is below the bottom of the bags, as shown in Figure 8.7.1(e). For this case, the volume used to calculate the vent area shall be the entire volume (clean and dirty) below the tube sheet."

9. Delete Figure 8.7.1 (e) in its entirety and substitute in its place the following:

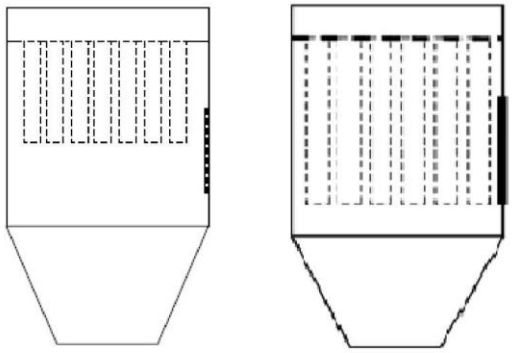

FIGURE 8.7.1(e) Venting of Dust Collectors — Alternative Arrangement 3.

FIGURE 8.7.1(e) Venting of Dust Collectors - Alternative Arrangement 3.

(d) **Modification to Annex A:**

1. Delete subparagraph A.7.3.3.6.2 in its entirety and substitute in its place the following:

   "A.7.3.3.6.2Where . is greater than 40 kg/m^2, it is necessary to perform testing or apply alternative explosion protection methods per**NFPA 69**, *Standard on Explosion Prevention Systems*."

2. Delete subsection A.8.2.7 in its entirety and substitute in its place the following:

   "A.8.2.7 Where . is greater than 40 kg/m^2, see Annex**G** for guidance."

(e) **Modification to Annex G:**

1. Add a new section K. 1 (121) to read as follows:

   "(121) Hey, "Pressure relief of dust explosions through large diameter ducts and effect of changing the position of the ignition source", H. Loss Prev. Process Ind., 1991, Vol 4, July, pg 217"

(39) **NFPA 69, 2008 Edition, *Standard on Explosion Prevention Systems***

Modifications: None

(40) **NFPA 70, 2008 Edition, *National Electrical Code***

Modifications:

(a) **Modifications to Article 210, Section 210.8:**

1. Add a new subparagraph (6) to Section 400.8(B) to read as follows:

   "(6) Within 6 feet of a sink or basin, excluding those listed in Section 517.21."

(b) **Modifications to Article 210, Section 210.13:**

1. Delete Section 210.13(B) in its entirety and substitute in its place the following:

   "**(B) Dwelling Unit Bedrooms.** All 120-volt, single phase, 15- and 20-ampere branch circuits supplying outlets installed in dwelling unit bedrooms shall be protected by a listed arc-fault circuit interrupter to provide protection of the branch circuit.

   FPN: For information on types of arc-fault circuit interrupters, see UL 1699-1999, *Standard for Arc-Fault Circuit Interrupters.*

   Exception: The location of the arc-fault circuit interrupter shall be permitted to be at other than the origination of the branch circuit in compliance with (a) and (b):

   (a) *The arc-fault circuit interrupter installed within 18 m (6 ft) of the branch circuit overcurrent device as measured along the branch circuit conductors*

   (b) *The circuit conductors between the branch circuit overcurrent device and the arc-fault circuit interrupter shall be installed in a metal raceway or a cable with a metallic sheath. "*

(c) **Modifications to Article 400, Section 400.7:**

1. Add a new Section 400.7(C) to read as follows:

   "**(C) Tested and listed portable surge protection devices may be utilized on personal computers, word processors, memory typewriters and other similar electronic devices which provide or process electronic information provided they are installed and utilized in accordance with their listings and permanently affixed to reduce the**

risk of physical damage. The basic standard used to investigate products in the category is UL 1449, 'Transient Voltage Suppressors'."

(41) **NFPA 70B, 2006 Edition,** ***Recommended Practice for Electrical Equipment Maintenance***

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new subsection 1.1.3 to read as follows:

"**1.1.3 This document is recognized strictly as a recommended practice that may be used in evaluating the effectiveness of electrical equipment within its scope.**

Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone enforceable code or standard, however, it may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards.

Exception: Facilities that have operations involving the manufacturing, processing, and/or handling combustible particulate solids including manufacturing processes that create combustible dust shall comply with this standard as a mandatory requirement"

(42) **NFPA 70E, 2009 Edition,** ***Standard for Electrical Safety in the Workplace***

Modifications: None

(43) **NFPA 72, 2007 Edition,** ***National Fire Alarm Code***

Modifications:

(a) **Modification to Chapter 1:**

1. Delete Section 1.1 in its entirety and substitute in its place the following:

"**1.1 Scope. This code covers the application, installation, performance, and maintenance of fire alarm systems and their components whether such system or component is required or not.**

1.1.1 Where the requirements of this code have technical differences and requirements from those established by Chapter 120-3-20 of the Safety Fire Commissioner's Rules and Regulations for Accessibility to Buildings and Facilities, the technical provisions and requirements of Chapter 120-3-20 shall take precedence over the requirements of this code where applicable."

(b) **Modifications to Chapter 4:**

1. Add a new Exception No. 2 to subsection 4.4.5 to read as follows:

   "*Exception No. 2: Existing building installations acceptable to the authority havingjurisdiction.*"

(c) **Modifications to Chapter 5:**

1. Add a new subparagraph 5.7.3.1.4 to read as follows:

   "**5.7.3.1.4 Alternate locations of smoke detectors as allowed by the *LSC* and acceptable to the authority having jurisdiction may be utilized and considered to be in compliance with this code."**

(d) **Modification to Annex A:**

1. Delete A.7.4.3.2 in its entirety and substitute in its place the following:

   "A.7.4.3.2 For example, in critical care patient areas, it is often desirable to not have an audible fire alarm even at reduced private mode levels. Another example would be classrooms for small children in day care or educational occupancies, where verbal communication is vital between caregivers or teachers and children during drills or during an actual fire or other emergency condition. Audible alarms often frighten small children and valuable time may be lost while trying to calm such children. Also, audible alarms at or near locations, where clear communications is required, may present a problem. A school office or a receptionist desk common to various occupancies are examples. An additional example of where an audible fire alarm could be a problem would be high noise level work areas where an audible signal needed to overcome background noise at one time of the day would be excessively loud and potentially dangerous at another time of lower ambient noise. A sudden increase of more than 30 dB over 0.5 seconds is considered to cause sudden and potentially dangerous fright. Each case requires individual consideration by the authority having jurisdiction."

(44) **NFPA 77, 2007 Edition, *Recommended Practice on Static Electricity***

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new subsection 1.1.9 to read as follows:

"**1.1.9 This recommended practice shall be mandatory and shall be used in evaluating systems or devices installed for the purposes of safeguarding life and/or property against the hazards of static electricity."**

(45) **NFPA 79, 2007 Edition, *Electrical Standard for Industrial Machinery***

Modifications: None

(46) **NFPA 80, 2010 Edition, *Standard for Fire Doors and Other Opening Protectives***

Modifications: None

(47) **NFPA 80A, 2007 Edition, *Recommended Practice for Protection of Buildings from Exterior Fire Exposures***

Modifications:

(a) **Modifications to Chapter 1:**

1. Delete section 1.1 in its entirety and substitute in its place the following:

"**1.1 Scope. This recommended practice shall be mandatory and addresses separation distances between buildings to limit exterior fire spread based on exterior openings and other construction features."**

(48) **NFPA 85, 2007 Edition, *Boiler and Combustion Systems Hazards Code***

Modifications: None

(49) **NFPA 86, 2007 Edition, *Standard for Ovens and Furnaces***

Modifications: None

(50) **NFPA 90A, 2009 Edition, *Standard for the Installation of Air-Conditioning and Ventilating Systems***

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new subsection 1.3.1 to read as follows:

"**1.3.1 The *International Mechanical Code,* as adopted by the Georgia Department of Community Affairs (DCA), shall be the primary applicable Code and this standard shall only be utilized as a supplement where the *International Mechanical Code* does not address the specific issue."**

(51) **NFPA 90B, 2009 Edition, *Standard for the Installation of Warm Air Heating and Air-Conditioning Systems***

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new subsection 1.3.1 to read as follows:

"**1.3.1 The *International Mechanical Code,* as adopted by the Georgia Department of Community Affairs (DCA), shall be the primary applicable Code and this standard shall only be utilized as a supplement where the *International Mechanical Code* does not address the specific issue."**

(52) **NFPA 91, 2004 Edition, *Standard for Exhaust Systems for Air Conveying of Vapors, Gases, Mists, and Noncombustible Particulate Solids***

Modifications: None

(53) **NFPA 92A, 2009 Edition, *Standard for Smoke-Control Systems Utilizing Barriers and Pressure Differences***

Modifications:

(a) **Modifications to Chapter 3:**

1. Add a new definition to be inserted alphabetically to Chapter 3 to read as follows:

"**Existing.** That which was already in existence on January 28, 1993."

(b) **Modifications to Chapter 4:**

1. Add a new section 4.8 to read as follows:

   "**4.8 For smoke control/smoke removal systems, each smoke compartment shall be**

   designed for and have a minimum of 10 air changes per hour.

   Exception No. 1: Atrium spaces as specified in NFPA 101, Life Safety Code.

   Exception No. 2: Existing systems may be designed for a minimum of six air changes perhour."

(54) **NFPA 92B, 2009 Edition, *Standard for Smoke Management Systems in Malls, Atria, and Large Spaces***

Modifications: None.

(55) **NFPA 96, 2008 Edition, *Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations***

Modifications:

(a) **Modification to Chapter 1:**

1. Delete subsection 1.1.3 in its entirety and substitute in its place the following:

   "**1.1.3** This standard shall apply to all commercial cooking equipment used for commercial cooking operations."

2. Delete subsection 1.1.4 in its entirety and substitute in its place the following:

   "**1.1.4** This standard shall not apply to residential cooking equipment located in a single dwelling unit or to cooking equipment in facilities where all of the following are met:

   (1) Only residential cooking equipment such as stoves, ranges or cooking surfaces traditionally used in dwelling units are being utilized.

(2) The defined residential cooking equipment contains a maximum of four standard surface cooking elements and is not used for frying operations.

(3) The defined residential equipment is used for food warming, limited cooking, rehabilitation training or in a home economic education classroom setup.

(4) The residential cooking equipment is protected by a listed self-contained residential fire suppression system located in an approved residential hood which is vented directly to the outside and providing protection to each cooking surface.

Exception to (4): The self-contained fire suppression system for the defined residential cooking equipment need not be provided where protection is provided by an approved automatic sprinkler system protecting the cooking surface, subject to approval of the authority having jurisdiction. Required use of automatic disconnects of the fuel source or power source is subject to approval of the authority having jurisdiction.

(5) The facility is not an assembly occupancy.

Exception to (5) Church facilities with a single residential stove or range complying with (2) above.

(6) Fire Extinguishers are located in all kitchen areas in accordance with NFPA 10, *S tandard for Portable Fire Extinguishers*."

3. Add a new subsection 1.1.5 to read as follows:

"**1.1.5 This standard shall not apply for conditions existing prior to the effective date of this standard subject to the authority having jurisdiction where a notarized statement that no frying operations will be preformed is provided."**

(b) **Modification to Chapter 10:**

1. Delete subsection 10.2.3 in its entirety and substitute in its place the following:

"10.2.3 Automatic fire extinguishing systems shall comply with UL 300, *Standard f or Fire Testing of Fire Extinguishing Systems for Protection of Restaurant Cooking Areas*, or other equivalent standards and shall be

installed in accordance with the requirements of the manufacturer's installation and maintenance manual.

Exception No. 1: Systems (dry or wet chemical) installed prior to 1998, and which are in compliance with the manufacturer's listing. These systems shall be red tagged as non-UL 300 compliant and must be replaced to a UL 300 compliant system when any of the following apply:

a. *Appliance arrangement has been modified, or the hazard has been modified to create a higher risk since the initial system installation.*

b. *The system is discharged.*

c. *The system is due for 6-year maintenance or is due hydro-testing.*

d. *If listed manufacturer's replacement parts, or the required extinguishing agent, are needed but are not available."*

2. Delete subsection 10.2.6 in its entirety and substitute in its place the following:

   "10.2.6 Automatic fire extinguishing systems shall be installed by competent personnel meeting Chapter 120-3-23, Rules and Regulations of the Safety Fire Commissioner, licensing and permit requirements, in accordance with the manufacturer's instructions, and the following applicable standard(s):

   (1) NFPA 12, *Standard on Carbon Dioxide Extinguishing Systems*

   (2) NFPA 13, *Standard for the Installation of Sprinkler Systems*

   (3) NFPA 17, *Standard for Dry Chemical Extinguishing Systems*

   (4) NFPA 17A, *Standard for Wet Chemical Extinguishing Systems*"

3. Delete paragraph 10.10.1 in its entirety and substitute in its place the following:

   "10.10.1* Portable fire extinguishers shall be installed in kitchen cooking areas in accordance with 4.3.2 of NFPA 10 and shall be specifically listed for such use. An approved type portable fire extinguisher and a placard as required by 4.3.2.2 of NFPA 10 shall be installed within 5 feet of each means of manual activation for the exhaust hood fire-suppression system."

4. Delete Section 13.2 in its entirety and substitute in its place the following:

   "**13.2 Design Restrictions. All recirculating systems shall comply with the requirements of Section 13.2. Recirculating systems shall be limited to outdoor vending areas or rooms that are fully sprinklered."**

(56) **NFPA 101, 2000 Edition, *Life Safety Code***

Modifications:

The 2000 Edition of the *Life Safety Code* is adopted with modifications so as to be applicable to proposed (new) and existing buildings and structures. Unless noted otherwise herein, operational provisions such as fire drills, emergency egress and relocation drills, development of fire or emergency plans, and regulation of contents of the various provisions of NFPA 101, *Life Safety Code* shall not be applicable to proposed (new) or existing buildings, structures, facilities, or conditions. The operational provisions of the *International Fire Code (IFC),* as adopted by the Chapter 120-3-3 of the Rules and Regulations of the Safety Fire Commissioner shall apply to proposed (new) and existing buildings, structures, facilities, and conditions.

(a) Refer to Chapter 120-3-3, Rules and Regulations of the Safety Fire Commissioner, for the adopted edition and any modifications except as specifically noted herein.

(b) **Modification to Chapter 40:**

1. Delete Chapter 40 in its entirety and substitute in its place the following:

   "40 INDUSTRIAL OCCUPANCIES

   40.1 General Requirements.

   40.1.1 Application.

   40.1.1.1 The requirements of this chapter shall apply to both new and existing industrial occupancies.

   40.1.1.2 Industrial occupancies shall include factories making products of all kinds and properties used for operations such as processing, assembling, mixing, packaging, finishing or decorating, repairing, and similar operations.

40.1.1.3 Incidental high hazard operations protected in accordance with Section 8. 7 and 40.3.2 in occupancies containing low or ordinary hazard contents shall not be the basis for high hazard industrial occupancy classification.

40.1.2 **Multiple Occupancies.** All multiple occupancies shall be in accordance with 6.1.14.

40.1.3 **Special Definitions.** Special terms applicable to this chapter are defined in Chapter 3.

40.1.4 **Classification of Occupancy.** Classification of occupancy shall be in accordance with 6.1.12.

40.1.4.1 **Subclassification of Occupancy.** Each industrial occupancy shall be subclassified according to its use as described in 40.1.4.1.1, 40.1.4.1.2, and 40.1.4.1.3.

40.1.4.1.1 **General Industrial Occupancy.** General industrial occupancies shall include the following:

(1) Industrial occupancies that conduct ordinary and low hazard industrial operations in buildings of conventional design that are usable for various types of industrial processes

(2) Industrial occupancies that include multistory buildings where floors are occupied by different tenants, or buildings that are usable for such occupancy and, therefore, are subject to possible use for types of industrial processes with a high density of employee population

40.1.4.1.2 **Special-Purpose Industrial Occupancy.** Special-purpose industrial occupancies shall include the following:

(1) Industrial occupancies that conduct ordinary and low hazard industrial operations in buildings designed for, and that are usable only for, particular types of operations

(2) Industrial occupancies that are characterized by a relatively low density of employee population, with much of the area occupied by machinery or equipment

40.1.4.1.3 **High Hazard Industrial Occupancy.** High hazard industrial occupancies shall include the following:

(1) Industrial occupancies that conduct industrial operations that use high hazard materials or processes or house high hazard contents

(2) Industrial occupancies in which incidental high hazard operations in low or ordinary occupancies that are protected in accordance with Sections 6.2, 8.4 and 40.3.2 are not required to be the basis for overall occupancy classification

40.1.4.2 **Change of Industrial Occupancy Subclassification.** Changing from one subclassification of industrial occupancy to another shall be permitted only if the structure, building, or portion thereof conforms to the requirements of this chapter that apply to new construction for the new use.

40.1.5 **Classification of Hazard of Contents.** Classification of hazard of contents shall be in accordance with Section 6.2.

40.1.6 **Minimum Construction Requirements.** For new construction and additions to existing buildings or structures, the minimum construction requirements and construction types allowed by the International Building Code as adopted and modified by the Georgia Department of Community Affairs shall be met.

40.1.7 **Occupant Load.** The occupant load, in number of persons for whom means of egress and other provisions are required, shall be determined on the basis of the occupant load factors of Table 7.3.1.2 that are characteristic of the use of the space, or shall be determined as the maximum probable population of the space under consideration, whichever is greater.

40.2 Means of Egress Requirements.

40.2.1 General.

40.2.1.1 Each required means of egress shall be in accordance with the applicable portions of Chapter 7.

40.2.1.2 Normally unoccupied utility chases that are secured from unauthorized access and are used exclusively for routing of electrical, mechanical, or plumbing equipment shall not be required to comply with the provisions of Chapter 7

40.2.2 Means of Egress Components.

40.2.2.1 **Components Permitted.** Components of means of egress shall be limited to the types described in 40.2.2.2 through 40.2.2.13.

40.2.2.2 Doors.

40.2.2.2.1 Doors complying with 7.2.1 shall be permitted.

40.2.2.2.2 Delayed-egress locks complying with 7.2.1.6.1 shall be permitted.

40.2.2.2.3 Access-controlled egress doors complying with 7.2.1.6.2 shall be permitted.

40.2.2.2.4 Approved existing horizontal-sliding fire doors shall be permitted in the means of egress under the following conditions:

(1) They are held open by fusible links.

(2) The fusible links are rated at not less than 165°F (74°C).

(3) The fusible links are located not more than 10 ft (3050 mm) above the floor.

(4) The fusible links are in immediate proximity to the door opening.

(5) The fusible links are not located above a ceiling.

(6) The door is not credited with providing any protection under this *Code*.

40.2.2.3 Stairs.

40.2.2.3.1 Stairs shall comply with 7.2.2 and shall be permitted to be modified as follows:

(1) Noncombustible grated stair treads and noncombustible grated landing floors shall be permitted.

(2) Industrial equipment access stairs in accordance with 40.2.5.2 shall be permitted.

40.2.2.3.2 Spiral stairs complying with 7.2.2.2.3 shall be permitted.

40.2.2.3.3 Existing winders complying with 7.2.2.2.4 shall be permitted.

40.2.2.4 **Smokeproof Enclosures.** Smokeproof enclosures complying with 7.2.3 shall be permitted.

40.2.2.5 Horizontal Exits.

40.2.2.5.1 Horizontal exits complying with 7.2.4 shall be permitted.

40.2.2.5.2 In horizontal exits where the opening is protected by a fire door assembly on each side of the wall in which it is located, one fire door shall be of the swinging type, as provided in 7.2.4.3.6, and the other shall be permitted to be an automatic-sliding fire door that shall be kept open whenever the building is occupied.

40.2.2.6 **Ramps.** Ramps shall comply with 7.2.5, except that industrial equipment access ramps shall be permitted to be in accordance with 40.2.5.2.

40.2.2.7 **Exit Passageways.** Exit passageways complying with 7.2.6 shall be permitted.

40.2.2.8 **Escalators and Moving Walks.** Existing previously approved escalators and moving walks complying with 7.2.7 and located within the required means of egress shall be permitted.

40.2.2.9 **Fire Escape Stairs.** Existing fire escape stairs complying with 7.2.8 shall be permitted.

40.2.2.10 Fire Escape Ladders.

40.2.2.10.1 Fire escape ladders complying with 7.2.9 shall be permitted.

40.2.2.10.2 Fixed industrial stairs in accordance with the minimum requirements for fixed stairs in ANSI A1264.1, *Safety Requirements for Workplace Floor and Wall Openings, Stairs and Railings Systems*, shall be permitted where fire escape ladders are permitted in accordance with 7.2.9.1.

40.2.2.11 Slide Escapes.

40.2.2.11.1 Approved slide escapes complying with 7.2.10 shall be permitted as components in 100 percent of the required means of egress for both new and existing high hazard industrial occupancies.

40.2.2.11.2 Slide escapes permitted by 40.2.2.11.1 shall be counted as means of egress only where regularly used in emergency egress drills to ensure that occupants are familiar with their use through practice.

40.2.2.12 **Alternating Tread Devices.** Alternating tread devices complying with 7.2.11 shall be permitted.

40.2.2.13 **Areas of Refuge.** Areas of refuge complying with 7.2.12 shall be permitted.

40.2.3 **Capacity of Means of Egress.** Capacity of means of egress shall comply with either of 40.2.3.1 or 40.2.3.2.

40.2.3.1 The capacity of means of egress shall be in accordance with Section 7.3.

40.2.3.2 In industrial occupancies, means of egress shall be sized to accommodate the occupant load as determined in accordance with 40.1.7; spaces not subject to human occupancy because of the presence of machinery or equipment shall not be included in the computation.

40.2.4 **Number of Means of Egress.** See also Section 7.4.

40.2.4.1 The number of means of egress shall comply with either 40.2.4.1.1 or 40.2.4.1.2.

40.2.4.1.1 Not less than two means of egress shall be provided from every story or section, and not less than one exit shall be reached without traversing another story.

40.2.4.1.2 A single means of egress shall be permitted from any story or section in low and ordinary hazard industrial occupancies, provided that the exit can be reached within the distance permitted as a common path of travel specified in Table 40.2.5.

40.2.4.2 In new buildings, floors or portions thereof with an occupant load of more than 500 shall have the minimum number of separate and remote means of egress specified by 7.4.1.2.

40.2.4.3 Areas with high hazard contents shall comply with Section 7.11.

40.2.5 **Arrangement of Means of Egress.** Means of egress, arranged in accordance with Section 7.5, shall not exceed that provided by Table 40.2.5.

Table 40.2.5 Arrangement of Means of Egress					
	General Industrial Occupancy		Special-Purpose Industrial Occupancy		
Level of Protection	ft	m	ft	m	**High Hazard Industrial Occupancy**
Dead-End Corridor					
Protected throughout by an approved, supervised automatic sprinkler system in accordance with 9.7.1.1(1)	50	15	50	15	Prohibited, except as permitted by 7.11.4
Not protected throughout by an approved, supervised automatic sprinkler system in accordance with 9.7.1.1(1)	50	15	50	15	Prohibited, except as permitted by 7.11.4
Common Path of Travel					
Protected throughout by an approved, supervised automatic sprinkler system in accordance with 9.7.1.1(1)	100	30	100	30	Prohibited, except as permitted by 7.11.4
Not protected throughout by an approved, supervised automatic sprinkler system in accordance with 9.7.1.1(1)	50	15	50	15	Prohibited, except as permitted by 7.11.4

40.2.5.1 Ancillary Facilities.

40.2.5.1.1 New ancillary facilities shall be arranged to allow travel in independent directions after leaving the ancillary facility so that both

means of egress paths do not become compromised by the same fire or similar emergency.

40.2.5.1.2 New ancillary facilities in special-purpose industrial occupancies where delayed evacuation is anticipated shall have not less than a 2-hour fire resistance-rated separation from the predominant industrial occupancy, and shall have one means of egress that is separated from the predominant industrial occupancy by 2-hour fire resistance-rated construction.

40.2.5.2 Industrial Equipment Access.

40.2.5.2.1 Industrial equipment access doors, walkways, platforms, ramps, and stairs that serve as a component of the means of egress from the involved equipment shall be permitted in accordance with the applicable provisions of Chapter 7, as modified by Table 40.2.5.2.1.

Table 40.2.5.2.1 Industrial Equipment Access Dimensional Criteria	
Feature	Dimensional Criteria
Minimum horizontal dimension of any walkway, landing, or platform	22 in. (560 mm) clear
Minimum stair or ramp width	22 in. (560 mm) clear between rails
Minimum tread width	22 in. (560 mm) clear
Minimum tread depth	10 in. (255 mm)
Maximum riser height	9 in. (230 mm)
Handrails shall be permitted to terminate, at the required height, at a point directly above the top and bottom risers.	
Maximum height between landings	12 ft (3660 mm)
Minimum headroom	6 ft 8 in. (2030 mm)
Minimum width of door openings	22 in. (560 mm) clear

40.2.5.2.2 Any means of egress component permitted by 40.2.5.2.1 shall serve not more than 20 people.

40.2.6 **Travel Distance to Exits.** Travel distance, measured in accordance with Section 7.6, shall not exceed that provided by Table 40.2.6.

Table 40.2.6 Maximum Travel Distance to Exits

	General		Special-Purpose		High Hazard	
	Industrial		Industrial		Industrial	
	Occupancy		Occupancy		Occupancy	
Level of Protection	ft	m	ft	m	ft	m
Protected throughout by an approved, supervised automatic sprinkler system in accordance with 9.7.1.1(1)	250	76*	400	122	75	23
Not protected throughout by an approved, supervised automatic sprinkler system in accordance with 9.7.1.1(1)	200	61	300	91	NP	NP
NP: Not permitted. *In single-story buildings, a travel distance of 400 ft (122 m) is permitted, provided that a performance-based analysis demonstrates that safe egress can be accomplished.						

40.2.7 **Discharge from Exits.** Discharge from exits shall be in accordance with Section 7.7.

40.2.8 **Illumination of Means of Egress.** Means of egress shall be illuminated in accordance with Section 7.8 or with natural lighting that provides the required level of illumination in structures occupied only during daylight hours.

40.2.9 Emergency Lighting.

40.2.9.1 Emergency lighting shall be provided in accordance with Section 7.9, except as otherwise exempted by 40.2.9.2.

40.2.9.2 Emergency lighting shall not be required for the following:

(1) Special-purpose industrial occupancies without routine human habitation

(2) Structures occupied only during daylight hours, with skylights or windows arranged to provide the required level of illumination on all portions of the means of egress during such hours

40.2.10 **Marking of Means of Egress.** Means of egress shall have signs in accordance with Section 7.10.

40.2.11 Special Means of Egress Features.

40.2.11.1 Reserved.

40.2.11.2 Lockups.

40.2.11.2.1 Lockups in new industrial occupancies shall comply with the requirements of 22.4.5.

40.2.11.2.2 Lockups in existing industrial occupancies, other than approved existing lockups, shall comply with the requirements 23.4.5.

40.3 Protection.

40.3.1 **Protection of Vertical Openings.** Any vertical opening shall be protected in accordance with Section 8.2.5, unless otherwise permitted by one of the following:

(1) In special-purpose industrial and high hazard industrial occupancies where unprotected vertical openings exist and are necessary to manufacturing operations, such openings shall be permitted beyond the specified limits, provided that every floor level has direct access to one or more enclosed stairs or other exits protected against obstruction by any fire or smoke in the open areas connected by the unprotected vertical openings.

(2) Approved existing open stairs, existing open ramps, and existing escalators shall be permitted where connecting only two floor levels.

(3) Approved, existing unprotected vertical openings in buildings with low or ordinary hazard contents that are protected throughout by an approved automatic sprinkler system in accordance with 9.7.1.1 shall be permitted, provided that the following conditions exist:

(a) The vertical opening does not serve as a required exit.

(b) All required exits consist of outside stairs in accordance with 7.2.2, smokeproof enclosures in accordance with 7.2.3, or horizontal exits in accordance with 7.2.4.

(4) Vertical openings in accordance with 8.2.5.8 shall be permitted.

40.3.2 Protection from Hazards.

40.3.2.1 All high hazard industrial occupancies, operations, or processes shall have approved, supervised automatic extinguishing systems in accordance with Section 9.7 or other protection appropriate to the particular hazard, such as explosion venting or suppression.

40.3.2.2 Protection in accordance with 40.3.2.1 shall be provided for any area subject to an explosion hazard in order to minimize danger to occupants in case of fire or other emergency before they have time to use exits to escape.

40.3.2.3 Activation of the fire extinguishing or suppression system required by 40.3.2.1 shall initiate the required building fire alarm system in accordance with 40.3.4.3.4.

40.3.2.4 Hazardous areas in industrial occupancies protected by approved automatic extinguishing systems in accordance with Section 9.7 shall be exempt from the smoke-resisting enclosure requirement of 8.4.1.2.

40.3.3 Interior Finish.

40.3.3.1 **General.** Interior finish shall be in accordance with Section 10.2.

40.3.3.2 **Interior Wall and Ceiling Finish.** Interior wall and ceiling finish materials complying with Section 10.2 shall be Class A, Class B, or Class C in operating areas and shall be as required by 7.1.4 in exit enclosures.

40.3.3.3 Interior Floor Finish.

40.3.3.3.1 Interior floor finish in exit enclosures and in exit access corridors shall be not less than Class II.

40.3.3.3.2 Interior floor finish in areas other than those specified in 40.3.3.3.1 shall not be required to comply with Section 10.2.

40.3.4 Detection, Alarm, and Communications Systems.

40.3.4.1 **General.** A fire alarm system shall be required in accordance with Section 9.6 for industrial occupancies, unless the total capacity of the building is under 100 persons and, of these, fewer than 25 persons are above or below the level of exit discharge.

40.3.4.2 **Initiation.** Initiation of the required fire alarm system shall be by any of the following means:

(1) Manual means in accordance with 9.6.2.1(1)

(2) Approved automatic fire detection system in accordance with 9.6.2.1(2) throughout the building, plus a minimum of one manual fire alarm box in accordance with 9.6.2.5

(3) Approved, supervised automatic sprinkler system in accordance with 9.6.2.1(3) throughout the building, plus a minimum of one manual fire alarm box in accordance with 9.6.2.5

40.3.4.3 Notification.

40.3.4.3.1 The required fire alarm system shall meet one of the following criteria:

(1) It shall provide occupant notification in accordance with 9.6.3.

(2) It shall sound an audible and visible signal in a constantly attended location for the purposes of initiating emergency action.

40.3.4.3.2 Positive alarm sequence in accordance with 9.6.3.4 shall be permitted.

40.3.4.3.3 Existing presignal systems in accordance with 9.6.3.3 shall be permitted.

40.3.4.3.4 In high hazard industrial occupancies, as described in 40.1.4.1.3, the required fire alarm system shall automatically initiate an occupant evacuation alarm signal in accordance with 9.6.3.

40.3.5 Extinguishment Requirements.

40.3.5.1 Portable fire extinguishes shall be provided in accordance with NFPA 10. Such extinguishes shall be maintained operational and serviced on an annual basis by a licensed fire extinguisher technician meeting the provisions of Title 25 Chapter 12 of the Official Code of Georgia Annotated.

40.3.5.2 High Hazard Industrial occupancies shall be protected throughout by an approved supervised automatic sprinkler system installed by a

licensed fire sprinkler contractor meeting the provisions of Title 25 Chapter 11 of the Official Code of Georgia Annotated.

Exception: Other automatic fire suppression systems approved by the authority having jurisdiction for the protection of life and property may be accepted for partial or total protection.

40.3.6 **Corridors.** The provisions of 7.1.3.1 shall not apply.

40.4 Special Provisions - High-Rise Buildings.

40.4.1 The automatic sprinkler requirements of 11.8.2.1 shall be required for high-rise industrial occupancies, except for general low hazard or special-purpose industrial occupancies.

40.5 Building Services.

40.5.1 **Utilities.** Utilities shall comply with the provisions of Section 9.1.

40.5.2 **Heating, Ventilating, and Air-Conditioning.** Heating, ventilating, and air-conditioning equipment shall comply with the provisions of Section 9.2.

40.5.3 **Elevators, Escalators, and Conveyors.** Elevators, escalators, and conveyors shall comply with the provisions of Section 9.4.

40.5.4 **Rubbish Chutes, Incinerators, and Laundry Chutes.** Rubbish chutes, incinerators, and laundry chutes shall comply with the provisions of Section 9.5.

40.6 Special Provisions for Aircraft Servicing Hangars.

40.6.1 The requirements of Sections 40.1 through 40.5 shall be met, except as modified by 40.6.1.1 through 40.6.1.4.

40.6.1.1 There shall be not less than two means of egress from each aircraft servicing area.

40.6.1.2 Exits from aircraft servicing areas shall be provided at intervals not exceeding 150 ft (46 m) on all exterior walls.

40.6.1.3 Where horizontal exits are provided, doors shall be provided in the horizontal exit fire barrier at intervals not exceeding 100 ft (30 m).

40.6.1.4 Where dwarf, or "smash,"doors are provided in doors that accommodate aircraft, such doors shall be permitted for compliance with 40.6.1.1 through 40.6.1.3.

40.6.2 Means of egress from mezzanine floors in aircraft servicing areas shall be arranged so that the travel distance to the nearest exit from any point on the mezzanine does not exceed 75 ft (23 m), and such means of egress shall lead directly to a properly enclosed stair discharging directly to the exterior, to a suitable cutoff area, or to outside stairs.

40.6.3 Dead ends shall not exceed 50 ft (15 m) for other than high hazard contents areas and shall not be permitted for high hazard contents areas.

40.7 Operating Features.

40.7.1 **Emergency Planning and Preparedness.** Industrial occupancies otherwise classified under Group F and/or Group H in the *International Fire Code* shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by this Chapter.

40.7.2 **Employee Training and Response Procedures.** Employees in the occupancies listed in Section 404.2 of the International Fire Code shall be trained in the fire emergency procedures describe d in their fire evacuation and fire safety plans. Training shall be based on these plans and as described in Section 404.3 of the International Fire Code.

40.7.3 **Upholstered Furniture and Mattresses.** The provisions of 10.3.2 shall not apply to upholstered furniture and mattresses.

(57) **NFPA 105, 2003 Edition, *Standard for Smoke Door Assemblies and Other Opening Protectives***

Modifications: None

(58) **NFPA 110, 2010 Edition, *Standard for Emergency and Standby Power Systems***

Modifications: None

(59) **NFPA 111, 2010 Edition, *Standard on Stored Electrical Energy Emergency and Stand by Power Systems***

Modifications: None

(60) **NFPA 115, 2008 Edition,** ***Standard for Laser Fire Protection***

Modifications: None

(61) **NFPA 120, 2004 Edition,** ***Standard for Fire Prevention and Control in Coal Mines***

Modifications: None

(62) **NFPA 122, 2004 Edition,** ***Standard for Fire Prevention and Control in Metal/Nonmetal Mining and Metal Mineral Processing Facilities***

Modifications: None

(63) **NFPA 150, 2009 Edition,** ***Standard on Fire and Life Safety in Animal Housing Facilities***

Modifications: None

(64) **NFPA 170, 2009 Edition,** ***Standard for Fire Safety and Emergency Symbols***

Modifications: None

(65) **NFPA 204, 2007 Edition,** ***Standard for Smoke and Heat Venting***

Modifications: None

(66) **NFPA 211, 2006 Edition,** ***Standard for Chimneys, Fireplaces, Vents, and Solid Fuel Burning Appliances***

Modifications: None

(67) **NFPA 214, 2005 Edition,** ***Standard on Water-Cooling Towers***

Modifications: None

(68) **NFPA 220, 2009 Edition,** ***Standard on Types of Building*** *Construction*

Modifications: None

(69) **NFPA 221, 2009 Edition,** ***Standard for High Challenge Fire Walls, Fire Walls, and Fire Barrier Walls***

Modifications: None

(70) **NFPA 241, 2009 Edition,** ***Standard for Safeguarding Construction, Alteration, and Demolition Operations***

Modifications: None

(71) **NFPA 251, 2006 Edition,** ***Standard Methods of Tests of Fire Resistance of Building Construction and Materials***

Modifications: None

(72) **NFPA 252, 2008 Edition,** ***Standard Methods of Fire Tests of Door Assemblies***

Modifications: None

(73) **NFPA 253, 2006 Edition,** ***Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source***

Modifications: None

(74) **NFPA 255, 2006 Edition,** ***Standard Method of Test of Surface Burning Characteristics of Building Materials***

Modifications: None

(75) **NFPA 256, 2003 Edition,** ***Standard Methods of Fire Tests of Roof Coverings***

Modifications: None

(76) **NFPA 257, 2007 Edition,** ***Standard on Fire Test for Window and Glass Block Assemblies***

Modifications: None

(77) **NFPA 258, 2001 Edition,** ***Recommended Practice for Determining Smoke Generation of Solid Materials***

Modifications: None

(78) **NFPA 259, 2008 Edition,** ***Standard Test Method for Potential Heat of Building Materials***

Modifications: None

(79) **NFPA 260, 2009 Edition,** ***Standard Methods of Tests and Classification System for Cigarette Ignition Resistance of Components of Upholstered Furniture***

Modifications: None

(80) **NFPA 261, 2009 Edition,** ***Standard Method of Test for Determining Resistance of Mock-Up Upholstered Furniture Material Assemblies to Ignition by Smoldering Cigarettes***

Modifications: None

(81) **NFPA 262, 2007 Edition,** ***Standard Method of Test for Flame Travel and Smoke of Wires and Cables for Use in Air-Handling Spaces***

Modifications: None

(82) **NFPA 265, 2007 Edition,** ***Standard Methods of Fire Tests for Evaluating Room Fire Growth Contribution of Textile Coverings on Full Height Panels and Walls***

Modifications: None

(83) **NFPA 268, 2007 Edition,** ***Standard Test Method for Determining Ignitability of Exterior Wall Assemblies Using a Radiant Heat Energy Source***

Modifications: None

(84) **NFPA 269, 2007 Edition,** ***Standard Test Method for Developing Toxic Potency Data for Use in Fire Hazard Modeling***

Modifications: None

(85) **NFPA 270, 2008 Edition,** ***Test Method for Measurement of Smoke Obscuration Using a Conical Radiant Source in a Single Closed Chamber***

Modifications: None

(86) **NFPA 271, 2009 Edition,** ***Standard Method of Test for Heat and Visible Smoke Release Rates for Materials and Products Using an Oxygen Consumption Calorimeter***

Modifications: None

(87) **NFPA 272, 2003 Edition,** ***Standard Method of Test for Heat and Visible Smoke Release Rates for Upholstered Furniture Components or Composites and Mattresses Using an Oxygen Consumption Calorimeter***

Modifications: None

(88) **NFPA 274, 2009 Edition,** ***Standard Test Method to Evaluate Fire Performance Characteristics of Pipe Insulation***

Modifications: None

(89) **NFPA 275, 2009 Edition,** ***Standard Method of Fire Tests for the Evaluation of Thermal Barriers Used Over Foam Plastic Insulation***

Modifications: None

(90) **NFPA 285, 2006 Edition,** ***Standard Fire Test Method for Evaluation of Fire Propagation Characteristics of Exterior Non-Load-Bearing Wall Assemblies Containing Combustible Components***

Modifications: None

(91) **NFPA 286, 2006 Edition,** ***Standard Method of Fire Tests for Evaluating Contribution of Wall and Ceiling Interior Finish to Room Fire Growth***

Modifications: None

(92) **NFPA 287, 2007 Edition,** ***Standard Test Methods for Measurement of Flammability of Materials in Cleanrooms Using a Fire Propagation Apparatus (FPA)***

Modifications: None

(93) **NFPA 288, 2007 Edition,** ***Standard Methods of Fire Tests of Floor Fire Door Assemblies Installed Horizontally in Fire Resistance-Rated Floor Systems***

Modifications: None

(94) **NFPA 289, 2009 Edition,** ***Standard Method of Fire for Individual Fuel Packages***

Modifications: None

(95) **NFPA 291, 2010 Edition,** ***Recommended Practice for Fire Flow Testing and Marking of Hydrants***

Modifications:

(a) **Modifications to Chapter 1:**

1. Delete section 1.1 in its entirety and substitute in its place the following:

   "**1.1 Scope.The scope of this document is fire flow testing and marking of hydrants and shall be deemed mandatory."**

(96) **NFPA 318, 2009 Edition,** ***Standard for the Protection of Semiconductor Fabrication Facilities***

Modifications: None

(97) **NFPA 400, 2010 Edition,** ***Hazardous Materials Code***

Modifications: None

(98) **NFPA 484, 2006 Edition,** ***Standard for Combustible Metals***

Modifications:

(a) **Modifications to Chapter 13:**

1. Delete section 13.5 in its entirety and substitute in it place the following:

"13.5 Emergency Planning and Preparedness. In additional to the provisions specified in 13.5.1 through 13.5.6 of this standard, each facility shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code,* as adopted by this Chapter."

(99) **NFPA 495, 2006 Edition,** ***Explosive Materials Code***

Modifications: None

(100) **NFPA 496, 2008 Edition,** ***Standard for Purged and Pressurized Enclosures for Electrical Equipment***

Modifications: None

(101) **NFPA 497, 2008** ***Edition, Recommended Practice for the Classification of Flammable Liquids, Gases, or Vapors and of Hazardous (Classified) Locations for Electrical Installations in Chemical Process Areas***

Modifications: None

(102) **NFPA 499, 2008 Edition,** ***Recommended Practice for the Classification of Combustible Dusts and of Hazardous (Classified) Locations for Electrical Installations in Chemical Process Areas***

Modifications: None

(103) **NFPA 505, 2006 Edition,** ***Fire Safety Standard for Powered Industrial Trucks Including Type Designations, Areas of Use, Conversions, Maintenance, and Operations***

Modifications: None

(104) **NFPA 520, 2005 Edition,** ***Standard on Subterranean Spaces***

Modifications: None

(105) **NFPA 555, 2009 Edition,** ***Guide on Methods for Evaluating Potential for Room Flashover***

Modifications:

(a) **Modifications to Chapter 1:**

1. Add a new paragraph 1.1.2 to read as follows:

"**1.1.2** This document is recognized strictly a guide for evaluating the potential for room flashover from fire involving the contents, furnishings, and the interior finish of a room. Recommendations may be based on the document where deemed appropriate by the authority having jurisdiction. The document is not in the form of a stand-alone enforceable code or standard, however, it may be used in conjunction with and in the support of applicable provisions of other adopted codes or standards."

(106) **NFPA 560, 2007 Edition,** ***Standard for the Storage, Handling, and Use of Ethylene Oxide for Sterilization and Fumigation***

Modifications: None

(107) **NFPA 600, 2005 Edition,** ***Standard on Industrial Fire Brigades***

Modifications: None

(108) **NFPA 654, 2006 Edition,** ***Standard for the Prevention of Fire and Dust Explosions from Manufacturing, Processing, and Handling of Combustible Particulate Solids***

Modifications:

(a) **Modifications to Chapter 11:**

1. Delete sections 11.1 through 11.4 in their entirety and substitute in their place the following:

"11.1 Emergency Planning and Preparedness. Each facility shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be

developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by this Chapter."

(109) **NFPA 655, 2007 Edition, *Standard for Prevention of Sulfur Fires and Explosions***

Modifications:

(a) **Modifications to Chapter 8:**

1. Delete section 8.1 in its entirety and substitute in its place the following:

"8.1 Emergency Planning and Preparedness. Each facility shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by this Chapter."

(110) **NFPA 664, 2007 Edition, *Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities***

Modifications:

(a) **Modifications to Chapter 10:**

1. Add an new subsection 10.1.1 to read as follows:

"10.1.1**Emergency Planning and Preparedness.** In additional to the provisions specified in 10.2 through 10.12.2 of this standard, each facility shall develop policies, procedures, plans, staff training, and safety practices for the protection of life prior to and during an emergency condition. Such policies, procedures, plans, staff training, and safety practices shall be developed and implemented in accordance with applicable provisions of Chapter 4 of the *International Fire Code*, as adopted by this Chapter."

(111) **NFPA 701, 2004 Edition, *Standard Methods of Fire Tests for Flame Propagation of Textiles and Films***

Modifications: None

(112) **NFPA 703, 2009 Edition, *Standard for Fire Retardant Treated Wood and Fire-Retardant Coatings for Building Materials***

Modifications: None

(113) **NFPA 704, 2007 Edition,** ***Standard System for the Identification of the Hazards of Materials for Emergency Response***

Modifications: None

(114) **NFPA 705, 2009 Edition,** ***Recommended Practice for a Field Flame Test for Textiles and Films***

Modifications: None

(115) **NFPA 750, 2006 Edition,** ***Standard on Water Mist Fire Protection Systems***

Modifications: None

(116) **NFPA 780, 2008 Edition,** ***Standard for the Installation of Lighting Protection Systems***

Modifications: None

(117) **NFPA 820, 2008 Edition,** ***Standard for Fire Protection in Wastewater Treatment and Collection Facilities***

Modifications: None

(118) **NFPA 850, 2005 Edition,** ***Recommended Practice for Fire Protection for Electric Generating Plants and High Voltage Direct Current Converter Stations***

Modifications: None

(119) **NFPA 853, 2007 Edition,** ***Standard for the Installation of Stationary Fuel Cell Power Systems***

Modifications: None

(120) **NFPA 914, 2007 Edition,** ***Code for Fire Protection of Historic Structures***

Modifications: None

(121) **NFPA 1142, 2007 Edition,** ***Standard on Water Supplies for Suburban and Rural Fire Fighting***

Modifications: None

(122) **NFPA 1961, 2007 Edition,** ***Standard on Fire Hose***

Modifications: None

(123) **NFPA 1962, 2008 Edition,** ***Standard for the Inspection, Care, and Use of Fire Hose, Couplings, and Nozzles, and the Service Testing of Fire Hose***

Modifications: None

(124) **NFPA 1963, 2009 Edition,** ***Standard for Fire Hose Connections***

Modifications: None

(125) **NFPA 2001, 2008 Edition,** ***Standard on Clean Agent Fire Extinguishing Systems***

Modifications:

(a) **Modification to Chapter 4:**

1. Delete subsection 4-1 .1 in its entirety and substitute in its place the following:

"4-1 .1 At least annually, all systems shall be thoroughly inspected and tested for proper operation by competent personnel meeting Georgia 120-3-23, Rules and Regulations of the Safety Fire Commissioner, licensing and permit requirements. Discharge tests are not required."

Cite as Ga. Comp. R. & Regs. R. 120-3-24-.06
Authority: O.C.G.A. Secs. 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Request for Modification of Specific Requirements"adopted as ER. 120-3-24-0.8-.06. F. Mar. 7, 2008; eff. Mar. 6, 2008, as specified by the Agency.
Amended: ER. 120-3-24-0.11-.06 adopted. F. and eff. July 2, 2008, the date of adoption.
Amended: ER. 120-3-24-0.12-.06 adopted. F. and eff. Oct. 29, 2008, the date of adoption.
Amended: ER. 120-3-24-0.13-.06 adopted. F. Feb. 26, 2009; eff. Feb 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.14-.06 adopted. F. and eff. June 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.15-.06 adopted. F. and eff. Oct. 19, 2009, the date of adoption.
Amended: Permanent Rule entitled "State Minimum Fire Safety Standards with Modifications"adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.

Rule 120-3-24-.07. Request for Modification of Specific Requirements.

Upon receipt of a sworn affidavit stating all relevant facts and circumstances and such other information as may be required, the State Fire Marshal may recommend to the Georgia Safety Fire Commissioner that specific requirements of this Chapter and the codes and standards adopted herein be modified to allow alternative arrangements that will secure as nearly equivalent measures as practical for the prevention of injury to persons and property. The

Georgia Safety Fire Commissioner in his discretion may accept the State Fire Marshal's recommendation and grant the requested modification.

Cite as Ga. Comp. R. & Regs. R. 120-3-24-.07
Authority: O.C.G.A. Secs. 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Fire Safety Information and Training to Be Furnished to Employees and Reported"adopted as ER. 120-3-24-0.8-.07. F. Mar. 7, 2008; eff. Mar. 6, 2008, as specified by the Agency.
Amended: ER. 120-3-24-0.11-.07 adopted. F. and eff. July 2, 2008, the date of adoption.
Amended: ER. 120-3-24-0.12-.07 adopted. F. and eff. Oct. 29, 2008, the date of adoption.
Amended: ER. 120-3-24-0.13-.07 adopted. F. Feb. 26, 2009; eff. Feb 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.14-.07 adopted. F. and eff. June 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.15-.07 adopted. F. and eff. Oct. 19, 2009, the date of adoption.
Amended: Permanent Rule entitled "Request for Modification of Specific Requirements"adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.

Rule 120-3-24-.08. Accessibility to and Use of Public Facilities by Persons with Disabilities.

The requirements for accessibility to and use of public facilities shall be as provided in O.C.G.A. Title 30, Chapter 3, and Chapter 120-3-20, Rules and Regulations of the Safety Fire Commissioner.

Note: Chapter 120-3-20, the "Georgia Accessibility Code"may be available for download in Adobe Acrobat format from www.gainsurance.org or by purchase from the Georgia State Fire Marshal's Office.

Cite as Ga. Comp. R. & Regs. R. 120-3-24-.08
Authority: O.C.G.A. Secs. 25-2-4, 30-3-7, 33-2-9, 50-13-21.
History. Original Rule entitled "Accessibility to and Use of Public Facilities by Persons with Disabilities"adopted as ER. 120-3-24-0.8-.08. F. Mar. 7, 2008; eff. Mar. 6, 2008, as specified by the Agency.
Amended: ER. 120-3-24-0.11-.08 adopted. F. and eff. July 2, 2008, the date of adoption.
Amended: ER. 120-3-24-0.12-.08 adopted. F. and eff. Oct. 29, 2008, the date of adoption.
Amended: ER. 120-3-24-0.13-.08 adopted. F. Feb. 26, 2009; eff. Feb 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.14-.08 adopted. F. and eff. June 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.15-.08 adopted. F. and eff. Oct. 19, 2009, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.

Rule 120-3-24-.09. Parking Space Designation for Persons with Disabilities.

The requirements for identifying parking spaces for persons with disabilities shall be as specified in O.C.G.A. Title 40, Chapter 6, Article 10, Part 2.

Cite as Ga. Comp. R. & Regs. R. 120-3-24-.09
Authority: O.C.G.A. Secs. 25-2-4, 30-3-7, 33-2-9, 40-6-221, 50-13-21.
History. Original Rule entitled "Parking Space Designation for Persons with Disabilities"adopted as ER. 120-3-24-0.8-.09. F. Mar. 7, 2008; eff. Mar. 6, 2008, as specified by the Agency.
Amended: ER. 120-3-24-0.11-.09 adopted. F. and eff. July 2, 2008, the date of adoption.
Amended: ER. 120-3-24-0.12-.09 adopted. F. and eff. Oct. 29, 2008, the date of adoption.

Amended: ER. 120-3-24-0.13-.09 adopted. F. Feb. 26, 2009; eff. Feb 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.14-.09 adopted. F. and eff. June 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.15-.09 adopted. F. and eff. Oct. 19, 2009, the date of adoption.
Amended: Permanent Rule of same title adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.

Rule 120-3-24-.10. Violation and Penalties.

(1) Persons who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, installs, alters, repairs or does work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this Chapter, shall be guilty of violation of Code Section 25-2-37 of the Official Code of Georgia Annotated.

(2) Each day that a violation continues after due notice has been served shall be deemed a separate offense. Such violations shall be subject to civil penalties as prescribed in Code Sections 25-2-37(d) and 25-2-37(e).

(3) Any person, firm, or corporation violating this Chapter or failing or refusing to comply with any other rule or regulation promulgated under Chapter 2 of Title 25 shall be guilty of a misdemeanor.

Cite as Ga. Comp. R. & Regs. R. 120-3-24-.10
Authority: O.C.G.A. Secs. 25-2-4, 25-2-37 to 25-2-39, 33-2-9, 50-13-21.
History. Original Rule entitled "Notes"adopted as ER. 120-3-24-0.8-.10. F. Mar. 7, 2008; eff. Mar. 6, 2008, as specified by the Agency.
Amended: ER. 120-3-24-0.11-.10 adopted. F. and eff. July 2, 2008, the date of adoption.
Amended: ER. 120-3-24-0.12-.10 adopted. F. and eff. Oct. 29, 2008, the date of adoption.
Amended: ER. 120-3-24-0.13-.10 adopted. F. Feb. 26, 2009; eff. Feb 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.14-.10 adopted. F. and eff. June 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.15-.10 adopted. F. and eff. Oct. 19, 2009, the date of adoption.
Amended: Permanent Rule entitled "Violation and Penalties"adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.

Rule 120-3-24-.11. Notes.

(1) The National Fire Protection Association Standards adopted in this Chapter are on file in the Office of the State Fire Marshal and are available for viewing.

(2) Copies of the National Fire Protection Association Standards may be obtained from:

National Fire Protection Association

1 Batterymarch Park

Quincy, MA 02269-9101

Main 617-770-3000

Phone: 800-344-3555

http://www.nfpa.org/catalog

(3) Copies of the International Code Council codes are on file in the Office of the State Fire Marshal and are available for viewing. Copies may be obtained from:

International Code Council

1-888-ICC-SAFE (422-7233) or

http://www.iccsafe.org /

Cite as Ga. Comp. R. & Regs. R. 120-3-24-.11
Authority: O.C.G.A. Secs. 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Sovereign Immunity as to Carrying Out the Provisions of This Chapter; Legal Duties, Obligations, of Property Owners and Lessees"adopted as ER. 120-3-24-0.8-.11. F. Mar. 7, 2008; eff. Mar. 6, 2008, as specified by the Agency.
Amended: ER. 120-3-24-0.11-.11 adopted. F. and eff. July 2, 2008, the date of adoption.
Amended: ER. 120-3-24-0.12-.11 adopted. F. and eff. Oct. 29, 2008, the date of adoption.
Amended: ER. 120-3-24-0.13-.11 adopted. F. Feb. 26, 2009; eff. Feb 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.14-.11 adopted. F. and eff. June 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.15-.11 adopted. F. and eff. Oct. 19, 2009, the date of adoption.
Amended: Permanent Rule entitled "Notes"adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.

Rule 120-3-24-.12. Sovereign Immunity as to Carrying Out the Provisions of This Chapter; Legal Duties, Obligations, of Property Owners and Lessees.

(1) Nothing in this chapter shall be construed to constitute a waiver of the sovereign immunity of the state, or any officer or employee thereof, in carrying out the provisions of this chapter. No action shall be maintained against the state, any municipality, county, or any officer, elected officer or employees thereof, for damages sustained as a result of any fire or related hazard covered in this chapter by reason of any inspection or other action taken or not taken pursuant to this chapter.

(2) Nothing in this chapter shall be construed to relieve any property owner or lessee thereof from any legal duty, obligation, or liability incident to the ownership, maintenance, or use of such property.

Cite as Ga. Comp. R. & Regs. R. 120-3-24-.12
Authority: O.C.G.A. Secs. 25-2-4, 25-2-38.1, 33-2-9, 50-13-21.
History. Original Rule entitled "Severability"adopted as ER. 120-3-24-0.8-.12. F. Mar. 7, 2008; eff. Mar. 6, 2008, as specified by the Agency.
Amended: ER. 120-3-24-0.11-.12 adopted. F. and eff. July 2, 2008, the date of adoption.

Amended: ER. 120-3-24-0.12-.12 adopted. F. and eff. Oct. 29, 2008, the date of adoption.
Amended: ER. 120-3-24-0.13-.12 adopted. F. Feb. 26, 2009; eff. Feb 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.14-.12 adopted. F. and eff. June 25, 2009, the date of adoption.
Amended: ER. 120-3-24-0.15-.12 adopted. F. and eff. Oct. 19, 2009, the date of adoption.
Amended: Permanent Rule entitled "Sovereign Immunity as to Carrying Out the Provisions of This Chapter; Legal Duties, Obligations, of Property Owners and Lessees"adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.

Rule 120-3-24-.13. Severability.

If any rule or portion thereof contained in this chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and the applicability of such provisions to other circumstances shall not be affected thereby.

Cite as Ga. Comp. R. & Regs. R. 120-3-24-.13
Authority: O.C.G.A. Secs. 25-2-4, 33-2-9, 50-13-21.
History. Original Rule entitled "Severability"adopted. F. Feb. 17, 2010; eff. Mar. 9, 2010.

Subject 120-3-25. Rules and Regulations for Escalators and Elevators.

Rule 120-3-25-.01. Promulgation and Purpose.

(1) These rules and regulations of the Safety Fire Commissioner entitled, "Rules and Regulations for escalators and elevators" are promulgated to establish the State's minimum fire safety codes and standards for escalators and elevators as specified in the Official Code of Georgia Annotated, (O.C.G.A.) Section 8-2-1.

(2) A primary purpose of these rules and regulations is to establish the state minimum safety codes and standards for the prevention of loss of life, injury and structural damage in all buildings, structures and other locations governed by state regulations.

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.01
Authority: O.C.G.A. §§ 8-2-1, 50-13-21.
History. Original Rule entitled "Authority and Purpose" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: New Rule entitled "Promulgation and Purpose" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.02. Application.

(1) Pursuant to O.C.G.A. 8-2-1, rules and regulations adopted by the Safety Fire Commissioner shall have the force and effect of law and shall have statewide application as being the state minimum fire safety codes and standards for escalators and elevators and shall not require adoption by a municipality or county.

(a) Pursuant to O.C.G.A. Section 25-15-1, the Office succeeded to all rules and regulations of the Department of Labor which were in effect on June 30, 2012, or were scheduled to go into effect on or after July 1, 2012, which related to the functions transferred to the Office pursuant to either Chapter 15 of Title 25 or Part 6 of Article 1 of Chapter 2 of Title 8. The Office has the authority to modify the Escalator and Elevator regulations or promulgate new regulations pursuant to O.C.G.A. Sections 8-2-104, 25-15-1, 33-2-9 and 50-13-21.

(b) The primary purpose of these rules and regulations is to promote consumer protection through state regulation of elevators, dumbwaiters, escalators, manlifts, and moving walks as adopted by these regulations listed below:

(c)

(1) ASME A17.1, 2019 Edition, American National Standard Safety Code for elevators, escalators, dumbwaiters, moving walks, with such revisions, amendments, and interpretations thereof as are made, approved and adopted by the Council of the Standard.

Copies may be obtained from the American Society of Mechanical Engineers, 22 Law Drive, Box 2300, Fairfield, NJ 07007. The state amendments to this Code are as follows: Note - Except for Testing and Inspection Requirements, Existing Hydraulic Jack Requirements and QEI Requirements. See Rule 120-3-25-.14.

(2) ASME A17.2, 2017 Edition of the Inspector's Manual for Elevators, with such revisions, amendments and interpretations thereof as are made, approved and adopted by the Standards Committee. (See (c)(1) herein to order copies)

(3) ASME A17.3, 2017 Edition of the Safety Code for Existing Elevators and Escalators, with such revisions, amendments, and interpretations thereof as are made, approved and adopted by the Standards Committee. (See (c)(1) herein to order copies.)

(4) ASME A17.7, 2007 Performance-Based Safety Code for Elevators and Escalators.

(5) ASME A17.6, 2017 Standard for Elevator Suspension, Compensation and Governor Systems.

(6) ICC/ANSI A117.1, 2017 Edition, American National Standard for Building and Facilities, Providing Accessibility and Usability for Physically Handicapped People and Rule 120-3-20 as approved by the State Fire Marshal's office. Copies may be obtained from the State Fire Marshal's office. (See note below)

Note - ICC/ANSI A117.1, Section 409 is a recommended Standard only. Exception taken to Section 407.4.6.2.2.

(7) ASME B20.1, 2018 Edition of the Safety Standards For Conveyors and related equipment with such revisions, amendments and interpretations thereof as are made, approved and adopted by the Standards Committee.

(8) ASME A90.1, 2015 Edition of the Safety Standards for Manlift, with such revisions, amendments and interpretations thereof as are made, approved, and adopted by the Standards Committee. (See (c)(1) herein to order copies.)

(9) ANSI A10.4, 2016 Edition and ANSI A10.5, 2020 Edition for the Safety Requirements for Personnel Hoists and Employee Elevators used for construction and demolition and Safety Standard for Construction Hoist, with such revisions, amendments, and interpretations thereof as are made, approved, and adopted by the Council of the Standard. (See (c)(1) herein to order copies)

(10) National Electrical Code, State adopted Edition, with such revisions, amendments and interpretations thereof as are made, approved and adopted by the Standards Committee. Copies may be obtained from the National Fire Protection Association, 1 Battery March Park, Post Office Box 9101, Quincy, MA 02269.

(11) The International Building Code, State approved Edition, with such revisions, amendments and interpretations thereof as are made, approved and adopted by the Standards Committee. Copies may be obtained from the International Code Council, Birmingham District Office, 900 Montclair Road, Birmingham, AL 35213-1206.

(12) NFPA Section 101, Life Safety Code, State adopted Edition of the National Fire Protection Association, with such revisions, amendments and interpretation thereof as are made, approved and adopted by the Standards Committee. (See (c)(9) herein to order copies.)

(13) ASME A18.1, 2017 Edition of the Safety Standard for Platform Lifts and Stairway Chairlifts, with such revisions, amendments and interpretations thereof as are made, approved and adopted by the Standards Committee. (See (c)(1) herein to order.)

(14) ANSI A92.10, 2009 (R2014) Edition of the American National Standard for Transport Platforms, with such revisions, amendments, and interpretations thereof as are made, approved and adopted by the

Standards Committee. Copies may be obtained from the American National Standards Institute, 11 West 42nd St, New York, NY 10036

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.02
Authority: O.C.G.A. §§ 8-2-100, 8-2-101, 8-2-102, 8-2-104, 25-15-1, 33-2-9, 50-13-21.
History. Original Rule entitled "Definitions" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: New Rule entitled "Application" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.03. Definitions.

(1) Accident means an unplanned or unscheduled event that results in property damage and/or personal injury.

(2) Act is Part 6 of Article 1 of Chapter 2 of Title 8 of the Official Code of Georgia, O.C.G.A. Sections 8-2-100 through 82-109 .1.

(3) Approved means that which is acceptable to the Office.

(4) Board is the Advisory Committee as described in Section 8-2-109 of the Act.

(5) Certified Inspector is an inspector, by reason of experience and knowledge, considered qualified by the Office. The minimum experience shall be established by these rules. Knowledge shall be evidenced by approved written and oral examinations, acceptable to and administered by the Office.

(6) Cessation order is the official order stopping an action by an individual or company.

(7) Citation is the written document by which a person or company is summoned or cited.

(8) The Commissioner is the Commissioner of Insurance and Safety Fire, and.

(9) the Office is the Office of the Commissioner of Insurance and Safety Fire.

(10) Dormant Elevator means an elevator that is intact and on the premises and the equipment is entirely disconnected in an approved manner.

(11) Elevators as used in these Rules means, Elevators, Escalators, Dumbwaiters, Material lifts, Manlifts, Moving Walks, or Platform Lifts (Wheelchair Lifts) or Stairway Chairlifts where the Rule is applicable in accordance with the adopted Codes and Standards.

(12) Hand powered one-man elevator is an elevator having a car platform area of not more than five square feet and a rated load of not more than three hundred pounds and which is operated from the car only by pulling on a stationary rope located in the hoistway and passing through or adjacent to the car platform. It is for the exclusive use of certain designated operating and maintenance employees and installed in a grain or feed mill or similar structure not accessible to the general public.

(13) Inspection means the official determination by a certified inspector of the condition of all parts of the equipment on which the safe operation of an elevator depends.

(14) Personnel Hoist is those elevators used during construction to carry workers. Such elevators are temporary and shall not become a permanent part of the structure.

(15) Personal Injury, as used in O.C.G.A. § 8-2-106(a), means bodily injury, sickness, or disease sustained by any person by reason of the operation or malfunction of an elevator, escalator, manlift moving walk or power dumbwaiter, platform lifts or stairway chairlifts including death at any time resulting therefrom. Personal Injury does not include false arrest, detention, imprisonment, confinement, slander, libel, violation of privacy or any mental disease, disability or disorder not accompanied by physical injury at the time of the incident.

(16) Property Damage, as used in O.C.G.A. § 8-2-106(b), means physical injury to, or destruction of tangible property to the structure or operational parts (including safety equipment and devices) of an elevator, escalator, manlift, moving walk or power dumbwaiter, sustained by reason of accident or malfunction, other than routine wear and tear.

(17) Special Purpose Personnel Elevator is an elevator permanently installed to provide vertical transportation of authorized personnel. Such elevators are typically installed in Grain Elevators, Radio Antennas and Bridge Towers.

(18) Deleted for future use.

(19) Temporary Inspection is the inspection by a certified inspector of an elevator to be used on a temporary basis.

(20) Elevator Contractor - Any person, firm, or corporation who possesses an "Elevator Contractor's Certification" in accordance with the provisions of Rule 120-3-25-.21 and who is engaged in the business of erecting, constructing, installing, altering, servicing, repairing or maintaining elevators or related conveyance equipment covered by this chapter.

(21) Elevator Mechanic - Any person who possesses an elevator mechanic certification in accordance with the provisions of Rule 120-3-25-.21.

(22) Certification, Elevator Contractor (Class I, Class IR) - A certification issued to an elevator contractor who has proven qualifications and ability, and who has been

authorized by the Office to possess this type of Certification. It shall entitle the holder thereof to engage in the business of erecting, constructing, installing, altering, servicing, testing, repairing or maintaining elevators or related conveyance equipment covered by this Chapter.

(23) Certification, Elevator Contractor (Class II) - A certification issued to an elevator contractor who has proven qualifications and ability, and who has been authorized by this Office to possess this type of Certification. It shall entitle the holder thereof to engage in the business of servicing, testing, repairing or maintaining elevators or related conveyance equipment covered by this Chapter.

(24) Certification, Elevator Contractor, Limited (Class III) - A certification issued to an elevator contractor who has proven qualifications and ability, and who has been authorized by the Office to possess this type of Certification. It shall entitle the holder thereof to engage in the business of erecting, constructing, installing, altering, servicing, testing, repairing or maintaining residential dumbwaiters, elevators, platform lifts and stairway chairlifts.

(25) Certification, Elevator Contractor, Limited Class IIIR - A certification issued to an elevator contractor who has proven qualifications and ability, and who has been authorized by the Office to possess this type of Certification. It shall entitle the holder thereof to engage in the business of erecting, constructing, installing, altering, servicing, testing, repairing or maintaining residential platform lifts and stairway chairlifts.

(26) Certification, Elevator Mechanic (Class I, Class IR) - A certification issued to a person who has proven qualifications and ability, and who has been authorized by the Office to work on conveyance equipment. It shall entitle the holder to install, service, repair, test, maintain and perform electrical work on elevators or related conveyance equipment covered by this Chapter.

(27) Certification, Elevator Mechanic (Class II) - A certification issued to a person who has proven qualifications and ability, and who has been authorized by the Office to work on conveyance equipment. It shall entitle the holder to service, repair, test and maintain elevators or other conveyance equipment covered in this Chapter. The Class II Mechanic shall be employed by a Class II Elevator Contractor or owner user.

(28) Certification, Elevator Mechanic (Class III) - A certification issued to a person who has proven qualifications and ability, and who has been authorized by the Office to work on residential platform lifts and stair chairlifts. It shall entitle the holder to install, alter, service, repair, test, maintain and perform electrical work on residential elevators, platform lifts and stair chairlifts.

(29) Certification, Elevator Mechanic Class IIIR - A certification issued to a person who has proven qualifications and ability, and who has been authorized by the Office to work on residential platform lifts and stair chairlifts. It shall entitle the holder to install, alter, service, repair, test, maintain and perform electrical work on residential elevators, platform lifts and stair chairlifts.

(30) Private Residence - A single unit of a multiple facility or a detached dwelling designed for, inhabited by, and accessible only to one person or that person's family.

(31) LULA Elevator - A passenger elevator limited in size, capacity, travel and speed. These elevators shall comply with ASME A17.1, Section 5.2 (Capacity, Speed, Travel, Etc.) and ICC/ANSI A117.1, Section 407.4 (Car Size, Power Operation, Signal Location, Etc.).

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.03
Authority: O.C.G.A. §§ 8-2-100 to 8-2-102, 8-2-104.
History. Original Rule entitled "Jurisdiction Numbered Tags" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: New Rule entitled "Definitions" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.04. Jurisdiction Numbered Tags.

(1) A jurisdiction numbered tag shall be furnished and shall be permanently attached on or near the elevator or dumbwaiters crosshead by the State Deputy Inspector.

(2) On elevators or dumbwaiters without a crosshead, jurisdiction tags shall be attached to the equipment on the car top. Elevators or dumbwaiters without car tops, escalators, manlifts, moving walks or platform lifts (wheelchair lifts) stairway chairlifts, the jurisdiction tag shall be attached on or near the control panel.

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.04
Authority: O.C.G.A. §§ 8-2-101, 8-2-104.
History. Original Rule entitled "Qualification of Inspectors" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: New Rule entitled "Jurisdiction Numbered Tags" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.05. Qualification of Inspectors.

(1) All persons inspecting elevator equipment shall be tested for compliance with Georgia statutes and regulations governing escalators and elevators and shall be certified inspectors.

(2) All persons eligible for certification by the Office must have a minimum of three (3) years' experience in the installation, repair, maintenance or inspection of elevators and be a current QEI (Qualified Elevator inspector).

(3) All private inspection firms inspecting elevators in the State of Georgia shall have a minimum of $500,000 general liability insurance issued by a company acceptable to the Office.

(4) All private inspection firms certified by the Office to inspect elevators shall provide the Office of the Insurance and Safety Fire Commissioner a copy of a signed contract for each inspection location and a list of equipment to be inspected. The contract shall give the initial inspection date and expiration date.

(5) Inspection reports shall be sent electronically. Any reports not sent electronically will have a $5.00 entry fee charged per inspection report.

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.05
Authority: O.C.G.A. §§ 8-2-101, 8-2-104.
History. Original Rule entitled "Responsibility of Elevator Operations and Maintenance" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: New Rule entitled "Qualification of Inspectors" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.06. Responsibility of Elevator Operations and Maintenance.

(1) The person, firm or corporation installing, repairing, relocating or altering an elevator shall be responsible for its safe operation, test and maintenance until the elevator is inspected and approved by a certified deputy inspector.

(2) The owner of the equipment shall be responsible for the safe operation and proper maintenance of the elevator. Maintenance records required by the Maintenance Control Program shall be maintained at the location for a period of three (3) years, with the exception of the five (5) year testing, which will be kept for five (5) years. The records shall contain, but not be limited to, all tests, inspections and other maintenance duties referred to in the latest adopted version of ASME A17.1. The records that are kept in electronic format shall also be maintained on site as a printed copy.

(3) The holder of the operating permit shall be responsible for all Code required testing and Code compliance.

(4) The company holding a temporary operating permit shall be responsible for the safe operation and maintenance of the elevator during the period that the temporary operating permit is in force.

(5) All operating permits shall be posted in the elevator car or a sign shall be posted in the car or in the elevator lobby, in a conspicuous location, stating where the permit is located on premises. Operating permits for other equipment shall be posted on or near the control panel or a sign stating where the permit is located.

(6) A Certificate of Inspection shall be conspicuously placed inside each elevator within 72" of the centerline of frame and 72" inches above the elevator cab floor, in a permanently mounted frame with a clear glass or plastic removable cover. The frame shall be sized to

provide full visibility of a 2 1/2" x 3" certificate. The cover shall be secured by one or more tamper resistant screws. The Inspection Certificate shall be signed and dated for each inspection, by the authorized inspector and replaced at each succeeding inspection. The Inspection Certificate is required in addition to the operating permit. On all other equipment (dumbwaiters, escalators, etc.) the Inspection Certificate shall be placed in a location where it will be visible to the users of the equipment.

(7) All companies performing escalator and moving walk maintenance repair shall have trained personnel and equipment for measuring the "Performance Step Index" on or before January 1, 2003.

(8) An elevator which is inactive for one year, or as removed from service by the owner/user shall be classified as a dormant elevator and placed out of service in accordance with ASME A17.1 Definition Section for "Installation placed out of service."

(9) Before a dormant elevator can be placed in service it shall be inspected by a certified deputy inspector and shall conform to requirements of the applicable standard.

(10) Owners who places elevators in dormant status shall notify the Office within 10 days of the change in status.

(11) Escalators shall not be used as stairs in any location. They will be barricaded with a secure barricade at both the top and bottom landing when temporarily shut down for any reason.

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.06
Authority: O.C.G.A. §§ 8-2-101, 8-2-102, 8-2-103, 8-2-104, 8-2-106.
History. Original Rule entitled "Reporting of Accidents. Amended" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule entitled "Reporting of Accidents" adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: New Rule entitled "Responsibility of Elevator Operations and Maintenance" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.07. Reporting of Accidents.

(1) All incidents involving Personal Injury or Property Damage sustained by reason of the operation or malfunction of an elevator, escalator, manlift, moving walk or power dumbwaiter, platform lifts and stairway chairlifts, including death shall be reported by the owner, operator, lessee, or Maintenance Company as follows:

(a) For incidents in which actual Personal Injury or Property Damage is observed or reported by the owner, operator, lessee, or maintenance company at the scene at the time of the incident, immediately by telephone to the Office on the same day or by noon the next business day. The elevator, escalator, manlift, moving walk, or power dumbwaiter, platform lifts and stairway chairlifts, involved shall be taken

immediately out of service and no work will be done to the equipment unless otherwise advised (see subparagraph (2) below).

(b) For all other incidents becoming known as the owner, operator, lessee, or maintenance company not at the scene at the time of the incident (including belated reports of Personal Injury after the person alleging injury has departed the scene without notifying the owner, operator, lessee, or maintenance company) by telephone not later than noon the next business day after the incident becomes known to the owner, operator, lessee, or maintenance company. The elevator, escalator, manlift, moving walk, or power dumbwaiter involved shall be taken immediately out of service unless otherwise advised (see subparagraph (2) below).

(c) For all incidents, the owner, operator, lessee shall file a written report, including witness statements, within three days of the date of the incident or of the date the incident became known to the owner, operator, lessee, or maintenance company, whichever is later.

(2) Upon receiving a telephonic report or emailed report, the Office may at its discretion determine whether or not to investigate an incident. At the time of the report, the Office shall inform the owner, operator, lessee, maintenance company, or agent reporting the incident whether the Office be investigating and when the elevator, escalator, manlift, moving walk or power dumbwaiter, platform lifts and stairway chairlifts, involved may be repaired or put back in service. In its discretion, the Office may require a telephonic conference with the certified elevator mechanic or Maintenance Company prior to making a decision to investigate an incident.

(3) All telephonic and written reports for accidents involving personal injury shall include the name(s), address, phone number and injuries of the person(s) injured and any witnesses. It will also include a description of the accident.

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.07
Authority: O.C.G.A. §§ 8-2-101, 8-2-106.
History. Original Rule entitled "New, Altered or Relocated Elevators" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: New Rule entitled "Reporting of Accidents" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.08. New, Altered or Relocated Elevators.

The installation of a new, altered, or relocated elevator, escalator, dumbwaiter, material lift, manlift, moving walk, wheelchair lift or chair lift shall not begin until a construction permit has been issued by the authority having jurisdiction for the elevators in the installation area. The equipment shall not be placed into service until it has been inspected, all acceptance tests have been successfully completed in the presence of a certified deputy inspector and all violations have been resolved to the satisfaction of the deputy inspector.

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.08
Authority: O.C.G.A. § 8-2-101.
History. Original Rule entitled "Temporary Use of Permanent Elevators During Construction" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: New Rule entitled "New, Altered or Relocated Elevators" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.09. Temporary Use of Permanent Elevators, Temporary Construction Elevators and Transport Platforms During Construction.

(1) An elevator contractor may request a temporary operating permit to allow the use of a passenger or freight elevator before its completion for carrying workmen, authorized personnel or materials. Such elevator shall not be used until it has been inspected and approved by a certified deputy inspector and the required fee has been paid. The operating permit shall be issued for a period not to exceed ninety days. Renewals may be granted at the discretion of the Office, and upon inspection by a certified deputy inspector.

(2) Personnel Hoist Used During Construction.

(a) Personnel hoist shall be installed and maintained in accordance with the latest accepted edition of the American National Standard A10.4 or the latest edition of the Rules adopted by the Commissioner.

(b) An operating permit shall be required. Double cage units on a common tower shall require an operating permit for each cage.

(c) Personnel hoist used during construction shall be inspected every ninety days and after each jump, by a certified deputy inspector.

(d) The following sections outline the minimum requirements, regular maintenance and approved safety practices for elevators as provided for in the Georgia Laws Regulating Elevators. All Existing features or components of the elevators shall comply with this law and the rules proposed by the Board and adopted by the Commissioner.

(e) Certified Inspectors shall use the latest adopted edition of the ANSI A90.1, ANSI A10.4 or ANSI A92.10 codes and standards with such revision, amendments, and interpretation.

(f) All Temporary Transport Platforms shall meet the requirements of ANSI A10.4 Section 5.

(g) All Temporary Transport Platforms shall meet the requirements as set forth in ANSI A10.4 Section 17.

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.09
Authority: O.C.G.A. §§ 8-2-101, 8-2-102.
History. Original Rule entitled "Existing Freight Elevators" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: New Rule entitled "Temporary Use of Permanent Elevators, Temporary Construction Elevators and Transport Platforms During Construction" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.10. Existing Freight Elevators.

(1) Existing freight elevators shall comply with the following descriptions:

(a) Freight elevators with operating stations in the car, which allow personnel to ride shall comply with ASME A17.3, the standards for existing elevators.

(b) Material Lifts (other than those that fall under the requirements of ASME A17.1) that do not allow personnel to ride and does not have an operating station in the car, shall comply with ASME B20.1, the standards for conveyors and related equipment.

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.10
Authority: O.C.G.A. § 8-2-102(c), (d).
History. Original Rule entitled "Notice of Hearing and Penalties" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: New Rule entitled "Existing Freight Elevators" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.11. Notice of Hearing and Penalties.

(1) Cessation Order.

(a) The Office may issue a written order for the cessation of operation of elevators, escalators, moving walks and all other equipment covered by these regulations when it has been determined to be hazardous, unsafe, or the failure to comply with any of the provisions of these rules or the safety act. Operation shall not resume until such violations are corrected to the satisfaction of the Commissioner or the Commissioner's authorized representative.

(b) In the event a person knowingly commits a violation or allows a violation to be committed after being issued a cessation order, or warning the Commissioner or the Commissioner's authorized representative may initiate a Citation as stated below.

(2) Issuance of Citation or Notice of Administrative Proceeding:

(a) If upon inspection by an inspector or deputy inspector;

1. An elevator, escalator, dumbwaiter, manlift, or moving walk, platform lifts and stairway chairlifts, is deemed to be in an unsafe condition,

2. The owner, operator, user, contractor, or installer has not complied with the Elevator Law or Rules, or

3. When a written warning or citation has been issued and the violation continues, then the deputy inspector shall issue the violator a citation stating the date, time and place of the violation, the specific violation, the recommended penalty, and shall offer the respondent the opportunity for a hearing as set forth in this section.

(b) If upon receiving information from any source, the Chief Inspector determines that there is a reasonable belief that:

1. An elevator, escalator, manlift, dumbwaiter, or moving walk platform lifts and stairway chairlifts, may be in an unsafe condition,

2. The owner, operator, user, contractor, or installer has not complied with the Elevator Law or these Rules, or

3. When a warning has been issued, and the violation is a continuing violation, the Chief Inspector or the Director, Safety Engineering, on behalf of the Office, may issue Notice of Administrative Proceeding stating the date, time, and place of the violation, the specific violation, the recommended penalty, and shall offer the respondent the opportunity for a hearing as set forth in this section.

(c) The Director, Safety Engineering, upon review of a citation issued under subsection (a) above, may, in his sole discretion, dismiss the citation and substitute therefore a Notice of Administrative Proceeding pursuant to subsection (b) above on the same, similar, or different violation, as required by the evidence.

(d) The Commissioner, upon review of a Citation or Notice of Administrative Proceeding, in his sole discretion, may refer the matter to the appropriate prosecuting official for criminal or injunctive relief as permitted under law. In such event, the Commissioner may, in his sole discretion, elect to dismiss, suspend, or continue with the civil penalty proceeding.

(3) Hearing Procedure:

(a) If request for a hearing is not received from the respondent within the allotted time, the Director, Safety Engineering, on behalf of the Commissioner, may without further process impose a civil penalty not greater than the total of civil penalties set forth on the citation or in the Notice of Administrative Proceeding.

An administrative order under the authority of the Commissioner may be issued to collect the civil penalty assessed.

(b) If a hearing request is received in response to a Citation or Notice of Administrative Proceeding, further actions or proceedings shall be governed by the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13, O.C.G.A. 25-2-29, and applicable Rules and Regulations of the Commissioner.

(c) All hearings, whether before the Commissioner or an appointed adjudicator, shall be conducted in accordance with the statutes and regulations cited in the preceding sub-paragraph, including the applicable Rules and Regulations of the Commissioner.

(d) The decision of an appointed adjudicator made after a hearing shall be an initial agency decision within the meaning of O.C.G.A.§ 50-13-41(d) and shall be subject to review by the Commissioner, Insurance and Safety Fire, as set forth in O.C.G.A. § 50-1341(e). A hearing before the Commissioner shall be the final agency decision in the matter and shall be subject to judicial review as set forth in O.C.G.A. § 50-13-19.

(4) Guidelines for Imposition of Civil Penalties:

(a) Any person, firm, partnership, corporation or other business entity, which violates this part, shall be subject to the imposition of civil penalties. Each day on which a violation occurs shall constitute a separate offense. Repeat offenders, whom a violation occurs, shall constitute a separate offense. Repeat offenders, including those who refuse to adhere to orders of the inspectors, exceed the limitations of operating permits, or refuse to adhere to the requirements of these rules and regulations, may be referred to appropriate prosecuting official for criminal (misdemeanor) or injunction relief as permitted under law. Serious violations, including those causing serious bodily injury or death, or which exhibit gross negligence or serious disregard for public safety, may also be referred appropriate prosecuting official for criminal (misdemeanor) or injunctive relief as permitted under law.

(b) Notwithstanding the recommended minimum penalties set forth below, a serious violation, including those causing serious bodily injury or death, or which exhibit gross negligence or serious disregard for public safety, may receive the maximum penalty of $5,000.00 for each violation including a first offense. The imposition of a penalty for a violation of this part shall not excuse the violation or permit it to continue.

(c) The deputy inspector issuing a Citation shall, at the time of issuance, specify a recommended civil penalty amount for each specific violation in accordance with these Rules and Regulations. The Director is charged with the responsibility to insure that recommended penalties for violations are graduated with the more

serious violations receiving the heavier penalty and with assuring uniformity of recommended penalties such that offenders in similar circumstances with similar violations receive similar penalty recommendation. In this regard, the Director may dismiss a Citation and issue a Notice of Administrative Proceeding solely for the purpose of making an appropriate penalty recommendation.

(d) The recommended civil penalty set forth in the Citation or Notice of Administrative Proceeding shall be given great deference by the appointed adjudicator. The minimum recommended penalties set forth below is normally for the first offense with only one violation being cited. The appointed adjudicator shall, after hearing the case, consider factors in mitigation of the violation as well as those in aggravation. The appointed adjudicator shall impose a penalty less than the recommended minimum penalty only upon finding unusually significant mitigating factors, and shall set forth those factors in the order. The appointed adjudicator may impose a penalty substantially greater than the Office recommended penalty upon finding significant aggravating factors associated with violations, and shall set forth those factors in the order. The appointed adjudicator shall consider the provision of these Rules and Regulations guiding the assessment of penalties. In particular, the appointed adjudicator shall, in cases involving structural damage, bodily injury, or death; or continued operation after an unsafe condition is detected or after the equipment is taken out of service by an inspector or deputy inspector, consider the imposition of separate penalties for each day of violation. No penalty exceeding $5,000.00 for each violation and each day of violation shall be assessed.

(e) The appointed adjudicator may, in addition to a civil penalty, recommend in the order that the Commissioner suspend for a period of time or indefinitely, operating certificate, permits to install, or certificates for contractors.

(5) Minimum recommended penalties.

(a) Specific violations:

1. Operating equipment without an operating certificate. (O.C.G.A. § 8-2-103)

First offense $250.00

Second offense $500.00

2. Operating equipment in an unsafe condition. (O.C.G.A. § 8-2-101)

First offense $500.00

Second offense $1000.00

3. Failure to permit access for the purpose of inspecting or investigating equipment. (O.C.G.A. § 8-2-102)

   First offense $500.00

   Second offense $1000.00

4. Failing to notify the Chief Inspector of any accidents involving structural damage or injury as defined in the definition section. (O.C.G.A. § 8-2-106)

   First offense $500.00

   Second offense $1000.00

5. Failing to notify the Chief Inspector of an accident which involved death. (O.C.G.A. § 8-2-106) $5000.00

6. Placing unit back in service, which has been Red Tagged and placed out of service by a deputy inspector, without first having the unit inspected. (O.C.G.A. § 8-2-102)

   First offense $1000.00

   Second offense $2500.00

7. Placing a unit which has been involved in an accident back in service prior to having the unit inspected or otherwise cleared. (O.C.G.A. § 8-2-106, Rule 120-3-25-.07)

   First offense $1000.00

   Second offense $2500.00

8. Turning equipment over for use without a final acceptance inspection. (O.C.G.A. § 8-2-101)

   First offense $500.00

   Second offense $1000.00

9. Installing equipment without a permit. (Rules 120-3-25-.08 &.22)

   First offense ..... Double Permit Fee

Second offense..... Triple Permit Fee

10. Inspecting without qualifications. (120-3-25-.22)

    First offense $500.00

    Second offense $1000.00

11. Using construction elevators or personnel hoist without first obtaining a permit or receiving an inspection. (Rule 120-3-25-.21)

    First offense ..... Double permit fee

    Second offense ..... Triple permit fee

(b) General Violations:

1. Violating adopted Codes, Standards, Rules, Regulations or Order. (Rule 120-3-25)

   First offense $250.00

   Second offense $500.00

2. Certified company performing an activity, which violates the law or regulations.

   Any Offense ..... $2500.00 and Suspension of Certificate

3. Any third repeated offense might subject the violator to the maximum civil penalty permitted under the Act.... $5000.00

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.11
Authority: O.C.G.A. §§ 8-2-102, 8-2-103, 8-2-104.
History. Original Rule entitled "Discontinuance of Operation" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: New Rule entitled "Notice of Hearing and Penalties" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.12. Discontinuance of Operation.

(1) A certified inspector may seal an elevator out of service and void the operating permit if any of the following conditions exist:

(a) The holder of the operating permit fails to pay the required fee.

(b) The holder of the operating permit fails to report an accident as required by these Rules.

(c) Continued use of the elevator presents immediate danger to the user or people exposed to the hazards of the elevator.

(d) The holder of the operating permit fails to comply with Safety Act, Rules, or Codes and Standards within the specified time on the inspection report.

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.12
Authority: O.C.G.A. §§ 8-2-102(d), 8-2-103(b).
History. Rule number originally Reserved.
Repealed: New Rule entitled "Discontinuance of Operation" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.13. Repealed and Reserved.

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.13
Authority: O.C.G.A. §§ 8-2-102, 8-2-103, 8-2-104.
History. Original Rule entitled "Fees. Amended" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Amended: F. Jan. 10, 2014; eff. Jan. 30, 2014.
Repealed: New Rule entitled "Fees" adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.14. Fees.

(1) Payment of required fees and civil penalties imposed under these rules and regulations shall be made in accordance with instructions and forms on the website of the Commissioner of Insurance and Safety Fire. In determining acceptable methods of payment, the Commissioner should consider all relevant factors, including the convenience of the parties, the availability of better means of payment through enhanced technology, the need for efficient administration of the law, and the cost to the agency.

(2) Once permits are processed by this office, no refunds will be issued.

(3) Fees shall be paid in accordance with the following schedule:

(a) Certification - Examination:

1. Inspector $100.00

2. Elevator Mechanic $100.00

(b) Certification - Annual:

1. Inspector $50.00
2. Class I Elevator Contractor $300.00
3. Class II Elevator Contractor $200.00
4. Class III Elevator Contractor $100.00

(c) Certification - Bi-Annual Renewal:

1. Elevator Mechanic $50.00

(d) Installation Permits:

1. Passenger or Freight base price, per unit $400.00

   Plus, each opening $50.00
2. Dumbwaiters and material lifts, per unit $250.00
3. Escalator, per unit $500.00
4. Workmen's hoist, initial inspection, per unit $500.00
5. Workmen's hoist, tower rise, per jump $150.00
6. Private residence elevators $400.00

   Plus, each opening $50.00
7. Private residence platform lifts (wheelchair lifts) and stairway chairlifts, first unit permitted at single residence $250.00

   any additional units at time of permitting ..... $50.00 per unit
8. Belt Manlift $250.00
9. Special purpose personnel elevators and wheelchair lifts, per unit $250.00

(e) One acceptance inspection is included in the installation permit fee. All additional permit inspections shall be at two hundred fifty ($250.00) dollars per hour. Elevator Construction Permits shall expire two (2) years from the date of issue, if the permit has shown no action. Elevator Construction Permit Certificates shall expire no more than six (6) months from the date of completion of the permit. If

the permit is open more than two (2) years with no action, it will therefore be cancelled.

(f) Major Alteration Permits:

1. Each Alteration - One item as outlined in the Standard, per unit $240.00

2. Each additional alteration as outlined in the Standard, per unit $120.00

3. Maximum alteration fee, per unit $1,200.00

(g) The acceptance inspection fee is included in the major alteration permit fee. The alterations acceptance inspection will not change the normal inspection or the operating permit due date.

(h) Additional permit inspections shall be at the rate of two hundred fifty dollars ($250.00) per hour.

(i) Operating Permit:

1. Operating permit - one year, price per unit $65.00

2. Temporary operating permit, per unit $100.00

(j) Inspection by a certified inspector of the Office:

1. Initial inspection of a temporary elevator, per unit $200.00

2. Periodic inspection of a temporary elevator used during construction, per unit $50.00

3. Annual fee for inspections are based upon number of openings per unit.

101 to 110 openings	$445.00
91 to 100 openings	$420.00
81 to 90 openings	$395.00
71 to 80 openings	$370.00
61 to 70 openings	$345.00
51 to 60 openings	$320.00
41 to 50 openings	$295.00
31 to 40 openings	$270.00
21 to 30 openings	$245.00
11 to 20 openings	$220.00

10 openings	$195.00
9 openings	$170.00
8 openings	$145.00
7 openings	$120.00
6 openings	$95.00
5 openings	$85.00
4 openings	$75.00
3 openings	$65.00
2 openings	$55.00

(k) All third and subsequent inspections shall be at two hundred fifty ($250.00) dollars per elevator for routine inspections.

(l) Appeal hearings before the Board, per Appeal $500.00

(m) The Office may bill applicants for operating certificates prior to the issuance of such certificates.

(4) The Office may provide services or perform inspections not otherwise specified in the fee structure. The charge for this service shall be at the rate of $250.00 per visit, per elevator.

(5) The Office will allow licensed private inspection companies with valid commissioned inspectors to perform permit inspections on residential equipment that falls under the scope of ASME A18.1, latest adopted addition.

(a) No inspection will be allowed as in (5) above prior to the installer obtaining the required permit and two sets of approved stamped drawings from this Office. These are required to be at the site of the prior to any inspection.

(b) These inspections shall be subject to audit by the Office.

(c) Both the installer and the inspection company will be responsible for ensuring that the installation meets all state adopted regulations and that all testing has been completed. The inspection company is responsible for supplying a copy of this report to the installer. An electronic copy of this report shall be sent to the Office prior to the equipment being placed in service.

(d) Any inspection of residential equipment that falls under the scope of ASME A18.1 not performed by a licensed private inspection companies with commissioned inspectors shall be performed by a State Deputy Inspector.

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.14
Authority: O.C.G.A. §§ 8-2-102, 8-2-103, 8-2-104.

History. Original Rule entitled "Existing Installation (General)" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: New Rule entitled "Fees" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.15. Existing Installation (General).

(1) The minimum requirements for regular maintenance and safety practices for existing elevators as provided for in the Safety Act and Rules. All existing features or components of the elevator shall comply with the Rules as adopted by the Commissioner.

(2) All existing elevators having a travel of more than 25' 0" shall have "Fire Emergency Service" complying with ASME A17.1 1987 Edition as a minimum.

(3) A permanent decal or metal tag shall be affixed to the lift equipment, in the machine room, control space, machine space, pits, hoistway required to be tested by ASME A17.1, Section 8.6 of the Standard. This decal or tag shall be affixed to the affected equipment when new installations, alterations, or periodic tests are conducted, as required by the Standard. This decal or tag must indicate the date of the test, and the name of the person or firm which performed the test and type of test performed. A decal will not be acceptable when the Standard requires a metal tag. At the time of new installation, alteration, or periodic tests, additional data shall be provided to the building owner or his representative. This document shall include the date of the test, the name of the person or firm conducting the tests and all pertinent data relating to the test.

(4) Mass transit equipment shall have a routine and a periodic inspection as defined by ASME A17.1 latest adopted edition, as modified by OCGA Section 8-2-102.

(5) Existing Hydraulic Elevators are exempted from the requirements of Rule 8.6.5.8 for five (5) years. Elevators shall have all work required for compliance with ASME A17.3, Section 4.3.3 completed within five (5) years of the effective date of this regulation. Failure to complete work within the required time period will result in the elevator being removed from service until such work is completed, unless the cylinder is replaced.

(6) Existing escalators shall meet the Performance Step Indexing requirements of ASME A17. 3, Rule 5.1.11 within two (2) years of the effective date of this Rule revision.

(7) State Elevator Inspectors are not required to meet 8.11, QEI-1 requirements.

(8) Existing passenger elevators shall meet the Restricted Opening of Hoistway Doors or Car Doors as required by ASME A17.3, Rule 2.7.5 within two (2) years of the effective date of this Rule revision.

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.15
Authority: O.C.G.A. §§ 8-2-101, 8-2-102, 8-2-104.
History. Original Rule entitled "Existing Installations (Special Purpose Personnel Elevators, Including Wheelchair Lifts)" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.

Repealed: New Rule entitled "Existing Installation (General)" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.16. Existing Installations (Special Purpose Personnel Elevators, Including Wheelchair Lifts).

Existing special purpose personnel elevators, and wheelchair lifts shall meet ASME A17.1, the Safety Code for Elevators and Escalators.

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.16
Authority: O.C.G.A. § 8-2-101.
History. Original Rule entitled "Existing Installations - Belt Manlifts" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: New Rule entitled "Existing Installations (Special Purpose Personnel Elevators, Including Wheelchair Lifts)" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.17. Existing Installations - Belt Manlifts.

All existing belt manlifts shall meet latest adopted version of ASME A90.1 the standards for belt manlifts.

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.17
Authority: O.C.G.A. § 8-2-101.
History. Original Rule entitled "Existing Installations - Side Walk Elevators" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: New Rule entitled "Existing Installations - Belt Manlifts" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.18. Existing Installations - Side Walk Elevators.

All existing side walk elevators shall meet ASME B20.1, the Safety Standard for Conveyors and related equipment.

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.18
Authority: O.C.G.A. § 8-2-101.
History. Original Rule entitled "Existing Installations - Dumbwaiters" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: New Rule entitled "Existing Installations - Side Walk Elevators" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.19. Existing Installations - Dumbwaiters.

All existing dumbwaiters shall meet ASME A17.1, the standards for dumbwaiters.

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.19
Authority: O.C.G.A. § 8-2-101.
History. Original Rule entitled "New Installation (General)" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: New Rule entitled "Existing Installations - Dumbwaiters" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.20. New Installation (General).

(1) The following sections outline the minimum requirements, regular maintenance and approved safety practices for elevators as provided for in the Georgia Laws Regulating Elevators. All Existing features or components of the elevators shall comply with this law and the rules proposed by the Board and adopted by the Commissioner.

(2) Certified Inspectors shall use the latest adopted edition of the ASME A17.2 inspector's manual with such revision, amendments, and interpretation.

(3) All new elevators machine rooms shall not have sprinklers in these rooms if they are separated from the building with a minimum of a two hour fire separation and have smoke detectors in accordance with NFPA. If these rooms do not have the two hour minimum fire separation they shall have sprinkler protection conforming to the requirements NFPA and shall be provided with means to automatically disconnect the main power supply to the affected elevator prior to the application of water as required by ASME A17.1, unless prohibited by the building code as covered in Section 3007 or 3008. The machine room door shall swing outward from the machine room. Elevator machine rooms must have conditioned air (heated and cooled) to maintain a temperature range between 55 and 90 degrees Fahrenheit, with a maximum relative humidity of 85%.

(4) Elevator machine rooms and machinery spaces shall be enclosed with fire barriers constructed in accordance with Section 707 or horizontal assemblies constructed in accordance with Section 711, or both. The fire-resistance rating shall be not less than two hours. Openings in the fire barriers shall be protected with assemblies having a fire protection rating not less than that required for the hoistway enclosure doors. Exceptions:

1. Where machine rooms and machinery spaces do not meet the required fire resistance rating, they shall require sprinklers and shunt trip breaker in accordance with NFPA 72.

(5) All machine rooms, machinery spaces, control rooms, control spaces, and elevator electrical spaces much meet electrical clearances as set in NFPA 70 with the room/spaces access doors closed. This will include all machine rooms, machinery spaces, control rooms, control spaces, and elevator electrical spaces that have fused elevator and cab light disconnects.

(6) All residential elevators will be required to have a machine room a with proper electrical clearance with the door in the closed position with the exception of machine room less elevators that have all equipment located in the hoistway.

(7) All new elevators shall have a Fireman Emergency Keybox. The keybox is to be a minimum 5.375" wide by 9" high by 2" deep. Front cover shall be hinged on the right side. Lock and key shall be uniform with Lock and Key, Catalogue #25460 or equivalent. Box may either be flush or recessed mounted. Front cover shall be engraved with 1/4" high letters and shall read in capitals "FIRE DEPARTMENT USE ONLY." Engraving shall be filled with color which will be readily conspicuous. Location of key-box shall be at each bank of elevators in the lobby normally used as a place of entrance to the building. As a minimum, the keybox shall contain the key to the elevator machine room, the elevator hoistway access key, and necessary keys to operate Fireman's Emergency Return System. The key shall be available to Group 1, Group 2 and Group 3 levels of security. This keybox shall be located within sight of the elevator (s) with all required keys at the designated level of Phase I recall.

(8) All new elevators shall be prohibited from providing side emergency exits as detailed in ASME A17.1 Rule 2.14.1.10 provided the elevators are in full compliance with paragraphs (10) and (11) below.

(9) All new elevators shall have the means in the elevator controller for a qualified elevator mechanic to electrically move a stalled elevator to the nearest landing. Key pads or control boxes used for this function shall be permanently installed.

(10) All elevators shall have emergency key access at all landings.

(11) Other Devices - Gravity elevators, hand elevators, incline elevators, multideck elevators, observation elevators, moving walks, material lifts and dumbwaiters with automatic transfer devices and screw column elevators shall meet the requirements of the Codes, as references by these rules.

(12) Reserved for future use

(13) All new escalators installed after January 1, 2002, shall comply with the latest adopted edition of ASME A17.1.

(14) All variance requests from the law, rules or standards on new, altered or modernized elevator, escalator, dumbwaiter, material lift, manlift, moving walk, wheelchair lift, or stairway chairlift shall be reviewed by the Elevator Advisory Board Members and recommendations given to the Safety Inspection Section. These variance requests shall be submitted to Board Members by Safety Inspection staff for email ballot within three (3) days from the date received. Board Members shall return their votes to approve or disapprove within ten (10) days. The majority of the returned votes are to be considered the recommendation of the Board.

(15) Reserved for future use

(16) ASME A17.1, Section 5.3 shall be modified to read as follows:

5.3.1.8.3 Clearance Between Doors or Gates and Landing Sills and Car Doors or Gates. The clearance between the hoistway doors or gates and the hoistway edge of the landing sill shall not exceed 19 mm (3/4 in.). The distance between the hoistway face of the landing door or gate shall not exceed 75 mm (3 in.).

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.20
Authority: O.C.G.A. §§ 8-2-101, 8-2-102.
History. Original Rule entitled "New Installation - Wheelchair Lift" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule entitled "New Installation - Platform Lifts (Wheelchair Lift) and Stairway Chairlifts" adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: New Rule entitled "New Installation (General)" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.21. New Installation - Platform Lifts (Wheelchair Lift) and Stairway Chairlifts.

(1) All existing wheelchair lifts and stair lifts installed before January 1, 2002, including temporary installed and portable lifts shall comply with ASME A117.1 and A17.1.

(2) All new wheelchair lifts and stair lifts installed after January 1, 2002, including temporary installed and portable lifts shall comply with ASME A18.1 and A117. If these lifts penetrate a floor, they shall be in a fire rated hoistway and shall comply with Rule 120-3-25 - .19(5).

(3) Residential platform lifts (wheelchair lifts) and stairway chairlifts may be installed and placed into service prior to inspection once the permit and stamped drawings are obtained by the installation company. The installation and testing shall be done to the requirements of ASME A18.1, the latest adopted version. The installation and testing will be done by a Class IIIR elevator mechanic and a test report signed by them showing that both the installation and all tests required in Section 10 of the Code have been completed. A copy of the permit will be posted at the location and a copy of the test report will be emailed to safety engineering. The permit inspection, to include all testing will be conducted as soon as possible after the installation by a certified elevator mechanic of the company that installed the equipment.

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.21
Authority: O.C.G.A. § 8-2-101.
History. Original Rule entitled "Certificate to Perform Elevator Installations, Alterations, Repairs, Maintenance or Inspections" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Amended: F. Jan. 10, 2014; eff. Jan. 30, 2014.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: New Rule entitled "New Installation - Platform Lifts (Wheelchair Lift) and Stairway Chairlifts" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.22. Certificate to Perform Elevator Installations, Alterations, Repairs, Maintenance or Inspections.

(1) Elevator Contractor (Class I): Any persons, firms, partnerships, corporations or companies wishing to engage in the business of installation, alteration, service, replacement or maintenance of elevators, dumbwaiters, escalators, moving walks, residential elevators, platform lifts, and/or stairway chairlifts shall apply for Certification by the Office on a form provided by the Office. They shall receive Certification prior to permitting any work or engaging in any business activity.

(2) Elevator Contractor (Class IR): Any persons, firms, partnerships, corporations or companies wishing to engage in the business of installation, alteration, service, replacement or maintenance of ASME A17.1, Section 4 and 5.7 elevators, temporary construction elevator and material lifts or separately cab interiors and phones, shall apply for Certification by the Office on a form provided by the Office. They shall receive Certification prior to permitting any work or engaging in any business activity.

(3) Elevator Contractor (Class II): Any persons, firms, partnerships, corporations or companies wishing to engage in the business of alteration, service, replacement or maintenance of elevators, dumbwaiters, escalators, moving walks, residential elevators, platform lifts, and/or stairway chairlifts shall apply for Certification by the Office on a form provided by the Office. They shall receive Certification prior to permitting any work or engaging in any business activity.

(4) Elevator Contractor (Class III): Any persons, firms, partnerships, corporations or companies wishing to engage in the business of installation, alteration, service, replacement or maintenance of residential dumbwaiters, elevators, platform lifts, and/or stairway chairlifts shall apply for Certification by the Office on a form provided by the Office. They shall receive Certification prior to permitting any work or engaging in any business activity.

(5) Elevator Contractor (Class IIIR): Any persons, firms, partnerships, corporations or companies wishing to engage in the business of installation, alteration, service, replacement or maintenance of residential platform lifts, and/or stairway chairlifts shall apply for Certification by the Office a form provided by the Office. They shall receive Certification prior to permitting any work or engaging in any business activity.

(6) Elevator Contractor's Certification shall expire twelve (12) months following the date of issuance after April 1, 2014.

(7) Qualifications of Elevator Contractor.

   (a) No Certification shall be granted to any person or firm who has not proven their qualifications and abilities. Applicants for Elevator Contractor's Certification must demonstrate the following qualifications:

(b) Elevator Contractor Class I, Class IR and II shall submit proof of Elevator Mechanic Certification. All Class II Elevator Contractors shall employ Class I or Class II Elevator Mechanics.

(c) Elevator Contractor Class III and Class IIIR shall submit proof of Elevator Mechanics Certification.

(d) Elevator Contractors shall have insurance as required by Rule 120-3-25-.22.

(8) The application for Elevator Contractor Certification shall contain the following information:

(a) The Class of the Certification requested.

(b) Name and address of business.

(c) Such other information as the Office may require.

(9) The application for Elevator Mechanic shall contain the following information:

(a) Name and address of the applicant and company where employed.

(b) The Certification class requested by the applicant.

(c) The number of years the applicant has engaged in the business of installing, maintaining and/or servicing elevators, escalators and/or platform lifts and stairway chairlifts.

(d) Documentation of all training or classes applicant has attended in the last year.

(e) Such other information as the Office may require.

(10) All elevator mechanics installing, altering, repairing, maintaining, or servicing elevators, escalators, moving walks, dumbwaiters, material lifts, residential elevators, platform (wheelchair) lifts and stairway chairlifts after January 1, 2006 shall have a "Certificate of Authorization" issued by the Office.

(11) Approval of training programs for Certification and Recertification of elevator mechanics. The Elevator Advisory Board shall review and approve all certification and recertification programs. The Office of Insurance and Safety Fire Commissioner shall prepare a testing program.

(12) Renewal applications. Applicants renewing their Certification shall provide the following information:

(a) Certification number.

(b) Documentation of training, certification and classes successfully completed in the previous year [eight (8) hours minimum], including Code updates using a pre-approved or recognized training program.

(13) Qualification of Class I Elevator Mechanic.

(a) Certification shall be granted to any person with a minimum of three (3) years for all except for Class IIIR shall be one (1) year experience and who is employed by a company holding a State Certification and has proven their qualifications and abilities. Applicants must demonstrate the following qualifications:

(b) Certificate(s) of completion and successfully passing the mechanic examination of a nationally recognized training program for the elevator industry such as the National Elevator Industry Educational Program, Certified Elevator Technician Program or the equivalent of an apprenticeship program for the elevator mechanics registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor or a State Apprenticeship Program.

(c) Any person who furnishes the Office with acceptable proof they have worked as an elevator constructor, maintenance person, or repair person may, upon making application for Certification and paying the fee, be entitled to receive a Certification without an examination at the discretion of the Office. They shall have worked under direct and immediate supervision of an elevator contractor certified to do business in this state. The person must make application within one (1) year of the effective date of these Rules and Regulations.

(d) A Certification may be issued to an individual holding a valid Certification or License from a state having a standard substantially equal to those of this Chapter.

(14) Qualification of Class IR Elevator Mechanic.

(a) Certification shall be granted to any person with a minimum of three (3) years' experience and who is employed by a company holding a State Certification and has proven their qualifications and abilities. Applicants must demonstrate the following qualifications: (b) Certificate(s) of completion and successfully passing the mechanic examination of a nationally recognized training program for the elevator industry such as the National Elevator Industry Educational Program, Certified Elevator Technician Program or the equivalent of an apprenticeship program for the elevator mechanics registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor or a State Apprenticeship Program. (c) Any person who furnishes the Department with acceptable proof they have worked as an elevator constructor, maintenance person, or repair person may, upon making application for Certification and paying the fee, be entitled to receive a Certification without an examination at the discretion of the Department. They shall have worked under direct and immediate supervision of

an elevator contractor certified to do business in this state. The person must make application within one (1) year of the effective date of these Rules and Regulations. (d) A Certification may be issued to an individual holding a valid Certification or License from a state having a standard substantially equal to those of this Chapter.

(15) Qualification for Class II Elevator Mechanic.

(a) Same as (11)(a).

(b) The mechanic shall provide documentation proving they have been trained in the service, repair and maintenance of the equipment they will be working on.

(c) Same as (11) (c).

(d) Same as (11) (d).

(16) Qualification for Class III Elevator Mechanic.

(a) Same as (11) (a).

(b) Same as (11) (b).

(c) Same as (11) (c). (d) Same as (11) (d).

(17) Qualification for Class IIIR Elevator Mechanic.

(a) Same as (11) (a).

(b) Same as (11) (b).

(c) Same as (11) (c). (d) Same as (11) (d).

(18) Issuance and Renewal of Certification.

(a) Upon approval of a mechanic's application, the Office may issue Certification(s), all of which shall be renewed bi-annually. The Certification(s) will expire on July 1, not more than two (2) years from the date of issue.

(b) Whenever an emergency exists, and upon request, the Office may waive all requirements.

(c) A Certified Elevator Contractor shall notify the Office when there are no Certified personnel available to perform elevator work. The Certified Elevator Contractor may request the Office issue Temporary Elevator Mechanic Certifications to personnel employed by the Certified Elevator Contractor who have an acceptable combination of documented experience and education to

perform elevator work. The temporary certification will expire after six (6) months. Only three (3) temporary certification will be issued per person, per company.

(d) The renewal of all Certifications granted under the provisions of this Section shall be conditional upon the submission of a certificate of completion of a course designed to ensure the continuing education of Certified Personnel. Such course shall consist of not less than eight (8) hours of instruction that shall be attended and completed within one (1) year prior to any Certification renewal.

(e) The courses shall be taught by instructors who are qualified and approved by the Office. (f) A mechanic who is unable to complete the education course required under this Section prior to the expiration of their Certification due to a temporary disability may apply for a waiver from the Office.

(19) Suspension and Revocation of Certification.

(a) A Certification issued pursuant to this Chapter may be suspended or revoked by the Office upon verification that one or more of the following exists:

1. Any false statement as to material matter in the application.

2. Violation of any provision of this Chapter.

3. Fraud or misrepresentation in securing a Certification.

(b) No Certification for a company or person shall be suspended, or revoked, until after a hearing before the Office upon notice to the person and/or company of a least ten (10) days at the last known address appearing on the Certification, served personally or by registered mail.

(c) Any company or person whose Certification is revoked or suspended may appeal such determination to the Office within thirty (30) days.

(d) Any company or person certified to perform an activity, who violates this part, after notice and hearing, may cause such company or person's Certification to be suspended and such company or person may receive a penalty not to exceed $5,000.00 per violation.

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.22
Authority: O.C.G.A. §§ 8-2-101, 8-2-102, 8-2-104.
History. Original Rule entitled "Insurance Requirements" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule of same title adopted. F. Dec. 12, 2014; eff. Jan. 1, 2015.
Repealed: New Rule entitled "Certificate to Perform Elevator Installations, Alterations, Repairs, Maintenance or Inspections" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Rule 120-3-25-.23. Insurance Requirements.

(1) Class I, Class IR and Class II Elevator Contractors shall submit to the Office an original or certified copy of an insurance policy issued by an insurance company authorized to do business in this State to provide general liability coverage of at least one million dollars ($1,000,000.00) for injury or death of one person and one million dollars ($1,000,000.00) for injury or death of any number of persons in any one (1) occurrence, with the coverage of at least five hundred thousand dollars ($500,000.00) for property damage in any one (1) occurrence and the statutory workers compensation insurance coverage.

(2) Class III and IIIR Elevator Contractors shall submit to the Office an original or certified copy of an insurance policy issued by an insurance company authorized to do business in this State to provide general liability coverage of at least five hundred thousand dollars ($500,000.00) for injury or death of one (1) person and at least five hundred thousand dollars ($500,000.00) for injury or death of any number of persons in any one (1) occurrence, with the coverage of at least two hundred fifty thousand dollars ($250,000.00) for property damage in any one (1) occurrence and the statutory workers compensation insurance coverage.

(3) Private Elevator Inspectors shall submit to the Office an original or certified copy of an insurance policy issued by an insurance company authorized to do business in this State to provide Professional Errors and Omissions Insurance coverage of at least one million dollars ($1,000,000.00) for injury or death of one person and one million dollars ($1,000,000.00) for injury or death of any number of persons in any one (1) occurrence, with the coverage of at least five hundred thousand dollars ($500,000.00) for property damage in any one (1) occurrence and the statutory workers compensation insurance coverage.

(4) Such policies must be issued by an insurance company authorized to do business in the State of Georgia by the Insurance Commissioner with a Best Policyholders rating of "A-" or better and with a financial size rating of Class V or larger.

Cite as Ga. Comp. R. & Regs. R. 120-3-25-.23
Authority: O.C.G.A. §§ 8-2-101, 8-2-104.
History. Original Rule entitled "Insurance Requirements" adopted. F. Dec. 4, 2020; eff. Dec. 29, 2020, as specified by the Agency.

Subject 120-3-26. RULES AND REGULATIONS FOR BOILERS AND PRESSURE VESSELS.

Rule 120-3-26-.01. Promulgation and Purpose.

(1) These rules and regulations of the Safety Fire Commissioner entitled, "Rules and regulations for boilers and pressure vessels" are promulgated to establish the State's

minimum fire safety codes and standards for boilers and pressure vessels as specified in the Official Code of Georgia Annotated, (O.C.G.A.) Section 25-15-10.

(2) A primary purpose of these rules and regulations is to establish the state minimum safety codes and standards for the prevention of loss of life and property from explosions, fire or related hazards in all buildings, structures and other locations governed by state regulations.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.01
Authority: O.C.G.A. §§ 25-15-10, 50-13-21.
History. Original Rule entitled "Authority and Purpose" adopted. F. Sep. 4, 2013; eff. Sep. 24, 1913.
Repealed: New Rule of same title adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.
Repealed: New Rule entitled "Promulgation and Purpose" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.02. Application.

(1) Pursuant to O.C.G.A. 25-2-10, rules and regulations adopted by the Safety Fire Commissioner shall have the force and effect of law and shall have statewide application as being the state minimum fire safety codes and standards for boilers and pressure vessels and shall not require adoption by a municipality or county.

(2) Pursuant to O.C.G.A. Section 25-15-1, the Office succeeded to all rules and regulations of the Department of Labor which were in effect on June 30, 2012, or were scheduled to go into effect on or after July 1, 2012, which related to the functions transferred to the Office pursuant to either Chapter 15 of Title 25 or Part 6 of Article 1 of Chapter 2 of Title 8. The Office has authority to modify the Boiler and Pressure Vessel regulations or promulgate new regulations pursuant to O.C.G.A. Sections 25-15-1, 25-15-13, 33-2-9 and 50-13-21.

(3) The primary purpose of these rules and regulations is to promote consumer protection through state regulation of the construction, installation, inspection, maintenance, and repair of boilers and pressure vessels.

(4) All Editions of the Codes and Standards shall also include revisions, amendments, and interpretations made, approved and adopted by the Codes or Standards Society as adopted by these regulations listed below:

(a) The 2019 American Society of Mechanical Engineers Boiler and Pressure Vessel Code. Copies of the Code may be obtained from said Society at 22 Law Drive, Box 2300, Fairfield, New Jersey 07007-2300.

(b) The 2019 Edition of the National Board Inspection Code. Copies of this Code may be obtained from the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229.

(c) ASME B31.1 as adopted by ASME Section I Boiler Pressure Piping and Piping Systems as described in B31.1.

(d) The 2018 Edition of the ASME CSD-1, Controls and Safety Devices for Automatically Fired Boilers less than 12,500,000 BTU/hr. and State adopted Edition of the National Fire Protection Association (NFPA) 85, Boiler and Combustion System Hazard Code for boilers over 12,500,000 BTU/hr., NFPA 87 Recommended Practice for Fluid Heaters, NFPA 54 National Fuel Gas Code and all other adopted and related NFPA Codes (see below definition of Code). ASME CSD-1 Boiler Controls and Safety Devices may be obtained from the American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017. The National Fire Protection Association Standards may be obtained from National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

(e) The 2012 ASME PVHO-1 Pressure Vessels for Human Occupancy and 2012 ASME PVHO-2 In-Service Guidelines. This Code may be ordered from ASME, 22 Law Drive, Box 2300, Fairfield, NY 07007.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.02
Authority: O.C.G.A. §§ 25-15-1, 25-15-10, 25-15-13, 33-2-9, 50-13-21.
History. Original Rule entitled "Definition of Terms" adopted. F. Sep. 4, 2013; eff. Sep. 24, 1913.
Repealed: New Rule of same title adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.
Repealed: New Rule entitled "Application" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.03. Definition of Terms.

(1) Accumulation Test - A test by which the capacity of the safety or safety relief valves are checked to ensure the pressure of the boiler does not rise six percent above the highest setting of any valve, and in no case six percent above the maximum allowable working pressure.

(2) Alteration - A change in any item described on the original manufacturer's data report which affects the pressure capability of the boiler or pressure vessel. Nonphysical changes such as an increase in the maximum allowable working pressure (internal or external) or design temperature of a boiler or pressure vessel shall be considered an alteration. A reduction in minimum temperature such that additional mechanical tests are required shall also be considered an alteration.

(3) The Commissioner is the Commissioner of Insurance and Safety Fire.

(4) Approved - Approved by the Commissioner or his designee.

(5) Authorized Inspection Agency - one of the following:

(a) The State of Georgia Safety Engineering Section, of the Office of Insurance and Safety Fire Commissioner, or

(b) Any insurance company which has been licensed to write boiler and pressure vessel insurance and to provide all inspection services required by such company in this State, or

(c) An Owner-User Inspection Agency.

(6) Cessation order - is the official order stopping of an action by an individual or company.

(7) Certificate of Competency - A certificate issued to a person who has passed the examination prescribed by the Board.

(8) Certificate Inspection - An inspection, the report of which is used by the Chief Inspector as justification for issuing, withholding, or revoking the Inspection Certificate. This certificate inspection shall be as complete an inspection as possible.

(9) Chief Inspector - The chief boiler and pressure vessel Engineer appointed by the Safety Fire Commissioner.

(10) Citation - is the act by which a person or company is so summoned or cited.

(11) Code-ASME Boiler and Pressure Vessel Code Sections I, III Division 1 and Division 2, IV, VIII Division 1, 2 and Division 3, and X, National Board Inspection Code, Controls and Safety Devices (CSD-1), National Fire Protection Association Code (NFPA) Sections 31, 54, 58, 70, 85, 87 and 211 for boilers and pressure vessels Code.

(12) Commission - National Board - The Commission issued by the National Board of Boiler and Pressure Vessel Inspectors to a holder of a Certificate of Competency who desires to make inspections in accordance with the National Board Bylaws and whose employer submits the Inspector's application to the National Board for such Commission.

(13) Condemned Boilers and Pressure Vessels - Condemned boilers and pressure vessels declared unfit for further use by the Chief Inspector or Commissioner shall immediately be stamped with three X's over the ASME code symbol stamp or immediately above the front manway, or on the front head of a fire tube boiler, or over the object identification number.

(14) Deputy Inspector - Any Inspector appointed by the Commissioner under the provision of the Act.

(15) Electric Boiler - A power boiler or heating boiler in which the source of heat is electricity.

(16) External Inspection - An inspection made when a boiler or pressure vessel is in operation or idle.

(17) Existing Installation - Includes any boiler constructed, installed, placed in operation, or contracted for before January 1, 1986; and any pressure vessel constructed; installed, placed in operation, or contracted for before January 1, 1986.

(18) Fitting or Appliance - The terms "Fittings" and "Appliances" shall be taken to mean such necessary safety devices as are attached to a boiler and/or pressure vessel for safety purposes.

(19) Georgia State Special - A boiler or pressure vessel which is of a special design which cannot or has not been constructed to the Code.

(20) Heating Boiler - A steam or vapor boiler operating at pressures not exceeding 15 psig or temperatures not exceeding 250 degrees Fahrenheit.

(21) Heat Recovery Boiler - A steam boiler for operation at pressures not exceeding 15 psig.

(22) High Pressure High Temperature Water Boiler - Means a water boiler operating at pressures exceeding 160 psig or temperatures exceeding 250 degrees Fahrenheit.

(23) Hobby - An activity pursued outs ide of one's regular work, primarily for pleasure and receive no monetary gain.

(24) Hot Water Heating Boiler - A boiler in which no steam is generated, from which hot water is circulated for heating purposes and then returned to the boiler, and which operates at a pressure not exceeding 160 psig and/or a temperature of 250 degrees Fahrenheit at or near the boiler outlet.

(25) Hot Water Supply Boiler - A boiler or heater completely filled with water that furnishes hot water to be used externally to itself at pressures not exceeding 160 psig or a temperature not exceeding 250 degrees Fahrenheit for hot water supply boilers, or temperatures not exceeding 210 degrees Fahrenheit for hot water supply heaters.

(26) Inspector - The Chief Inspector, Deputy Inspector, Special Inspector, or Owner- User Inspector.

(27) Installation of Boilers and Pressure Vessels - When referred to in this Chapter shall include all fittings, appliances and/or appurtenances.

(28) Internal Inspection - As complete an examination as can reasonably be made of the internal and external surfaces of a boiler or pressure vessel while it is shut down and manhole plates, handhole plates, or other inspection openings are removed as per the Inspector's requirements.

(29) Insurance Company - An insurance company which has been licensed or registered by the appropriate authority of a state of the United States or a Province of Canada to write boiler and pressure vessel insurance and to provide all inspection services required by this State.

(30) Investigative Board - The Investigative Board shall be made up of the Chief Inspector and two members of the Boiler Board appointed by the Chairman of the Boiler Board.

(31) Jurisdiction - A State, Commonwealth, County, or Municipality of the United States or a Province of Canada, which has adopted one or more sections of the ASME Code, one of which is Section I, and maintains a duly constituted department bureau or division for the purpose of enforcement of such Code.

(32) Lined Potable Water Heater - A water heater with a corrosion resistant lining used to supply potable hot water and exceeding any of the following:

(a) A heat input of 200,000 BTU per hour;

(b) A water temperature of 210 degrees Fahrenheit; or

(c) A nominal water containing capacity of 120 gallons.

(33) Miniature Boiler - A power boiler or high-temperature water boiler which does not exceed the following limits:

(a) 16 inches inside diameter of shell;

(b) 20 sq. ft. heating surface (not applicable to electric boilers);

(c) 5 cu. ft. gross volume exclusive of casing and insulation;

(d) 100 psig maximum allowable working pressure.

(34) National Board - The National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229.

(35) National Board Inspection Code. The manual for Boiler and Pressure Vessel Inspectors published by the National Board and adopted by the Board.

(36) New Boiler or Pressure Vessel Installation - All boilers constructed, installed, placed in operation, or contracted for after December 31, 1986. All pressure vessels constructed, installed, placed in operation, or contracted for after December 13, 1986.

(37) Non-standard Boiler or Pressure Vessel - A boiler or pressure vessel that does not bear the ASME stamp and National Board Number.

(38) Owner or User - Any person, firm, or corporation legally responsible for the safe installation, operation, and maintenance of any boiler or pressure vessel within the jurisdiction.

(39) Owner-User Inspector - An Inspector continuously employed by a company owning and operating pressure vessels in this State for the purpose of making inspections of pressure vessels used or to be used by such company, but not for resale, and providing such company complies with the requirements of the Official Code of Georgia Annotated, Section 25-15-10 of the Boiler and Pressure Vessel Law.

(40) Owner/User Inspection Agency - An owner or user of pressure vessels who maintains a regularly established inspection department, whose organization and inspection procedures shall meet the requirements of the boiler and pressure vessel Rules and are acceptable to the Office Of Insurance and Safety Fire Commissioner.

(41) Portable Boiler - A boiler which is primarily intended for temporary location and the construction and usage permits it to be readily moved from one location to another.

(42) Power Boiler - Means a boiler in which steam or other vapor is generated at a pressure of more than 15 psig.

(43) PSIG - Pounds per square inch gauge.

(44) Reinstalled Boiler or Pressure Vessel - A boiler or pressure vessel removed from its original setting and reinstalled at the same location, or at a new location without change of ownership.

(45) Repair - The work necessary to restore a boiler or pressure vessel to a safe and satisfactory operating condition provided there is no deviation from the original design.

(46) Secondhand Boiler or Pressure Vessel - A boiler or pressure vessel which has changed both location and ownership since last used.

(47) Steam Heating Boiler - A steam boiler for operation at pressures not exceeding 15 psig.

(48) Special Inspection - Any inspection performed by the State other than a regularly scheduled inspection, and includes instances where the original inspection was rescheduled due to the owner's or user's failure to prepare the boiler or pressure vessel after notification.

(49) Special Inspector - An Inspector holding a Georgia Commission, and who is regularly employed by an insurance company authorized to insure against loss of boilers or pressure vessels in this State.

(50) Standard Boiler or Pressure Vessel - A boiler or pressure vessel which bears the ASME stamp and National Board Number, except cast iron boilers which will not be registered with the National Board.

(51) Unfired Steam Boiler - An unfired pressure vessel or system of unfired pressure vessels intended for operation at a pressure in excess of 15 psig steam for the purpose of producing and controlling an output of thermal energy.

(52) Waste Heat Boiler - An unfired pressure vessel or system of unfired pressure vessels intended for operation in excess of 15 psig steam for the purpose of producing and controlling an output of thermal energy.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.03
Authority: O.C.G.A. §§ 25-15-10, 25-15-13.
History. Original Rule entitled "Administration. Amended" adopted. F. Sep. 4, 2013; eff. Sep. 24, 1913.
Repealed: New Rule entitled "Administration" adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.
Repealed: New Rule entitled "Definition of Terms" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.04. Administration.

(1) The Safety Engineering Section of the Safety Fire Division of the Office of the Insurance and Safety Fire Commissioner administers the provisions of Chapter 15 of Title 25 of the Official Code of Georgia Annotated relating to boiler and pressure vessel safety. The Safety Engineering Section is located at 2 Martin Luther King Jr. Drive, Suite 920, West Tower, Atlanta, GA 30334.

(2) Address correspondence to:

Office of Insurance and Safety Fire Commissioner

Safety Engineering Section

2 Martin Luther King Jr. Drive, Suite 920, West Tower

Atlanta, GA 30334.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.04
Authority: O.C.G.A. § 25-15-13.
History. Original Rule entitled "Certificate of Competency and Examination. Amended" adopted. F. Sep. 4, 2013; eff. Sep. 24, 1913.
Repealed: New Rule entitled "Certificate of Competency and Examination" adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.
Repealed: New Rule entitled "Administration" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.05. Certificate of Competency and Examination.

(1) Applicants for a certificate of competency shall satisfy the requirements of this Section.

(2) In order to take the Georgia Board of Boiler and Pressure Vessel Rules' Examination, an applicant shall meet one of the following qualifications:

(a) A degree in engineering plus one year of experience in design, construction, operation, or inspection of high pressure boilers and pressure vessels;

(b) An associate degree in mechanical technology plus two years of experience in design, construction, operation, or inspection of high pressure boilers and pressure vessels;

(c) The equivalent of a high school education plus four years of experience in one of the following:

1. In high-pressure boiler and pressure vessel construction or repair,

2. As an operating engineer in charge of high-pressure boiler operations, or

3. As an Inspector of high-pressure boilers and pressure vessels.

(3) Applications for the examination are available from the Commissioner and shall contain an accurate education and employment history.

(4) The Examination for a Certificate of Competency is prepared and graded by the National Board; and

(a) covers the construction, installation, operation, maintenance, and repair of boilers and pressure vessels and their appurtenances;

(b) is given on the first Wednesday and one-half day Thursday in March, June, September, and December at a site selected by the Commissioner; and

(c) Is administered upon payment of a fee of fifty dollars ($50.00), which is also required when the examination is retaken by an unsuccessful applicant.

(d) Successful applicants will be issued a Certificate of Competency by the Chief Inspector, when such applicant passes the examination.

(5) When Commissioned by the National Board, and requested by the employer, Inspection Agency a Georgia Commission bearing the signature of the Chief Inspector, will be issued.

(6) Request for Georgia Commissions, are processed upon proof of a Commission issued by the National Board and a twenty-five dollar ($25.00) fee.

(7) Georgia Commissions are valid through December 31, at which time each inspector or inspection agency shall submit a request to renew and a twenty-five dollar ($25.00) filing fee.

(8) The Georgia Commission shall be returned (by the employing company) to the Chief Inspector upon termination of employment of any Inspector.

(9) A Georgia Commission may be suspended or revoked by the Board for incompetence, untrustworthiness, or willful falsification of any statement in an application or inspection report.

(10) Owner/User Inspector for unfired pressure vessels.

(a) Owner/User Inspectors must meet all of the above requirements (1) through (9).

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.05
Authority: O.C.G.A. § 25-15-13.
History. Original Rule entitled "State Inspection Fees. Amended" adopted. F. Sep. 4, 2013; eff. Sep. 24, 1913.
Repealed: New Rule entitled "State Inspection Fees" adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.
Repealed: New Rule entitled "Certificate of Competency and Examination" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.06. State Inspection Fees.

(1) All boilers and hot water heaters:

(a) Up to and including 30 boiler horsepower $30.00

(b) 31 boiler horsepower to 50 boiler horsepower $50.00

(c) 51 boiler horsepower to 100 boiler horsepower $75.00

(d) 101 boiler horsepower to 200 boiler horsepower $100. 00

(e) All boilers over 200 boiler horsepower $150.00

(f) Inspection fees will be charged for any trip made by the inspector for the purpose of certificate inspection, permit inspection, follow-up inspection, insurance cancellation inspection, internal and/ or external inspection.

(2) In the event a special inspection or hydrostatic test is made, an additional fee of $100.00 per hour and all traveling expenses incurred in connection with the inspection will be charged. The expenses shall be governed by the regulations for traveling expenses established for State officials. In cases where one trip is made to inspect two or more locations for two or more parties, the traveling expenses shall be prorated between the parties on the basis of the number of objects inspected and the time consumed for each inspection on both.

(3) Fees for joint reviews of ASME stamps and National Board Repair Stamp Holders.

(a) Fee for all reviews... $1500.00. The fee will be paid prior to the review being scheduled. Fees include time and expenses up to a maximum of two days. Any review that is extended to more than two days, time and expenses will be charged as stated in (b) below.

(b) All services rendered other than as stated in (a) above, $100.00 per hour. (The hourly rate with all expenses will be charged and billed after the service is rendered.)

(4) Permit fee for installation of new boilers and installation of second- hand boilers and pressure vessels: (For all boilers, hot water heaters, or used unfired pressure vessels found to have been installed without an installation permit, the installation permit fee will be doubled.) Once permits are processed by this office, no refunds will be issued.

(a) All pressure vessels and boilers up to and including 30 boiler Horsepower $100.00

(b) 31 boiler horsepower to 50 boiler horsepower $200.00

(c) 51 boiler horsepower to 100 boiler horsepower $300.00

(d) 101 boiler horsepower to 200 boiler horsepower $400.00

(e) All boilers over 200 boiler horsepower $500.00

(5) Georgia State Special Permits ..... $500.00 This fee must accompany the request for a State Special permit. All inspections for a State Special Permit will be conducted by a Deputy Inspector.

(6) Operating Permit Fees:

(a) Power boilers and high pressure, high temperature water boilers, annual fee $50.00

(b) Low pressure steam or vapor heating boilers, biennial fee $50.00

(c) Hot water heating and hot water supply boilers biennial fee $50.00

(c) Pressure Vessel, triennial fee $30.00

(7) The owner, user, agent, or installer is responsible to ensure accessibility to the equipment for inspection, equipment is ready for inspection (as required), and necessary people are available when scheduled. Failure to meet any of the above requirements will cause

owner, user, agent, or installer to be charged $100.00 per hour including travel time. This fee must be paid prior to any rescheduled or completed inspections at that location.

(8) Payment of fees for inspections and operating permits.

(a) Inspection fees or operating permit fees shall be paid to validate the operating permit. Fees not paid within sixty (60) calendar days of completion of such inspection shall cause the suspension of the operating permit until such time that all fees are paid. When an operating permit is suspended for lack of payment, the Deputy Inspector shall reinspect the boiler, water heaters or pressure vessels. This inspection fee will be charged and collected prior to reinstating the operating permit.

(b) Inspection fees or operating permit fees shall be paid within or operating permit fees unpaid within sixty (60) calendar days shall bear interest at the rate of 1.5 percent per month or any fraction of a month. Interest shall continue to accrue until the Commissioner receives all amounts due, including interest.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.06
Authority: O.C.G.A §§ 25-15-17, 25-15-13, 25-15-25, 25-15-27.
History. Original Rule entitled "New Installation of Boilers and Installation of Secondhand Boilers or Pressure Vessels. Amended" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule entitled "New Installation of Boilers and Installation of Secondhand Boilers or Pressure Vessels" adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.
Repealed: New Rule entitled "State Inspection Fees" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.07. State Inspection Fees New Installation of Boilers and Installation of Secondhand Boilers or Pressure Vessels.

(1) The company or person responsible for the installation of the boiler or secondhand pressure vessel is required to obtain an installation permit for the boiler or pressure vessel prior to any work being performed. A "Request to Install a Boiler or Pressure Vessel" along with the installation fee and any drawings, calculations, or ASME Code Data Reports as applicable will be forwarded to the Office of Insurance and Safety Fire Commissioner, Safety Engineering Section. Boilers or pressure vessels that are ASME Code stamped and National Board registered need only the ASME Data Report. A request for a Georgia State Special must be accompanied by all design documents. No boilers or pressure vessels shall be sold to be installed in the State unless the boiler or pressure vessel meets all adopted Codes, Standards, and/or these Rules.

(2) All boiler installations shall meet all requirements of ASME, the NBIC, and CSD-1. Boilers 12,500,000 BTU/hr and over shall meet any additional requirements of NFPA85. All fluid heaters shall meet the requirements of NFPA 87.

(3) A Deputy Inspector, prior to the vessel being used must inspect all completely new and secondhand packaged boilers and secondhand pressure vessels installed. The company or person performing the installation is responsible for notifying the Safety Engineering Section when the boiler or secondhand pressure vessel is ready for inspection.

(4) All Permits that have not had any action toward the installation shall expire 24 months after the issue date. The expiration date shall be shown on the permit. The monies for the expired permit shall be forfeited and the file closed out. The installer shall be required to resubmit for another permit in accordance with paragraph (1) above and Rule 120-3-26-.05(4), when a file has been closed out.

(5) Water heaters must have a check valve installed in the cold water supply line at the heater.

(6) All low pressure steam heating, water heating or hot water supply boilers as described in Rule 120-3-26-.02 must have a type "B" vent. The vent must be double wall galvanized or other corrosion resistant material, or as specified by the boiler manufacturer.

(7) All high pressure power boilers for steam, water or oil as described in Rule 120-3-26.02 must have a single wall welded stack at least .056 inches thick (16 gage), or double wall manufactured corrosion resistant stack, or as specified by the boiler manufacturer. The double wall must be UL listed for the temperature specified by the boiler manufacturer.

(8) All stack clearance from combustible material shall be as specified in NFPA Standard 31, 54, or 58 as applicable.

(9) All steam boilers over 15 psi and over 10 boiler horsepower must be in a 2 hr. fire rated room, (except for Group F Occupancy). All heating boilers installed in places of Assembly (Group A), or place of Hazardous Occupancy (Group H) must be in a 2 hr. fire rated room.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.07
Authority: O.C.G.A. §§ 25-15-13, 25-15-17, 25-15-18, 25-15-25, 25-15-27.
History. Original Rule entitled "Boiler and Pressure Vessel Inspection Requirements. Amended" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Amended: F. Jan. 10, 2014; eff. Jan. 30, 2014.
Repealed: New Rule entitled "Boiler and Pressure Vessel Inspection Requirements" adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.
Repealed: New Rule entitled "State Inspection Fees New Installation of Boilers and Installation of Secondhand Boilers or Pressure Vessels" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.08. Boiler and Pressure Vessel Inspection Requirements.

(1) On and after January 1, 1986, each boiler and pressure vessel used or proposed to be used within this State, except for boilers and pressure vessels exempted under O.C.G.A.

Section 25-15-16, shall be thoroughly inspected as to their construction, installation, and condition as follows:

(a) Power boilers and high pressure, high temperature water boilers shall receive a permit (certificate) inspection annually. The inspection shall be an internal inspection where construction permits; otherwise, it shall be a as complete an inspection as possible. These boilers will also receive an external inspection while under pressure, if possible.

(b) Low pressure steam or vapor boilers shall receive a permit inspection biennially.

(c) Hot water heating and hot water supply boilers shall receive a permit inspection biennially.

(d) Pressure vessels shall receive a permit inspection triennial with an internal inspection at the discretion of the Inspector.

(e) All certificate inspections under this section shall be done in accordance with the NBIC, Parts 1 & 2. The boiler owners and user shall be responsible for ensuring that the installation, maintenance, operation, and testing of controls and safety devices are in accordance with the manufacturer's requirements. The maintenance and testing of controls and safety devices shall be conducted by a contractor with a valid certificate of authority with the appropriate classification. The inspector will witness or review that all controls and safety devices have been tested to manufactures requirements. Appendix C in the current adopted edition of CSD-1 is an example of a report or checklist. If the boiler is governed by a different standard, it will be used as a guide to which controls and safety devices and systems need to be tested.

(f) The Commissioner, the Chief Inspector, or any Deputy Inspector shall have free access during reasonable hours to any premises in the State where boilers or pressure vessels are being constructed, installed, operated, maintained, or repaired for the purpose of performing any required safety inspections in accordance with the Boiler and Pressure Vessel Safety Act, Chapter 15 of Title 25 and these Rules and Regulations. Any owner, user or other person responsible for boilers or pressure vessels that denies access to Inspectors shall be in violation of the Act.

(g) An internal boiler inspection may be increased from an annual inspection frequency to eighteen (18) months for Black Liquor Boilers and a twenty-four (24) month inspection frequency for a Power Boiler by approval of the Office of Insurance and Safety Fire Commissioner. An employee delegated by the industrial facility shall apply for the extension. The following information shall be sent to the office for review:

(1) Operator training.

(2) Boiler maintenance records.

(3) Water chemistry.

(4) Letter of approval of extension from an authorized inspection agency. State inspector may be present with the in-service inspector during the internal Inspection, these expenses will be the responsibility of the industrial plant. A copy of the in-service inspector's detailed summary report of this inspection will be supplied to this office within 30 days of inspection. If a Black Liquor Boiler, a copy of the ESP test (Emergency Shutdown Procedure) will also be supplied.

(2) Cessation orders on unsafe equipment or equipment operating in violation of these Rules.

(a) The Commissioner or his authorized representative may issue a written order for the temporary cessation of operation of a boiler or pressure vessel if it has been determined after inspection to be hazardous or unsafe. Operation shall not resume until such conditions are corrected to the satisfaction of the Commissioner or his authorized representative.

(b) If a boiler or pressure vessel is found to be operating after a cessation order has been issued, and/or prior to the required inspections, a penalty may be assessed as specified in Rules 120-3-26-.05 and/or 120-3-26-.18 as applicable.

(c) Any person aggrieved by an order or an act of the Commissioner or the Chief Inspector may appeal in accordance with O.C.G.A. Section 25-15-28.

(3) **Reserved.**

(4) All boilers or pressure vessels overdue for inspection as specified by Rule 120-3-26-.07, by more than 6 months, a State Deputy Inspector shall inspect such boilers or pressure vessels and may invoice the Owner/User for a special inspection as specified by Rule 1203-26-.05(2), in addition to the standard inspection fees.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.08
Authority: O.C.G.A. §§ 25-15-13, 25-15-19, 25-15-20.
History. Original Rule entitled "Notification of Inspection. Amended" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule entitled "Notification of Inspection" adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.
Repealed: New Rule entitled "Boiler and Pressure Vessel Inspection Requirements" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.09. Notification of Inspection.

(1) All insurance companies shall notify the Chief Inspector, within thirty days, of all boilers or pressure vessels on which Insurance is written or canceled, not renewed or suspended.

(2) Special inspectors to notify Chief Inspector of unsafe boilers and pressure vessels.

(a) If an inspector, upon first inspection, finds that a boiler or pressure vessel, or any appurtenance thereof, is in such condition that he would refuse to issue an inspection certificate, the Inspector shall immediately notify the Chief Inspector and submit a report on the defects.

(b) If, upon inspection, an Inspector finds a boiler or pressure vessel to be unsafe for further operation, he shall promptly notify the owner or user, stating what repairs or other corrective measures are needed. The Inspector shall immediately notify his supervisor or the Chief Inspector. Until such corrections have been made, no further operations of the boiler or pressure vessel involved shall be permitted. If an inspection certificate for the object is required and is in force, it shall be suspended by the Chief Inspector. When reinspection establishes that the necessary repairs have been made or corrective actions have been taken and that the boiler or pressure vessel is safe to operate, the Chief Inspector shall be notified. At that time, an inspection certificate, where applicable, may be issued.

(c) If an Inspector, while making a required inspection, becomes aware of any other boilers or pressure vessels on the premises which are not registered in accordance with applicable law, he shall report this information to the owner or user of the boiler pressure vessel and to the Chief Inspector within thirty days.

(3) Owner-User: Each Owner-User inspection agency as required by the provision of the Act and these Rules and Regulations shall:

(a) conduct inspections of pressure vessels utilizing only qualified inspection personnel, as provided in this Chapter;

(b) retain on file, at the location where the equipment is inspected, a true copy of each of the latest inspection reports signed by the Inspector;

(c) execute and deliver to the Chief Inspector a true report of each inspection together with appropriate requirements or recommendations that result from such inspections;

(d) promptly notify the Chief Inspector of any pressure vessel which does not meet the applicable requirements;

(e) maintain inspection records which will include a list of each pressure vessel covered by the Act, showing a serial number and such abbreviated descriptions as may be necessary for identification, the date of last inspection of each unit and approximate date for the next inspection record is compiled. Such inspection record shall be readily available for examination by the Chief Inspector or his authorized representative during business hours.

(f) If upon an external inspection there is evidence of a leak or crack, sufficient covering of the pressure vessel shall be removed to permit the Inspector to satisfactorily determine the safety of the boiler or pressure vessel. If the covering cannot be removed at that time, he may order the operation of the pressure vessel stopped until such time as the covering can be removed and proper examination made. The Chief Inspector shall be notified immediately.

(4) All boiler or pressure vessels overdue for inspection as specified by Rule 120-3-.26 -.07, by more than 6 months, a State Deputy Inspector shall inspect such boilers or pressure vessels and may invoice the Owner/User for a special inspection as specified by Rule 120-326-.05(2), in addition to the standard fee.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.09
Authority: O.C.G.A. § 25-15-20.
History. Original Rule entitled "Notification of Accident. Amended" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule entitled "Notification of Accident" adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.
Repealed: New Rule entitled "Notification of Inspection" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.10. Notification of Accident.

(1) When an incident occurs to a boiler or pressure vessel, the owner or user shall promptly notify the Chief Inspector by submitting a detailed report of the incident.

In the event of a personal injury or any explosion, notice shall be given immediately by telephone, followed by emailing a detailed report of the incident, and neither the boiler nor pressure vessel, nor any parts thereof, shall be removed or disturbed before permission has been given by the Chief Inspector, except for the purpose of saving human life and limiting consequential damage.

(2) If an inspection is made as a result of an incident, the inspector will inform the owner or user of the requirements set forth in paragraph (1).

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.10
Authority: O.C.G.A. § 25-15-21.
History. Original Rule entitled "Validity of Operating Permit. Amended" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule entitled "Validity of Operating Permit" adopted. F. Mar. 1, 2015; eff. Apr. 5, 2015.
Repealed: New Rule entitled "Notification of Accident" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.11. Validity of Operating Permit.

The Commissioner or his authorized representative may extend the expiration date of any operating permit. Requests for an extension must be in writing to the Office stating the reason for the extension.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.11
Authority: O.C.G.A. §§ 25-15-20, 25-15-23, 25-15-26.
History. Original Rule entitled "Georgia State Special Boilers and Pressure Vessels. Amended" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule entitled "Non-Vaporizing Thermal Fluid Heaters" adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.
Repealed: New Rule entitled "Validity of Operating Permit" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.12. Non-Vaporizing Fluid Heaters.

(1) A non-vaporizing fluid heater is a heater designed to not vaporizes a fluid in a closed system.

(2) The owner shall insure that a non-vaporizing fluid heater is constructed in accordance with current adopted editions of the ASME Boiler and Pressure Vessel Code and is National Board registered.

(3) The installation shall have stop valves located at an accessible point in the supply and return pipe connections as near to the heater as practicable.

(4) The owner shall ensure that a non-vaporizing fluid heater has the following as a minimum:

(5) One operating temperature control and one high limit temperature control.

(6) An ASME relief device to be of sufficient capacity to relieve the excess fluid as a result of thermal expansion, verified by engineering calculations provided by the owner.

(7) A thermometer graduated to no less than 133% of the expected operating temperature.

(8) A pressure gauge graduated to no less than 150% of the expected operating pressure.

(9) A low level or flow sensing device suitable for operating conditions.

(10) The owner shall ensure that a fuel train meets the requirements of State laws and regulations and the current adopted edition of CSD-1 or NFPA 87.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.12
Authority: O.C.G.A. §§ 25-15-20, 25-15-23, 25-15-26.
History. Original Rule entitled "Non-Conforming or Non-Standard Boilers and Pressure Vessels. Amended "adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule entitled "Georgia State Special Boilers and Pressure Vessels" adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.

Repealed: New Rule entitled "Non-Vaporizing Fluid Heaters" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.13. Georgia State Special Boilers and Pressure Vessels.

If a boiler or pressure vessel is of special design and one that cannot be constructed to the ASME Code, the owner shall forward welding procedures and welder certifications details of the proposed construction, including shop drawing, material specifications, calculations, to the Chief Inspector for approval. All such boilers and pressure vessels must be inspected and hydrostatically tested and documented on forms provided by the Commissioner. The owner's application shall be certified by a registered professional engineer or an appropriate ASME stamps holder.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.13
Authority: O.C.G.A. §§ 25-15-24, 25-15-13.
History. Original Rule entitled "Boiler and Pressure Vessel Repair or Alteration. Amended" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule entitled "Non-Conforming or Non-Standard Boilers and Pressure Vessels" adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.
Repealed: New Rule entitled "Georgia State Special Boilers and Pressure Vessels" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.14. Non-Conforming or Non-Standard Boilers and Pressure Vessels.

(1) Boilers or unfired pressure vessels that do not conform to the ASME code may be operated as a hobby or for educational or historical purposes only, provided an inspection in accordance with these Rules is made annually. Lapseam boilers under this section are limited to 100 psig.

(2) Boilers or unfired pressure vessels normally located outside this State may be, upon application to the Commissioner, permitted to operate for a period not exceeding 7 days provided the object has an operating certificate from the State in which it is normally operated.

(3) Non-standard boilers, or pressure vessels being installed or reinstalled in the State shall receive a State Special Permit and an operating permit prior to the operation of the boiler, or pressure vessel.

(4) No boiler, or unfired pressure vessel shall be installed in a system or operated in a service that the boiler or pressure vessel is not designed and manufactured to the intended service, (as specified on the data report or receive a State Special Permit for that intended service).

(5) A miniature hobby locomotive boiler is designed to be operated on a narrow gauge track of less than twenty-four (24) inches.

(6) At the initial inspection of a miniature hobby locomotive boiler, the owner shall provide the Chief Inspector with design specifications and calculations for review and acceptance.

(7) The owner shall ensure that a miniature hobby locomotive boiler has the following minimum equipment:

(a) A pressure gauge graduated to approximately 1.5 times the operating pressure, but no more than 4 times the operating pressure.

(b) A means to extinguish the fire in the fire box, if a low water condition exists.

(c) Two means of feeding water to the boiler, one of which shall be operable while the locomotive is stationary.

(d) A water level gauge glass located so that the top of the bottom nut of the gauge glass is approximately 10% of the distance between the crown sheet and the shell, but not less than ½ inch above the crown sheet.

(e) Two safety valves set no more than 10% above the operating pressure for boiler fabricated after the effective date of the rules. The capacity of the safety valves shall be equal to or greater than the calculated steam generating capacity of the boiler.

(8) Triennially, during the certificate inspection, the owner shall hydrostatically test the Boiler per the NBIC, in the presence of the inspector. All certificate inspections, both internal and external, will be conducted to the current adopted edition of the NBIC, Part 2, and all boiler laws and regulations with the exception of Ultrasonic thickness reading, which will not be done, unless noted on the inspection report, when visually evidenced during the internal inspection.

(9) All repairs will be conducted by an "R" stamp holder in accordance to the current adopted edition of the NBIC, Part 3.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.14
Authority: O.C.G.A. § 25-15-28.
History. Original Rule entitled "Reinstallation of Certain Boilers and Pressure Vessels. Amended" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule entitled "Boiler and Pressure Vessel Repair or Alteration" adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.
Repealed: New Rule entitled "Non-Conforming or Non-Standard Boilers and Pressure Vessels" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.15. Boiler and Pressure Vessel Repair or Alteration.

(1) Repairs and alterations to Boilers and Pressure Vessels shall be performed in accordance with the National Board Inspection Code or as otherwise specified by the jurisdiction. All repair facilities must have a valid contract with an approved inspection agency.

(2) When repairs or alterations are to be made, permission shall be obtained from an inspector and shall be done in accordance with the latest edition of the National Board inspection code by an authorized repair facility holding a valid National Board "R" stamp or jurisdictional approval for owner/users repairing their own boilers or pressure vessels. Welded repairs to cast iron boilers, pressure vessels or parts thereof shall not be allowed.

(3) A request for permission to restamp the boiler or pressure vessel shall be made to the Chief Inspector and proof of the original stamping shall accompany the request.

The Chief Inspector may grant such authorization. Restamping, authorized by the Chief Inspector, shall be done only in the presence of an Inspector and shall be identical to the original stamping except for the ASME Code symbol stamp.

(4) The repair facility shall provide the Chief Inspector with a copy of a completed R-1 repair form with the inspector's signature when a welded repair has been done within 30 days of the repair. An electronic or paper copy is acceptable.

(a) The repair stamp holder shall complete a repair form on all welded repairs. The distribution shall be to the owner/user and jurisdiction and others as required by the National Board Inspection Code within 30 days of the repair. An electronic or paper copy is acceptable.

(b) An R-2 report for alternation shall be completed on all alterations and distributed in accordance with the National Board Inspection Code. The Chief inspector will receive a copy within 30 days. An electronic or paper copy is acceptable.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.15
Authority: O.C.G.A. § 25-15-28.
History. Original Rule entitled "Boiler and Pressure Vessel Construction. Amended" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule entitled "Reinstallation of Certain Boilers and Pressure Vessels" adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.
Repealed: New Rule entitled "Boiler and Pressure Vessel Repair or Alteration" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.16. Reinstallation of Certain Boilers and Pressure Vessels.

(1) A Boiler or Pressure Vessel that is not constructed pursuant to the ASME Code or is not registered with the National Board shall not be reinstalled at any location in this State, when the reinstallation is accompanied by a change of ownership of the boiler or pressure vessel unless the Owner, User receives a State Special Permit.

(2) Secondhand boilers or pressure vessels cannot be installed unless an application for "Permit to Install" has been approved by the Chief Inspector followed by a certificate inspection by a Deputy Inspector.

(3) When a standard boiler or pressure vessel located in this jurisdiction has been removed outside the jurisdiction for temporary use or repair, application shall be made for a permit to install by the owner or user to the Chief Inspector for permission to reinstall the boiler or pressure vessel in the jurisdiction.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.16
Authority: O.C.G.A. § 25-15-23.
History. Original Rule entitled "Certificate of Authority to Install, Maintain and/or Service Boilers. Amended" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Amended: F. Jan. 10, 2014; eff. Jan. 30, 2014.
Repealed: New Rule entitled "Boiler and Pressure Vessel Construction" adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.
Repealed: New Rule entitled "Reinstallation of Certain Boilers and Pressure Vessels" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.17. Boiler and Pressure Vessel Construction.

(1) All boilers and pressure vessels must be manufactured in accordance with Sections I, IV, VIII and X of the ASME Code. Shop inspection of boilers and pressure vessels (except cast iron boilers and unfired UM pressure vessels) is mandatory and must be made by Inspectors holding National Board Commissions.

(2) Rules for construction and stamping must comply with the Code and with National Board stamping and registration. In addition to the above requirements, electric boilers shall have the underwriter's laboratories' label.

(3) Cast Iron /Cast Aluminum Boilers are not required to be registered with the National Board.

(4) The code stamping shall not be concealed by lagging or paint and shall be exposed at all times unless a suitable record is kept of the location of the stamping so that it may be readily uncovered when required, or there has been a duplicate name plate attached on the outside cover.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.17
Authority: O.C.G.A. §§ 25-15-13, 25-15-14, 25-15-15, 25-15-16.
History. Original Rule entitled "Preparation for Certificate Inspection. Amended" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule entitled "Certificate of Authority to Install, Maintain and/or Service Boilers" adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.
Repealed: New Rule entitled "Boiler and Pressure Vessel Construction" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.18. Certificate of Authority to Install, Maintain and/or Service Boilers.

(1) All companies as contractors or individuals as owner/users, who install, maintain or service boilers shall have a certificate of authority for the activity performed. Certificate of Authority must be renewed every two years, on or before January 1st. The activity performed shall be Class I for power, high pressure hot water boilers, high temperature fluid heaters, Class II shall be for hot water or steam heating boilers, and Class III shall be for hot water supply boilers or lined potable water heaters. A -1 after the class number shall indicate owner/user location only. An asterisk (**) after the class number shall indicate a restriction, the restriction will be specified on the certificate

(2) All companies as contractors or individuals as owner/users who perform one or more of the above activities on power boilers, high pressure high temperature water boilers, high temperature fluid heaters, hot water or steam heating boilers, hot water supply boilers, electric boilers, heat recovery boilers, lined potable water heaters, miniature boilers, unfired steam boilers, or waste heat boilers as defined by O.C.G.A. Chapter 15 of Title 25 shall be required to show their competency by examination given by Safety Engineering for the scope of work being performed.

(3) Each Applicant will provide documentation which shows experience and training in the area where certification is requested. The documentation will be evaluated by Safety Engineering for competency prior to administering the exam.

(4) Installing equipment is the act of connecting piping and/or electrical circuits to the equipment and set the equipment up for use. Electrical circuits may be connected, by the installer, from the electrical disconnect to the equipment. All piping that is not connected to a water supply system, sanitary drainage system or storm drainage systems, may be connected by the installer.

(5) Maintenance and Servicing is defined as keeping the equipment in good working order: Any person or company who performs maintenance and service to equipment, shall be responsible for the following: cleaning, replacement of component parts with like parts, testing, blowing down, checking for proper operation, testing equipment after maintenance and service has been performed and starting or stopping of equipment or any other boiler related activity.

   (a) Owner/users who perform only the daily operation of the equipment by starting and stopping, blowing down, testing of safety devices or other related equipment operation practices shall be exempt.

(6) It shall be the responsibility of the owners/users or lessees to ensure the company, contractor and/or persons performing the work has the proper certificate of authority.

(7) It shall be the responsibility of all owners/users or lessees who are not exempted under paragraph (2) to have persons within their organization qualified and have a certificate of

authority to perform installations, maintenance or service on their own boilers, or they may contract companies who have a certificate of authority to perform the scope of work requested.

(8) All installations shall meet the applicable ASME Code, CSD-1 and state adopted standards (see 300-6-1-.01).

(9) All maintenance and servicing shall meet the applicable requirements of ASME CSD-1, State adopted Standards, Manufacturer requirements and good Engineering Practice. Also may meet the requirements of ASME Sections VI and VII.

(10) The fee for the certificate of authority shall be $50.00 for the original issue and for each renewal.

(11) All procedures to implement the rules in this section shall be approved by the advisory committee.

(12) This section shall be effective January 1, 2021 and required to be fully implemented by January 1, 2022.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.18
Authority: O.C.G.A. §§ 25-15-26, 25-15-13, 25-15-22.
History. Original Rule entitled "General Requirements. Amended" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule entitled "Preparation for Certificate Inspection" adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.
Repealed: New Rule entitled "Certificate of Authority to Install, Maintain and/or Service Boilers" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.19. Preparation for Certificate Inspection.

(1) The owner or user shall prepare each boiler or pressure vessel for inspection, and shall prepare for and apply a hydrostatic or pressure test, whenever necessary, on the date arranged by the Inspector.

(2) Boilers - The owner or user shall prepare a boiler for internal inspection in the following manner:

(a) Water shall be drained off and the boiler washed thoroughly;

(b) Manhole and handhole plates, washout plugs, and inspection plugs in water column connections shall be removed as required by the Inspector, and the furnace and combustion chambers shall be cooled and thoroughly cleaned;

(c) All grates of internally fired boilers shall be removed;

(d) Insulation or brickwork shall be removed as required by the Inspector in order to determine the condition of the boiler, headers, furnace, supports, or other parts;

(e) The pressure gauge shall be removed for testing, as required by the Inspector;

(f) Any leakage of steam or hot water into the boiler shall be prevented by disconnecting the pipe or valve at the most convenient point or any appropriate means approved by the Inspector, and

(g) Before opening the manhole or handhole covers and entering any parts of the steam generating unit connected to a common header with other boilers, the nonreturn and steam stop valves shall be closed, tagged, and preferably padlocked, and drain valves or cocks between the two valves opened. The feed valves shall be closed, tagged, and preferably padlocked, and drain valves or cocks located between the two valves opened. After draining the oiler, the blowoff valves shall be closed, tagged, and preferably padlocked. Blowoff lines, where practicable, shall be disconnected between pressure parts and valves. All drains and vent lines shall be opened.

(3) Pressure Vessels. Pressure vessels shall be prepared for inspections to the extent deemed necessary by the Inspector and the applicable procedures outlined in Rule 120-3-26-.17(2).

(4) No employer or owner/user shall permit entry to nor shall an employee or inspector enter a boiler furnace, drum, or header or pressure vessel until all requirements of the Occupational Safety and Health Administration, Office of Insurance and Safety Fire Commissioner, 29 CFR 1910.146, Permit-Required Confined Space Standard, requirements have been met, and until the plant inspector or supervisor and the person entering the boiler or pressure vessel have confirmed all stop valves on inlet and outlet piping (not vented to the atmosphere have been closed and tagged. Where not valved off and tagged, the piping shall be disconnected or blanked. In addition, plant personnel shall make appropriate test to assure there is no oxygen deficiency of hazardous or toxic gases in the boiler drums or pressure vessels to be entered by the inspector. Prior to and during entry an approved person must be outside the boiler or pressure vessel to ensure confined space procedures are complied with.

(5) Boilers and pressure vessels improperly prepared for inspection. If a boiler or pressure vessel has not been properly prepared for an internal inspection, or if the owner or user failed to comply with the requirements for a pressure test as set forth in these Rules, the Inspector may decline to make the inspection or test and the inspection certificate shall be withheld or suspended until the owner or user complies with the requirements.

(6) Removal of covering to permit inspection. If the boiler or pressure vessel is jacketed so that the longitudinal seams of shells, drums, or domes cannot be seen, sufficient jacketing, setting wall, or other form of casing or housing shall be removed to permit reasonable inspection of the seams and other areas necessary to determine the condition and safety of the boiler or pressure vessel provided such information cannot be determined by other means.

(7) Lap Seam Cracks. The shell or drum of a boiler or pressure vessel in which a lap seam crack is discovered along a longitudinal riveted joint, shall be immediately discontinue d from use. Patching shall be prohibited. (A "Lap seam crack" is defined as a crack found in a lap seam, extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.)

(8) Pressure Tests.

(a) A hydrostatic pressure test, when applied to boilers, shall not exceed one and one-half times the maximum allowable working pressure. The pressure shall be under proper control so that in no case shall the required test pressure be exceeded by more than six percent.

(b) A hydrostatic pressure test, when applied to pressure vessels, shall be a minimum of one and one-half times the maximum allowable working pressure except as permitted by ASME Code Section VIII, Division 1.

(c) During a hydrostatic test, the safety valve or valves shall be removed or gagged; if gagged, each valve disk shall be held to its seat by means of a testing clamp and not by screwing down the compression screw upon the spring. A Plug device designed for this purpose may be used.

(d) The minimum temperature of the water used to apply a hydrostatic test shall be not less than 70 degrees Fahrenheit and the maximum metal temperature during inspection shall not exceed 120 degrees Fahrenheit.

(e) When a hydrostatic test is applied to determine tightness, the pressure shall be equal to the normal operating pressure but not exceed the release pressure of the safety valve having the lowest release setting.

(f) When the contents of the vessel prohibit contamination by any other medium or when a hydrostatic test is not possible, other testing media may be used providing the precautionary requirements of the applicable section of the ASME Code are followed.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.19
Authority: O.C.G.A. §§ 25-15-13, 25-15-26.
History. Original Rule entitled "Safety/Safety Relief Valves" adopted. F. Sep. 4, 2013; eff. Sep. 24,
Repealed: New Rule entitled "General Requirements" adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.
Repealed: New Rule entitled "Preparation for Certificate Inspection" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.20. Notice of Hearing and Penalties.

(1) Cessation Order**.**

(a) The Office may issue a written order for the cessation of operation of a boiler or pressure vessel when it has been determined to be hazardous, unsafe, or the failure to comply with any of the provisions of these rules or the safety act. Operation shall not resume until such violations are corrected to the satisfaction of the Commissioner or the Commissioner's authorized representative.

(b) In the event a person knowingly commits a violation or allows a violation to be committed after being issued a cessation order, or warning the Commissioner or the Commissioner's authorized representative may initiate a Citation as stated below.

(2) Issuance of Citation or Notice of Administrative Proceeding:

(a) If upon inspection by an inspector or deputy inspector;

1. A boiler or pressure vessel is deemed to be in an unsafe condition,

2. The owner, operator, user, contractor, or installer has not complied with the Boiler & Pressure Vessel Laws or Rules, or

3. When a written warning citation has been issued and the violation continues, then the deputy inspector shall issue the violator a citation stating the date, time and place of the violation, the specific violation, the recommended penalty, and shall offer the respondent the opportunity for a hearing as set forth in this section.

(b) If upon receiving information from any source, the Chief Inspector determines that there is a reasonable belief that:

1. A boiler or pressure vessel may be in an unsafe condition,

2. The owner, operator, user, contractor, or installer has not complied with the Boiler and Pressure Vessel Law or these Rules, or

3. When a warning has been issued, and the violation is a continuing violation, the Chief Inspector or the Director, Safety Engineering, on behalf of the Office, may issue Notice of Administrative Proceeding stating the date, time, and place of the violation, the specific violation, the recommended penalty, and shall offer the respondent the opportunity for a hearing as set forth in this section.

(c) The Director, Safety Engineering, upon review of a citation issued under subsection (a) above, may, in his sole discretion, dismiss the citation and substitute therefore a Notice of Administrative Proceeding pursuant to subsection (b) above on the same, similar, or different violation, as required by the evidence.

(d) The Commissioner, upon review of a Citation or Notice of Administrative Proceeding, in his sole discretion, may refer the matter to the appropriate prosecuting official for criminal or injunctive relief as permitted under law. In such event, the Commissioner may, in his sole discretion, elect to dismiss, suspend, or continue with the civil penalty proceeding.

(3) Hearing Procedure:

(a) If request for a hearing is not received from the respondent within the allotted time, the Director, of Safety Engineering, on behalf of the Commissioner, may without further process impose a civil penalty not greater than the total of civil penalties set forth on the citation or in the Notice of Administrative Proceeding. An administrative order under the authority of the Commissioner may be issued to collect the civil penalty assessed.

(b) Upon receipt of a request for a hearing pursuant to any Citation or Notice of Administrative Proceeding, further actions or proceedings shall be governed by the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13, O.C.G.A. § 25-2-29, O.C.G.A. § 25-15-28, and applicable Rules and Regulations of the Commissioner.

(c) All hearings, whether before the Commissioner or an appointed adjudicator, shall be conducted in accordance with the statutes and regulations cited in the preceding subparagraph.

(d) The decision of an appointed adjudicator made after a hearing shall be an initial agency decision as set forth in O.C.G.A. § 50-13-41(d)(2) and shall be subject to review by the Commissioner, as set forth in O.C.G.A. § 50-13-41(d)(3).

(e) A decision made after a hearing before the Commissioner shall be the final agency decision in the matter and shall be subject to judicial review as set forth in O.C.G.A. § 50-13-19.

(4) Guidelines for Imposition of Civil Penalties:

(a) Any person, firm, partnership, corporation or other business entity, which violates this part, shall be subject to the imposition of civil penalties. Each day on which a violation occurs shall constitute a separate offense. Repeat offenses, when a violation occurs, shall constitute a separate offense. Repeat offenders, including those who refuse to adhere to orders of the inspectors, exceed the limitations of operating permits, or refuse to adhere to the requirements of these rules and regulations, may be referred to the appropriate prosecuting official for criminal (misdemeanor) or injunction relief as permitted under law. Serious violations, including those causing serious bodily injury or death, or which exhibit gross negligence or serious disregard for public safety, may also be referred to the

appropriate prosecuting official for criminal (misdemeanor) or injunctive relief as permitted under law.

(b) Notwithstanding the recommended minimum penalties set forth below, a serious violation, including those causing serious bodily injury or death, or which exhibit gross negligence or serious disregard for public safety, may receive the maximum penalty of $5,000.00 for each violation including a first offense. The imposition of a penalty for a violation of this part shall not excuse the violation or permit it to continue.

(c) The deputy inspector issuing a Citation shall, at the time of issuance, specify a recommended civil penalty amount for each specific violation in accordance with these Rules and Regulations. The Director is charged with the responsibility to insure that recommended penalties for violations are graduated with the more serious violations receiving the heavier penalty and with assuring uniformity of recommended penalties such that offenders in similar circumstances with similar violations receive similar penalty recommendation. In this regard, the Director may dismiss a Citation and issue a Notice of Administrative Proceeding solely for the purpose of making an appropriate penalty recommendation.

(d) The recommended civil penalty set forth in the Citation or Notice of Administrative Proceeding shall be given great deference by the appointed adjudicator. The minimum recommended penalties set forth below is normally for the first offense with only one violation being cited. The appointed adjudicator shall, after hearing the case, consider factors in mitigation of the violation as well as those in aggravation. The appointed adjudicator shall impose a penalty less than the recommended minimum penalty only upon finding unusually significant mitigating factors, and shall set forth those factors in the order. The appointed adjudicator may impose a penalty substantially greater than the Office recommended penalty upon finding significant aggravating factors associated with violations, and shall set forth those factors in the order. The appointed adjudicator shall consider the provision of these Rules and Regulations guiding the assessment of penalties. In particular, the appointed adjudicator shall, in cases involving structural damage, bodily injury, or death; or continued operation after an unsafe condition is detected or after the equipment is taken out of service by an inspector or deputy inspector, consider the imposition of separate penalties for each day of violation. The appointed adjudicator shall not assess a penalty exceeding $5,000.00 for each violation and each day of violation.

(e) The appointed adjudicator may, in addition to a civil penalty, recommend in the order that the Commissioner suspend for a period of time or indefinitely, operating certificate, permits to install, or certificates for contractors.

(4) Minimum recommended penalties.

(a) Specific Violations:

1. Operating equipment without an operating certificate. (O.C.G.A. Section 25-15-26 & Rule 120-3-26-.09)

   First offense $250.00

   Second offense $500.00

2. Operating equipment in an unsafe condition. (O.C.G.A. Section 25-15-22 & Rule 120-3-26-.09)

   First offense $500.00

   Second offense $1000.00

3. Failure to permit access for the purpose of inspecting or investigating equipment. (O.C.G.A. Section 25-15-23 & Rule 120-3-26-.07)

   First offense $500.00

   Second offense $1000.00

4. Failing to notify the Chief Inspector of any violation involving structural damage or injury. (O.C.G.A. Section 25-15-10 & Rule 120-3-26-.08)

   First offense $500.00

   Second offense $1000.00

   Offense involved in death $5000.00

5. Placing unit back in service, which has been "Red Tagged" and placed out of service by a deputy inspector without first having the unit inspected. (O.C.G.A 25-15-10 & Rule 120-26-18)

   First offense $1000.00

   Second offense $2500.00

6. Placing unit back in service, which has been involved in an accident prior to first having the unit inspected. (O.C.G.A. Section 25-15-10 & Rule 120-3-26.10)

   First offense $1000.00

Second offense $2500.00

7. Turning equipment over for use without a final acceptance inspection. (O.C.G.A. Section 25-15-14 & Rule 120-3-26-.07)

   First offense $500.00

   Second offense $1000.00

8. Installing equipment without a permit. (O.C.G.A. Section 25-15-14 & Rule 120-3-26-.07)

   First offense ..... Double Permit Fee

   Second offense..... Triple Permit Fee

9. Inspecting without qualifications. (Rule 120-3-26-.10)

   First offense $500.00

   Second offense $1000.00

(b) General Violations:

1. Violating adopted Codes, Standards, Rules, Regulations or Orders. (O.C.G.A. Section 2515-14 & Rule 120-3-26-.01)

   First offense $250.00

   Second offense $500.00

2. Certified company performing an activity which violates the law or regulations: (O.C.G.A. Section 25-15-14 & Rule 120-3-26-.16)

   Any Offense ..... $2500.00 and Suspension of Certificate 3.

   Any third repeated offense might subject the violator to the maximum civil penalty permitted under the Act ($5,000.00).

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.20
Authority: O.C.G.A. §§ 25-15-26, 25-15-13, 25-15-31.
History. Original Rule entitled "Exceptions. Amended" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.
Repealed: New Rule entitled "Safety/Safety Relief Valves" adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.

Repealed: New Rule entitled "Notice of Hearing and Penalties" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.21. Safety/Safety Relief Valves.

(1) Minimum Relieving Capacity, Safety Valve, and/or Safety Relief Valves.

TABLE 1

MINIMUM POUNDS OF STEAM PER HOUR PER SQUARE FOOT OF SURFACE

	Firetube Boilers	Watertube Boilers
Boiler Heating Surface		
Hand Fired	5	6
Stoker Fired	7	8
Oil, Gas, or Pulverized Fuel Fired	8	10
Waterwall Heating Surface		
Hand Fired	8	8
Stoker Fired	10	12
Oil, Gas, or Pulverized Fuel Fired	14	16

(a) These numbers may not be adequate for boilers installed after 1976 or for boilers with updated fuel burning equipment. If in doubt, an accumulation test is recommended.

(b) When a boiler is fired only by a gas giving a heat value not in excess of 200 BTU per cu. ft., the minimum safety valve or safety relief valve relieving capacity may be based in the value given for hand-fired boilers above.

(2) The minimum relieving capacity of the valve or valves shall be governed by the capacity marking on the boiler vessel, or the minimum valve capacity in pounds per hour shall be the greater of that determined by dividing the maximum BTU output at the boiler nozzle obtained by the firing of any fuel determined on the basis of the pounds of steam generated per hour per square foot of boiler heating surface as given in Table 1. In many cases, a greater relieving capacity of valves will have to be provided than the minimum specified by these Rules.

Example: BTU/hr = lbs/hr or lbs/hr x 1000 = BTU/hr 1000

(3) The minimum safety valve or safety relief valve relieving capacity for electric boilers shall be 3 - 1/2 pounds per hour per kilowatt input.

(4) No person shall attempt to remove or do any work on any safety appliance prescribed by these Rules and Regulations while the appliance is subject to pressure, excluding setting or resetting of safety valves or safety relief valves.

(5) Should any of those appliances be removed for repair during an outage of a boiler or pressure vessel, they shall be reinstalled and in proper working order before the object is again placed in service.

(6) No person shall alter any safety or safety relief devices in any manner to maintain a working pressure in excess of that stated on the boiler or pressure vessel inspection certificate.

(7) Alterations to, resetting, recalibration of, or repairs to safety or safety relief valves shall be made only by an organization which holds a valid certificate of authorization for use of the National Board "VR" stamp or by an owner user's maintenance organization, approved by the Chief Inspector which is limited to repairing of only those valves for its own use.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.21
Authority: O.C.G.A. § 25-15-13.
History. Original Rule entitled "Exceptions. Amended" adopted. F. Mar. 16, 2015; eff. Apr. 5, 2015.
Repealed: New Rule entitled "Safety/Safety Relief Valves" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Rule 120-3-26-.22. Exceptions.

(1) Boilers and pressure vessels exempted from the requirements of the Safety Act. The following is in addition to the exceptions listed in O.C.G.A. Section 25-15-16.

(2) Espresso coffee and similar machine boilers, providing these boilers meet the following requirements:

   (a) The boilers shall be manufactured and tested to a National Standard, and

   (b) shall not be more than (3) three U.S. gallons in size, and

   (c) shall not operate more than 15 pounds per square inch, (PSI) and have a safety relief valve set to relieve at or below 15 psig.

   (d) The boiler shall not be repaired by welding.

(3) Boilers with outlets open to the atmosphere when there are no valves or restriction in the outlet system and pressure cannot rise to above 0 psig at maximum operating condition and temperature cannot rise above 212 degrees Fahrenheit.

(4) Hot water supply heaters with storage capacity of six gallons or less and 400,000 BTU/hr. or less used for spas or swimming pools with open systems (unrestricted flow) shall meet all requirements of an adopted standard and ASME CSD-1 as applicable for construction, installation, repairs, or alterations.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.22
Authority: O.C.G.A. § 25-15-13.
History. Original Rule entitled "Exceptions" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Subject 120-3-27. RULES AND REGULATIONS FOR AMUSEMENT RIDE SAFETY.

Rule 120-3-27-.01. Authority and Purpose.

(a) Pursuant to O.C.G.A. Section 25-15-1, the Office succeeded to all rules and regulations of the Department of Labor which were in effect on June 30, 2012, or were scheduled to go into effect on or after July 1, 2012, which related to the functions transferred to the Office pursuant to either Chapter 15 of Title 25 or Part 6 of Article 1 of Chapter 2 of Title 8. The Office has authority to modify the Boiler and Pressure Vessel regulations or promulgate new regulations pursuant to O.C.G.A. Sections 25-15-1, 25-15-53, 33-2-9 and 50-13-21.

(b) The primary purpose of these rules and regulations is to promote the safe assembly, disassembly, repair, maintenance, use, operation, and inspection of all amusement rides.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.01
Authority: O.C.G.A. Secs. 25-15-1, 25-15-53, 33-2-9, 50-13-21.
History. Original Rule entitled "Authority and Purpose"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.02. Definition of Terms.

(1) "Annual Inspection"is the official inspection of a ride or device made by the Chief Inspector or his designee.

(2) "A.N.S.I."means American National Standards Institute.

(3) "Approved"means acceptable to the Commissioner. Any product certified or classified, or labeled, or listed by a nationally recognized testing agency may be deemed to be acceptable, unless specifically banned by order of the Commissioner.

(4) "A.S.T.M."means the American Society of Testing Materials.

(5) Backwash - The process of thoroughly cleansing the filter media and elements by reverse flow.

(6) Backwash Cycle - The time required to thoroughly backwash the filter media and elements and the contents of the filter vessel on vacuum systems also the time to drain the filter element and washing of the medium.

(7) Backwash Rate - The rate of application of water through a filter during the cleaning cycle, normally expressed in U.S. gallons per minute per square foot of effective filter area.

(8) Cartridge - A replaceable porous element:

(a) Depth-Type Cartridge: A filter cartridge, with media not less than 3/4 inch (.18 cm) thick, which relies on penetration of particulates into the media to achieve their removal and to provide adequate holding capacity for the cartridge.

(b) Surface-Type Cartridge: A filter cartridge, with media less than 3/4 inch (.18 cm) thick, which relies on retention of particulates on the surface of the cartridge to achieve their removal.

(9) "Child"means a person 12 years of age and under.

(10) "Containing Device"means a strap, belt, bar, gate or other safety device designed to prevent accidental or inadvertent dislodgement of a passenger from a ride which does not actually provide physical support.

(11) "Commissioner"means the Commissioner of Labor of the State of Georgia or his authorized representative.

(12) Deck, Above Ground - Any structure that is on top of or adjacent to the outer edges of the landing pool wall that can support one or more persons in a sitting or upright position.

(13) Splash Pool Decks - Those areas surrounding a pool or flume which are specifically constructed or installed for use by sliders.

(14) "Department"means Georgia Department of Labor.

(15) Factor of Safety - The ultimate load divided by the safe load or the ultimate strength divided by the allowable stress.

(16) Filter - A device that separates solid particles from water by recirculating it through a porous substance.

(17) Filter Agitation - The mechanical or manual movement to dislodge the filter aid and dirt from the filter element.

(18) Filter Cycle - The operating time between cleaning or backwash cycles.

(19) Filter Element - A device within a filter tank designed to entrap solids and conduct water to a manifold collection header, pipe or similar conduit. Filter elements usually consist of a septum and septum support.

(a) Permanent Filter Media: A finely graded material (such as sand or anthracite) which removes filterable particles from the water.

(b) Filter Aid: A type of finely divided medium used to coat a septum type filter - usually diatomaceous earth, processed perlite, or similar material.

(20) Filtration Flow - The rate of flow, in volume per time (gpm, gph), through the filter system installed according to manufacturer's instructions with new clean media.

(21) Filtration Rate - The rate of filtration of water through a filter during the filter cycle expressed in U.S. gallons per minute per square foot of effective filter area.

(22) Floor - The interior bottom surface of the splash pool, consisting of that surface from a horizontal plane up to a maximum of a 46 degree slope.

(23) "Guardian"means a person 16 years of age and over.

(24) "Guardian Restriction"means a condition placed on a major ride where a passenger must be accompanied on the ride by a guardian.

(25) JTU - Jackson Turbidity Unit, a means of measuring water clarity.

(26) Loads - Loads are classified as static and dynamic static loads are forces that are applied slowly and then remain nearly constant. One example is weight or dead load. Dynamic loads are forces that vary with time.

(27) "Major Alteration"means a change in the type or capacity of an amusement ride or amusement device or a change in the structure or mechanism that materially affects its functions or operation. This includes, but is not limited to changing its mode of transportation from non-wheeled to a truck or flat-bed mount, and changing its mode of assembly or other operational functions from manual to mechanical or hydraulic.

(28) "Major Breakdown"means a stoppage of operation resulting from damage, failure, or breakage of a stress bearing part of a ride or device.

(29) Pinching Hazard - Any configuration of components that would pinch or entrap the fingers or toes of a child or adult.

(30) Primary Structural Members - Any part of the flume or pool structure that carries or retains any static load or stress caused by water pressure or structure weight.

(31) Puncture Hazard - Any surface or protrusion that would puncture a child's or an adult's skin under casual contact.

(32) Recessed Steps - A riser/tread or series of risers/treads extending down from the deck with the bottom riser/tread terminating at the landing pool wall, thus creating a "stair well".

(33) Recessed Treads - A series of vertically spaced cavities in the landing pool wall creating step holes.

(34) Removable - Capable of being taken away from the main unit with the use of only simple tools, such as a screwdriver, pliers, or wrench.

(35) "Ride Action"- A term which shall be used to describe the movements and/or motions of an amusement ride which are generated for amusement purposes; and/or the bodily actions/reactions experienced by the passengers which are a result of the said movements/motions. Bodily actions/reactions which are a result of the commission of an act(s) of malicious negligence and/or horseplay shall not be construed as resultant of ride action.

(36) "Ride Operator"means any person or persons actually engaged in or directly controlling an amusement ride.

(37) "Rope", "Wire Rope"and "Cable"are interchangeable, but not interchangeable with the terms for fiber rope and manila rope.

(38) "Safety Factor"or "Factor of Safety"means ratio of the ultimate load for a member or part to the allowable or working load for a member or part.

(39) "Safety Retainer"means a secondary safety wire rope, bar attachment or other device designed to prevent parts of an amusement ride or amusement attraction from becoming disengaged from the mechanism or from tipping or tilting in a manner to cause hazard to persons riding on, or in the vicinity of, an amusement ride or amusement attraction.

(40) Safety Walls - That part of the flume designed to keep a slider within the geometric confines of the flume.

(41) Secondary Structural Members - Any part of the flume or pool structure that is not subjected to a load caused by water pressure or structure weight (that is, ridgidizing members).

(42)

(a) "Serious Personal Injury"means death, dismemberment, visible significant disfigurement, visible significant or permanent loss of use of a body organ, member, function or system, compound fractures, visible uncontrolled bleeding, heart attack, stroke, or unconsciousness likely attributable to trauma to the head, as a result of the operation or malfunction of an amusement ride.

(b) "Personal Injury"means sustained bodily harm resulting in medical treatment such as trauma, cuts, bruises, burns and sprains, but does not include Minor

Injury/Illness or any mental disease or disorder not accompanied by physical injury at the time of the incident, and further does not include false arrest, detention, imprisonment, confinement, slander, libel, violation of privacy or mental distress.

(c) "Minor Injury/Illness"means physical or mental incidents such as fainting, bruising, or minor lacerations for which treatment is limited to rest, cleansing, dispensation of over-the-counter medication, plastic adhesive bandage strips, fluids by mouth, or similar assistance.

(d) "Property Damage"means physical injury to, or destruction of tangible property to the structure or operational parts (including safety equipment and devices) of an amusement ride, sustained by reason of accident or malfunction, other than routine wear and tear, but does not include damage to personal property.

(43) Septum - That part of the filter element consisting of cloth, wire screen, or other porous material on which the filter medium or aid is deposited.

(44) "Shall"means a mandatory requirement.

(45) Shallow Areas - Portions of a pool ranging in water depth from 3 feet (91 cm) to 5 feet (1.52 m).

(46) Splash Pool - A landing pool at the end of the slide from which bathers exit to the deck.

(47) Stress - Force per unit of area.

(48) Top Pool (or Starting Pool) - A shallow trough or pool at the top of the slide wherein the slider begins his or her descent.

(49) Toxic - Having an adverse physiological effect on humans.

(50) Tread Contact Surface - Foot contact surfaces of ladder, step, stair, or ramp.

(51) Turnover - The period of time (usually in hours) required to circulate a volume of water equal to the volume of water in the landing pool.

(52) Wall - That structure that supports the landing pool liner or the surface of a flume that is within 45 degrees of vertical.

(53) Wall Closure - The fastening device that connects the flume wall ends.

(54) "Water Amusement Ride"is an amusement ride or attraction which utilizes water as the primary entertainment medium, and moreover, the customer is either fully or partially immersed in water.

(55) Water Line - The water line is defined in one of the following ways:

(a) Skimmer System - The water line shall fall in the midpoint of the operating range of the skimmers.

(b) Overflow System - The water line shall be established by the height of the overflow rim.

(56) "Water Flume"- A sloped trough-like or tubular structure of varying slope and direction usually made of fiberglass or coated concrete which utilizes water as a lubricant and/or the method of regulating rider speed.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.02
Authority: O.C.G.A. Sec. 25-15-53.
History. Original Rule entitled "Definition of Terms. Amended"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.03. Administration.

(1) The Safety Engineering Section of the Safety Fire Division of the Office of the Insurance and Safety Fire Commissioner administers the provisions of Chapter 15 of Title 25 of the Official Code of Georgia Annotated relating to Amusement Ride Safety. The Safety Engineering Section is located at 2 Martin Luther King Jr. Drive, Suite 920, West Tower, Atlanta, GA 30334.

(2) Address correspondence to:

Office of Insurance and Safety Fire Commissioner

Safety Engineering Section

2 Martin Luther King Jr. Drive, Suite 920, West Tower

Atlanta, GA 30334

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.03
Authority: O.C.G.A. Sec. 25-15-53.
History. Original Rule entitled "Administration"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.04. Rules; Regulations; Rider Responsibility; Warnings and Signage.

(1) Every owner, ride operator and the public using an amusement ride shall comply with these rules and regulations as they apply.

(2) An amusement ride which is not in compliance with this Chapter shall not be used or occupied.

(3) Where only individual units of a ride, such as cars, seats, or other carriers are defective and not in compliance with this Chapter, such units shall be taken out of service and clearly marked with a red tag reading "Out of Service"; provided, however, such defects do not jeopardize the safety of the entire ride.

(4) The Chief Safety Engineer or his designee, upon presenting credentials to the owner/operator, is authorized without prior notice to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and manner, any establishment, assembly area, or other area where amusement rides or amusement attractions are assembled or are in use.

(a) Inspection includes, but is not limited to, a review of necessary documents, observance and/or inspection of ride assembly or setup.

(b) Inspection of the ride is to include; foundation, blocking, fuel containers, mechanical condition and safe operation of the ride.

(5) Recommended passenger restrictions and limitations, where applicable, such as but not limited to, height, weight, age, passenger placement, or other appropriate restrictions shall be provided to the end user by the manufacturer or seller of the amusement ride or device. In the event the manufacturer is unwilling or unable to provide said restrictions, thereby rendering himself in non-compliance with this Law and A.S.T.M. Standards, the said restrictions and/or limitation must be established by the owner and/or manager and shall be acceptable to the Office.

(6) The Commissioner or his designee in accordance with (5) above shall maintain a list containing approved height restrictions for major rides.

(7) All ride patrons shall:

(a) Obey all posted signs, including but not limited to, warning signs, instruction signs, and directions signs, which are not inconsistent with these rules;

(b) Obey the instructions of ride attendants;

(c) Properly use all safety equipment provided;

(d) Act in a responsible manner while using an amusement ride, device or attraction;

(e) Refrain from acting in any manner that may cause or contribute to injury to self or others;

(f) Not participate or use an amusement ride, device or attraction while under the influence of alcohol or any intoxicating substance; and

(g) Be subject to any or all of the following penalties for violation of this Section A:

1. Removal from the ride, device or attraction and barred from returning that day;

2. Removal from the amusement owner's property and barred from returning that day;

3. Subject to a civil penalty up to a maximum of $100 per infraction to be assessed in accordance with the civil penalty provisions of these rules.

(8) All ride patrons, if the patron is a minor, the patron's parent or guardian, shall report in writing to the amusement owner or his designee any injury sustained on an amusement ride prior to leaving the amusement owner's premises, unless the ride patron (or parent or guardian) is unable to file the report because of the severity of the injuries, in which case the report shall be filed as soon as reasonably possible.

(9) Sign Requirements:

(a) Warnings and directions shall be based upon the standards of the American Society of Testing Materials (ASTM) or the American National Standards Institute (ANSI), or, if expressly approved by the Commissioner, other nationally recognized technical or scientific authority in the amusement ride or carnival ride industry.

(b) Signs shall be displayed in a public and conspicuous place on or near the ride, device or attraction in letters clearly visible from at least a distance of 15 feet.

(c) Rider responsibilities and potential penalties shall be posted in at least one public and conspicuous location on the premises of the amusement owner.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.04
Authority: O.C.G.A. Sec. 25-15-53, 25-15-61, 25-15-66.
History. Original Rule entitled "Rules; Regulations; Rider Responsibility; Warnings and Signage"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.05. Prohibited Use.

(1) The Office shall order in writing, a temporary cessation of operation of an amusement ride, if it has been determined after inspection to be hazardous or unsafe. Operation shall not be resumed until such conditions are corrected to the satisfaction of the Office.

(2) No person shall knowingly use or permit to be used, an amusement ride which is not properly assembled or which is defective or unsafe in any of its parts, components, controls, or safety equipment.

(3) No amusement ride, exclusive of water amusement rides, manufactured after January 1, 1986, shall be placed in service unless:

(a) It complies with ASTM Standard F698-83.

(b) The manufacturer supplies the owner with a manual containing the operation procedures established by ASTM Standard F770- 82.

(c) The manufacturer certifies that the ride has been tested to the standards established by aSTM Standard F846-83.

(d) The manufacturer supplies the owner with a maintenance procedures manual as established by ASTM Standard F853-85.

(e) At which time provisions are made for, and adopted by ASTM Standards pertaining to amusement rides, said standards shall be applicable to water amusement rides immediately upon adoption and approval of said standards.

(4) During a lightning storm, a period of tornado alert or warning, or fire, or when violence, riot, or other civil disturbance occurs or threatens in an amusement park, or in an area adjacent thereto, passengers shall be unloaded or evacuated from the ride and the ride shall be shut down and secured immediately. Operation shall not resume until the situation has returned to a normal, safe operation condition.

(5) Exemptions: The following rides or attractions are exempted from the provisions of this Act:

(a) Unpowered, nonmechanized playground equipment including, but not limited to: swings, seesaws, slides, stationary springmounted animal features, jungle gyms, rider - propelled merry-go rounds, climbers, trampolines, moon walks and live rides, zip lines, and inflatables.

(b) Any single passenger manually, mechanically, or electrically operated, coin-actuated ride, which is customarily placed singly, or in groups, in a public location and which does not normally require the supervisions or services of an operator.

(6) An amusement ride which is exposed to wind or storm with lightning or wind gusts above that recommended by the manufacturer, shall not be operated except to release or discharge occupants.

(7) If the inspector finds that an amusement ride presents an imminent danger he will attach to such ride a red tag reading "Out of Service"and secure said ride. Such notice shall not be removed until the ride is made safe and then only by the inspector issuing the red tag.

(8) The amusement ride shall not be used while the inspector's out of service red warning tag is posted.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.05
Authority: O.C.G.A. Sec. 25-15-64.
History. Original Rule entitled "Prohibited Use. Amended"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.06. Medical and First Aid, Fatalities, Personal Injury, and Accidents.

(1) Medical and First Aid. The owner and operator shall ensure the availability of medical aid.

(a) While the venue is open or has patrons on the site, in the absence of an infirmary, clinic, or hospital available adjacent to the site or within one-half mile of the rides and attractions, one or more adequately trained and certified individuals shall be available on premises at all times with appropriate skills to render first aid and cardiopulmonary resuscitation. In addition, first aid supplies recommended and approved by the American Red Cross or by a consulting physician shall be readily available.

(b) At the site office or other appropriate place, the telephone numbers for physician, hospital, ambulance and local fire and police services shall be conspicuously posted for use by the staff and public in the event of emergency.

(2) Accidents involving fatalities or serious personal injury. In the event of an accident involving fatalities, serious personal injury, or personal injury requiring inpatient overnight hospitalization, and of which the owner or operator has knowledge (Authority: O.C.G.A. § 25-15-61):

(a) The ride or activity shall be shut down and immediately taken out of service;

(b) The ride or activity shall be secured to prevent operation until the Office has conducted a full investigation; and

(c) The accident shall be immediately reported to the Office by telephone, and shall be augmented by a detailed written report submitted by certified mail or similar means not later than the close of the next business day following the accident.

(d) If at the time of the telephonic report, the owner or operator and a qualified repair technician present sufficient information to the Office, the Office may, in its discretion, permit the ride or activity to be promptly repaired and put back into service without an investigation and inspection. The Department shall make a record of such decision and record it upon the written report submitted concerning the accident.

(3) Accidents in which further safe operations may be compromised. In the event of an accident involving either personal injury or property damage and of which the owner or operator has knowledge in which there is a discernible risk that further safe operation of the ride or activity may be compromised (Authority: O.C.G.A. 25-15-53):

(a) The ride or activity shall be shut down and immediately taken out of service;

(b) The ride or activity shall be secured to prevent operation until the Office has conducted a full investigation; and

(c) The accident shall be immediately reported to the Office by telephone, and shall be augmented by a detailed written report submitted by certified mail or similar means not later than the close of the next business day following the accident.

(d) If, at the time of the telephonic report, the owner or operator and a qualified repair technician present sufficient information to the Office, the Department may, in its discretion, permit the ride or activity to be promptly repaired and put back into service without an investigation and inspection. The Office shall make a record of such decision and record it upon the written report submitted concerning the accident.

(4) All other accidents or incidents.In order to evaluate the overall safety of regulated rides and activities, and to permit the identification of trends which may permit the effective prevention of accidents, all other accidents and incidents involving personal injury or property damage, but not including minor personal injury/illness, sustained by reason of the operation or malfunction of a ride or activity shall be reported as follows (Authority, O.C.G.A. Sec. 25-15-53):

(a) The accident or incident shall be reported in writing to the Office within 30 days of the accident or incident, or within 30 days after the owner or operator knows a belated report of personal injury. In the alternative, such reports may be accumulated and submitted on a monthly basis.

(b) The report shall summarize the accident or incident; shall note any equipment repair or adjustment accomplished; and shall include any witness statements taken.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.06
Authority: O.C.G.A. Sec. 25-15-61.
History. Original Rule entitled "Medical and First Aid, Fatalities, Personal Injury, and Accidents. Amended "adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.07. Inspection Fee and Permit.

(1) Before commencing operations in 1986 and in each year thereafter, an owner shall make application to the Office containing information as required by the Office. The application, when filed, shall be accompanied by a certificate of insurance, bond, or other security indicating that the owner has complied with the amusement Rules and Regulations for the State of Georgia.

(2) No amusement ride or amusement park ride or slide shall be operated without a permit, except that a ride covered by a valid permit to operate for the preceding year may continue to operate for the current year, until reinspected. This carry-over permit shall be known as a temporary permit.

(3) All stationary amusement rides and amusement park slides shall be inspected by the Office before they are originally put into operation for the public's use and thereafter at least once every year, unless authorized to operate on a temporary permit.

(4) Upon receiving an application there will be a one-time charge of $50.00 for processing of the permit.

(5) The Office shall charge an annual inspection fee of $65.00 for each slide, aerial lift or amusement ride.

(6) After inspection, if the amusement ride is found to comply with this Chapter, the Office shall authorize the ride for use by the public provided the inspection fee has been paid.

(7) No amusement ride shall be used at any time or location unless prior notice of intent to use the same has been given to the Commissioner.

(8) Notice of planned schedules shall:

(a) Be in writing;

(b) Identify the ride;

(c) State the intended dates and location of use; and

(d) Be mailed to the Office of Insurance and Safety Fire, Safety Engineering Section on or before January 1 of each year, on a form furnished by the Office.

(e) In the event a special inspection is made, an additional fee of $75.00 per hour and all traveling expensed incurred in connection with the inspection will be charged.

1. The expenses shall be governed by the regulations for traveling expenses established for state officials. In cases where a trip is made to inspect two or more parties, the traveling expenses shall be prorated between the parties on the basis of time and expenses incurred for each inspection.

2. A special inspection is any non-routine inspection which includes but is not limited to:

   (i) Failure to report a schedule change after scheduling an inspection.

   (ii) All violation follow-up inspections which require a special trip to verify compliance.

   (iii) Scheduling an inspection with less than 72 hours notice.

(9) A copy of the permit issued by the Office shall be continuously displayed at the entrance to the park when the ride is in use. The permit shall be encased in such a manner as to be protected from weather conditions. Duplicate of such permits shall be issued by the Office.

(10) The owner of an amusement ride shall notify the Commissioner when ownership is transferred to another owner. In such a case, the new owner shall obtain a new permit.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.07
Authority: O.C.G.A. Sec. 25-15-53.
History. Original Rule entitled "Inspection Fee and Permit. Amended"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.08. Insurance, Bond or Other Security.

(1) No person shall operate a ride unless at the time, there is in existence:

   (a) A policy of insurance in an amount not less than (one million dollars) $1,000,000 insuring the owner or operator against liability for injury to persons arising out of the operation of the amusement ride; or

   (b) A bond in a like amount provided, however, that the appropriate liability of the surety under such bond shall not exceed the face amount thereof; or

   (c) Cash or other security acceptable to the Office.

(2) The policy shall be procured from one or more insurers acceptable to the Office.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.08
Authority: O.C.G.A. . Sec. 25-15-62.
History. Original Rule entitled entitled "Insurance, Bond or Other Security. Amended"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.09. Operation, Amusement Rides.

(1) The ride operator shall be at least 16 years of age.

(2) The ride operator shall operate no more than one mechanical ride at any given time as provided by the A.S.T.M. Standards or manufacturers specifications.

(3) The ride operator shall be properly trained before he is assigned the duties of operating a ride.

(4) The ride operator shall have knowledge of the use and function of all normal and emergency operating controls and the proper use of the ride.

(5) The ride operator shall be in the immediate vicinity of the amusement ride operating controls at all times during normal operations of the ride. This Rule shall not be construed to prohibit passengers from using amusement ride operating controls designed for use by a passenger.

(6) The ride operator shall exercise reasonable control over the amusement ride to prevent dangerous actions by passengers.

(7) The ride operator shall watch for apparent impending mechanical failures of the amusement ride.

(8) The ride owner of an amusement ride shall insure that his or her ride is operated in a manner which precludes foreseeable mischievous use of the ride.

(9) The ride operator shall not operate any ride when under the influence of drugs or alcohol.

(10) The ride operator or maintenance personnel shall lock-out the electrical disconnect switch when restoration of electrical power to an amusement ride could create a hazard to persons during the performance of maintenance, repair, inspection, or an emergency evacuation of passengers and insure that it remains locked-out until such time that restoration of power will not create a hazard.

(11) An amusement ride shall not be overcrowded or loaded in excess of its safe carrying capacity.

(12) Amusement rides shall not be operated at an unsafe speed or at any speed beyond that recommended by the manufacturer.

(13) Signal systems for the starting and stopping of amusement rides shall be provided where the operator of the ride does not have a clear view of the point at which passengers are loaded or unloaded.

(14) Any code of signals adopted for the operation of any amusement ride shall be printed and kept posted at both the operator's and the signalman's stations. All persons who use these signals shall be carefully instructed in their use.

(15) Signals for the movement or operation of an amusement ride shall not be given until all passengers and other persons who may be endangered are in a position of safety.

(16) Voice communication shall be provided between the ride operators at the entrance, intermediate points and the termination of an amusement ride where voice communication could provide improved control of the ride by reducing a hazardous condition created by distance or lack of visibility between these points.

(17) Where a ride exposes a passenger to high speed, substantial centrifugal force or a high degree of excitement, the owner shall post a conspicuous warning sign at the entrance to the ride advising the public of risk to passengers.

(18) The sign required by (17) above shall be at least two feet by two feet in sharply contrasting colors.

(19) The sign required by (17) above shall read as follows or express an equivalent warning:

(a) The following people should not ride this ride:

1. Those with heart conditions;

2. Pregnant women;

3. Those with back ailments.

(20) The owner or ride operator shall have the right to refuse any member of the public admission to a ride if his bearing or conduct will endanger himself or other members of the public.

(21) The owner or ride operator shall have the right to refuse admittance to any ride if the intended passenger's health or physical condition makes it unsafe for him to use the ride.

(22) The owner or ride operator shall refuse a passenger seeking admission to a major ride if the passenger cannot meet a guardian or height restriction if the ride is subject to such a restriction. Legible signs to this effect shall be posted in full view of the public seeking admission to rides.

(23) The owner or ride operator of an amusement ride shall not permit a person obviously under the influence of alcohol or narcotics to be admitted to any amusement ride.

(24) A suitable number of containers shall be provided in and around amusement rides. Excessive accumulations of trash or refuse shall be promptly removed.

(25) All parts of amusement devices and temporary structures used by passengers or customers shall be maintained in a clean condition.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.09
Authority: O.C.G.A. Sec. 25-15-60.

History. Original Rule entitled "Operation, Amusement Rides"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.10. Maintenance and Inspection Records.

(1) The owner shall retain at all times up-to-date maintenance records for each amusement ride.

(2) These records shall contain the following information:

   (a) Date and nature of all inspections;

   (b) Any violation of the rules and type of action taken to rectify the violation;

   (c) All breakdowns or repairs of any major mechanical part.

(3) Maintenance of equipment shall be in accordance with this Chapter; and any replacements thereof shall be in conformity with this Chapter. Only those bolts of grade 5 or better will be used except where stronger grade bolts are required by manufacturer.

(4) Repairs: In accordance with manufacturers recommendations only those procedures acceptable will be allowed.

(5) An amusement ride shall be inspected and tested on each day when it is intended to be used. The inspection and test shall be made by a qualified person experienced and instructed in the proper assembly and operation of the device and shall be performed before the ride is put into normal operation.

(6) The inspection and test shall include the operation of control devices, speed-limiting devices, brakes and other equipment provided for safety.

(7) All amusement rides shall have an operating manual. The owner of an amusement ride shall operate the ride in accordance with the manufacturer's operating manual. In the absence of a manufacturer's operating manual, the owner shall write an approved operating manual. Where any conflict occurs between the operating manual and this Chapter, this Chapter shall prevail. The operating manual shall be kept with the amusement ride and shall be available for use by the office of Safety Engineering at all times.

(8) Welding of parts upon which safe operation depends, will be in accordance to AWS Standards welding & brazing procedures done by welders qualified to those procedures, procedures shall be provide by the manufacturer.

(9) The requirements for welding procedures and welder qualifications use, AWS D1.1, D1.2, D1.3, D1.6 and C3.4 (American Welding Society Standards for the welding of steel, aluminum, sheet metal and stainless steel and torch brazing.)

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.10
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Maintenance and Inspection Records"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.11. Rebuilt and Modified Rides.

If an amusement ride is materially rebuilt or so modified as to change its original action:

(a) The ride shall be re-identified by a different name or identification number or both;

(b) The ride shall be subject to all other provisions of this Chapter as if it were a new ride not previously used.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.11
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Rebuilt and Modified Rides"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.12. Assembly and Disassembly.

(1) The assembly and disassembly of an amusement ride shall be done by or under the supervision of a qualified person.

(2) Assembly work shall be performed in a proper and workmanlike manner. Parts shall be properly aligned and shall not be bent, distorted, cut or otherwise injured to force a fit. Parts requiring lubrication shall be lubricated in course of assembly. Fastening and locking devices, such as bolts, cap screws, cotter pins and lock washers shall be installed where required for safe operation. Nuts shall be drawn tight, cotter pins shall be spread and lock nuts firmly set.

(3) Parts which are excessively worn or which have been materially damaged shall not be used. Close visual inspection of parts shall be made during assembly to discover such wear or damage and immediate inspection of fastening devices shall be made after assembly to assure that they have been properly installed.

(4) Persons engaged in the assembly or disassembly of amusement rides shall be provided with and shall use tools of proper size and design to enable the work to be done in a proper manner. Broken, damaged and unsuitable tools shall not be used.

(5) Assembly and disassembly of amusement rides shall be done under light conditions sufficient to permit the work to be properly performed and inspected.

(6) A sufficient number of persons to do the work properly shall be engaged for the assembly or disassembly of amusement rides. Persons not so engaged shall be prevented from entering the area in which the work may create a hazard.

(7) The owner of an amusement ride shall comply with the manufacturer's construction manual for the assembly and disassembly of the ride. The manufacturer's construction manual shall be kept with the amusement ride and shall be available for use by the Safety Engineering Section.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.12
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Assembly and Disassembly"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.13. Manufacturer's Information.

(1) No new amusement ride shall be placed in service unless the following information as applicable is provided to the ride owner by the manufacturer of the ride.

(2) The required information shall be legibly impressed on a metal plate or equivalent and readily visible at the appropriate ride.

(a) A manufacturer's unique serial number or code affixed to the ride in a permanent fashion;

(b) A manufacturer's unique serial number or code assigned to each manufactured ride type of the same structural design or components;

(c) The date (month, year) that the given ride met the manufacturer's required construction specifications;

(d) The maximum revolutions per minute, the maximum feet per second, or miles per hour;

(e) The capacity of the ride in terms of total passenger weight or the number of passengers;

(3) Water ride data plates shall contain a location number of the ride or flume and the maximum dispatch time interval.

(4) The ride owner shall maintain all of the information described in (2) above and make it available to the Commissioner upon his request.

(5) Where any conflict occurs between the manufacturer's information or recommendations of (2) above and other provisions of these rules, the other provisions of this Chapter shall prevail.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.13
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Manufacturer's Information "adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.14. Brakes and Stops.

(1) On an amusement ride or amusement attraction where coasting renders the operation dangerous, either during the period while the ride or attraction is being loaded or unloaded or in the case of power failure or other unforeseeable situation a method of braking shall be provided.

(2) If cars or other components of an amusement ride or amusement attraction may collide in such a way as to cause personal injuries upon failure of normal controls, emergency brakes sufficient to prevent these collisions shall be provided in accordance with the manufacturer's design.

(3) On amusement rides or amusement attractions which make use of inclined tracks, automatic anti-rollback devices shall be installed to prevent backward movement of the passenger carrying units in case of failure of the propelling mechanism.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.14
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Brakes and Stops"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.15. Internal Combustion Engines.

(1) Internal combustion engines for amusement rides shall be of adequate type, design and capacity to handle the design load.

(2) Where fuel tanks of internal combustion engines for amusement rides are not of adequate capacity to permit uninterrupted operation during normal operating hours, the amusement ride shall be closed down and unloaded or evacuated during the refueling procedure. The fuel supply shall not be replenished while the engine is running.

(3) Where an internal combustion engine for an amusement ride is operated in an enclosed area, the exhaust fumes shall be discharged to the outside.

(4) Internal Combustion engines for amusement rides shall be located to permit proper maintenance and shall be protected by guards, fencing or enclosure.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.15
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Internal Combustion Engines"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.16. Wire Rope.

(1) Wire rope on amusement rides shall be thoroughly examined periodically. Wire rope found to be damaged shall be replaced with new rope of proper design and capacity as per the manufacturer's data tag. Any of the following conditions shall be cause for rope replacement:

(a) In running ropes, six randomly distributed broken wires in one rope lay or three broken wires in one strand in one rope lay.

(b) In pendants or standing ropes, evidence of more than one broken wire in one rope lay.

(c) Abrasion, scrubbing or peening causing loss of more than 1/3 of the original diameter of the outside diameter of the outside individual wires.

(d) Severe corrosion.

(e) Kinking, crushing, birdcaging, or other damage resulting in distortion of the rope structure.

(f) Heat damage.

(g) Reduction from normal diameter of more than 3/64 inch for diameters up to and including 3/4 inch, 1/16 inch for diameters 7/8 inch to 1 1/8 inches, 3/32 inch for diameters 1/4 inches to 1 1/2 inches.

(h) Birdcaging or other distortion resulting in some members of the rope structure carrying more load than others.

(i) Noticeable rusting or development of broken wires in the vicinity of attachments.

When this condition is localized in an operational rope, it may be eliminated by making a new attachment.

(2) Wire ropes used to support, suspend, bear or control forces and weights involved in the movement and utilization of tubs, cars, chairs, seats, gondolas, other carriers, the sweeps, or other supporting members of an amusement ride shall not be lengthened or repaired by splicing except by a licensed cable splicer for aerial tramways.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.16
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Wire Rope"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.17. Hydraulic Systems.

(1) Hydraulic systems and other related equipment used in connection with amusement rides shall be free of leaks and maintained to ensure safe operation at all times.

(2) An amusement ride which depends upon hydraulic pressure to maintain safe operation shall be provided with a positive means of preventing loss in hydraulic pressure that could result in injury to a passenger.

(3) Hydraulic lines shall be guarded so that sudden leaks or breakage will not endanger the passenger or the public.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.17
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Hydraulic Systems" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.18. Pressure Vessels, i.e., Vacuum Tanks.

(1) Air compressor tanks, storage tanks and appurtenances used in connection with amusement devices shall be designed and constructed in accordance with Section VIII of the ASME Code; and shall also be equipped and maintained to ensure safe operation.

(2) Air compressor tanks and other receivers used in connection with air compressors shall comply with the Rules of the National Board Inspection Code of the Boilers and Pressure Vessel Code.

(3) Air compressor tanks and other air receivers used in connection with air compressors shall be inspected operationally at least once a year and internally when considered necessary by a qualified inspector and a record of each inspection shall be kept.

(4) Air compressor tanks and other air receivers used in connection with air compressors shall have the maximum allowable working pressure conspicuously marked thereon.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.18
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Pressure Vessels, i.e., Vacuum Tanks"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.19. Passenger Tramways.

(1) Aerial Passenger Tramways, ANSI B77.1 - 2011 and addendum to Aerial Passenger Tramways, ANSI B-77.1a - 2012 are hereby adopted as a rule with the modifications as indicated below.

   (a) Each owner engaged in passenger tramway operations shall protect the public by complying with ANSI B-77.1 and B-77.1a.

(b) Where any conflict occurs between the rule referenced in (1) above and any other rule in this Chapter, the latter shall prevail.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.19
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Passenger Tramways"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.20. Electrical Equipment.

(1) The National Electrical Code, NFPA 70 1984, latest adopted version is hereby adopted as a rule and all future amendments shall be accepted as adopted.

(2) This document may be purchased from the National Fire Protection Association, Battermarch Park, Quincy, MA 02269.

(3) All electrical wiring and equipment used for amusement rides or for lighting shall be installed and maintained in accordance with the Rule adopted in (1) above.

(4) The outlets of electrical power lines carrying more than 120 volts shall be clearly marked to show their voltage.

(5) All electrical transformer substations shall be properly enclosed and proper warning signs shall be posted.

(6) Electrical wiring and equipment located outdoors shall be of such quality and so constructed or protected that exposure to weather will not interfere with its normal operation.

(7) Elevated power lines crossing access or other roads within the grounds of a carnival or amusement park shall be so suspended as to provide a vertical clearance of at least twelve feet from the road surface or three feet above any vehicle used within the grounds of a carnival or amusement park. A horizontal clearance of at least three feet shall be provided on each side of the normal passage space of vehicles.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.20
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Electrical Equipment "adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.21. Grounding.

(1) No overcurrent protection device shall be installed in neutral or grounding conductors.

(2) Where electrical power is supplied for an amusement ride by a generating system, the generator and all equipment shall be properly grounded.

(3) All receptacles and attachment plugs shall be of the grounding type.

(4) Each electrically powered amusement ride shall be effectively grounded. The grounding shall be made effective as to all non-current carrying metal parts which may become energized and which are exposed to contact by any persons.

(5) Grounding which does not have a resistance to ground of 25 ohms or less shall be augmented by one additional electrode of any of the types specified in Section 250-53 of the Rule referenced in Rule 120-3-27-.21.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.21
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Grounding"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.22. Construction.

(1) An owner/operator shall furnish a certified stress analysis and other pertinent data deemed necessary by the Office for new, redesigned and all existing rides for which this information may be requested. Such stress analysis is and other data pertinent to the design, structure, factors of safety or performance characteristics shall be acceptable to the Office. Failure of owner/operator to submit the requested information shall be cause for the Chief Safety Inspector to deny issuance of a permit to operate.

(2) Structural materials and construction of rides shall conform to established engineering practices, procedures, standards and specifications. If a designer or manufacturer of equipment wishes to use materials not covered by these regulations or by reference to existing standards, such information concerning these materials or methods shall be submitted to the Office. The design details, materials and construction features shall provide safety factors acceptable to the Office.

(3) All amusement rides shall be designed, constructed and installed so as to withstand any normal stresses to which they may be subjected.

(4) Before being used by the public, amusement rides shall be placed or secured with blocking, cribbing, outriggers, guys or other means necessary to be stable under all operating conditions.

(5) All amusement rides, such as, but not limited to, passenger tramways, where restoration of electrical power could create a hazard, shall be provided with a main disconnect switch capable of being locked only in the "Off"position.

(6) The path of travel of an amusement ride shall have a clearance adequate to ensure that a passenger on the ride cannot be injured by contacting any structural member or other fixed object when the passenger is in the riding position.

(7) All amusement rides, buildings, tents or trailers excluding water flumes with enclosed sides used for amusement assembly shall be provided with emergency lighting fixtures clearly marking exit routes with suitable lighting to allow safe exit from same in the event of a power failure or fire.

(8) Location. General layouts shall be established so that continuous traffic patterns will exist. Box canyons formed by rides and attractions or concession booths may not be located immediately in front of hazardous equipment. The layouts shall be such to prevent traffic patterns through the concession booth back yards. The intermingling of water lines and electrical lines shall be avoided. Long guy wires or narrow braces utilized for ride, attraction or booth support shall be clearly marked with streamers or other devices to attract attention when located in traffic patterns.

(9) All structures used in connection with amusement rides shall be so designed and constructed as to carry safely all loads to which such structures may normally be subjected.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.22
Authority: O.C.G.A. Sec. 25-15-56.
History. Original Rule entitled "Construction"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.23. Means of Access and Egress.

(1) Safe and adequate means of access and egress from amusement rides shall be provided.

(2) At least two means of egress remote from each other shall be provided from each floor, tier, room or balcony in structures which house amusement rides.

(3) Access to the means of egress shall be marked by readily visible signs in all cases where the egress is not immediately visible to the passengers.

(4) No egress shall be less than 22 inches in width.

(5) The width of a stairway shall be taken as the length of the treads between the stringers. The width of a doorway shall be taken as the width of the door.

(6) The maximum travel distance from the most remote point in any room or enclosed space to an open safe outside space shall be not greater than that listed below:

(a) 100 feet in unsprinklered construction;

(b) 150 feet in sprinklered construction; and

(c) 25 feet in dead ends.

(7) Means of access and egress shall have protection from adjacent hazards and protection from falling by use of rails, enclosures, barriers or similar means.

(8) Means of access and egress shall be free from debris, obstructions, projections, slipping, tripping and other hazards.

(9) The head clearance in passageways shall not be less than seven feet.

(10) Means of access or egress shall have either stairways or ramps and connecting landings or platforms where the public enter or leave an amusement ride that is above or below grade.

(11) Stairways, passageways, ramps, landings, or platforms shall be not less than 22 inches in width for single lane passages or 44 inches width for double lane passages. Landings or platforms shall not be less than three feet long measured in the direction of travel.

(12) Stair treads shall be at least eight inches deep exclusive of nosing and the height of rise shall not exceed eight inches. Between any two connecting levels the treads shall be of uniform depth and the risers shall be of uniform height.

(13) Handrails shall be provided on both sides of all stairways of four or more risers connecting adjoining levels whose difference in elevation is 30 inches or more.

(14) Handrails shall be provided on both sides of landings, platforms or ramps 30 inches or more above grade.

(15) Handrails shall be at least 30 inches above the ramp surface or nose of step and 42 inches above the landings.

(16) The distances between handrails shall not be less than 18 inches for a single lane passage and 36 inches for a double lane passage.

(17) Two intermediate rails spaced equally apart or equivalent construction to prevent a passenger from falling through shall be provided with all handrails.

(18) Stairways and ramps requiring handrails in accordance with (13) and (14), which are more than eight feet wide, shall be provided with railings dividing the widths into not more than eight feet and not less than the widths of (11) above.

(19) When ride entrances are provided, ride entrances shall have a passenger waiting line retaining chain, bar, gate or device.

(20) All stairways, ramps, accesses and egresses shall be lighted sufficiently to allow for safe entry and exit.

(21) Fencing of all rides is mandatory and will be kept at a normal distance of 36 inches from the ride and must meet the manufacturers recommendations or Office approval.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.23
Authority: O.C.G.A. Sec. 25-15-63.
History. Original Rule entitled "Means of Access and Egress"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.24. Walkways and Ramps.

(1) Walkways and ramps shall be erected with a slope not greater than one in ten except that when approved nonslip surfaces are provided, the grade may be increased to a maximum of one in eight.

(2) Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI/ASME Code 17.1 latest adopted version is hereby adopted as a rule and all future amendments shall be accepted as adopted.

This document may be purchased from the American National Standards Institute, 25 W 43rd Street, 4th Floor, New York, NY 10036.

(3) Each owner of an amusement ride which uses an elevator, escalator or moving walk as part of ride shall comply with (2) above.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.24
Authority: O.C.G.A. Sec. 34-12-5.
History. Original Rule entitled "Walkways and Ramps"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.25. Buildings and Structures as Part of an Amusement Ride.

(1) The subchapter shall apply to the construction of buildings and structures that are a functional part of an amusement ride. To be a functional part of an amusement ride, the building or structure shall be a contributing factor to the amusement, pleasure, thrill or excitement of the ride.

(2) The maximum height of any amusement device in which passengers are transported shall not exceed forty feet in frame construction, one hundred feet in unprotected noncombustible and heavy timber mill construction, and shall not be limited in fireproof construction.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.25
Authority: O.C.G.A. Sec. 25-15-53.
History. Original Rule entitled "Buildings and Structures as Part of an Amusement Ride"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.26. Fire Prevention.

(1) All enclosed amusement park buildings over one story in height shall be constructed or protected to furnish not less than one hour fire resistance rating; except where roof framing and decking are specifically permitted to be of non-combustible or mill type construction. No styrofoam will be used inside buildings such as spook houses, etc.

(2) All structures located within 20 feet of lot lines or within 20 feet of other structures on the same lot, shall be of protected noncombustible or protected masonry enclosed construction or better.

(3) In addition to the fire extinguisher and firefighting equipment required by the use and occupancy of each building and structure under the provisions of the Rule every amusement ride building or structure, when required by the Commissioner, shall be provided with a system of fire hydrants and fire lines.

(4) Fabrics constituting part of an amusement ride shall be flame resistant to meet the following field test: the application of a flame from a 3/4 inch paraffin candle for a period of one minute which does not cause the fabric to flash, nor support combustion, nor continue to flame for more than two seconds or glow for more than 30 seconds after the removal of the test flame.

(5) Approved fire extinguishers in accordance with NFPA 10, 2002 shall be provided at the following locations to secure reasonable and adequate protection from fire hazards:

   (a) At or near all operating gasoline or diesel engines;

   (b) At or near all Operators' Stands excluding water flumes;

   (c) At each food handling booth where cooking is done.

(6) Flammable waste such as oily rags and other flammable materials shall be placed in covered metal containers which shall be kept in easily accessible locations. Such containers shall not be kept at or near exit.

(7) Gasoline and other flammable liquids and flammable gases when stored shall be kept in reasonably cool and ventilated places. Such liquids shall be in approved containers. Smoking and the carrying of lighted cigars, cigarettes, or pipes is prohibited within 50 feet or in any area where such liquids or gases are stored, or are transferred from one container to another.

(8) The fire limits shall comprise the areas containing congested business, commercial manufacturing and industrial uses or in which such uses are developed.

(9) All other areas not included in the fire limits shall be designated as outside fire limits.

(10) Fire wall separation: The building or structure or addition thereto shall be so located and constructed that every exterior wall with an adjacent fire separation of less than three feet shall be a noncombustible fire wall or shall be protected by a noncombustible fire wall having a fire resistant rating of at least four hours. The roof covering shall have at least a Class "B"rating.

(11) Open space with fire rated walls separation: The building or structure or addition thereto shall be so located and constructed that every exterior wall with an adjacent fire separation of more than three feet but less than 30 feet, shall be a noncombustible fire resistance rated wall. The fire resistance rating of the wall and the fire resistance rating of opening protectives for all openings in the wall shall be as shown in the table below.

(12) The fire resistance rated wall shall be so constructed that it will remain structurally in place, against an exterior exposing fire, for the duration of time indicated by the required fire resistance rating. When the fire rated wall is adjacent to a flat roof, it shall be constructed with a parapet, and the roof covering shall be at least Class "B"roofing.

Fire Resistance Rating of Exterior Walls

Width of fire separation adjacent to exterior wall	Fire resistance rating of exterior wall	Fire resistance rating of exterior opening protectives
More than 3 ft. but less than 6 ft.	3 hour	3 hour
6 ft. or more but less than 11 feet	2 hour	1 ½ hour
11 ft. or more but less than 30 ft.	1 hour	3/4 hour

(13) Storm enclosures: Storm enclosures may be erected of frame construction not more than 10 feet in height and not more than 3 feet wider than the entrance doors which they serve, provided they do not project more than 6 feet beyond the building line.

(14) Roof coverings: All roof coverings shall be constructed of Class "A", Class "B"or Class "C"roofings.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.26
Authority: O.C.G.A. Sec. 25-15-53.
History. Original Rule entitled "Fire Prevention"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.27. Water Flumes, Structural Design.

(1) Structural Design. The slides structural design and materials shall be in accord with generally accepted good structural engineering practices and shall provide a durable structure which will safely sustain all weights and pressures (dead load, live load, liquid, hydrostatic and earth pressures) for the expected operating life of the structure. The flumes and pools shall be watertight and their surfaces shall be inert, nontoxic, smooth and easy to clean. The flumes shall be designed or ventilated, or both, to prevent a possible hazardous concentration of toxic disinfectant fumes.

(2) Dimensional Design: All curves, turns and tunnels within the path of a slide flume shall be designed so that body impact with the walls of the flume or ceiling of a tunnel does not present a hazard. The slide flume shall be banked to keep the slider's body safely inside the flume or curve under all foreseeable circumstances.

(3) All slopes within the path of the slide flume shall be designed so that the slider's speed does not exceed a level where a safe equilibrium of dynamic forces cannot be maintained on any curve or turn within that path, as specified by (2) above.

(4) In sections of the elevated flumes where, contrary to intended use, a slider may stop, there shall be safety walls or other provisions to keep the slider from falling out of the flume.

(5) The construction, the dimensions and the mechanical attachment of slide flume bed components shall be such that the surface of the slide flume is continuous and smooth for the entire length.

(6) Wall thickness of flumes should be designed so that the continuous and combined action of hydrostatic, dynamic and static loads and normal environmental deterioration do not cause structural failures which could result in injury.

(7) Flume exit sections shall be designed to assure safe entry speeds, angles and stopping distances.

(8) The distance between the centerline of a flume exit and a splash pool side wall shall be at least 5 feet. The distance between sides of adjacent flume terminuses shall be at least 6 feet center line to center line. The distance between a flume exit and the opposite side of the splash pool, excluding steps, shall be at least 20 feet.

   (a) High-Speed Slides: Special provisions shall be made in flume exit design, pool depth and pool width, measured from flume exit, to safely accommodate slide specifically designed with greater slopes or other special features which allow an unusually rapid descent.

   (b) Multiple-exit slides: Multiple-exit slides shall have parallel exits or be constructed so that their centerlines do not intersect for a distance of at least 20 feet from the exists of each flume. If slides with nonparallel exits discharge bathers at a high speed, the centerlines should not intersect for at least 30 feet.

(9) A flume exit system shall provide safe entry into the splash pool. Present practices for safe entry include a water backup, a deceleration distance and an altitude control. Other methods are acceptable as long as safe exit velocities and proper user attitudes are assured under normal use.

(10) Splash pool depth at the end of a flume shall be at least 3 feet. This depth shall be maintained in front of the flume for a distance of at least 20 feet, from which point the splash pool floor may have a constant slope upward to the minimum water depth. These slopes shall be no more than 1 foot in 7 feet. If special exit systems that assure safe exit from the flume and safe entry to the splash pool are used, the 3-foot depth and minimum maintenance distance for this depth can be waived.

(11) Decks along the exit side of the splash pool which have the function of providing an exit route only for sliders, shall be a minimum of 5 feet in width. If the deck is utilized by both sliders exiting the plunge pool and observers, the said deck shall be a minimum of 10 feet in width. All deck surfaces shall have a slip-resistant surface and shall be sloped away from the plunge pool so as to prohibit surface water from entering the plunge pool.

The said slope shall not exceed 1 foot in 7 feet.

(a) Provisions shall be made to eliminate standing water at all deck areas adjacent to the entrance at the top of the flume.

(b) Decks along the side opposite the pump reservoir shall be at least 4 feet wide and shall have the same slip resistance and drainage requirements as top and splash pool decks.

(c) The pump reservoir area shall be accessible, for cleaning and maintenance, by a 3-foot minimum width walkway deck.

(12) A 4-foot minimum width walkway, walkway steps, or stairway shall be provided between the plunge pool and the top of the flume. Walkways and steps shall be well drained, non-slippery and separated from the flume by a physical barrier, set back far enough from the operating flume so that users cannot contact it on the way down.

(13) All stairways used as part of a slide shall not retain standing water and should conform to the requirements of local building codes.

(14) Visitor and Spectator Areas: The spaces used by visitors and spectators shall be distinctly and absolutely separated from those spaces used by sliders. Visitors and spectators in street clothes may be allowed within the perimeter enclosure if they are confined to an area separated from the space the sliders use.

(15) Typical Posted User Safety Warnings for Slide Operational Use:

(a) No running, standing, kneeling, rotating, tumbling, or stopping in flumes or tunnels.

(b) No diving from flume at any time.

(c) Never use this slide when under the influence of alcohol or drugs.

(d) Only one person at a time. Obey instructions of top pool supervisor and lifeguard at all times.

(e) Never form chains unless authorized by slide manager or by posted instructions.

(f) Keep hands inside the flume.

(g) Leave the landing pool promptly after exiting from slide.

(h) Keep all glasses, bottles and food away from pools.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.27
Authority: O.C.G.A. Sec. 25-15-53.
History. Original Rule entitled "Water Flumes, Structural Design"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.28. Circulation Systems.

(1) All water impounding flumes or rides using lakes with adequate fresh water inlets and outlets to prevent contamination shall not be required to comply with the following requirements on circulation.

(2) The filtration system shall be of adequate size to maintain water quality/clarity at a level not to exceed .5 J.T.U.'s (Jackson Turbidity Units) at all times.

(3) All equipment shall have installation and operation instructions posted in the immediate area of the equipment.

(4) Appropriate gauges shall be provided on both the influent and effluent sides of the filtration pumps/filters in order to assess the efficiency of said filter.

(5) Materials used in the circulation system shall comply with the requirements of the latest joint National Swimming Pool Institute - National Sanitation Foundation standards.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.28
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Circulation Systems" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.29. Filters.

(1) All water impounding flumes or rides using lakes with adequate fresh water inlets and outlets to prevent contamination shall not be required to comply with the following requirements on filtration.

(2) Filters shall be designed to maintain pool water under anticipated operating conditions in accordance with guidelines.

(3) A means for releasing air which enters the filter tank shall be provided. This may be automatic or manual. Where an upflow design is used, air must be expelled through the filter tank. Any filters incorporating an automatic internal air release as their principal means of air release must have lids which provide a slow and safe release of pressure. Any separation tank used in conjunction with a filter tank shall have a manual means of air release or a lid which provides a slow and safe release of pressures.

(4) A statement warning personnel not to start the filter pump without first opening the air release shall be clearly visible on the separation tank in the area of the air release.

(5) Piping furnished with the filter shall be capable of withstanding three times the working pressure. The suction piping shall not collapse when flow on the suction side of the pump is completely shut off.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.29
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Circulation Systems" adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.30. Pumps.

(1) Pumps and motors shall be provided to circulate the water in the splash pool and slide. Performance of all filter pumps shall meet the conditions of flow required for filtering and cleaning (if applicable) the filters against the total head developed by the complete system. Flume pumps and motors shall be of adequate size, as specified by the flume manufacturer, and shall meet all National Swimming Pool Institute standards for swimming pool pumps.

(2) The pump suction header shall have a gauge which indicates vacuum. The gauge shall be installed as close to the pump inlet as possible.

(3) All pressure filter systems shall have suitable removable strainers or screens before all circulation pumps to remove solids, debris, hair, lint, and other materials.

(4) Pump units shall be accessible for inspection and service.

(5) All motors shall be, as a minimum, an open drip-proof enclosure (as defined by the latest National Electrical Manufacturers Association standards).

(6) All motors shall have thermal overload protection.

(7) The motor frame shall be properly grounded.

(8) Pumps used on slides shall comply with the latest joint National Swimming Pool Institute-National Sanitation Foundation performance standards in effect at the time the pump is installed.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.30
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Pumps"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.31. Inlets and Outlets.

(1) Pool inlets and outlets shall produce a uniform circulation of water to maintain a uniform disinfectant residual.

(2) The number and location of pool inlets shall be adequate and appropriate to insure that uniform water quality, as described herein, is maintained at all times.

(3) At least one outlet shall be provided at the lowest point of the floor to completely drain the entire floor. When the main outlets for pool pump suction are installed in the pool floor near one end, the spacing shall not be greater than 20 feet (6.1 m) on centers, and an outlet shall be provided not more than 15 feet (4.57 m) from each side wall. The total velocity through grate openings shall not exceed 2 feet per second (61 cm/second). Grate openings shall be designed to prevent fingers and toes, etc., from being trapped in the openings.

(4) Outlets on pump suction, except those for skimmers shall be covered with suitable protective grates that cannot be removed except with tools.

(5) An over-the-rim spout, if used shall not create a hazard. Its open end shall have no sharp edges and shall not protrude more than 2 inches (5.1 cm) beyond the edge of the pool.

(6) Inlets from the circulation system shall not project enough to cause harm to the splash pool user.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.31
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Inlets and Outlets"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.32. Piping.

(1) The size of the slide circulation piping shall permit the rated flows for filtering and cleaning without exceeding the total head developed by the pump at the rated flow.

(2) The water velocity shall not exceed 10 feet per second (3.05 m/second) for discharge piping, except for copper pipe where the velocity shall not exceed 8 feet per second (2.4 m/second) and asbestos cement pipe, where the velocity shall not exceed 6 feet per second (1.83 m/second). Suction velocity for all piping shall not exceed 6 feet per second (1.88 m/second).

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.32
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Piping"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.33. Waste Water Disposal.

(1) Overflow water shall be returned to the filter system or discharged to a waste system approved by local authorities. Where perimeter overflow water discharges into a sanitary sewer, a suitable air gap at least 1 1/2 times the discharge diameter shall be provided to create a gravity drip which has no direct mechanical connection into the sewer.

(2) When an air gap is impractical, a relief manhole with a grated cover shall be constructed in the perimeter overflow main waste line, the clear area of which shall be twice the area of the main waste piping. It shall be at a level so that the waste flow in the line will rise in the manhole and overflow at ground level not less than 2 feet (61 cm) below the level of the perimeter overflow lip.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.33
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Waste Water Disposal"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.34. Water Quality.

(1) Water impounded by the ride owner and used as an integral part of a water amusement ride, whether it be a part of a water contact ride or a water noncontact ride, which could expose the public to a safety or health hazard shall be maintained in a safe and sanitary condition in accordance with this section.

(2) The owner of any water amusement ride as described in (1) above shall provide evidence of the sanitary condition of such water when requested by the Safety Engineering Section.

(3) In order to maintain the safe and sanitary condition of water in a water amusement ride the owner of a water amusement ride shall disinfect with chlorine or other approved disinfecting agent.

(4) Impounded water, when in use, shall be:

(a) Sufficiently clear to permit the bottom of the water reservoir at its deepest point to be visible from an outside edge of the reservoir;

(b) Aesthetically pleasing; and

(c) Free of floating or suspended matter, except those items used specifically as part of the amusement.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.34
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Water Quality"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.35. Disinfectant and Chemical Feeders.

(1) Disinfectants used in flume and pool water shall provide a disinfecting residual in the pool water. Chlorine or chlorine compounds are most frequently used for this purpose, but other bactericidal agents or apparatuses are acceptable if registered by the U. S. Environmental Protection Agency.

(2) Adequate and appropriate equipment for introducing a disinfectant into the recirculating system shall be provided. This equipment shall be of sufficient capacity to maintain appropriate disinfectant residual levels at all times. The DPD (diethyl-pphenylenediamine) or other suitable free chlorine test method is suggested as a means of testing for the free chlorine residual.

(3) Feeding equipment shall be capable of permanently and precisely feeding the required quantity of disinfecting agent to the pool water. The disinfecting material used shall be subject to field-testing procedures.

(4) Chemical Operational Parameters; National Swimming Pool Institute Standards set forth the suggested operational parameters for proper chemical treatment and maintenance of both flume and pool waters. Because of high aeration rates and potentially high slider loads in the lower pool, tests for water quality and chemical balance shall be made every two hours the facility is operating. Proper water balance shall be obtained each day before the facility is opened to the public.

(5) Recommendations on the Use of Elemental Chlorine and Operational Procedures: Although chlorine solution (hypochlorite) is preferable from a safety standpoint, gaseous chlorine may be approved as the disinfectant.

(6) Hypochlorinators or other adjustable-output rate chemical-feeding equipment shall conform to the joint National Swimming Pool Institute-National Sanitation Foundation Standard #19, relating to "Adjustable Output Rate Chemical Feeding Equipment and Flow Thru Chemical Feeding Equipment for Swimming Pools."

(7) Equipment and Installation: Chlorination equipment shall be located so that an equipment failure or malfunction will have a minimum effect on an emergency evacuation of patrons.

(8) The chlorinator, cylinders of chlorine, hypochlorite and associated equipment shall be housed in a reasonable open building with a leak detection system set at or slightly above ground for the detection of chlorine gas. Cylinders shall be securely fastened to a wall or post. Except for chemicals used to check chlorine leaks, no other chemicals shall be stored in the chlorine enclosure.

(9) Chlorine cylinders must be handled with care. Valve protection caps and valve outlet caps must be in place at all times, except when the cylinder is connected for use. Cylinders must not be dropped and shall be protected from falling objects. Cylinders shall be used on a first-in, first-out basis. Fresh washers shall be used each time a cylinder is connected.

(10) As soon as a container is empty, the valve shall be closed and the lines disconnected. The outlet shall be promptly capped and the valve protection hood attached. The open end of the disconnected line shall be plugged or capped promptly to keep atmospheric moisture out of the system.

(11) Although chlorine suppliers make every effort to furnish chlorine in properly conditioned cylinders, chlorine gas leaks may still occur. Operating personnel shall be informed about leak-control procedures.

(12) Enclosures shall be located at ground or above ground level. If the enclosure must be installed below grade, it shall have airtight ducts from the bottom of the enclosure to atmosphere in an unrestricted area, a motor-driven exhaust fan capable of producing at least one air change per minute and automatic louvers of good design near the top of the enclosure for admitting fresh air. The enclosure shall be inaccessible to casual slide users and, if possible, locked. All keys shall be kept on the premises so that they will be readily available when needed by servicing personnel.

(13) Containers may be stored indoors or outdoors. Full and empty cylinders shall be segregated and tagged.

(14) An automatic chlorine leak detector shall be installed, especially in below-grade installations.

(15) Respirators approved by the National Institute for Occupational Safety and Health shall be provided for protection against chlorine.

(16) At least one approved self-contained breathing apparatus shall be provided. Respiratory equipment shall be mounted outside the chlorine enclosure and filter cartridges replaced after each use.

(17) Elemental chlorine feeders shall be activated by a booster pump, with recirculated water. The booster pump shall be electrically or mechanically interlocked to the filter pump to prevent the feeding of chlorine when the recirculation pump is not running.

(18) Connections from the cylinders to the system depend on the type of chlorinator used and shall comply with the chlorinator manufacturer's recommendation.

(19) Electrical switches for the control of artificial lighting and ventilation shall be on the outside of the enclosure, adjacent to the door.

(20) Responsibility for Chlorination and Water Treatment: A specific person on each shift shall be responsible for disinfection and water treatment operations and shall be thoroughly trained in the performance of routine operations, including emergency procedures and leak-control problems. If possible, these people should complete training courses on swimming pool operations, given through local departments of health. A typical reference text available for such training is Swimming Pool Operators Handbook, published by the National Swimming Pool Foundation. This text is available through the National Swimming Pool Institute, 200 K Street, N. W., Washington, D.C. 20006. Another reference is Swimming Pools-Safety and Disease Control Through Proper Design and Operation. This manual is available through the Environmental Health Services Division, Center for Environmental Health, Centers for Disease Control, Atlanta, Georgia 30333. As an alternative, they should be trained by a professional operator. The facility shall not be in operations without such a person in attendance. No one else shall be responsible for chlorination or water treatment operations.

(21) A safety chart shall be posted in or near the chlorine enclosure, and a second chart shall be in the pool office near the telephone. Such charts are available from many suppliers and from the Chlorine Institute, 342 Madison Avenue, New York, New York 10017. The telephone number of the chlorine supplier shall be shown on these charts.

(22) Responsibility for Circulation and Filter System Operation. A specific person on each shift shall be made responsible for circulation and filter system operation, checks, maintenance, backwash and cleaning. This person shall be trained by a professional operator or an expert in swimming pool operations and shall carry out all scheduled cleanings and maintenance on the circulation and filter systems.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.35
Authority: O.C.G.A. Sec. 25-15-12.
History. Original Rule entitled "Disinfectant and Chemical Feeders"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.36. Electrical Safety and Lighting.

(1) The latest National Electrical Code, as published by the National Fire Protection Association, or a local code, whichever is more restrictive, shall be used for the wiring and grounding of all electrical equipment associated with a slide and for the grounding of all metallic appurtenances.

(2) Whenever slides are operated after dark, artificial lighting shall be provided in upper and lower pool and deck areas, walkways, stairways, and flumes, as recommended by local codes or The Illuminating Engineering Society Lighting Handbook.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.36
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Electrical Safety and Lighting"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.37. Operation, Water Slides.

(1) Personnel responsible for the operation of disinfecting equipment shall be properly trained in equipment operation, field test procedures, and emergency procedures.

(2) The manufacturer or the general contractor of the slide shall provide the operator with a detailed written operational manual, or guide, for all phases of operations and normal maintenance of each component of the system. The guide shall be kept in a secure area and made available to each employee as needed. This guide shall include, as a minimum, the following information:

(a) Customer safety rules to be posted at the entrance to flumes;

(b) Required training or certification levels of upper and lower pool supervisors;

(c) The number and type of operating personnel;

(d) Specific work statements for each employee;

(e) Recommendations on the safe handling of crowds during emergencies;

(f) Slide maintenance and cleanup;

(g) Disinfectant operation;

(h) Chlorine cylinder changing procedure (if applicable);

(i) Pump operating instructions;

(j) Backwash procedure;

(k) Operating instructions for vacuum filters (if applicable);

(l) Filter pit draining and cleaning procedure;

(m) Water test instructions - frequency of testing, method of test, interpretation of results;

(n) Filter checks;

(o) Record-keeping for health department;

(p) First-aid reports;

(q) Emergency phone numbers;

(r) Equipment and operational trouble-shooting instructions;

(s) Safe repair practices for flume and decks.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.37
Authority: O.C.G.A. Sec. 25-15-59.
History. Original Rule entitled "Operation, Water Slides"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.38. Competence of Operators.

(1) Having properly trained and conscientious employees on site is the most important safety factor in the operation of slides.

(2) At least one person who has completed the Standard First Aid and Personal Safety course, as offered by the American National Red Cross, or the equivalent shall be on duty at all times during operating hours. This person shall also be competent in carrying out any emergency procedures peculiar to the slide he or she is operating.

(3) Splash Pool Supervisor: The principal function of the lower pool supervisor is to serve as a lifeguard. The lower pool supervisor shall be qualified in life-saving techniques through Red Cross training or the equivalent. He or she shall also control crowds in the splash pool by keeping sliders moving into and out of the lower pool as quickly and in as orderly a manner as possible; and shall control any horseplay, running, or unsafe behavior in the lower flumes, the splash pool and on the pool decks.

(4) Upper Pool Supervisor: The principal functions of the pool supervisor are to control crowds and sliders starting from the upper pool and flume, control the timing of each person on the slide and supervise all visible portions of the flumes.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.38
Authority: O.C.G.A. Sec. 25-15-60.

History. Original Rule entitled "Competence of Operators"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.39. Emergency Procedures.

(1) The need for emergency planning in areas of public recreation has been demonstrated by past experience. Being prepared for problems is the best method of minimizing their consequences. Therefore, a written plan for emergencies shall be carefully devised and kept up-to-date. All employees shall be trained and drilled periodically in the execution of the plan. During operational hours, a person qualified through American National Red Cross training in both first-aid and life-saving techniques shall be on duty at all times.

(2) The emergency plan shall encompass crowd control and safe evacuation, drownings, electrical shock, heat prostration, fractures, poisonings, cuts and burns, neck and back or spinal injuries and exposure to chlorine gas. Each of these situations is addressed in the latest American National Red Cross handbook on first aid, a copy of which shall be on hand at the same location as the emergency plan, the first-aid kit, and the emergency telephone numbers.

(3) Each park shall have available the following first-aid supplies:

(a) First-Aid Kit. A standard 24-unit kit stocked and readily accessible for use;

(b) A stretcher and blankets;

(c) A standard plywood backboard or other acceptable splint, made to the specification of the American National Red Cross, for persons with back and neck injuries;

(d) An area or room shall be set aside for the emergency care of causalities.

(4) Every park shall have posted by the phone a list of current emergency numbers, such as the nearest available facilities, ambulance service, hospital, rescue squad, police department, fire department, and the nearest local facility with capabilities to handle a major chlorine gas leak. One of the most effective methods of control of emergencies is to plan for them in the original design of the facility. Health and safety officials should review and comment on the original plans and layouts before a building permit is issued.

(5) Two types of emergency situations for which evacuation procedures shall be developed are:

(a) Major release of chlorine gas;

(b) Power outage during night time operation.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.39
Authority: O.C.G.A. Sec. 25-15-53.

History. Original Rule entitled "Emergency Procedures"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.40. Power Outage.

Each facility shall have an emergency plan for use in the event of a night time power outage. Battery-operated emergency lighting packs are available as standard building electrical items. In addition, portable lights and bullhorns shall be available to personnel at all times, and an evacuation plan shall be devised. Personnel shall be drilled regularly in execution of the plan.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.40
Authority: O.C.G.A. Sec. 25-15-53.
History. Original Rule entitled "Power Outage"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.41. Kart Rules and Regulations.

(1) Mandatory rules and regulations for every owner, manager, and operator who provides for the operation and use of all types of mechanically operated karts which carry or convey passengers along, around, or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, thrills or excitement shall comply with the Georgia Amusement Ride Safety Act, the Georgia Laws and Rules for Regulating and Licensing Amusement Rides Chapter 15 of Title 25 and this Section.

(a) Definition of terms used in this section:

1. The term "kart"means a powered vehicle used for amusement along, around or over a fixed restricted route or course or within a defined area including vehicles commonly called go karts and similar vehicles.

2. The term "kart ride"includes all karts, kart track, refueling areas, spectator areas, and all other areas used in any manner for the operation of karts.

(b) Where a kart is defective and not in compliance with this provision, such units shall be taken out of service and clearly marked with a red tag reading "Out of Service."

(c) The Chief Safety Inspector or his designee, upon presenting credentials to the owner/operator, is authorized without prior notice to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and manner, any kart, kart track, or other area of the kart rides.

1. Inspection includes, but is not limited to, a review of necessary documents, observance and/or inspection of the karts, kart track or any portion of the kart ride.

2. Inspection of the ride is to include: track design, track operation, kart design, fuel containers, mechanical condition and safe operation of the ride.

(d) The Office shall order in writing, a temporary cessation of operation of the kart ride, if it has been determined after inspection to be hazardous or unsafe or the failure to comply with any of the other provisions of the Chapter or the regulations promulgated thereunder including, but not limited to, the requirements set forth in Section .04 of this Chapter. Operation shall not be resumed until such conditions are corrected to the satisfaction of the Office.

(2) Track Operations.

(a) All karts that are operated on a kart track shall have bumpers, wheels and body parts that are compatible.

(b) No kart shall be operated during a lightning storm, a period of tornado alert or warning, fire, riot or other civil disturbance in the amusement park or in an area adjacent thereto. Passengers shall be unloaded and evacuated from the ride and the ride shut down until normal, safe operational conditions are established.

(c) All kart tracks shall be monitored during its operation either directly by attendants or indirectly by electronic visual and audio means acceptable to the Office.

(d) A kart that is losing oil or fuel shall immediately be removed from the kart track and be repaired prior to returning to operation on the kart track.

(e) Karts may only be operated by persons within the heights limits set by the manufacturer. If no height limit is set by the manufacturer, height limit shall be no less than 52 inches.

(f) Karts designed for single or dual riders shall use a shoulder harness and belt restraint system acceptable to the Office.

(g) All loose clothing and hair longer than shoulder length must be secured prior to operating any kart. Fully enclosed shoes must be worn by operators and passengers at all times during operation of a kart.

(h) A person who is smoking shall not be permitted to operate a kart.

(i) Track attendants shall not allow riders to leave their vehicles either in the pit or on the track unless assisted by a track or pit attendant.

(j) Where a kart track exposes a passenger or operator to high speed, or a high degree of excitement, the owner shall post a conspicuous warning sign at the entrance to the kart track advising the public of risk to passengers.

(k) The sign required by (j) above shall be at least two feet by two feet in sharply contrasting colors.

(l) The sign required by (j) shall read as follows or express an equivalent warning:

"The following people should not ride this ride.

1. Those with heart conditions
2. Pregnant women
3. Those with back or neck ailments"

(m) Every kart track shall have a sign posted at the ticket window or track entrance and in the pit area that conveys at least the following rules and regulations.

1. Height limit as specified by manufacturer, or no less than 52 inches.
2. Keep both hands on the wheel and both feet in the kart at all times. Do not get out of kart unless track attendant is present.
3. All loose clothing and hair longer than shoulder length must be secured. Fully enclosed shoes must be worn by operators and passengers at all times during operation of kart.
4. No smoking in karts or pit area.
5. Persons under the influence of intoxicants will not be allowed to operate karts.

(n) The use of private karts or vehicles will be prohibited on kart or other vehicle tracks while open to the general public.

(3) Kart Designs:

(a) The speed of every kart shall be set at a limit of not more than 20 mph, and not to exceed the maximum speed for which the track is designed and acceptable to the Department.

(b) Where the design of a kart enables the readjustment of its speed, the means of adjusting the speed shall not be accessible to the operator of the kart.

(c) The seat, back rest, seat belts and leg area of every kart shall be so designed as to retain the driver inside the kart in the event of a collision or overturn.

(d) No more than one person shall occupy a kart at one time unless the kart is designed and equipped with a seat belt system that is intended for two persons.

(e) All karts shall be provided with sufficient guards to prevent anyone from coming in contact with drive chains, belts, hot muffler, engine parts or any rotating parts.

(f) The steering wheel and its hub and all exposed components on a kart shall be padded to minimize the risk of injury to an occupant in the event of a collision or overturns.

(g) All karts shall have headrests of roll bars which must be of sufficient height and strength so as to provide the occupant with protection in the event a kart should roll over.

(h) A kart shall be provided with impact absorbing bumpers, or energy absorption body parts.

(i) Kart wheels shall be so enclosed or guarded so that the wheels of another kart cannot interlock with or ride over the wheels of another kart.

(j) The kart fuel tank shall be so designed and mounted that it cannot be damaged or spill any fuel in the event of collision or the kart overturning.

(k) All karts shall have sufficient muffler systems installed so as to prevent any undue noise levels which will interfere with the track operations, adjacent businesses, residential areas or damage the hearing of employees or patrons.

(l)

1. Daily inspections shall be made on all karts prior to operation. It shall include but not limited to: tires, padding, steering, frame welds, spindles, axles, safety belts, roll bars, gasoline tank condition, brake and gas pedal operation, etc., as recommended by the kart manufacturer and acceptable to the Office.

2. Weekly as recommended by manufacturer and acceptable to the Office.

3. Monthly as recommended by manufacturer and acceptable to the Office.

4. Annually as recommended by manufacturer and acceptable to the Office.

(4) Track Design:

(a) The design of the kart track shall be consistent with the kart manufacturer's recommendations and acceptable to the Office.

(b) A kart track shall:

1. Have a hard and smooth surface as recommended by kart manufacturer.

2. Provide road grip sufficient to enable a kart to be driven safely at maximum speed and be free of ruts, holes or bumps, water, oil, etc.

3. Track Bank-may be banked on turns only, minimum of 2 degrees and maximum 4 degrees.

4. Straight-away length must be flat, except two (2) degrees allowed for drainage.

5. Track width must be a minimum of 16 feet wide and maximum 25 feet wide. On an oval track the turns should be a minimum of 5 feet wider than straight-away. The minimum radius of the turns is 15 feet. 6. Signs that indicate one direction of travel of karts shall be posted at various locations around the kart track perimeter. Signs that indicate no "U"turn must be posted at various locations.

(c) White or yellow lines at least four inches in width shall be used to mark all inside and outside edges of a kart track except where barriers are provided along the inside and outside edges of the kart track.

(d)

1. A kart track shall be equipped with ABC dry chemical fire extinguishers of a minimum of 5 pounds capacity.

2. A fire extinguisher shall be located within seventy feet of all areas of the track and one fire extinguisher shall be kept in the pit and in the refueling area.

3. The location of each fire extinguisher shall be prominently marked and the fire extinguisher easily accessible.

(e) Refueling of karts shall be at a designated location remote from any area that is accessible to the public and must comply with NEC 70-510, 511, 514 and other applicable codes.

(f)

1. The shoulder of every kart track shall be level with the kart track or guarded to prevent the kart from leaving the track.

2. The spectator area shall have a smooth and firm surface up to at least 15 feet from the edge of the kart track.

3. Each barrier on a kart track shall:

(i) Be so constructed that a kart colliding with a barrier at maximum speed will:

(I) Safely come to a full stop, or

(II) Be guided safely back to the proper part of the kart track;

(ii) Be so designed as to prevent a kart from overturning or running over or under the barrier after its contact with the barrier, and;

(iii) Be constructed of materials that will not readily ignite.

(g)

1. Every kart track shall be surrounded by a fence that is at least 48 inches in height and be set back from the track at least 36 inches from the inside face of the barrier.

2. The requirements above may be met by natural barriers that provide the same degree of protection as the fence.

3. Gates will be located for easy supervision by attendants while the track is open, and locked when track is closed.

(5) Pit or pit areas:

(a) Must be fenced or have a barrier.

(b) Separate entrance and exit lanes required.

(6) Spectator Area must be separated from track and pit areas by fence or barriers that are built sufficient to withstand full impact from kart or other type of vehicle traveling at full speed.

(7) Electric - Lighting:

(a) All electric will comply with NFPA 70 and all revisions.

(b) Lighting for night operation will comply with all applicable codes acceptable to the Office.

(8) In addition, track design will incorporate all industry accepted standards of safety. Proposals for construction in the State of Georgia will be submitted to the Office of Insurance and Safety Fire Commissioner Safety Engineering Section and other appropriate agencies before construction begins. All building support items, etc., must be approved by appropriate agencies. These items listed above are minimum requirements.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.41
Authority: O.C.G.A. Secs. 25-15-1*in seq.*
History. Original Rule entitled "Kart Rules and Regulations"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.42. Imposition of Civil Penalties.

(1) Issuance of Citation or Notice of Administrative Proceeding:

(a) If, upon inspection by an inspector or deputy inspector,

1. An amusement ride is deemed to be in an unsafe condition,

2. The owner, operator, user, contractor, or installer has not complied with the Amusement Ride Safety Law or these rules, or

3. When a written warning has been issued and the violations continues, then the deputy inspector shall issue the violator a Citation stating the date, time and place of the violation, the specific violation, the recommended penalty, and shall offer the respondent the opportunity for a hearing as set forth in this section.

(b) If, upon receiving information from any source, the Chief Inspector determines that there is a reasonable belief that:

1. An amusement ride may be in an unsafe condition,

2. The owner, operator, user, contractor, or installer has not complied with the Amusement Ride Laws or these rules, or

3. When a warning has been issued, the violation is a continuing violation, the Chief Inspector or the Director, Safety Engineering, on behalf of the Office, may issue Notice of Administrative Proceeding stating the date, time and place of the violation, the specific violation, the recommended penalty, and shall offer the respondent the opportunity for a hearing as set forth in this section.

(c) The Director, Safety Engineering, upon review of a citation issued under subsection (a) above, may, in his sole discretion, dismiss the Citation and substitute therefore a Notice of Administrative Proceeding pursuant to subsection (b) above on the same, similar or different violations, as required by the evidence.

(d) The Commissioner of Labor, upon review of a Citation or Notice of Administrative Proceeding, in his sole discretion, may refer the matter to the appropriate prosecuting official for criminal or injunctive relief as permitted under law. In such event, the Commissioner may, in his sole discretion, elect to dismiss, suspend, or continue with the civil penalty proceeding.

(2) Hearing Procedure:

(a) If a request for a hearing is not received from the respondent within the allotted time, the Director, Safety Engineering, on behalf of the Commissioner, may without further process impose a civil penalty not greater than the total of civil penalties set forth on the Citation or in the Notice of Administrative Proceeding. An administrative order under the authority of the Commissioner may be issued to collect the civil penalty assessed. If the civil penalty is not paid; the Commissioner may authorize the Director to file appropriate legal action in the name of the Commissioner through the Attorney General to collect the civil penalty.

(b) Upon receipt of a request for a hearing pursuant to any Citation or Notice of Administrative Proceeding, the Director, Safety Engineering, shall determine, in his sole discretion, whether the hearing shall be held before the Commissioner of Insurance and Safety Fire, or referred to the Office of State Administrative Hearings. If the hearing is to be before the Commissioner, the Director shall set a date and time for the hearing and shall cause the case file to be referred to the Attorney General for legal representation of the Office. If the Director determines that a hearing before the Commissioner is not warranted, the matter shall be referred to the Office of State Administrative Hearings pursuant to O.C.G.A. 50-13-41(a)(1). The case file for an OSAH proceeding may be referred to staff counsel within the Department or to the Attorney General for representation of the Department. The Office of State Administrative Hearings will set the date, time and place of hearing as prescribed by OSAH Rules.

(c) All hearings, whether before the Commissioner or before the Office of State Administrative Hearings, shall be subject to the powers and procedures set forth in the Administrative Procedure Act, including but not limited to O.C.G.A. 50-13-13 and 50-13-15.

(d) The decision of an administrative law judge made after a hearing before the Office of State Administrative Hearings shall be the initial agency decision as set forth in O.C.G.A. 50-13-41(d) and shall be subject to review by the Commissioner of Insurance and Safety Fire, as set forth in O.C.G.A. 50-13-41(e). A hearing before the Commissioner shall be the final agency decision in the matter and shall be subject to judicial review as set forth in O.C.G.A. 50-13-19.

(3) Guidelines for imposition of civil penalties:

(a) Any person, firm partnership, corporation or other business entity, which violates this part, shall be subject to the imposition of civil penalties. Each day on which a violation occurs shall constitute a separate offense. Repeat offenders, including those who refuse to adhere to orders of inspectors, exceed the limitations of operating permits, or refuse to adhere to the requirements of these rules and regulations, may be referred appropriate prosecuting official for criminal (misdemeanor) or injunctive relief as permitted under law. Serious violations,

including those causing serious bodily injury or death, or which exhibit gross negligence or serious disregard for public safety, may also be referred appropriate prosecuting official for criminal (misdemeanor) or injunctive relief as permitted under law.

(b) Notwithstanding the recommended minimum penalties set forth below, a serious violation, including those causing serious bodily injury or death, or which exhibit gross negligence or serious disregard for public safety, may receive the maximum penalty of $5,000.00 for each violation including a first offense. The imposition of a penalty for a violation of this part shall not excuse the violation or permit it to continue.

(c) The deputy inspector issuing a Citation shall, at the time of issuance, specify a recommended civil penalty amount for each specific violation in accordance with these Rules and Regulations. The Director, Safety Engineering, is charged with the responsibility to ensure that recommended penalties for violations are graduated with the more serious violation receiving the heavier penalty and with assuring uniformity of recommended penalties such that offenders in similar circumstances with similar violations receive similar penalty recommendations. In this regard, the Director may dismiss a Citation and issue a Notice of Administrative Proceeding solely for the purpose of making an appropriate penalty recommendation.

(d) The recommended civil penalty set forth in the Citation or Notice of Administrative Proceeding shall be given great deference by the Hearing Officer. The *minimum* recommended penalties set forth below are normally for first offenses with only one violation being cited. The Hearing Officer shall, after hearing the case, consider factors in mitigation of the violations as well as those in aggravation. The Hearing Officer shall impose a penalty less than the recommended *minimum* penalty only upon finding unusually significant mitigating factors, and shall set forth those factors in the order. The Hearing Officer may impose a penalty substantially greater than the department's recommended penalty upon finding significant aggravating factors associated with the violation, and shall set forth those factors in the order. The Hearing officer shall consider the provisions of these Rules and Regulations guiding the assessment of penalties. In particular, the Hearing Officer, shall, in cases involving continued operation of equipment without valid operating certificates; continued operation of equipment after failing to notify the department of an accident involving structural damage, bodily injury, or death; or continued operation after an unsafe condition is detected or after the equipment is taken out of service by an inspector or deputy inspector, consider the imposition of separate penalties for each day of violation. The Hearing Officer shall not assess a penalty exceeding $5,000.00 for each violation or each day of a continuing violation. (e) The Hearing Officer may, in addition to a civil penalty, recommend in the order

that the Commissioner suspend for a period of time or indefinitely, operating certificates, permits to install, or certificates for contractors.

(4) Minimum recommended penalties:

(a) Specific violations:

1. Operating equipment without a certificate of inspection or permit.

   (Authority: O.C.G.A. Secs. 25-15-55 and 25-15-56)

   First offense $250.00

   Second offense $500.00

2. Operating equipment in an unsafe condition. (Authority: O.C.G.A. Sec. 25-15-66)

   First offense $500.00

   Second offense $1000.00

3. Failure to permit free access for the purpose of inspecting or investigating equipment.

   (Authority: O.C.G.A. Sec. 25-15-67)

   First offense $500.00

   Second offense $1,000.00

4. Failure to notify the Chief Inspector of any accidents involving serious personal injury.

   (Authority: O.C.G.A. Sec. 25-15-61)

   First offense $500.00

   Second offense $1000.00

5. Failing to notify the Chief Inspector of an accident which involves death. (Authority: O.C.G.A. Sec. 25-15-61)

   First offense $2500.00

Second offense $4500.00

6. Placing ride back in service which has been "Red-Tagged"or placed out of service by a deputy inspector, without first having the unit inspected. (Authority: O.C.G.A. Sec. 25-15-66(a))

   First offense $1000.00

   Second offense $2500.00

7. Placing ride back in service which has been involved in an accident prior to first having the unit inspected or otherwise cleared.

   First offense $1000.00

   Second offense $2500.00

   (Authority: O.C.G.A. Sec. 25-15-61)

(b) General violations:

1. Violating adopted Code, Standards, Rules, Regulations or Order.

   (Authority: O.C.G.A. Sec. 25-15-66(c)(2))

   First offense $250.00

   Second offense $500.00

2. Failure to file a required report. Each report constitutes a separate violation.

   (Authority: O.C.G.A. Secs. 34-12-18(c)(2) and 25-15-66(c)(2))

   First offense $250.00

   Second offense $500.00

3. Any third repeated offense may subject the violator to the maximum civil penalty permitted under the Act ($5,000.00).

   (Authority: O.C.G.A. Sec. 25-15-61)

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.42
Authority: O.C.G.A. Secs. 25-15-66(c)(2), 25-15-53.

History. Original Rule entitled "Imposition of Civil Penalties"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.43. Special Situations.

Exemptions from Standards and Regulations approved by the Office. The owner/operator of the following equipment shall be exempt from applying for a permit or inspection. The owner/operator shall meet all other requirements of the Safety Act and these Rules.

(a) Mechanical bulls, climbing walls, human powered equipment or attractions, including but not limited to space balls, orbitrons, air supported structures, paddle boats, water cycles, bicycles and all rental boats.

(b) Playground equipment located at businesses, including but not limited to soft play areas, single or multi-passenger rides which are passenger operated or controlled, and may be electrically, mechanically, or manually powered, which do not normally require the supervision or services of an operator or attendant.

(c) Single waterslides and similar non-mechanical attractions at municipal, county, state or community operated swimming pools.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.43
Authority: O.C.G.A. Secs. 25-15-1*in seq.*
History. Original Rule entitled "Special Situations"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.44. Bungee Jumping.

This rule specifies and gives guidance on the site, design, testing of equipment, management of the operation, operating procedures, emergency provisions, and procedures for Bungee Jumping. Bungee Jumping will be restricted to permanent structures, constructed solely for the purpose of Bungee Jumping. **BUNGEE JUMPINGFROM HOT AIR BALLOONS, BLIMPS, CRANES, OR OTHER MOBILEFACILITIES ARE PROHIBITED.** This shall include stationary towers that are utilizing construction baskets and construction hoisting equipment. This rule is applicable to all operators of Bungee Jumping for public use.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.44
Authority: O.C.G.A. Sec. 25-15-53.
History. Original Rule entitled "Bungee Jumping. Amended"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.45. Definitions.

The definitions in the Official Code of Georgia Annotated Sections 25-15-51 and 120-3-27-.45, of the Georgia Rules will apply and in addition the following shall apply:

(a) **AIR BAG -** A device which cradles the body and which uses an air release breather system to dissipate the energy due to a fall, thereby allowing the person to land without an abrupt stop or bounce.

(b) **BINDING OF CORD -** Material used to hold the bungee cord threads in place.

(c) **BUNGEE CATAPULTING -** The jumper is held on the ground while the bungee cord is stretched. When the jumper is released, he/she is propelled upwards.
BUNGEECATAPULTING IS PROHIBITED.

(d) **BUNGEE CORD -** The elastic rope to which the jumper is attached. It lengthens and shortens and thus produces the bouncing action.

(e) **BUNGEE JUMPING -** When a person falls from a height and the descent is limited by attachment to the bungee cord.

(f) **CORD -** See Bungee Cord.

(g) **DEFINED AREA -** The area designated for the bungee jump by the owner or operator and approved by the Department.

(h) **DYNAMIC LOADING -** The load placed on the rigging and attachments by the initial free fall of the jumper and the bouncing movements of the jumper.

(i) **EQUIPMENT -** Power or manually operated devices to raise, lower and hold loads.

(j) **FENCE -** A permanent or temporary structure designed and constructed to restrict people, animals and objects from entering the designated bungee jumping area.

(k) **INCIDENT -** An event that results in injury to a person, or an event that causes damage or loss of process (jumping interrupted or stopped).

(l) **JUMP AREA -** The maximum designed area in all directions for the movement of the jumper.

(m) **JUMP DIRECTION -** (Forward or Backward) The direction in which a jumper jumps upon leaving the platform from the jump point.

(n) **JUMP HARNESS -** An assembly to be worn by a jumper, which is attached to a bungee cord.

(o) **JUMP HEIGHT -** The distance from the jump platform to the bottom of the jump zone.

(p) **JUMP MASTER -** A person who has responsibility for the bungee jumping operation and who prepares the jumper for the actual jump.

(q) **JUMP OPERATOR -** A person who assists the jump master to prepare a jumper for jumping and operates the lowering system.

(r) **JUMP POINT** - The position from which the jumper leaves the platform.

(s) **JUMP ZONE** - The space bounded by the maximum designed movements of the jumper or any part of the jumper.

(t) **JUMPER** - The person who falls or jumps from a height attached to a bungee cord.

(u) **JUMPER WEIGHT** - The weight of the jumper only, determined by the jump master on a calibrated scale, traceable to a National Standard.

(v) **LANDING AREA** - The surface area of a net, pad, air bag or water directly under where the jumper lands.

(w) **LATERAL DIRECTION** - The area measured at 90 degrees to the designed jump direction.

(x) **LOWERING SYSTEM** - Any manual or mechanical equipment capable of lowering a jumper to the designated landing area.

(y) **LOADED LENGTH** - The length of the bungee cord when extended to its fullest designed length.

(z) **PLATFORM** - The area attached to a structure from which jumper falls or jumps.

(aa) **PREPARATION AREA** - The area where the jumper is prepared for jumping. The preparation area shall be separate from the jump area.

(bb) **RIGGING SYSTEM** - The bungee cord plus any webbing or rope connected to the bungee cord which is of variable lengths set by the jump master for each jumper.

(cc) **RECOVERY AREA** - An area next to the landing area, where the jumper may recover from the jump before returning to the public area.

(dd) **SAFE WORKING LOAD (SWL)** - The maximum rated load as determined by the manufacturer which can be safely handled under specified conditions, by a machine, equipment or component of the rigging system.

(ee) **SAFETY BELT** - A belt designed to fit around the waist of a person which can be attached to either an anchor point or safety line.

(ff) **SAFETY HARNESS** - An assembly to be worn by an operator. It is designed to be attached to a safety line and prevent the jump site operator from falling.

(gg) **SAFETY HOOK** - A hook with a latch to prevent rigging or loads from accidentally slipping off the hook.

(hh) **SAFETY LINE** - A line used to connect a safety harness or belt to an anchor point.

(ii) **SAFETY SPACE -** A space extending beyond the jump zone as a safety factor.

(jj) **SITE OPERATING MANUAL -** The document containing the procedures and forms for the operation of all bungee jumping activities and equipment.

(kk) **STRUCTURE -** A permanent structure constructed solely for the purpose of bungee jumping.

(ll) **TANDEM JUMPING -** The practice of two people harnessed together while jumping simultaneously from the same jump platform. **TANDEM JUMPING ISPROHIBITED.**

(mm) **TESTING AUTHORITY -** An organization acceptable to the department for the purpose of testing the performance of bungee cords.

(nn) **UNLOADED LENGTH -** The length of the bungee cord without load or stress applied.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.45
Authority: O.C.G.A. Sec. 25-15-53.
History. Original Rule entitled "Definitions. Amended"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.46. Site and Operating Approval.

(1) The operator shall obtain a permit from the Department of Labor, Safety Engineering Section to operate on the site. The initial permit fee shall be $5,000.00. Each permit shall be renewed annually, at a cost of $1,000.00.

(2) Each site shall be inspected by the Department quarterly, at a cost of $500.00. The cost of one quarterly inspection shall be included in the annual permit renewal.

(3) Site Plan and Equipment Design and Construction:

(a) A report shall contain site plans, safety zones, drawings and specifications of equipment and structures which shall be submitted to the department prior to construction.

(b) Inspections shall be conducted at the discretion of the department.

(4) The owner shall provide a certificate of insurance to the department covering any spectator, and any patron in bungee jumping in the amount of one million dollars ($1,000,000.00) per occurrence.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.46
Authority: O.C.G.A. Sec. 25-15-53.
History. Original Rule entitled "Site and Operating Approval"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013

Rule 120-3-27-.47. Safety Space.

(1) Each bunge e jump site shall maintain a side safety space of twenty (20) feet in all directions.

(2) Where jumps occur over water, the water shall be at least nine (9) feet deep. The vertical safety space shall be at least sixty (60) inches above the water. However, if the depth of the water is greater than nine (9) feet, no vertical safety space is needed.

(3) Where jumps occur over land an air bag or net is used. The vertical safety space shall be at least sixty (60) inches above the air bag or net.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.47
Authority: O.C.G.A. Sec. 25-15-53.
History. Original Rule entitled "Safety Space"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.48. Permanent Platform.

(1) The Safe Working Load (SWL) shall be determined by the maximum weight on the platform at any one time, with a safety factor of not less than five (5) times the maximum designed platform weight.

(2) When the platform is not an integral part of the structure, the attachment devices and the part of the structure to which they are attached, shall have a safety factor of at least five (5) over the total load.

(3) The platform shall have a non-slip surface.

(4) The platform shall have anchor points for safety harnesses, designed and placed to best suit the movements of anyone on the platform.

(5) The platform shall be fitted with a permanent fence separate from the jump point to contain the jumper during preparation.

(6) There shall be a gate across the jump point which shall remain closed when a jumper is not present.

(7) The jump master shall stop the jumping operation when the wind speed affects the safe operations on the jump platform and/or the recovery area.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.48
Authority: O.C.G.A. Sec. 25-15-53.
History. Original Rule entitled "Lowering System"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.49. Lowering System.

(1) The system for lowering the jumper to the landing pad shall be operated by either the jump operator or jump master.

(2) There shall be an alternative method of jumper recovery should the main lowering system fall.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.49
Authority: O.C.G.A. Sec. 25-15-53.
History. Original Rule entitled "Lowering System"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.50. Bungee Cord Requirements.

(1) The operating length of a bungee cord at its maximum designed dynamic load shall not exceed four (4) times its unloaded length.

(2) The cord material and sheathing to be used shall be clearly specified in the site operating manual.

(3) The cord and its non-metallic connectors shall be destroyed when one of the following conditions occur:

(a) Exposure today light exceeds 250 hours. This does not apply when the cord cover or sleeve fully protects all of the cord from visible and ultra-violet exposure.

(b) Six (6) months from the date of manufacture.

(c) Evidence of threads exhibiting wear, such as bunched threads, uneven tension between threads or thread bands.

(d) Broken threads in excess of five percent (5%).

(e) After contact with solvents, corrosive or abrasive substances.

(f) Any other flaws found.

(g) As the bungee cord stretches over the course of its jump life, the dynamic load required to extend the bungee to four (4) times its unloaded length will reduce. When this dynamic Toad reduces to less than the maximum designed dynamic load, the cord shall be destroyed.

(h) After a maximum of five hundred (500) jumps using that cord.

(i) When the cord or its connectors are not incompliance with the manufacturer's specifications.

(j) Any particular cord shall not be used for successive jumps. At least five (5) minutes must be provided between jumps from a particular cord, to allow the cord to fully return to its original unloaded length.

(4) Bungee cords must be examined daily. Before starting the day's operations, the jump master shall visually inspect the entire length and circumference of the bungee cord for signs of wear. The inspection shall be repeated at least four (4) times during daily operation and recorded in the site log.

(a) When unexpected changes in bungee cord performance occur, the bungee cord is to be replaced immediately. The bungee cord shall be subjected to inspection and testing as required in these regulations.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.50
Authority: O.C.G.A. Sec. 25-15-53.
History. Original Rule entitled "Bungee Cord Requirements"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.51. Jump Harness.

(1) A jump harness shall be either a full body harness or a seat harness with shoulder straps.

(2) A jump harness shall be available to fit the range of patron sizes accepted for jumping.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.51
Authority: O.C.G.A. Sec. 25-15-53.
History. Original Rule entitled "Jump Harness"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.52. Ropes.

All ropes for holding and/or lowering the jumper shall have a breaking load of at least 6,000 pounds.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.52
Authority: O.C.G.A. Sec. 25-15-53.
History. Original Rule entitled "Ropes"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 120-3-27-.53. Hardware.

(1) Carabineers shall be the screw gate type, manufactured of hardened steel, with at least a minimum breaking load of 6,000 pounds.

(2) Pulleys and shackles shall be manufactured of hardened steel and shall have a minimum breaking load of at least 6,000 pounds.

(3) All pulleys shall be compatible with the rope size.

(4) Webbing shall be flat or tubular mountaineering webbing or equivalent with a minimum breaking load of at least 6,000 pounds. If military specification cords are used, all webbing will have redundant connections.

Cite as Ga. Comp. R. & Regs. R. 120-3-27-.53
Authority: O.C.G.A. Sec. 25-15-53.
History. Original Rule entitled "Hardware"adopted. F. Sep. 4, 2013; eff. Sep. 24, 2013.

Subject 120-3-28. RULES AND REGULATIONS FOR CARNIVAL RIDES.

Rule 120-3-28-.01. Purpose.

These rules establish minimum safety standards for the installation, assembly, repair, maintenance, use, operation, disassembly, and inspection of amusement rides at carnivals and fairs. These safety standards are for the protection of the employees and the general public using these rides.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.01
Authority: O.C.G.A. Sec. 25-15-80.
History. Original Rule entitled "Purpose"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.

Rule 120-3-28-.02. Application.

The rules apply to amusement rides at carnivals and fairs, to the manager of such rides, and to the persons employed in connection with these rides and to their employees.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.02
Authority: O.C.G.A. Sec. 25-15-80.
History. Original Rule entitled "Application"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.

Rule 120-3-28-.03. Definitions.

Those definitions as listed in Chapter 15 of Title 25 and:

(a) "Approved"means in compliance with these Rules and Regulations.

(b) "A.S.T.M."- the American Society of Testing Materials.

(c) "Average Adult Passenger"means for the purpose of design, a person weighing 170 Pounds.

(d) "Average Child Passenger"means, for the purpose of design, a child weighing 75 Pounds and is 12 years of age or under.

(e) "Carnival"means an enterprise principally devoted to offering amusement or entertainment to the public in, upon, or by means of amusement rides in any number or combination, whether or not associated with other structures or forms of public attraction, and which is located at a temporary location.

(f) "Commissioner"means the Safety Fire Commissioner or his/her designee.

(g) "Engineer"means licensed mechanical engineer.

(h) "Engineering evaluation"an evaluation completed by a licensed mechanical engineer of all structural components and all sub-systems of the ride. This shall include but not limited to electrical, mechanical, hydraulic, pneumatic systems, safety restraints, fencing, stairs, platforms and welding.

(i) "Fair"means an enterprise principally devoted to the exhibition of the products of agriculture or industry and at or in connection with which amusement rides are provided.

(j) "Guardian"means a person 16 years of age or over.

(k) "Guardian Restrictions"means a condition placed on a ride where a child passenger must be accompanied on the ride by a guardian.

(l) "National Electrical Code"means the NFPA, NEC 70 Code.

(m) "Manager"means a person having possession, custody, or managerial control of an amusement ride at a carnival or fair, whether as owner, lessee, agent, or otherwise.

(n) "Pinching Hazard"means any configuration of components that would pinch or entrap the fingers or toes of a person.

(o) "Puncture Hazard"means any surface or provision that would puncture a person's skin under casual contact.

(p) "Ride Operator"means a person who controls or has the duty to control the operation of one or more rides causing such rides to go and stop or perform its entertaining function. The ride operator shall not operate more than one (1) ride at a time.

(q) "Rated Capacity"means a capacity established by the design engineer for the normal loading and operation of a ride, or in the absence thereof, as established by the Commissioner, after inspection and determination.

(r) "Ride".

1. "Major Ride"means a device to carry a specific number of passengers, adults, or children, either by power or gravity, in cars or other suitable fixtures for conveying persons.

2. "Kiddie Ride"means a device designed primarily for use by children but which may accommodate adults.

3. "Miscellaneous Ride"means any other ride not specifically provided for, described, or defined in these rules.

(s) "Rope", "Wire Rope", and "Cable"are interchangeable terms except where the term fiber rope is used.

(t) "Safety Factor"or "Factor of Safety"means the ratio of the ultimate or breaking strength of a member or piece of material to the actual working stress or to the maximum permissible or safe load stress or when in use.

(u) "Safety Devices."

1. "Restraining Device"means a safety belt, harness, chain, bar, or other device which affords actual physical support, retention, or restraint to the passenger of a ride.

2. "Containing Device"means a strap, belt, bar, gate, or other safety device designed to prevent accidental or inadvertent dislodgment of a passenger from a ride but which does not actually provide physical support.

3. "Safety Retainer"means a secondary safety cable, bar, attachment, or other device from becoming disengaged from the mechanism or from tipping or tilting in a manner to cause hazards to persons riding on, or in the vicinity of, a ride.

4. "Chains"should be referred to according to the material from which they are constructed; alloy steel chains, wrought iron chains, commonly known as hardware chains.

(v) "Serious Personal Injury"means death, dismemberment, visible significant disfigurement, visible significant or permanent loss of use of a body organ, member, function or system, compound fractures, visible uncontrolled bleeding, heart attack, stroke, or unconsciousness likely attributable to trauma to the head, as a result of the operation or malfunction of a carnival ride.

(w) "Personal Injury"means sustained bodily harm resulting in medical treatment such as trauma, cuts, bruises, burns and sprains, but does not include Minor Injury/Illness or any mental disease or disorder not accompanied by physical injury at the time of the incident and further does not include false arrest, detention, imprisonment, confinement, slander, libel, violation of privacy or mental distress.

(x) "Minor Injury/Illness"means physical or mental incidents such as fainting, bruising, or minor lacerations for which treatment is limited to rest, cleansing, dispensation of over-the-counter medication, plastic adhesive bandage strips, fluids by mouth, or similar assistance.

(y) "Property Damage"means physical injury to, or destruction of tangible property to the structure or operational parts (including safety equipment and devices) of a carnival ride, sustained by reason of accident or malfunction, other than routine wear and tear, but does not include damage to personal property.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.03
Authority: O.C.G.A. § 25-15-92.
History. Original Rule entitled "Definitions. Amended"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.
Amended: F. Dec. 28, 2017; eff. Jan. 1, 2018, as specified by the Agency.

Rule 120-3-28-.04. Owner/Operator Responsibility; Rider Responsibility; Warnings and Signage.

(1) Every manager of a carnival ride shall comply with or effect compliance with all provisions of these rules and regulations, and every employer and employee shall comply with all provisions which concern or affect his conduct.

(2) Each owner, manager, or lessee is responsible for filing one of the following with the Office of Insurance and Safety Fire Commissioner prior to any ride being placed into operation:

(a) A certificate of insurance against liability for injury to persons arising out of the operation of the carnival or fair ride in the amount of at least one million ($1,000,000) dollars.

(b) A bond for and in the same amount as stated in (a) above.

(c) Cash or other security acceptable to the Department for and in the amount as stated in (a) above.

(3) All ride patrons shall:

(a) Obey all posted signs, including but not limited to, warning signs, instruction signs, and directions signs, which are not inconsistent with these rules:

(b) Obey the instructions of ride attendants;

(c) Properly use all safety equipment provided;

(d) Act in a responsible manner while using a carnival ride, device or attraction;

(e) Refrain from acting in any manner that may cause or contribute to injury to self or others;

(f) Not participate or use a carnival ride, device or attraction while under the influence of alcohol or any intoxicating substance; and

(g) Be subject to any or all of the following penalties for violation of this Section A:

1. Removal from the ride, device or attraction and barred from returning that day;

2. Removal from the carnival owner's property and barred from returning that day;

3. Subject to a civil penalty up to a maximum of $100 per infraction to be assessed in accordance with the civil penalty provisions of these rules.

(4) All ride patrons, or, if the patron is a minor, the patron's parent or guardian, shall report in writing to the carnival owner or his designee any injury sustained on a carnival ride prior to leaving the carnival owner's premises, unless the ride patron (or parent or guardian) is unable to file the report because of the severity of the injuries, in which case the report shall be filed as soon as reasonably possible.

(5) Sign Requirements:

(a) Warnings and directions shall be based upon the standards of the American Society of Testing Materials (ASTM) or the American National Standards Institute (ANSI), or, if expressly approved by the Commissioner, other nationally recognized technical or scientific authority in the amusement ride or carnival ride industry.

(b) Signs shall be displayed in a public and conspicuous place on or near the ride, device or attraction in letters clearly visible from at least a distance of 15 feet.

(c) Rider responsibilities and potential penalties shall be posted in at least one public and conspicuous location on the premises of the carnival owner.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.04
Authority: O.C.G.A. Secs. 25-15-82, 25-15-83, 25-15-91, 25-15-96.
History. Original Rule entitled "Owner/Operator Responsibility; Rider Responsibility; Warnings and Signage. Amended"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.

Rule 120-3-28-.05. Application for Permit.

(1) No carnival ride shall be operated at any time or location unless a permit is issued by the Office.

(2) Each owner, manager, or lessee shall apply for a permit on or before January 1 of each year, on a form furnished by the Office. The following must accompany the application:

(a) Certificate of insurance, bond, or securities;

(b) List identifying each ride;

(c) Itinerary with intended dates and locations of use;

(d) An inspection fee of $65.00 for each ride;

(e) An annual permit fee of $50.00;

(f) The form of payment must be a certified check or money order made payable to the Office of Insurance and Fire Safety Commissioner.

(3) In situations where an emergency booking makes the notification period impossible, the Office shall be notified by telephone at least 72 hours prior to set up and this notification shall be confirmed in writing.

(4) In cases where an owner and/or manager finds it necessary to change his itinerary for any cause after having reported his itinerary to the Office, he shall notify the Office of the changes immediately.

(5) In the event a special inspection is made, an additional fee of $75.00 per hour and all traveling expenses incurred in connection with the inspection will be charged. The expenses shall be governed by the regulations for traveling expenses established for State Officials. In cases where one trip is made to inspect two or more locations for two or more parties, the traveling expenses shall be prorated between the parties on the basis of time and expenses incurred for each inspection. A special inspection is any non-routine inspection which includes but is not limited to:

(a) Failure to report a schedule change after scheduling an inspection.

(b) All violation follow-up inspections which require a special trip to verify compliance.

(c) Scheduling an inspection with less than 72 hours notice.

(6) Carnival rides may be required to be inspected by an authorized person each time they are assembled or disassembled in accordance with regulations and standards established under this article.

(7) All rides entering the state as of January 1, 2018 and intended to be utilized shall have an engineering evaluation completed within the last 12 months by a licensed mechanical

engineer on the ride. All structural material and components of rides shall conform to recognized engineering practices, procedures, standards, and specifications. All ride components and theirsub systems (electrical, mechanical, hydraulic, pneumatic systems) shall beduring the last 12 utilized tion of the definition of "ee done bb part of this evaluation and shall meet ride manufactures requirements. The data shall include, but not limited to, the following materials, parts, or components of rides; structural materials including bars; cables; chains; ropes; rods; tubing; pipes; girders; braces; fittings; fasteners; trusses; pressure vessels; piping; gears; clutches; speed reducers; welds; bearings couplings; carriers such as tubs, cars, chairs, gondolas, or seating and carrying apparatus of any description; axles, hangers, pivots, safety bars, belts, harnesses, chains, gates; or other restraining, containing, or retaining devices. Any recommend repairs, or additional tests recommended by the engineer shall be completed prior to submission of this report. A report from the engineer shall be submitted to this office at the time of application of the permit or when any new or used ride is brought into the state and added to the itinerary.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.05
Authority: O.C.G.A. §§ 25-15-83, 25-15-85.
History. Original Rule entitled "Application for Permit. Amended"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.
Amended: F. Dec. 28, 2017; eff. Jan. 1, 2018, as specified by the Agency.

Rule 120-3-28-.06. Notice of Hearing and Penalties.

(1) Issuance of Citation or Notice of Administrative Proceeding:

(a) If, upon inspection by an inspector or deputy inspector,

1. A carnival ride is deemed to be in an unsafe condition,

2. The owner, operator, user, contractor, or installer has not complied with the Carnival Ride Safety Law or these rules, or

3. When a written warning has been issued and the violations continues, then the deputy inspector shall issue the violator a Citation stating the date, time and place of the violation, the specific violation, the recommended penalty, and shall offer the respondent the opportunity for a hearing as set forth in this section.

(b) If, upon receiving information from any source, the Chief Inspector determines that there is a reasonable belief that:

1. A carnival ride may be in an unsafe condition,

2. The owner, operator, user, contractor, or installer has not complied with the Carnival Ride Laws or these rules, or

3. When a warning has been issued, the violation is a continuing violation, the Chief Inspector or the Director, Safety Engineering, on behalf of the Office, may issue Notice of Administrative Proceeding stating the date, time and place of the violation, the specific violation, the recommended penalty, and shall offer the respondent the opportunity for a hearing as set forth in this section.

(c) The Director, Safety Engineering, upon review of a citation issued under subsection (a) above, may, in his sole discretion, dismiss the Citation and substitute therefore a Notice of Administrative Proceeding pursuant to subsection (b) above on the same, similar, or different violations, as required by the evidence.

(d) The Commissioner, upon review of a Citation or Notice of Administrative Proceeding, in his sole discretion, may refer the matter to the appropriate prosecuting official for criminal or injunctive relief as permitted under law. In such event, the Commissioner may, in his sole discretion, elect to dismiss, suspend, or continue with the civil penalty proceeding.

(2) Hearing Procedure:

(a) If a request for a hearing is not received from the respondent within the allotted time, the Director, Safety Engineering, on behalf of the Commissioner, may without further process impose a civil penalty not greater than the total of civil penalties set forth on the Citation or in the Notice of Administrative Proceeding. An administrative order under the authority of the Commissioner may be issued to collect the civil penalty assessed. If the civil penalty is not paid, the Commissioner may authorize the Director to file appropriate legal action in the name of the Commissioner through the Attorney General to collect the civil penalty.

(b) Upon receipt of a request for a hearing pursuant to any Citation or Notice of Administrative Proceeding, the Director, Safety Engineering, shall determine, in his sole discretion, whether the hearing shall be held before the Commissioner of Insurance or referred to the Office of State Administrative Hearings. If the hearing is to be before the Commissioner, the Director shall set a date and time for the hearing and shall cause the case file to be referred to the Attorney General for legal representation of the Office Department. If the Director determines that a hearing before the Commissioner is not warranted, the matter shall be referred to the Office of State Administrative Hearings pursuant to O.C.G.A. 50-13-41(a)(1). The casefile for an OSAH proceeding may be referred to staff counsel within the Department or to the Attorney General for representation of the Department. The Office of State Administrative Hearings will set the date, time and place of hearing as prescribed by OSAH Rules.

(c) All hearings, whether before the Commissioner or before the Office of State Administrative Hearings, shall be subject to the powers and procedures set forth in

the Administrative Procedure Act, including but not limited to O.C.G.A. 50-13-13 and 50-13-15.

(d) The decision of an administrative law judge made after a hearing before the Office of State Administrative Hearings shall be the initial agency decision as set forth in O.C.G.A. 50-13-41(d) and shall be subject to review by the Commissioner as set forth in O.C.G.A. 50-13-41(e). A hearing before the Commissioner shall be the final agency decision in the matter and shall be subject to judicial review as set forth in O.C.G.A. 50-13-19.

(3) Guidelines for imposition of civil penalties:

(a) Any person, firm partnership, corporation or other business entity, which violates this part, shall be subject to the imposition of civil penalties. Each day on which a violation occurs shall constitute a separate offense. Repeat offenders, including those who refuse to adhere to orders of inspectors, exceed the limitations of operating permits, or refuse to adhere to the requirements of these rules and regulations, may be referred appropriate prosecuting official for criminal (misdemeanor) or injunctive relief as permitted under law. Serious violations, including those causing serious bodily injury or death, or which exhibit gross negligence or serious disregard for public safety, may also be referred appropriate prosecuting official for criminal (misdemeanor) or injunctive relief as permitted under law.

(b) Notwithstanding the recommended minimum penalties set forth below, a serious violation, including those causing serious bodily injury or death, or which exhibit gross negligence or serious disregard for public safety, may receive the maximum penalty of $5,000.00 for each violation including a first offense. The imposition of a penalty for a violation of this part shall not excuse the violation or permit it to continue.

(c) The deputy inspector issuing a Citation shall, at the time of issuance, specify a recommended civil penalty amount for each specific violation in accordance with these Rules and Regulations. The Director, Safety Engineering, is charged with the responsibility to ensure that recommended penalties for violations are graduated with the more serious violations receiving the heavier penalty and with assuring uniformity of recommended penalties such that offenders in similar circumstances with similar violations receive similar penalty recommendations. In this regard, the Director may dismiss a Citation and issue a Notice of Administrative Proceeding solely for the purpose of making an appropriate penalty recommendation.

(d) The recommended civil penalty set forth in the Citation or Notice of Administrative Proceeding shall be given great deference by the Hearing Officer. The *minimum* recommended penalties set forth below are normally for first offenses with only one violation being cited. The Hearing Officer shall, after

hearing the case, consider factors in mitigation of the violations as well as those in aggravation. The Hearing Officer shall impose a penalty less than the recommended *minimum* penalty only upon finding unusually significant mitigating factors, and shall set forth those factors in the order. The Hearing Officer may impose a penalty substantially greater than the department's recommended penalty upon finding significant aggravating factors associated with the violation, and shall set forth those factors in the order. The Hearing Officer shall consider the provisions of these Rules and Regulations guiding the assessment of penalties. In particular, the Hearing Officer, shall, in cases involving continued operation of equipment without valid operating certificates; continued operation of equipment after failing to notify the department of an accident involving structural damage, bodily injury, or death; or continued operation after an unsafe condition is detected or after the equipment is taken out of service by an inspector or deputy inspector, consider the imposition of separate penalties for each day of violation. The Hearing Officer shall not assess a penalty exceeding $5,000.00 for each violation or each day of a continuing violation.

(e) The Hearing Officer may, in addition to a civil penalty, recommend in the order that the Commissioner suspend for a period of time or indefinitely, operating certificates, permits to install, or certificates for contractors.

(4) Minimum recommended penalties:

(a) Specific violations:

1. Operating equipment without a certificate of inspection or permit. (Authority: O.C.G.A. 25-15-88 and 25-15-89)

   First offense $250.00

   Second offense $500.00

2. Operating equipment in an unsafe condition. (Authority: O.C.G.A. 25-15-96)

   First offense $500.00

   Second offense $1000.00

3. Failure to permit free access for the purpose of inspecting or investigating equipment.

   (Authority: O.C.G.A. 25-15-97)

First offense $500.00

Second offense $1,000.00

4. Failure to notify the Chief Inspector of any accidents involving serious personal injury. (Authority: O.C.G.A. 25-15-91 and 120-3-28-.14)

   First offense $500.00

   Second offense $1000.00

5. Failing to notify the Chief Inspector of an accident which involves death. (Authority: O.C.G.A. 25-15-91)

   First offense $2500.00

   Second offense $4500.00

6. Placing ride back in service which has been "Re d-Tagged"or placed out of service by a deputy inspector, without first having the unit inspected. (Authority: O.C.G.A. 25-15-96(a))

   First offense $1000.00

   Second offense $2500.00

7. Placing ride back in service which has been involved in an accident prior to first having the unit inspected or otherwise cleared. (Authority: O.C.G.A. 25-15-91)

   First offense $1000.00

   Second offense $2500.00

(b) General violations:

1. Violating adopted Code, Standards, Rules, Regulations or Order. (Authority: O.C.G.A. 25-15-96(c)(2))

   First offense $250.00

   Second offense $500.00

2. Failure to post required signage such as, but not limited to, age, weight or height restrictions. Each day constitutes a separate violation. (Authority: O.C.G.A. 25-15-96(c)(2))

   First offense $250.00

   Second offense $500.00

3. Failure to file a required report. Each report constitutes a separate violation. (Authority: O.C.G.A. 25-15-96(c)(2))

   First offense $250.00

   Second offense $500.00

4. Any third repeated offense may subject the violator to the maximum civil penalty permitted under the Act ($5,000.00).

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.06
Authority: O.C.G.A. §§ 25-15-83, 25-15-92, 25-15-96(c)(2).
History. Original Rule entitled "Imposition of Civil Penalties. Amended"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.
Amended: New title "Notice of Hearing and Penalties."F. Dec. 28, 2017; eff. Jan. 1, 2018, as specified by the Agency.

Rule 120-3-28-.07. Identification and Rating Plates.

Every carnival ride shall be identified by a trade or descriptive name and an identification number, and there shall be firmly attached thereto in a readily visible location on a metal plate upon which there is legibly impressed the name and number of the ride, its model number if any, and the name and address of its manufacturer. Upon the same or another metal plate so attached, there shall be legibly impressed the maximum safe number of passengers and the maximum safe speed.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.07
Authority: O.C.G.A. Sec. 25-15-89.
History. Original Rule entitled "Identification and Rating Plates"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.

Rule 120-3-28-.08. Rebuilt and Modified Rides.

If an carnival ride which has withstood a performance test as required is thereafter materially rebuilt or so modified as to change its original action:

(a) The ride shall be re-identified by a different name or identification number or both;

(b) The ride shall be subject to all other provisions of this Chapter as if it were a new device not previously used.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.08
Authority: O.C.G.A. Sec. 25-15-89.
History. Original Rule entitled "Rebuilt and Modified Rides"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.

Rule 120-3-28-.09. Control of Operation.

(1) Carnival rides shall be operated only by competent operators at least 16 years of age.

(2) Every operator shall have knowledge of the use and function of all normal operating controls, signal systems, and safety devices applicable to the ride and of the proper use, function, capacity, and speed of the particular ride which he is operating. An operator shall be in the immediate vicinity of the operating controls during operation and shall have complete control of the r ide at all times while being operated for the public's use. When the ride is shut down, provisions shall be made to prevent operation by the public.

(3) No person other than the trained operator shall be permitted to handle such controls during normal operation. This provision does not apply to carnival rides designed to be operated or controlled by a passenger.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.09
Authority: O.C.G.A. Sec. 25-15-90.
History. Original Rule entitled "Control of Operation"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.

Rule 120-3-28-.10. Overspeeding and Overloading.

A ride shall not be loaded beyond its rated capacity nor shall it be operated at an unsafe speed or at any speed other than that prescribed by the design engineer or manufacturer. When this information is not obtainable, the criteria for safe operating speeds and rated capacity shall be established by the Office.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.10
Authority: O.C.G.A. Sec. 25-15-83.
History. Original Rule entitled "Overspeeding and Overloading"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.

Rule 120-3-28-.11. Medical and First Aid.

The owner and operator shall ensure the availability of medical and first aid.

(a) While the venue is open or has patrons on the site, in the absence of an infirmary, clinic, or hospital available adjacent to the site or within one-half mile of the rides and attractions, one or more adequately trained and certified individuals shall be available on premises at all times with appropriate skills to render first aid and cardiopulmonary resuscitation. In addition, first aid supplies recommended and approved by the American Red Cross or by a consulting physician shall be readily available.

(b) At the site office or other appropriate place on the site, the telephone numbers for physician, hospital, ambulance and local f ire and police services shall be conspicuously posted for use by the staff and public in the event of emergency.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.11
Authority: O.C.G.A. Sec. 25-15-83.
History. Original Rule entitled "Medical and First Aid. Amended"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.

Rule 120-3-28-.12. Fatalities, Personal Injury, and Accidents.

(1) Accidents involving fatalities or serious personal injury. In the event of an accident involving fatalities, serious personal injury, or personal injury requiring immediate overnight hospitalization, and of which the owner or operator has knowledge (Authority: O.C.G.A. Sec. 25-15-91):

(a) The ride or activity shall be shut down and immediately taken out of service:

(b) The ride or activity shall be secured to prevent operation until the Office has conducted a full investigation; and

(c) The accident shall be immediately reported to the Office by telephone, and shall be augmented by a detailed written report submitted by certified mail or similar means not later than the close of the next business day following the accident.

(2) Accidents in which further safe operations may be compromised. In the event of an accident involving either personal injury or property damage in which there is a Discernible risk that further safe operation of the ride or activity may be compromised (Authority: O.C.G.A. Sec. 25-15-91):

(a) The ride or activity shall be shut down and immediately taken out of service;

(b) The ride or activity shall be secured to prevent operation until the Office has conducted a full investigation; and

(c) The accident shall be immediately reported to the Office by telephone, and shall be augmented by a detailed written report submitted by certified mail or similar means not later than the close of the next business day following the accident.

(d) If, at the time of the telephonic report, the owner or operator and a qualified repair technician present sufficient information to the Office, the Office may, in its discretion, permit the ride or activity to be promptly repaired and put back into service without an investigation and inspection. The Office shall make a record of such decision and record it upon the written report submitted concerning the accident.

(3) All other accidents or incidents.In order to evaluate the overall safety of regulated rides and activities, and to permit the identification of trends which may permit the effective prevention of accidents, all other accidents and incidents involving personal injury or property damage, but not including minor personal injury/illness, sustained by reason of the operation or malfunction of a ride or activity shall be reported as follows (Authority, O.C.G.A. Sec. 25-15-91):

(a) The accident or incident shall be reported in writing to the Office within 30 days of the accident or incident, or within 30 days after a belated report of personal injury becomes known by the owner or operator. In the alternative, such reports may be accumulated and submitted on a monthly basis.

(b) The report shall summarize the accident or incident; shall note any equipment repair or adjustment accomplished; and shall include any witness statements taken.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.12
Authority: O.C.G.A. Sec. 25-15-91.
History. Original Rule entitled "Fatalities, Personal Injury, and Accidents. Amended"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.

Rule 120-3-28-.13. Inspections.

All inspections will be conducted in accordance with the applicable sections as follows:

(a) ASTM (American Society of Testing Materials);

(b) Standard Building Code;

(c) National Electrical Code;

(d) The Rules and Regulations as adopted by the Board and approved by the Commissioner;

(e) As a minimum upon the ride manufacturer's specification and recommendations.

(f) The requirements for welding procedures and welder qualifications use, AWS D1.1, D1.2, D1.3, D1.6 and C3.4 (American Welding Society Standards for the welding of steel, aluminum, sheet metal and stainless steel and torch brazing.)

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.13
Authority: O.C.G.A. Sec. 25-15-83.
History. Original Rule entitled "Inspections. Amended"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014

Rule 120-3-28-.14. Mechanical Failure Reports.

The owner and/or manager of an amusement ride shall report any major breakdown to the Office within 24 hours after occurrence of the incident by telephone or other media of immediate communication. The owner and/or manager shall confirm this report in writing within seven (7) days after the occurrence of the reportable incident. Upon being advised of such an incident, the Commissioner or his authorized agent, after reviewing the circumstances, may order the ride or device to be withheld from operation, and in such cases the Office shall conduct an immediate investigation. The ride shall be released for repair and operation only after a thorough and complete investigation by the Office.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.14
Authority: O.C.G.A. Sec. 25-15-89.
History. Original Rule entitled "Mechanical Failure Reports"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.

Rule 120-3-28-.15. Removal of Parts.

In instances of ride failure no part of a ride shall be moved or disturbed prior to an investigation by the Office.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.15
Authority: O.C.G.A. Sec. 25-15-89.
History. Original Rule entitled "Removal of Parts"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.

Rule 120-3-28-.16. Load Tests.

(1) When the inspector deems necessary, a load test may be required prior to use on the following rides:

(a) Rides having suspended passenger seats or spaces;

(b) Rides normally operated at speeds or with movements creating severe centrifugal forces;

(c) Rides so elevated that structural failure is likely to cause passengers to be injured by falling;

(d) Rides as to which the Office has ordered a test upon finding it necessary to assure safety.

(2) Evidence of Test. Unless a load test is made in the presence of a representative of the Office, they may accept a certified copy of such test made by a person qualified to perform such test, showing whether the ride withstood the test without failures in any material respect and setting forth such other relevant information as the Office may require. Until such a statement is so filed, it shall be presumed that the ride has not withstood the test as required.

(3) Nature of Test. Each passenger seat or space shall be weighed with at least 170 pounds dead weight, except that in rides intended only for small children of which each seat or space shall be weighed with at least 75 pounds. While so loaded the ride shall be so operated at maximum normal speed as to test the full operation of all control devices, speed limiting devices, brakes, and other equipment provided for safety.

(4) Effect of Test. If the Ride fails to withstand load test, it shall be deemed unsafe and shall not be used until it has withstood a subsequent load test without failure in any material respect. If the ride has withstood a load test without failure in any material respect, it shall be required to be so tested again only if rebuilt or modified or if there are reasonable grounds to believe that a further test is necessary to assure safety and the Office orders such test to be made.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.16
Authority: O.C.G.A. Sec. 25-15-85.
History. Original Rule entitled "Load Tests"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.

Rule 120-3-28-.17. Design Criteria.

Structural material and construction of rides shall conform to recognized engineering practices, procedures, standards, and specifications. The design, materials, and construction features shall incorporate safety factors acceptable to the Office. If a designer or manufacturer of equipment wishes to use materials not now covered by these rules or by reference to existing standards, full information concerning these materials or methods shall be submitted to the Office. The design, detail, materials, and construction features shall provide safety factors acceptable to the Office.

(a) Manufacturers' analyses. Before a new carnival ride is put into operation for the public's use, or whenever any additions or alterations are made which change the structure, mechanism, classification, or capacity of any ride or device, the owner shall file with the Office a notice of his intention and shall furnish design data, safety factors, materials utilized, stress analysis is, and other pertinent data deemed necessary by the Office. This

information shall also be furnished by the manager for existing rides if required by the Office. Such stress analysis and other data pertinent to the design, structure, factors of safety, or performance characteristics shall be in accordance with accepted engineering practices acceptable to the Office and written in English. Such data may be requested for, but not limited to, the following materials, parts, or components of rides; structural materials including bars; cables; chains; ropes; rods; tubing; pipes; girders; braces; fittings; fasteners; trusses; pressure vessels; piping; gears; clutches; speed reducers; welds; bearings couplings; carriers such as tubs, cars, chairs, gondolas, or seating and carrying apparatus of any description; axles, hangers, pivots, safety bars, belts, harnesses, chains, gates; or other restraining, containing, or retaining devices. Data shall be furnished at the request of the Office on forces generated by acceleration, or deceleration centrifugal action, inertia kinetic, or other forces either constant, reversible, or eccentric.

(b) Rating. Manufacturers shall identify the capacity of a carnival ride in terms of number of passengers and operating speed. This information shall be included on the identification and rating plates.

(c) Seating and Carrying Devices.

1. Tubs, cars, chairs, seats, gondolas, and other carriers used on rides shall be designed and constructed as strong as practicable. The interior and exterior parts with which passengers may come in contact with shall be smooth, rounded, free from sharp, rough or splintered edges or corners, and with no protruding screws or projections which might cause injury. Parts upon or against which passengers might be thrown by action of the ride shall be adequately padded to prevent or minimize the possibility of injury. The upholstery or decoration shall be permitted.

2. Propellers or other moving parts or decorations attached to tubs, cars, chairs, seats, gondolas, and other carriers shall be securely fastened to such equipment and keyed or otherwise secured so that they cannot come off during operation of the ride. Vanes, canopies, or other attachments which might become disengaged shall be secured with safety straps to prevent their flying away in case of breakage or dislocation.

(d) Speed Limiting. An carnival ride capable of exceeding its maximum safe operating speed shall be provided with a maximum speed-limiting device.

(e) Brakes and Stops.

1. On a ride where coasting renders the operation dangerous, either during the period while the ride is being loaded or unloaded or in case of power failure or other unforeseeable situation, a method of breaking shall be provided.

2. If cars or other components of an amusement ride may collide in such a way as to cause personal injuries upon failure of normal controls, emergency brakes sufficient to prevent such collisions shall be provided.

3. On rides which make use of inclined tracks; automatic anti-rollback devices shall be installed to prevent backward movement of the passenger carrying units in case of failure of the propelling mechanism.

(f) Retaining, Restraining, and Containing Safety Devices.

1. Safety Retainer. Tubs, cars, chairs, seats, gondolas, or other carriers on a ride that depends upon a single means of attachment or support shall be equipped with safety retainers to prevent a carrier from being catapulted from the ride and to prevent any action of the carrier which might throw the occupants from the carrier if it becomes disengaged from its support or attachment.

2. Restraining Safety Devices. Restraining devices used on tubs, cars, chairs, seats, gondolas, or other carriers on a ride, wherein the forces generated by the action of the ride require retention, restraint or actual physical support of the passenger, shall be designed, constructed, and installed to withstand impact and forces of a minimum of 850 pounds per passenger.

3. Containing Safety Devices. On a ride design where, after inspection by the Office, it is deemed necessary to install safety devices to prevent accidental or inadvertent dislodgement of a passenger from any tub, car, chair, seat, gondola, or other carrier, a containing device shall be installed. This device shall be designed to withstand minimum forces of 850 pounds for the exclusive use of children, or the design load, whichever sets the greater minimum force.

4. Recommended passenger restrictions and limitations, where applicable, such as but not limited to, height, weight, age, passenger placement, or other appropriate restrictions shall be provided to the end user by the Manufacturer or seller of the amusement ride or device. In the event the manufacturer is unwilling or unable to provide said restrictions, thereby rendering himself in non-compliance with this law and ASTM Standards, the said restrictions and/or limitation must be established by the owner and/or manager and shall be acceptable to the Office.

(g) Motors, Motor Circuits, and Controllers shall be manufactured and utilized in accordance with Article 430, National Electric Code. Any motor operating with greater than 50 volts shall have its frame grounded with a conductor.

(h) Safety Stop Circuits. Electrical safety stop circuits shall be closed circuits so in case of power failure, the system will cause the ride to which the circuit pertains to fail safe. Circuits shall be all metallic.

(i) Stairways, Landings and Ramps.

1. Adequate stairways or ramps and the necessary landings and platforms shall be provided where people enter or leave a ride that is above or below grade or floor level at entrance to or exit from such ride. The design and construction of stairways,

ramps, and railings shall conform to OSHA Standards for Walking-Working surfaces, except the requirement regarding the placement of stairway railings and guards. All stairs with more than one step shall have standard handrails or railings on both sides regardless of width, and when stairways are 88 inches or greater in width, a railing shall be placed approximately in the center. The construction of the standard railings and handrails shall be in accordance with the OSHA Rules and Regulations.

2. Design of Stairways, Landings and Ramps. Stairways, landings, and ramps shall be designed, constructed, and maintained so as to sustain safely a live load of at least 90 pounds per square foot.

3. Stairways, Ramps, and Platforms. Stairways and ramps shall be at least 21 inches wide. Stair treads shall be at least 9 inches deep exclusive of nosing and the height of rise shall not exceed 8 inches. Between any two levels the treads shall be of uniform depth and the risers of uniform height.

(j) Signal Systems shall be provided and utilized for controlling, starting, and stopping of a ride when the operator of the ride does not have a clear view of the point where passengers are loaded or unloaded. Where the need for coded signals is required, the code of signals adopted for operations of the ride shall be printed and kept posted at both the operator's and signalman's stations. Persons who use the signals shall be instructed in their use and shall be trained to understand thoroughly their operation and meaning. Signal systems shall be tested on each day prior to operation of the ride. A ride requiring a signal system shall not operate if the system is not performing correctly. Signals for the movement of operation of an amusement ride shall not be given until all passengers and other persons who may be endangered are in a position of safety.

(k) General Environment.

1. Hazardous Weather and Riot. During a lightning storm, high wind storm, a period of tornado warning; fire, or when violence, riot, or civil disturbance occurs or threatens in or is a direct threat to a fair or carnival lot, passengers shall be unloaded or evacuated from a ride and the ride shut down and secured immediately. Operations shall not resume until the situation has returned to a normal safe operating condition.

2. Illumination. Access and exit to and from amusement rides shall be provided with illumination by natural or artificial means of no less than 5 foot candles measured at grade level. No less than 10 foot candles of illumination shall be provided at work levels for assembly and disassembly of amusement rides.

3. A separate or emergency source of illumination shall be provided, excluding flashlights, in all portable trailers used as fun houses, dark rides, etc.

(l) Fire Prevention and Protection.

1. Fire Resistance of Fabrics. Fabrics constituting part of an amusement ride shall be fire-resistant to meet the following standards: Two strips or test sections either of the fabric used or other fabric identical therewith shall be tested. Each strip shall not be less than 6 inches wide and 12 inches long. Each strip shall be thoroughly dry and shall then be subjected to an open flame applied to the lower edge while the strip is held vertically for twelve seconds. Neither strip shall flame for more than two seconds after the test flame is removed from contact nor shall the average length of char exceed 2 1/2 inches. Such a test is not required by this section if other evidence of the required degree of fire resistance is accepted by the Office as sufficient.

2. Fire Extinguishers. Approved fire extinguishers shall be provided at or within fifty (50) feet of the operator station to secure reasonable and adequate protection from fire hazards.

3. Flammable Waste. Flammable waste such as oily rags and other flammable materials shall be placed in a covered metal container which shall be kept in easily accessible location.

4. Flammable Liquids and Gases. Gasoline and other volatile liquids and flammable gases when stored shall be kept in reasonably cool and ventilated places. Such liquids shall be in approved safety cans. Smoking and the carrying of lighted cigars, cigarettes, or pipes is prohibited in any area where such liquids or gases are stored or are transferred from one container to another.

(m) Cleanliness. A suitable number of metal containers for refuse shall be provided in and around all amusement rides. Excessive accumulations of trash or rubbish shall be promptly removed. All parts of amusement rides used by passengers or customers shall be maintained in a clean condition.

(n) Equipment. Equipment used in connection with any ride shall be constructed, equipped and maintained to insure safe operation.

(o) Oil and Hydraulic Systems. Oil and hydraulic systems and other related equipment used in connection with amusement rides shall be free of leaks and maintained to insure safe operation at all times. Such systems shall have a dumping or bypass valve that shall be drilled and sealed at 125% of working pressure by the manufacturer and witnessed by a representative of the Office. Such systems shall be inspected at least annually and must be inspected before being put into service. All pressure gauges shall have the maximum safe working pressures conspicuously marked thereon. All systems shall have a manual lowering valve.

(p) Pressure Vessels. Pressure Vessels used in conjunction with rides that meet the following criteria must be constructed in accordance with the ASME Code, repaired in accordance with the National Board Inspection Code, and safety inspected by a state inspector once each year.

(q) Machinery and Machine Guarding.

1. General Requirements are as follows: machinery used in or with an amusement ride shall be enclosed, barricaded, or otherwise effectively guarded against contact. Guards removed for maintenance purposes shall be replaced before normal operation is resumed. One or more methods of machine guarding shall be provided to protect the public from injury. An example of double guarding is public barriers and gear shielding. Guards shall be fixed to the machine where possible and secured elsewhere if for any reason attachment to the machine is not possible. The guard or barrier shall be such that it does not offer an accident hazard in itself. Barriers shall be securely stacked or sandbagged to prevent movement or tip over by the public falling, pressing, or stumbling against them, and be at least 30 inches high. The barriers shall be located to keep the public at least six feet away from all major or spectacular rides, and at least three feet away from all kiddie rides. Ride entrances shall have a passenger waiting line retaining chain, bar gate, or device. All machinery designed for a fixed location shall be securely anchored to prevent walking or moving. All rides containing or having a mounting or mountings that would catch, wind up, or entangle long hair shall have attached warning signs.

2. Mechanical Power Transmission. All power transmission devices and associated moving parts shall be shielded, enclosed, or barricaded to protect the public.

(r) Welding, Cutting, and Brazing. No welding, cutting, or brazing shall be accomplished where the public can directly observe the process or be hit by sparks or flying materials generated by the process. Any welding, cutting, and brazing accomplished when the general public is in attendance, shall be accomplished behind temporary erected solid barriers. The ends of these shall be overlapped to prevent any direct exposure. If the operation cannot be shielded, the manager shall provide a means of keeping the public away from the point of work for a distance of 35 feet for all soldering, brazing, cutting, and gas welding up to 1/2 inch, 50 feet for all gas welding over 1/2 inch, and 150 feet for all welding utilizing electrodes up to 3/16 inch diameter. All larger arc welding operations shall be accomplished behind solid shielding or prior to or after public attendance hours.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.17
Authority: O.C.G.A. Sec. 25-15-83.
History. Original Rule entitled "Design Criteria. Amended"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.

Rule 120-3-28-.18. Operations.

(1) Assembly and Disassembly.

(a) Competent Supervision. The assembly and disassembly of an amusement device or a temporary structure shall be done by or under the immediate supervision of a

person experienced and instructed in the proper performance of such work in respect to the device or structure.

(b) Quality of Assembly Work. Assembly work shall be performed in a proper and workmanlike manner. Parts shall be properly aligned and shall not be bent, distorted, cut or otherwise injured to force a fit. Parts requiring lubrication shall be lubricated in the course of assembly. Fastening and locking devices, such as bolts, cap screws, cotter pins, lock washers, etc., shall be installed where required for dependable operation. Nuts shall be drawn tight, cotter pins shall be spread, and lock nuts firmly set. Welding of parts upon which safe operation depends will be in accordance to AWS Standards welding & brazing procedures done by welders qualified to those procedures, procedures shall be provide by the manufacturer.

(c) Quality and Inspection of Parts. Parts which are excessively worn or which have been materially damaged shall not be used. Close visual inspection of parts shall be made during assembly to discover such wear or damage and immediate inspection of fastening devices shall be made after assembly to discover such wear or damage and immediate inspection of fastening devices shall be made after assembly to assure that they have been properly installed.

(d) Tools and Equipment.

1. Persons engaged in the assembly or disassembly of amusement devices shall be provided with and shall use tools of proper size and design to enable the work to be done safely. Broken, damaged, and unsuitable tools shall not be used. Electrically operated tools shall be grounded during use.

2. Ladders, scaffolds, and safety belts used in assembly or disassembly work shall be of such design, material, and construction as to provide reasonable and adequate protection to the persons using them.

3. Fiber rope used in assembly or disassembly work shall be standard quality manila or equivalent in strength.

4. Tackle blocks shall be of a size to fit the rope. All load-carrying equipment shall be designed and constructed throughout to support the intended load.

(e) Persons in Work Area. A sufficient number of persons to do the work properly shall be engaged for the assembly or disassembly of amusement devices. Persons not so engaged in this work and who may create a hazard shall be prevented from entering the work area.

(2) Location. The general layouts shall be established such that continuous traffic patterns will exist. Box canyons formed by rides and concession booths shall be avoided. The egress of a ride or booth shall not be located immediately in front of hazardous equipment. The layouts shall be such that traffic patterns through the concession areas

shall minimize traffic over any water or electrical lines. The intermingling of water lines and electrical lines shall be avoided. Long guy wires or narrow braces utilized for ride, or booth support shall be clearly marked with streamers or other devices to attract attention.

(a) Temporary Ride. A ride shall be placed on solid footings to be secured to prevent shifting, tipping, swaying, or erratic motion. No cement, brick, or similar type blocks shall be permitted, unless approved by the Office. Provisions pertinent to erratic motion or sway does not apply to a ride designed to permit flotation characteristics or flexibility. Use of shim blocks shall be kept to a minimum. Depression in the ground near the ride footings shall be filled and tamped and adequate means of drainage provided to prevent water from collecting and softening supporting areas in case of rain. The areas surrounding the ride shall be clear and kept free from trash and tripping hazards. A daily inspection of the ride motion and footing shall be made.

(b) Public Protection.

1. An carnival ride shall not be used or operated while any person is so located as to be endangered by it. Areas in which persons may be so endangered should be fenced, barricaded, or otherwise guarded against public intrusion.

2. Temporary booths shall not be located under aerial amusement rides. Temporary booths utilized for cooking food shall be located such that at least 10 feet of clearance exists on two sides for the use of fire equipment or other emergency vehicles, and shall not be located within 10 feet of amusement rides. A minimum clearance of six feet shall exist between an exterior ride and walls, building, and other structures. At least twelve feet of clearance shall be maintained between major and spectacular rides and at least three feet between all kiddie rides.

3. At no time shall a ride be assembled, disassembled, or operated within the minimum clearance of power transmission lines as stated below, except when the transmission lines have been de-energized and disconnected or locked out.

   (i) For lines rated 50KV or below, minimum clearance between the lines and any part of lifting crane, ride structure, or equipment shall be ten feet.

   (ii) For lines rated over 50KV, minimum clearance between the lines and the lifting crane, ride structure, or equipment shall be ten feet plus 0.4 inches for each 1KV over 50KV.

   (iii) During assembly or disassembly a person shall be designated to observe clearance of the equipment and give timely warning for all maneuvers where it is difficult to maintain the desired clearance by visual means.

(3) The manager shall insure that there exists in the immediate vicinity a device or devices (for example; ladder, fire truck, or hydraulic lift) which are available for emergency removal of passengers from elevated amusement rides that will not operate.

(4) Leveling and Alignment. Corner posts, central column or support structures of a ride designed to operate on a perpendicular axis shall be plumb and secured so that the path of the sweeps or platforms shall be level and operate on a true horizontal plane at right angles to the axis of the pivot. A ride whose carriers are designed to operate on a horizontal axis shall be leveled so that the carriers will orbit in a true perpendicular plane. The base of a ride employing a combination of orbiting planes or a ride whose carriers operate normally in a plane other than true horizontal or vertical shall be leveled, plumbed, and secured so that they will not tip or shift and will be stable under the most adverse operating conditions, except for a ride designed to operate properly whether the base is plumb or level or not.

(5) Internal Combustion Power Sources.

(a) Internal combustion power sources shall be of adequate type, design, and capacity to handle the design load.

(b) Fuel tanks should be of adequate capacity to permit uninterrupted operation during normal operating hours and have caps that will not leak fuel if over turned. Where it is impossible to provide tanks of proper capacity for a complete day, the ride shall be shut down and unloaded or evacuated during the refueling procedure. Under no circumstance shall the fuel supply be replenished while the engines are running.

(c) An enclosed area in which an internal combustion engine is operated shall be ventilated. Exhaust fumes from the engine shall be discharged outside the area. The equipment shall be properly grounded.

(d) Internal combustion power sources shall be located in a manner permitting proper maintenance and shall be protected either by guards, fencing, or enclosure to prevent exposure to hazard and to secure the equipment from the public.

(e) A manager shall provide and maintain portable fire extinguishers of the classification, capacity, and number prescribed by the Office.

(f) A manager shall store and handle liquid petroleum gas employed either as fuel for internal combustion engines, for heat, or for illumination in a manner approved by the Office.

(g) A manager shall store and handle flammable liquids in accordance with the standards of the Office. Bulk storage (quantities above 60 gallons) will not be permitted in the area accessible to the public.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.18
Authority: O.C.G.A. Sec. 25-15-83.
History. Original Rule entitled "Operations"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.

Rule 120-3-28-.19. Maintenance.

(1) General. All equipment relative to carnival rides shall be given periodic maintenance service. This shall include proper lubrication and cleaning of machinery, engines, and motors. Worn mechanical parts and machinery shall be periodically inspected for loose fasteners. Lockout devices shall be engaged prior to inspecting or servicing a piece of equipment. Equipment and structure for amusement rides shall be kept free from protruding nails, loose nails, splintered wood, loose and wobbly seats, and rough, loose, or dangerous arm rests.

(2) Wire rope:

(a) shall be thoroughly examined. Wire rope found to be damaged shall be condemned and replaced with new rope of proper design and capacity as per data tag that is attached. Any of the following conditions shall be cause for rope replacement.

1. In running ropes, six randomly distributed broken wires in one rope lay, or three broken wires in one strand in one rope lay. A rope lay is the length along the rope in which one strand makes a complete revolution around the rope.

2. In pendants or standing ropes, (ropes bearing the entire load and subjected to constant pressure and surge shocks) evidence of more than one broken wire in one rope lay.

3. Abrasion, scrubbing, or peeling causing loss of more than 1/3 of the original diameter of the outside wires.

4. Severe corrosion.

5. Severe kinking, severe crushing, or other damage resulting in distortion of the rope structure.

6. Heat damage resulting from a torch or arc caused by contact with electrical wires.

7. Reduction from normal diameter of more than 3/64 inch for diameters up to and including ¾ inch; 1/16 inch for diameters 7/8 inch to 1 1/8 inches; 3/32 inch for diameters 1 1/4 inches to 1 1/2 inches. Marked reduction in diameter indicating deterioration of the core resulting in lack of proper

support for the load carrying strands. Excessive rope stretch or elongation may be an indication of internal deterioration.

8. Bird-caging or other distortion resulting in some members of the rope structure carrying more load than others.

9. Noticeable rusting or developing of broken wires in the vicinity of attachments. If this condition is localized in an operating rope, the section in question can be eliminated by making a new attachment. This may be done rather than replacing the entire rope.

10. All wire rope used to support, suspend, bear, or control forces and weight shall be double clamped.

(b) Wire ropes used to support, suspend, bear, or control forces and weights involved in the movement and utilization of tubs, cars, chairs, seats, gondolas, other carriers, the sweeps, or other supporting members of a ride shall not be lengthened or repaired by splicing.

(c) Couplings, sockets, and fittings shall be a design and type approved by the Office and installed in accordance with the instructions or specifications of the designer, engineer, or manufacturer.

(3) Wood Components. Footings, splices, uprights, track timbers, ledgers, sills, laps, bracing flooring, and all other wood components of rides shall be inspected for deterioration, cracks, or fractures. Emphasis shall be given to insuring tight nails, bolts, lag bolts, and other fasteners. Wood members found to be defective shall be removed and replaced with material of equal or greater strength and capacity.

(4) Housekeeping. An adequate number of containers for refuse shall be provided in and around all amusement rides. Excessive accumulation of trash and refuse shall be promptly removed. All parts of amusement rides used by the public shall be maintained in a clean condition. All walkways between amusement rides shall be kept free from debris, obstructions, or other hazards.

(5) Electric Motors. Electric motors exposed to water shall be given a dialectic test annually to insure a safe operation and the results are to be kept with the carnival.

(6) Wire Rope Rollers, Drums, and Sheaves. The mechanical devices that brake, control, or come in contact with wire rope, such as rollers, drums, and sheaves shall be examined on a periodic basis to insure cleanliness and safe conditions. Mechanical devices with broken chips, undue roughness, or uneven wear shall be replaced immediately.

(7) Articulation and Bearings.

(a) The articulating pinions, frames, sweeps, eccentrics, and other mechanical members shall be inspected for wear, out or around, cracks, and other signs of deteriorations, and shall be kept in good repair.

(b) All main center spindles not visible to the naked eye shall be X-rayed or other approved means, by an accredited testing laboratory and one copy of the results of such tests shall be forwarded to the Office. Test results shall have listed the date of the test, name of the ride owner, and serial number for identification of the ride.

(c) Bear surfaces, ball joints, and other single or multiple direction mechanical surfaces shall be kept well lubricated and clean and inspected for out of round or out of spherical and shall be kept in good repair.

(d) Gear alignment and gear drives shall be kept in good repair.

(8) Electrical Wiring. Motor wiring, general service circuitry, decorative wiring, festoon wiring, and concession stand wiring shall be inspected for insulation wear, fraying, or other signs of deterioration such as cracking. Secure tape repairs may be used; however, use of tape repairs shall be kept to a minimum. Wire clips on articulating devices shall be kept in good repair, and wires at elbows and at the end of articulating devices shall be emphasized during inspection.

(9) Safety Devices. Retaining, restraining and containing devices shall be inspected to insure they can continuously fulfill their function. Worn and damaged areas shall be repaired immediately or shall be cause for immediate replacement.

(10) Hydraulic Systems. The system is to be checked for leaks, damaged pipes, and worn or deteriorated hoses.

(11) All welding will be in accordance to AWS Standards welding & brazing procedures done by welders qualified to those procedures. The procedures shall be provided by the manufacturer.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.19
Authority: O.C.G.A. Sec. 25-15-83.
History. Original Rule entitled "Maintenance. Amended"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.

Rule 120-3-28-.20. Electrical.

Electrical conductors and electrical equipment installed and utilized on or around carnival rides shall conform to the latest adopted edition of National Electrical Code, NFPA 70. The following rules are stated for emphasis and clarification and are supplement to the National Code. If any conflict exists or appears to exist, the National Code shall have precedence.

(a) Installation. Portable electrical systems required by amusement rides shall be installed by a qualified electrician.

(b) Grounding. A carnival shall not operate until all grounding electrodes, equipment, and safety grounding connections are secured, polarized, and tested. The grounding conductors shall conform to the National Electrical Code, as revised. Article 250 Grounding, Paragraph 250-94 Alternating Current Systems and 250-95 Size of Equipment Grounding Conductors. The path to ground from circuits, equipment and conductor enclosures shall (1) be permanent and continuous and (2) shall have ample carrying capacity to conduct currents liable to be imposed on it, and (3) shall have impedance sufficiently low to limit the potential ground and to facilitate the operation of the over-current devices in the circuit.

1. Service Ground. Equipment or generators operating from a separate supply or supplies which are located closer than 8 feet and all service equipment within itself shall be bonded together. The service ground shall be established by connecting the grounding conductor to the service entrance neutral bar in the hot truck or generator and to an approved type service grounding electrode such as ground rods. A sufficient number of ground rods shall be spaced not less than 6 feet apart and at secure depth to obtain and maintain 25 ohms or less resistance to ground. A resistance of 3 ohms or less shall exist when grounding to a water system.

2. Generator Grounding. Where electrical power is supplied for an amusement ride by a privately operated generating system, the generator and all equipment shall be properly grounded if the system incorporated a ground.

3. Circuit and Equipment Safety. From the service entrance neutral bar, the circuit grounded and equipment safety grounding conductors shall be continuous and separate throughout the entire system. The portable outlet and terminal boxes shall contain a service ground through grounded receptacles for both circuit and safety. The equipment safety grounding conductors shall be attached to each ride such that a grounding resistance of 25 ohms or less is obtained. Separate steel tracks or steel framework, such as relief coaster tracks or big slides, shall have grounding the same as the service equipment.

(c) Current Limiting Devices. Conductors shall be fused or protected to their current carrying capacities. No more than 6 disconnect switches are to be in the hot truck or generator unless a main switch is provided. All distribution lines from hot trucks or generators shall be either 100 amp. capacity. No fuses or current limiting devices shall be installed in the neutral or grounding conductors. Motors and lighting circuits shall be fused separately.

(d) High Voltage Lines. The outlets of electric power lines carrying more than 120 volts shall be clearly marked to show their voltages.

(e) Outdoor Apparatus and Wiring. Electrical apparatus and wiring located outdoors shall be of such quality and so constructed or protected that exposure to weather will not interfere with its normal operation.

(f) Elevated Lines. Elevated power lines crossing access or other roads within the grounds of a carnival or fair shall be suspended as to provide minimum vertical clearance of 12 feet from the road surface and minimum horizontal clearance of 3 feet on each side of the normal passage space of vehicles.

(g) Bus Bars. Bus bars shall be located low or near the bottom of the cabinet. Separate bus bars shall be provided for grounding neutral and phase conductors. Color codes painted on inside and outside of box, but not on contact surfaces of bus bars, are to be:

Ground-Green With Yellow Strip 1st Phase-Black

Neutral-White or Natural Gray 2nd Phase-Red

3rd Phase-Blue

On a 4 wire delta connected secondary, the phase conductor having the higher voltage to ground shall be arranged. These color codes are to carry on through all connected wiring from service through portable power outlets and terminal boxes. Buses shall not be less than 200 ampere capacity. The load terminals in a switchboard or panel board shall be located so that it will be unnecessary to reach across or beyond a live bus (hot bus) to make a local connection.

(h) Portable Power Outlet and Terminal Box. Boxes are to be rain tight and kept locked during the time when the general public is in the area. Wood boxes may be used if insulated on all sides with fire resistant material or painted with insulating varnish. The service power shall be connected to the box by receptacles mounted on the exterior wall which includes the safety grounding. The distribution within the box shall be accomplished by neutral terminal bar(s) and circuit breakers or fuses. The branch circuits which include the equipment safety grounding shall obtain their power through receptacles mounted on the exterior of the box. The exterior openings of the receptacles must be at least 6 inches above ground level and provided with a protective cover, draining eave, or canvas that will avoid the possibility of rain on the receptacle. If it is required to run conductors directly through an opening on the wall of the box for additional service or to obtain required amperage, the opening(s) shall be color coded and shall be sized to prevent public accessibility to the interior of the box. The fuses or breakers in the boxes shall be secured permanently in place, and all connections to the bus bars within the boxes shall be made with threaded screws and lugs of the proper size to fasten in place.

(i) Power Sources. Electrical power sources shall be located in a manner permitting proper maintenance and shall be protected either by guards, fencing, or enclosure to prevent exposure to hazard and to secure the equipment from the public.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.20
Authority: O.C.G.A. Sec. 25-15-83.

History. Original Rule entitled "Electrical"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.

Rule 120-3-28-.21. Daily Inspection.

The carnival rides shall be inspected each day they are intended to be used. This inspection shall be made by a person experienced and instructed in the proper assembly and operation of the device and shall be performed before the device is put into normal operation. The inspection and test shall include the operation of control devices, speed limiting devices, brakes, and other equipment provided for safety. A record of each inspection and test shall be made at once upon completion of the test and shall be kept with the device and available to the Office. An operator or manager shall not knowingly use, or permit to be used, a ride which is not properly assembled or which is defective or unsafe in any of its parts, controls, or safety equipment.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.21
Authority: O.C.G.A. Sec. 25-15-89.
History. Original Rule entitled "Daily Inspection"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.

Rule 120-3-28-.22. Special Situations.

(1) This Code is to provide for the safety of life and limb and to promote the public welfare. Where a rule because of practical difficulty cannot be complied with literally or where its literal application would cause undue hardship, the Office may upon written request, grant exceptions, but only when it is clearly evident that reasonable safety is assured.

(2) In the event that an unsafe condition is discovered during the course of a safety inspection on a carnival device and the manufacturer of that device is no longer in business and cannot be contacted for specific repairs, the Office shall determine the necessary requirements needed in order to return the carnival device to safe operating conditions.

(3) Exemptions from Standards and Regulations approved by the Office. The owner/operator of the following equipment shall be exempt from applying for a permit or inspection. The owner/operator shall meet all other requirements of the Safety Act and these Rules.

   (a) Mechanical bulls, climbing walls, human powered equipment or attractions, including but not limited to space balls, orbitrons, air supported structures, paddle boats, water cycles, bicycles.

Cite as Ga. Comp. R. & Regs. R. 120-3-28-.22
Authority: O.C.G.A. Sec. 25-15-91.
History. Original Rule entitled "Special Situations"adopted. F. Jan. 10, 2014; eff. Jan. 30, 2014.