ALABAMA DEPARTMENT OF WORKFORCE
WORKERS' COMPENSATION DIVISION
ADMINISTRATIVE CODE

CHAPTER 480-5-3
GROUP SELF-INSURANCE

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480-5-3-.01 Definitions (Repealed 11/13/97).

(Repealed)
Author: Randy Richie, Workers' Compensation Director
Statutory Authority: Code of Ala. 1975, §25-2-2(6).
History: Effective February 16, 1993. **Repealed:** Filed October 9, 1997; effective November 13, 1997.

480-5-3-.02 Formation Of Funds (Repealed 11/13/97).

(Repealed)
Author: Randy Richie, Workers' Compensation Director.
Statutory Authority: Code of Alabama 1975, §25-2-2(6).
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480-5-3-.03 Operation Of Funds (Repealed 11/13/97).

(Repealed)
Author: Randy Richie, Workers' Compensation Director
Statutory Authority: Code of Ala. 1975, §25-2-2(6).
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480-5-3-.04 Revocation Or Termination Of Self-Insurance Privileges (Repealed 11/13/97).

(Repealed)
Author: Randy Richie, Workers' Compensation Director.
Statutory Authority: Code of Ala. 1975, §25-2-2(6).
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480-5-3-.05 Waivers And Suspensions (Repealed 11/13/97).

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Author: Randy Richie, Workers' Compensation Director.
Statutory Authority: Code of Ala. 1975, §25-2-2(6).
History: Effective February 16, 1993. **Repealed:** Filed October 9, 1997; effective November 13, 1997.

480-5-3-.06 Definitions.

When used in these Rules and Regulations, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates a different meaning:

(a) Actuarial Report - A document or other presentation prepared as a formal means of conveying professional conclusions and recommendations of an Actuary.

(b) Actuary - A participant in good standing of the Casualty Actuarial Society or a participant in good standing of the American Academy of Actuaries which has been approved by its Casualty Practice Council.

(c) Actuarially Determined Rates – For those classifications where the Fund has determined to adjust the most current NCCI loss cost for a classification based on the Fund’s claims experience and allocated administrative expenses for that classification code. The Minimum Credibility Standard for adjusting an NCCI loss Cost is 50%, which requires the approximate expected loss equivalent of 250 lost time claims, within the NCCI classification, in the most current five year period (i.e., an average of 50 lost time claims per year). The adjusted NCCI classification loss cost is the credibility weighted average of the classification loss cost based on the Funds experience and the most current NCCI classification loss cost multiplied by a single LCM. Actuarially Determined Rates shall be consistent with the Casualty Actuarial Society’s

Statement of principles Regarding Property and Casualty Insurance Ratemaking and with Standards of Practice promulgated by the Actuarial Standard Board.

(d) Administrative Code - The Alabama Department of Industrial Relations Administrative Code, promulgated pursuant to Code of Ala. 1975, §41-21-1, which is a collection of the Administrative Rules of the Department.

(e) Administrative Fund - An amount or percentage of the annual contribution plus the investment earnings of a Fund which are not needed to satisfy the Specific or Aggregate Excess Insurance retention and not otherwise required to pay incurred claims.

(f) Administrator - An individual, who is an Alabama resident, engaged by the Fund's Board of Trustees to carry out the policies established by the Board of Trustees and to provide day-to-day management of the Fund.

(g) Aggregate Excess Insurance - Insurance which provides payment on behalf of or reimburses a Fund for its payment of benefits on claims incurred during a policy period in excess of the aggregate retention amount up to the excess insurer's limit of liability.

(h) Annual Contribution - The total annual contribution determined by multiplying the payroll for each applicable workers' compensation job classification by the appropriate annual contribution rate.

(i) Audited Financial Statement - A report summarizing the financial condition of the Fund on any date or for any period in conformity with these Rules and generally accepted accounting practices (GAAP), statutory accounting practices (SAP or STAT) or governmental accounting principles.

(j) Board of Trustees - The Fund's Trustees as a group.

(k) Bylaws - Rules and regulations adopted by a Fund for its internal governance.

(l) Certified Public Accountant (CPA) - An accountant or accounting firm in good standing with the American Institute of CPA's and, in those states where they are licensed to practice, meets the criteria for independence as set forth by the standards of the American Institute of CPA's and the Alabama Board of Public Accountancy.

(m) Claims Fund (Loss Fund) - That percentage or amount of earned and collected contribution allocated to pay the annual claims liability of a Fund.

(n) Common Interest Employers - Employers engaging in the same or similar business or economic activity, or owned or controlled by the same interest and members of the same sponsoring Association.

(o) Contribution - Any consideration paid to a Fund by a Participant for coverage under the Fund.

(p) Department - The Department of Industrial Relations of the State of Alabama.

(q) Director - The Director of the Department of Industrial Relations of the State of Alabama or the Director's official designee.

(r) Discount - The amount by which the approved contribution requirement can be reduced by a Fund, pursuant to the Director's approval.

(s) Dividend - Any monies held by a Fund which are not required for expenses or claims reserves and which the Director has authorized in writing for the Fund to distribute.

(t) Experience Modification (MOD) - A factor applied to the contribution to reflect a variation from the average risk.

(u) Experience Rating Plan - A formula used to predict future loss experience by utilizing past experience.

(v) Fund - A not-for-profit unincorporated trust consisting of two (2) or more Common Interest Employers who enter into an agreement to pool their Workers' Compensation liabilities for the purpose of qualifying as a Self-Insurer under the Law and these Rules and possessing a valid Certificate of Approval from the Director.

(w) Fund Year - The elected period of coverage, up to twelve (12) months in duration, pursuant to which a Fund extends coverage to its Participants .

(x) Group Self Insurance (GSI) Number - The certificate number given to each employer by the Department that is a participant in a group fund.

(y) Insolvent - A condition arising when, pursuant to audited financial statements, claims reserves evaluations and actuarial reports, a Fund is determined by the Director to have insufficient funds to meet its financial obligations while maintaining appropriate reserves for reported claims and incurred but not reported claims.

(z) Joint and Several Liability - The Participants in a Fund binding themselves both jointly and individually so that all

are liable together and each Participant is liable separately for the obligations of the Fund as a whole.

(aa) Law - The Alabama Workers' Compensation Law, as codified and amended.

(bb) Net Contribution - Contribution derived from adjusting the standard contribution by any advance contribution discount.

(cc) Participant - An employer who participates in a Fund.

(dd) Participant Application - A form approved by the Director on which an employer initially applies for participation in a Fund.

(ee) Participation Agreement - A form, approved by the Director, which constitutes a contract between the Participant and the Fund, setting forth the rights, duties and responsibilities of the Fund and the Participant.

(ff) Reserves - Amounts set aside for ultimate financial exposure on a claim.

(gg) Retrospectively Rated Plan - A final contribution calculated on the experience of the Participant during the term of the certificate (including developments after the term of the certificate) and the stipulated formula. The adjustment involves either the payment of a return contribution to the Participant or an additional contribution by the Participant.

(hh) Security Deposit - A certificate of deposit issued by an Alabama bank, corporate or government bond or note, surety bond, or cash given by a Fund to the Director in order to assure the payment of workers' compensation benefits under the Law.

(ii) Service Company - A legal entity which has obtained approval in accordance with these Rules to contract with a Fund for the purpose of providing services necessary to fulfill all or a portion of the Fund's and its Participant's obligations.

(jj) Specific Excess Insurance - Insurance which provides that the excess insurer pays on behalf of or reimburses a Fund for its payment of benefits on each occurrence in excess of the retention up to the amount of the excess insurer's limit of liability.

(kk) Sponsoring Association - A corporation, unincorporated association or other legal entity engaged in substantial non-profit activity for the benefit of its Participants other than the sponsorship of a Fund operated pursuant to these Rules

which is a qualified tax-exempt organization under Section 501(c)(6) or other applicable tax-exemption provision of the Internal Revenue Code and which shall have been in existence in Alabama for at least five years prior to the date of application to form a self-insurers fund.

(ll) Trustee - A person who is a resident of the State of Alabama, selected by a Fund according to its Bylaws or trust agreement to serve on the Board of Trustees that directs the administration of a Fund. Trustees must be, during the term of holding office, a member of the Fund or an employee of a member.

Author: Wilbon S. Spates, Chief, Workers' Compensation Division
Statutory Authority: Code of Ala. 1975, §25-2-2(6).
History: New Rule: Filed October 9, 1997; effective November 13, 1997. **Amended:** Filed July 30, 2012; effective September 3, 2012.

480-5-3-.07 Formation Of Funds.

(1) A proposed Fund shall file with the Director its application for a certificate of approval accompanied by a non-refundable filing fee in the amount of $2,000, which shall be deposited into the Workers' Compensation Administrative Trust Fund, at least 120 days prior to the proposed Fund's requested inception date. The application shall include the proposed Fund's name, location of its principal office, date of organization, name and address of each Participant, and such other information as the Director may require, together with the following:

(a) A comprehensive written document which clearly describes the Sponsoring Association's common interest and demonstrates that the Fund is being managed for the benefit of the Participants;

(b) Proof that the proposed Fund's Sponsoring Association has been in existence in Alabama for at least five (5) years and is qualified under Section 501(c)(6) or other tax-exempt provision of the Internal Revenue Code;

(c) A copy of the Articles of Incorporation and Bylaws of the proposed Sponsoring Association;

(d) A copy of the Bylaws and other governance documents of the proposed Fund;

(e) A list of the names and addresses of the Fund's initial Board of Trustees and the name and address of the Participant with which each is affiliated;

(f) The name, address, and qualifications of the individual Alabama resident designated and appointed as the Fund Administrator;

(g) Any contract or agreement to be entered into by the Fund with the Administrator describing the services to be performed and the compensation to be paid;

(h) A fidelity bond on the Fund Administrator payable to the Board of Trustees in an amount sufficient to protect the Fund's assets against misappropriation or misuse;

(i) A contract with an approved Service Company which specifies the services to be performed and the amount of compensation to be paid or the method by which compensation is to be determined if not expressed in a certain amount;

(j) The name and address of the Alabama resident designated and appointed as the Fund's registered agent for service of process in this state;

(k) The name and address of the Fund's CPA;

(l) The name and address of the Fund's actuary;

(m) The name and address of the attorney representing the Fund;

(n) The address in the State of Alabama where the books and records of the Fund shall be maintained at all times;

(o) A copy of the fully executed Participant Application for each inception Participant of the Fund. Attached to such application shall be a current year audited financial statement for the Participant;

(p) Copies of fully executed Participation Agreements from each proposed Fund Participant. Subject to the Director's approval, a Fund may add additional provisions to the Participation Agreement;

(q) A confirmation of the required Specific Excess Insurance in a form and amount acceptable to the Director;

(r) The written plan adopted by the Fund to govern underwriting matters and loss control;

(s) Security Deposit in a form and amount prescribed by the Director, but not less than $200,000; and, in addition, proof of deposit with the Fund by each initial Participant of funds in an amount equal to at least twenty-five percent (25%) of that Participant's first year's estimated annual Net Contribution at inception. The deposit shall be considered a

part of the first year's contribution payment of each Participant and shall be in an aggregate amount not less than $1,000,000;

(t) A market impact analysis that demonstrates that there is an unserved or underserved segment of the market that the new Fund will target and that the segment is large enough to assure the viability of the new Fund. If the new Fund targets an underserved segment, it shall demonstrate its ability to provide more and/or better quality services to the Participants than are offered by the Fund or Funds currently serving that segment;

(u) A pro forma of each contract and any other form the Fund intends to issue or use;

(v) The workers' compensation contributions paid and incurred loss history for each initial Participant for the latest three (3) complete years preceding the date the Fund is to commence operations;

(w) Substantive five (5) year projection of anticipated losses and annual contributions;

(x) A current audited financial statement in a form approved by the Director showing that the combined net worth of the inception Participants is not less than five million dollars ($5,000,000);

(y) A projection of administrative expenses for the first year's operation as an amount and as a percentage of the total estimated annual contribution;

(z) A rating plan or schedule of job classification rates for the prospective Fund Year that is approved by an actuary; and

(aa) A copy of the written description of the dividend, refund, retrospective or contribution return plan.

(2) Upon receipt of an application, the Director shall give public notice thereof. The Director shall solicit written comments for a period of thirty (30) days. Upon the request of a member of the public the Director shall schedule a public hearing on the application. The Director shall give appropriate consideration to the public comments made both written and oral. Upon finding that the proposed Fund has met all of the requirements of these Rules, the Director may issue a Certificate of Approval setting forth the date the Fund may begin operation in this state, which privilege shall extend until revoked or canceled. Upon finding that the applicant has not satisfactorily met all requirements of these Rules the Director shall issue an order refusing to grant approval and such order shall set forth the reasons for such refusal.
Author: Wilbon S. Spates, Chief, Workers' Compensation Division

Statutory Authority: Code of Ala. 1975, §25-2-2(6).
History: New Rule: Filed October 9, 1997; effective November 13, 1997. **Amended:** Filed July 30, 2012; effective September 3, 2012.

480-5-3-.08 Operation Of Funds.

(1) Administrator - The Trustees of a Fund shall appoint an Administrator. The Administrator shall perform duties as prescribed by the Trustees. The Administrator may be an employee of the Fund or the Sponsoring Association but shall not be an employee of the Fund's Service Company.

(2) Minimum Annual Contribution - No Fund shall operate unless the sum of its Participants' annual contributions is at least one million dollars ($1,000,000.00).

(3) Excess Insurance - All Funds are required to obtain specific excess insurance. Funds may obtain aggregate excess insurance.

(4) Minimum Claims Fund - No less than seventy-five percent (75%) of the earned and collected contributions shall be set aside each Fund year as a Fund's Claims Fund.

(5) Minimum Surety Requirements - A Fund shall post with the Director minimum surety in any form or amount approved by the Director but in no event less than two hundred thousand dollars ($200,000.00). This surety shall stand in the name of the Director who shall be authorized to sell and/or collect in case of default of the Fund such amount thereof as shall yield sufficient funds to pay outstanding liabilities of the Fund.

(6) Joint and Several Liability - All participants shall sign Participation Agreements providing for joint and several liability for claims against the Fund during the coverage periods of their participation.

(7) Financial Reports -

(a) Each Fund shall maintain its financial records on a current basis. A "current basis" is generally considered as the maintenance of financial records in a manner that would allow the Fund to file accurate quarterly and annual reports as herein required and make any disbursements or file any reports as may be required by the state or federal governments.

(b) Every Fund shall have an annual audit performed by an independent certified public accountant. The certified public accountant shall prepare an annual financial statement based on the audit. The financial statement shall be presented using generally accepted accounting principles (GAAP), statutory

accounting principles (SAP) or governmental accounting principles in the case of government funds. The financial statement shall be filed with the Director within six months from the end of the Fund fiscal year unless an extension is granted in writing by the Director.

(c) Each Fund shall file with the Director a quarterly claims status report and a quarterly financial statement prepared according to statutory accounting principles, generally accepted accounting principles or governmental accounting principles in the case of government funds which reflects the financial condition of each open Fund year. The report shall be filed within forty-five (45) days after the close of each quarter and shall be signed by the Administrator. These reports may be completed by the certified public accountant, in-house personnel or the Fund's Service Company. For good cause shown, the Director may grant an extension of time.

(d) Loss reserve discounting - Present value discounting of workers' compensation loss reserves shall be permitted. Loss reserves shall not be discounted in an amount greater than that amount allowed by the Internal Revenue Service.

(e) In addition to the reporting requirements in subsections (b) and (c) of this section, the Fund's certified public accountant shall:

1. Report, in writing, within five (5) business days to the Fund's Administrator and the Director any determination that the Fund has intentionally misstated its financial condition by a material amount.

2. Report, in writing, to the Fund's Administrator and the Director any facts which have come to his knowledge after the filing of the annual financial statement which might have affected the statement.

3. Furnish the Fund's Board of Trustees a written report describing significant deficiencies in the Fund's internal control structure. The Board of Trustees shall submit a copy of the report and their response to the Director.

(f) Each Fund shall make a copy of its most recent annual financial statement available to all Participants upon request. This requirement may be satisfied by making available to all Participants an extract of the statement in a form approved by the Director.

(8) Actuarial Report - Each Fund shall have an evaluation performed annually by an Actuary. The actuary shall issue an opinion of this evaluation in compliance with actuarial standards, and in accordance with item 7(b) of this rule.

(9) Bylaws and Trust Agreement - Each Fund shall have a set of Bylaws or shall enter into a trust agreement which shall govern the operation of the Fund. The Bylaws or trust agreement shall contain but not be limited to the following: qualifications for Fund membership; underwriting considerations; the qualifications, method of selection, term of office and quorum for the Board of Trustees; method of amending the Bylaws or trust agreement; the amount of the Board of Trustees' remuneration which is in excess of actual expenses incurred; provisions acknowledging the joint and several liability of each Fund Participant, and the policy regarding dividends. Any and all subsequent changes in a Fund's Sponsoring Association shall be pre-approved by the Department.

(10) Contract with Approved Service Company - All funds are required to enter into a written contract with an approved Service Company. The contract is to provide that the Service Company is responsible for administering all claims incurred during the period of the contract until their final conclusion according to law.

(11) Investments - The trustees may invest funds not currently required for Fund obligations in the following:

(a) Securities such as Bills, Notes or Bonds which are issued or guaranteed by the United States Government, its agencies or instrumentalities.

(b) Savings accounts and certificates of deposits in commercial banks duly chartered within the State of Alabama and a member of the Federal Deposit Insurance Corporation.

(c) Share accounts or savings certificates in a savings & loan association duly chartered within the State of Alabama and a member of the Federal Savings and Loan Insurance Corporation Savings Associations Insurance Fund.

(d) Corporate bonds rated Baa or better by Moody's Investors Service or BBB by Standard and Poors

(e) Prime (A-1 or P-1) commercial paper rated A-2 or better by Standard and Poors, or P-2 or better by Moody's Investors Service.

(f) Repurchase agreements - A repurchase agreement is a fully secured investment in that it is an actual purchase of securities with agreement to sell back to the original holder of securities at a later date.

(g) Money market securities or mutual funds investing in such securities as described in this section.

(h) Up to fifteen percent (15%) of the total portfolio value may be invested in common stocks having a market

capitalization of at least $100 million and listed on a national Exchange or NASDAQ.

(i) Tax-free insured municipal bonds.

(j) Such other investments as the Director may authorize in advance in writing.

(12) Investment Advisors - All Funds are authorized but not required to utilize the services of a registered investment advisor.

(13) Rates and Rating Plans

(a) Promulgation of Contribution Rates - The Trustees of a Fund shall establish annually contribution rates to be assessed against each Participant based upon employee classifications. The rates must be submitted to the Department on or before October first (1st) of each year. The rates shall be determined by one of the following methods and approved by the Director:

1. The most current Workers' compensation "NCCI assigned risk" rates approved by the Alabama Department of Insurance less any surcharge.

2. The most current NCCI classification loss cost rates approved by the Alabama Department of Insurance multiplied by a single Loss Cost Multiplier.

3. Actuarially determined rates based on claims history by classification for a particular Fund.

(b) Rates based on "Deductible" plans may be offered Participants if approved by the Director and, if required, by the Fund's excess insurance or reinsurance carrier.

(c) A retrospectively rated plan may be offered Participants if approved by the Director.

(d) All Funds shall use the most current uniform experience modification formula accepted by the Alabama Department of Insurance.

(e) Any discounts from these rates shall be approved by the Director.

(14) Names, Addresses and GSI Numbers of Fund Participants - All Funds shall maintain an accurate list of the names, addresses and GSI Numbers of Participants by Fund year. The list shall be provided to the Director within thirty (30) days after the beginning of each Fund year.

(15) Participant Application - All Funds shall provide to the Director a copy of the Participant Application of a new Participant within thirty (30) days after acceptance for participation in the Fund. Any application received by the Department after the thirty days, must be accompanied by an explanation.

(16) Participation Agreement - All Funds shall provide to the Director a copy of the Participation Agreement of a new Participant within thirty (30) days after acceptance for participation in the Fund.

(17) Eligibility of Participants - A Fund Participant shall not be eligible to participate in another fund until the Department has been notified of (a) the termination of participation in the original fund; and (b) that there is no outstanding balance of contributions owed to the original fund.

(18) Change of Participant Legal Status - All Funds shall require any Participant which changes its legal status (i.e. sole proprietor to corporation) to complete a new Participation Application and execute a new Participation Agreement.

(19) Non-renewed or Terminated Participants - All Funds shall provide the Director a list indicating the names, addresses and GSI Numbers of non-renewed Participants within thirty (30) days after the beginning of a Fund year. All Funds shall provide the Director the names and addresses of any terminated Fund Participant and the reasons for the termination within thirty (30) days after termination.

(20) Participants with Common Ownership - Participants having a common ownership but which operate under different trade names must maintain separate participation and be assigned individual participant identification, provided, however, a corporation with divisions operating under different trade names may, if requested by the Fund, be assigned one individual participant identification.

(21) Forms Prescribed by Department - All applications, participation agreements, notices, and lists required under these rules and regulations to be provided the Department shall be in the form prescribed by the Department.

(22) Confidentiality of Records - All approved Funds' financial and administrative records on file with the Department are proprietary material and therefore private and confidential and not open to public inspection.

(23) Distribution of Excess Funds and Investment Earnings

(a) Any Funds in excess of the amount necessary to fulfill all obligations under the law remaining in a claims Fund may be

distributed to Fund Participants at the discretion of the Trustees. Such distribution must be authorized in advance by the Director.

(b) Investment earnings or any other funds not set aside as a part of the Claims Fund may be distributed to members at the discretion of the Trustees. Such distribution must be authorized in advance by the Director.

Author: Wilbon S. Spates, Chief, Workers' Compensation Division
Statutory Authority: Code of Ala. 1975, §25-2-2(6).
History: **New Rule:** Filed October 9, 1997; effective November 13, 1997. **Amended:** Filed July 30, 2012; effective September 3, 2012.

480-5-3-.09 Departmental Intervention.

The Director may involve the trustees in a Fund's day to day management if he/she determines that a Fund is in violation of the Law, these Rules, or is potentially impaired and that the Administrator is unwilling or unable to correct the deficiencies. This rule contemplates the need for the Department to have guidelines under which it may intervene in the management of a Fund in order to ensure its viability or, in the event this is not achievable, provide for its orderly dissolution. Four levels of intervention are described, each with a triggering mechanism and a resolution process. Circumstances, in the discretion of the Director, may require acceleration of the process. Specifically, the Director may choose to initiate intervention at Phase II.

(a) Phase I - (Probation). If the Director determines that any violation of these Rules, the Law, or perceived financial impairment cannot be remedied in a timely manner through normal discourse with the Administrator, the Director will call for a meeting with the Fund’s Trustees to informally discuss his concerns. All parties will seek to reach consensus on the extent of any violations or financial impairments and on remedial actions to be taken.

(b) Phase II - (Remediation). If the Director determines that implementation of Phase I has not satisfied his concerns, or that violations or impairments are so acute as to warrant immediate documentation he may require the Trustees to submit a written remediation plan. The written plan will be negotiated between the Director and the Trustees and will include specific objectives with verifiable and measurable outcomes. The implementation timeline for meeting the objectives of the written plan will be mutually agreed upon and in the event of no agreement the Director will establish time deadlines.

(c) Phase III - (Supervision). If written objectives are not achieved in a timely manner, the Director will appoint an

employee of the Department to make and/or approve all management and financial decisions of the Fund. The Director's appointee will make all reasonable efforts to resolve all violations and impairments. The principle goal will be ensuring the Fund's existence as a going concern and returning the managerial decision making function to the Trustees. The Director will notify each Fund Participant that the Fund providing its workers' compensation coverage is under Departmental supervision. The notice will contain a brief description of problems leading to this action and an outline of the Department's plans to rehabilitate the Fund. A copy of this notice must be provided to all the individuals or companies that market to prospective Fund Participants. This list of marketing persons will be supplied to the Department by the Fund at such time the Fund is placed in supervision. The Director will determine within one year whether the Fund's rehabilitation is successful. The Director may limit a Fund from writing any new business for a period of time until the supervision is successfully completed. Any Fund which cannot be successfully rehabilitated within one year will be dissolved unless a plan of merger is approved by the Director.

(d) Phase IV - (Revocation). If the Director determines that violation or impairments have not been remedied by operation of this Rule, or that the Fund is insolvent, he may revoke the Fund's self-insurance privilege. The Director shall give written notice of such revocation to the Fund and its Service Company. The Fund shall have thirty (30) days from the mailing of the notice to request a hearing on the revocation. Failure to request a hearing within the prescribed time shall result in the revocation becoming effective sixty (60) days from the mailing of the original notice. In no event shall a revocation become effective prior to the date that a hearing (if a hearing is requested) is scheduled. Such notice shall be served personally or by certified or registered mail to the Fund Administrator and to the Fund Trustees. In the event of the insolvency of a Fund, the Director will declare the Fund insolvent and invoke joint and several liability and assess Fund Participants by Fund year such amounts as are necessary to satisfy the liabilities of the Fund. After all the liabilities are satisfied, the Director will order the Trustees to return any unencumbered funds to each Participant in the same proportion as each has been assessed.

(e) An administrative action taken by the Department for violation of the Law or these Rules may be appealed by the aggrieved party to the Circuit Court of Montgomery County, Alabama, within thirty (30) days of the effective date of the administrative action.

Author: Wilbon S. Spates, Chief, Workers' Compensation Division
Statutory Authority: Code of Ala. 1975, §25-2-2(6).
History: New Rule: Filed October 9, 1997; effective November 13, 1997.

480-5-3-.10 Powers And Authority Of The Director.

(1) Examination - The Director may examine and investigate the affairs of any Fund to determine whether the Fund is operating in accordance with these Rules and the Law. The Director may order an independent fiscal and actuarial examination. The Director may hire an independent actuary or CPA at the Funds expense pursuant to the State of Alabama Code Section 41-16-72(4) to examine the affairs of any Fund, to include confirming that the rates submitted are adequate and that claims are properly reserved.

(2) Forms. The Director shall prescribe forms and instructions required by these Rules. Forms may not be modified without prior written approval of the Director.

(3) Limited Waiver Authority - The Director may not waive any of the requirements of Rule 480-5-3-.07 relative to the formation of Funds. The Director may for good cause shown waive the requirements of any other of these Rules.

(4) Merging of Fund - If an existing Fund desires to merge with another Fund, an insurance carrier or similar entity the Director may require financial, actuarial, or other information deemed appropriate to ensure that sufficient capital and/or surplus exist for the payment of incurred or unreported workers' compensation claims and that the member equity is protected. All Fund mergers must be approved in advance by the Director.
Author: Wilbon S. Spates, Chief, Workers' Compensation Division
Statutory Authority: Code of Ala. 1975, §25-2-2(6).
History: New Rule: Filed October 9, 1997; effective November 13, 1997. **Amended:** Filed July 30, 2012; effective September 3, 2012.