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Governor

BOYD K. RUTHERFORD  
Lt. Governor



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LISA M. LARSON  
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March 29, 2016

Administrative, Executive and Legislative Review (AELR) Committee  
90 State Circle  
Annapolis, MD 21401

Governor's Office  
Attn: Jeannie Haddaway-Riccio, Deputy Chief of Staff  
State House  
Annapolis, MD 21401

Division of State Documents  
State House  
Annapolis, MD 21401

State Publications Depository and Distribution Program  
Attn: Brigid Sye-Jones  
Enoch Pratt Free Library  
400 Cathedral St.  
Baltimore, MD 21201

Department of Legislative Services Library  
90 State Circle  
Annapolis, MD 21401

RE: Regulatory Review and Evaluation Act Evaluation Report-COMAR 31.08

Dear Sir or Madam:

I am filing the required number of copies of the attached Evaluation Report on behalf of the Maryland Insurance Administration as follows:

- AELR Committee-one copy
- Governor's Office (Jeannie Haddaway-Riccio) -one copy
- Division of State Documents-one copy

- State Library Resource Center via State Publications Depository and Distribution Program (Brigid Sye-Jones)-sixteen copies
- Department of Legislative Services Library-five copies

If you have any questions, or require additional information, please contact me at the above-referenced telephone number and email address.

Sincerely,

signature on original

Lisa Larson,  
Assistant Director of Regulatory Affairs, Office of the Commissioner

**Regulatory Review and Evaluation Act  
Evaluation Report Form  
2012 – 2020**

Chapter Codification:

Chapter Name:

Authority:

Date Originally Adopted or Last Amended:

Purpose:

**A. Review Criteria.** (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest?  Yes  No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion?  Yes  No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal?  Yes  No
- (4) Are the regulations effective in accomplishing their intended purpose?  Yes  No

**B. Outreach and Research.** (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration’s (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State’s Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the Maryland Register;
  - (b) any notice published in newspapers of general circulation;
  - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
  - (d) any mailing by the adopting authority; and
  - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
  - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A.

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act?  Yes  No

Has the agency promulgated all regulations required by recent legislation?  Yes  No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to antiarson applications being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to antiarson applications requiring promulgation of regulations or amendments to COMAR 31.08.01.

**D. Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)  
(check all that apply)

no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. No substantive amendments are recommended at this time. The MIA will propose technical amendments to Regulations .02 and .03 to update the outdated reference to “broker or agent” to the updated term “producer.”

Person performing review:

Lisa Larson, Esq.

Title:

Assistant Director of  
Regulatory Affairs

**Regulatory Review and Evaluation Act  
Evaluation Report Form  
2012 – 2020**

Chapter Codification:

Chapter Name:

Authority:

Date Originally Adopted or Last Amended:

Purpose:

**A. Review Criteria.** (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest?  Yes  No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion?  Yes  No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal?  Yes  No
- (4) Are the regulations effective in accomplishing their intended purpose?  Yes  No

**B. Outreach and Research.** (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration's (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
  - (b) any notice published in newspapers of general circulation;
  - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
  - (d) any mailing by the adopting authority; and
  - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
  - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A.

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act?  Yes  No

Has the agency promulgated all regulations required by recent legislation?  Yes  No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to the establishment of a toll-free telephone number to assist and educate consumers concerning the purchase of private passenger automobile insurance which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to the establishment of a toll-free telephone number to assist and educate consumers concerning the purchase of private passenger automobile insurance requiring promulgation of regulations or amendments to COMAR 31.08.02.

**D. Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)  
(check all that apply)

no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions.

The MIA will propose technical amendments to this Chapter as follows:

- Remove §2-112, Insurance Article, Annotated Code of Maryland, from the enabling authority, as §2-112 is not necessary authority for promulgation of this Chapter;
- Amend Regulations .02B and C to replace the term “agents” with “insurance producers,” which includes both agents and brokers and is the term used in §2-209, Insurance Article, Annotated Code of Maryland; and
- Amend Regulation .02C to replace the term “companies” with “insurers,” which is broader and mirrors the statutory language in §2-209, Insurance Article, Annotated Code of Maryland.

Person performing review:

Lisa Larson, Esq.

Title:

Assistant Director of  
Regulatory Affairs



**Regulatory Review and Evaluation Act  
Evaluation Report Form  
2012 -- 2020**

Chapter Codification: COMAR 31.08.03

Chapter Name: Notices of Cancellation, Nonrenewal, Premium Increase, and Reduction in Coverage

Authority: Insurance Article, §§2-109, 27-613, and 27-614, Annotated Code of Maryland

Date Originally Adopted or Last Amended: October 8, 2015

Purpose: The purpose of this chapter is to ensure that all insurers issuing private passenger motor vehicle liability insurance policies in Maryland include in their notices of cancellation, nonrenewal, premium increase, or reduction in coverage, a statement concerning the insured's right to protest the proposed action of the insurer within 30 days after the date of mailing of the notice in accordance with Insurance Article, §§27-613 and 27-614, Annotated Code of Maryland, which is incorporated by reference.

**A. Review Criteria.** (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest?  Yes  No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion?  Yes  No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal?  Yes  No
- (4) Are the regulations effective in accomplishing their intended purpose?  Yes  No

**B. Outreach and Research.** (State Government Article, §10-135(a)(2)(i)-(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration's (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the Maryland Register;
  - (b) any notice published in newspapers of general circulation;
  - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
  - (d) any mailing by the adopting authority; and
  - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
  - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A.

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act?  Yes  No

Has the agency promulgated all regulations required by recent legislation?  Yes  No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to notices of cancellation, nonrenewal, premium increase, and reduction in coverage being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to notices of cancellation, nonrenewal, premium increase, and reduction in coverage requiring promulgation of regulations or amendments to COMAR 31.08.03.

**D. Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)  
(check all that apply)

no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. No substantive amendments are recommended at this time. The MIA will propose a technical amendment to add Insurance Article, §27-609, Annotated Code of Maryland, to the enabling authority for this Chapter, as this statute is the basis for certain information contained in the forms in Regulations .07 and .08.

Person performing review:

Lisa Larson, Esq.

Title:

Assistance Director of  
Regulatory Affairs

**Regulatory Review and Evaluation Act**  
**Evaluation Report Form**  
**2012 – 2020**

Chapter Codification:

Chapter Name:

Authority:

Date Originally Adopted or Last Amended:

Purpose:

**A. Review Criteria.** (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest?  Yes  No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion?  Yes  No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal?  Yes  No
- (4) Are the regulations effective in accomplishing their intended purpose?  Yes  No

**B. Outreach and Research.** (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the Maryland Register;
  - (b) any notice published in newspapers of general circulation;
  - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
  - (d) any mailing by the adopting authority; and
  - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
  - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A.

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act?  Yes  No

Has the agency promulgated all regulations required by recent legislation?  Yes  No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to out-of-State motor vehicle insurance coverage being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to out-of-State motor vehicle insurance coverage requiring promulgation of regulations or amendments to COMAR 31.08.04.

**D. Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)  
(check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. No amendments are recommended at this time.

Person performing review: Lisa Larson, Esq.

Title: Assistant Director of  
Regulatory Affairs

**Regulatory Review and Evaluation Act  
Evaluation Report Form  
2012 – 2020**

Chapter Codification:

Chapter Name:

Authority:

Date Originally Adopted or Last Amended:

Purpose:

**A. Review Criteria.** (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest?  Yes  No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion?  Yes  No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal?  Yes  No
- (4) Are the regulations effective in accomplishing their intended purpose?  Yes  No

**B. Outreach and Research.** (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the Maryland Register;
  - (b) any notice published in newspapers of general circulation;
  - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
  - (d) any mailing by the adopting authority; and
  - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
  - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A.

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act?  Yes  No

Has the agency promulgated all regulations required by recent legislation?  Yes  No



Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to the kinds of risks and coverages which may be classified as marine, inland marine, or transportation insurance being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to the kinds of risks and coverages which may be classified as marine, inland marine or transportation insurance requiring promulgation of regulations or amendments to COMAR 31.08.06.

**D. Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)  
(check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. No amendments are recommended at this time.

Person performing review:

Lisa Larson, Esq.

Title:

Assistant Director of  
Regulatory Affairs

**Regulatory Review and Evaluation Act  
Evaluation Report Form  
2012 – 2020**

Chapter Codification:

Chapter Name:

Authority:

Date Originally Adopted or Last Amended:

Purpose:

**A. Review Criteria.** (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest?  Yes  No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion?  Yes  No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal?  Yes  No
- (4) Are the regulations effective in accomplishing their intended purpose?  Yes  No

**B. Outreach and Research.** (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration's (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
  - (b) any notice published in newspapers of general circulation;
  - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
  - (d) any mailing by the adopting authority; and
  - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
  - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A.

- (8) Provide a summary of any other relevant information gathered.

The Maryland Insurance Administration notes that in 2011 the Maryland Court of Appeals held that certain provisions in the Reduction of Lead Risk in Housing Act, which grant owners of affected properties who make a qualified offer immunity from civil suit, are unconstitutional. *See Jackson v. Dackman*, 422 Md. 357 (2011). This chapter contains certain language reflecting the requirements of the Reduction of Lead Risk in Housing Act. Counsel to the MIA has reviewed these regulations and has determined that no amendment to this Chapter is needed at this time, as the regulations are not inconsistent with case law.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act?  Yes  No

Has the agency promulgated all regulations required by recent legislation?  Yes  No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to lead hazards being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to lead hazards requiring promulgation of regulations or amendments to COMAR 31.08.08.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)  
(check all that apply)

no action

X amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority. No substantive amendments are recommended at this time. The MIA will propose a technical amendment to the cross reference in Regulation .07A to “Regulation .04B of this chapter.” This cross-reference is inaccurate and should read “Regulation .06B of this chapter.”

Person performing review:

Lisa Larson, Esq.

Title:

Assistant Director of  
Regulatory Affairs

**Regulatory Review and Evaluation Act  
Evaluation Report Form  
2012 – 2020**

Chapter Codification:

Chapter Name:

Authority:

Date Originally Adopted or Last Amended:

Purpose:

**A. Review Criteria.** (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest?  Yes  No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion?  Yes  No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal?  Yes  No
- (4) Are the regulations effective in accomplishing their intended purpose?  Yes  No

**B. Outreach and Research.** (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration's (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. One set of comments were received from Alan N. Gamse, an Attorney at Semmes, Bowen & Semmes, on behalf of the MACS Workers' Compensation Self-Insurance Group.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
  - (b) any notice published in newspapers of general circulation;
  - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
  - (d) any mailing by the adopting authority; and
  - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. Aside from the stakeholder comment noted in section B(1) above, no comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
  - (b) the adopting authority's responses to those comments.

The MACS Workers' Compensation Self-Insurance Group ("the Group") had comments on two different portions of this chapter. These comments are summarized below.

**COMMENT:** Regarding COMAR 31.08.09.07, the Group suggested that rather than maintain a COMAR Regulation concerning insurance required attachment points which have been unavailable for many years and the associated opt-out approval, it might be more appropriate to require Workers' Compensation self-insurance groups to submit to the MIA a copy of the group's excess insurance policy (or its declarations page) for the current policy year at the time of submitting annual financial statements in March of each year. This would allow the MIA's financial examiners to review the group's financials and the reinsurance attachment point in light of these financials. If there were to be a problem with the attachment point, the MIA could then call in the group to discuss its financial status and the other options that might be available with respect to securing its obligations.

**RESPONSE:** The MIA agrees with the Group regarding the specific attachment points in COMAR 31.08.09.07, and will propose a substantive change to this regulation to eliminate the specified retention point. The MIA will also propose amendments to provide that the Commissioner will determine, based on specified factors, the retention amount needed for each group.

**COMMENT:** Regarding 31.08.09.08D(2), the Group suggests that COMAR 31.08.09.08D(2) be amended to better conform to the Insurance Article, 25-304(b), Annotated Code of Maryland by removing the requirement that minimum required assets be demonstrated by "a financial statement certified by a certified public accountant and submitted for the group as a whole." The Group notes that based upon its discussions with CPAs, literal performance of this obligation would require the CPA to perform an actual examination of each of the group members so that the ultimate certification of the financial statements could be made on the group as a whole. This would be a terribly expensive obligation costing many thousands of dollars annually. Further it does not seem to reflect the actual regulatory practices of the MIA of the subject provision as presently implemented. The Group notes that it has no problem providing the annual financial statements of its members at the time it files its own financial statements with the MIA, and suggests the following language replace the current section D(2) to cure the above issue: "...the combined net assets of all members be at least \$1,000,000 as shown by the financial statements of each of the members of the Group which are to be submitted to the Commissioner at the same time as the Group's annual financial statement is filed."

**RESPONSE:** The MIA agrees with the Group and will propose substantive amendments to COMAR 31.08.09.08D to allow the \$1,000,000 threshold to be met by one or more of the members of the group individually to represent the group as a whole, as demonstrated by members' financial statements.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

The MIA reviewed parallel regulations on this topic in Pennsylvania, New York, New Jersey, and Delaware to gain insight on the regulatory practices of neighboring states in this arena.

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act?  Yes  No

Has the agency promulgated all regulations required by recent legislation?  Yes  No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to group self-insurance for workers' compensation groups being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to group self-insurance for workers' compensation groups requiring promulgation of regulations or amendments to COMAR 31.08.09.

**D. Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)  
(check all that apply)

no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions.

Based upon stakeholder comments received, the MIA will propose the following substantive amendments to this Chapter:

- Amend COMAR 31.08.09.07A to eliminate the specified retention point triggering the requirement for certain excess insurance coverage for a group, and will propose amendments to this Regulation to provide that the Commissioner will determine, based on specified factors, the retention amount needed for each group.
- Amend COMAR 31.08.09.08D to allow the \$1,000,000 threshold to be met by one or more of the members of the group individually to represent the group as a whole, as demonstrated by members' financial statements.
- The MIA is evaluating whether Regulations .08 and .10 should be amended to replace the concept of a "certificate of authority" with "group approval." Unlike insurance companies, workers compensation self-insurance groups receive letters of approval to operate in Maryland, not formal licenses.

The MIA will propose the following technical amendment to this chapter:

- Insurance Article, §27-501, Annotated Code of Maryland, will be added to the list of enabling authority, as Regulation .15 of this Chapter is based upon this statute.

Person performing review: Lisa Larson, Esq.

Title: Assistant Director of  
Regulatory Affairs



**Regulatory Review and Evaluation Act  
Evaluation Report Form  
2012 – 2020**

Chapter Codification:

Chapter Name:

Authority:

Date Originally Adopted or Last Amended:

Purpose:

**A. Review Criteria.** (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest?  Yes  No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion?  Yes  No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal?  Yes  No
- (4) Are the regulations effective in accomplishing their intended purpose?  Yes  No

**B. Outreach and Research.** (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
  - (b) any notice published in newspapers of general circulation;
  - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
  - (d) any mailing by the adopting authority; and
  - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. Aside from the stakeholder comments noted in section B(1) above, no comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
  - (b) the adopting authority's responses to those comments.

**COMMENT:** Fortress Insurance commented that it currently files its quarterly closed claim survey in accordance with COMAR 31.08.10.03 via an excel spreadsheet. Fortress would welcome the state's establishment of an online reporting system with a standardized reporting method.

**RESPONSE:** The current closed claim survey template utilized by the MIA is a mirror image of the closed claim report that the MIA utilized in the 1990s. It was reestablished in the early 2000s. The current template is distributed via email to medical malpractice insurers by MIA staff for completion. Based upon this comment, the MIA will investigate its ability to make this survey available on its website. If the MIA decides to make the template available on the website, it doesn't appear that any type of regulatory change will be needed, as Regulation .03C provides for the MIA's use of any "online survey tool" in collecting the survey.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A.

(8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act?  Yes  No

Has the agency promulgated all regulations required by recent legislation?  Yes  No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to the medical professional insurers online claim survey reporting requirements being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Recent statutory amendments to §4-405 of the Insurance Article require two wording changes in this Chapter, as outlined in the summary in Section D of this report, below.

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

no action

X amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions.

The MIA will propose the following amendments to this Chapter:

- Replace the word “confidential” with “proprietary” in COMAR 31.08.10.02B(1) consistent with statutory language in Insurance Article, §4-405(a)(2)(i), Annotated Code of Maryland, part of the enabling authority for this chapter.
- Replace the phrase “confidential information” with “confidential commercial information or confidential financial information” in COMAR 31.08.10.02B(2) consistent with statutory language in Insurance Article, §4-405(a)(2)(ii), Annotated Code of Maryland, part of the enabling authority for this chapter. As written, this subsection is broader than the amended statute.

Person performing review:

Lisa Larson, Esq.

Title:

Assistant Director of  
Regulatory Affairs

**Regulatory Review and Evaluation Act  
Evaluation Report Form  
2012 – 2020**

Chapter Codification: COMAR 31.08.11

Chapter Name: Liability of Insurer — Failure to Act in Good Faith

Authority: Insurance Article, §§2-109(a)(1) and 27-1001; Courts and Judicial Proceedings Article, §3-1701; Annotated Code of Maryland

Date Originally Adopted or Last Amended: October 11, 2013\*

*\*Although this chapter was amended within the last 8 years, the MIA did not feel that exemption from Regulatory Review was warranted, as the amendments were non-substantive and did not entail a thorough review of this chapter. Thus, we did not seek a certificate of exemption for review of this chapter.*

Purpose: This chapter is considered necessary to carry out Insurance Article, Title 27, Subtitle 10, Annotated Code of Maryland. It establishes the procedures for filing and processing civil complaints against property and casualty insurers that are required to be filed with the Administration pursuant to Insurance Article, §27-1001, Annotated Code of Maryland, and requires property and casualty insurers that are the subject of a civil action described in Courts and Judicial Proceedings Article, §3-1701(d), Annotated Code of Maryland, to report to the Administration certain information that the Administration is required to submit to the General Assembly pursuant to Insurance Article, §27-1001(h), Annotated Code of Maryland.

**A. Review Criteria.** (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest?  Yes  No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion?  Yes  No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal?  Yes  No
- (4) Are the regulations effective in accomplishing their intended purpose?  Yes  No

**B. Outreach and Research.** (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration’s (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
  - (b) any notice published in newspapers of general circulation;
  - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
  - (d) any mailing by the adopting authority; and
  - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
  - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A.

- (8) Provide a summary of any other relevant information gathered.

Currently, House Bill 990 Civil Actions -- Liability of Disability Insurer- Failure to Act in Good Faith is pending in the legislature. This bill would add disability insurance to the types of insurance for which an insured may pursue a "lack of good faith" claim. If passed, this bill would require both technical and substantive changes to be made to this regulation. Since this bill is currently pending, the MIA will not recommend any changes to this regulation at this time.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act?  Yes  No

Has the agency promulgated all regulations required by recent legislation?  Yes  No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to the liability of the insurer for failure to act in good faith being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to the liability of the insurer for failure to act in good faith requiring promulgation of regulations or amendments to COMAR 31.08.11.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)  
(check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. No amendments are recommended at this time. The MIA will continue to monitor legislation currently pending in the General Assembly which affects these regulations.

Person performing review:

Lisa Larson, Esq.

Title:

Assistant Director of  
Regulatory Affairs

**Regulatory Review and Evaluation Act  
Evaluation Report Form  
2012 – 2020**

Chapter Codification:

Chapter Name:

Authority:

Date Originally Adopted or Last Amended:

*\*Although it appears that this chapter would have been eligible for exemption from Regulatory Review, as it was initially adopted in 2010 (within 8 years of the date that our work plan was submitted), we failed to do so. Thus, the MIA is providing a full evaluation report for this chapter.*

Purpose:

**A. Review Criteria.** (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest?  Yes  No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion?  Yes  No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal?  Yes  No
- (4) Are the regulations effective in accomplishing their intended purpose?  Yes  No

**B. Outreach and Research.** (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.



- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
  - (b) any notice published in newspapers of general circulation;
  - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
  - (d) any mailing by the adopting authority; and
  - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. Aside from the stakeholder comment noted in section B(1) above, no comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
  - (b) the adopting authority's responses to those comments.

**COMMENT:** The AIA commented that Maryland has the most onerous regulatory scheme of any state regarding the filing, activation, and deactivation of temporary underwriting moratoriums for weather events and emergencies. It further stated that the requirements regarding the notice of activation are confusing because they require an insurer to provide advanced notice of the time a temporary underwriting moratorium will be active even though the moratorium cannot be activated until a triggering event takes place. Finally it stated that section 31.08.12.03C(1) puts restrictions on the types of weather events that trigger a temporary underwriting moratorium and that these restrictions are too limited. The AIA recommends that the limitation to hurricane and tropical storms should be amended to recognize other legitimate weather events for activating a temporary underwriting moratorium.

**RESPONSE:** The MIA notes that this issue was also raised by stakeholders during the MIA's June 2015 public meetings with industry. The MIA is currently reviewing its procedures for the operation of temporary moratoriums, and is considering the changes recommended by AIA and other stakeholders. The MIA expects to make a decision in 2016 as to whether or not protocol (including these regulations) needs to be modified.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A.

(8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act?  Yes  No

Has the agency promulgated all regulations required by recent legislation?  Yes  No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to temporary moratoriums and weather events being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to temporary moratoriums and weather events promulgation of regulations or amendments to COMAR 31.08.12.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

- X no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. No amendments are recommended at this time.

Person performing review: Lisa Larson, Esq.

Title: Assistant Director of Regulatory Affairs