

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Labor, Licensing, and Regulation
(DLS Control No. 14-261)**

Overview and Legal and Fiscal Impact

These regulations alter various requirements relating to surveys and other documents that professional land surveyors prepare, and authorize licensees to use digital signatures on surveying documents.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Labor, Licensing, and Regulation:

Board for Professional Land Surveyors: Minimum Standards of Practice:
COMAR 09.13.06.02-.10 and .12

Legal Analysis

Background

The Department of Labor, Licensing, and Regulation advises that the State Board for Professional Land Surveyors requested changes to numerous requirements for boundary surveys and other documents to clarify the minimum standards of practice for licensees. The changes include authorizing licensees to sign specified documents with a digital signature. Several other boards have recently changed their regulations to allow licensees to sign documents in this fashion.

Summary of Regulations

The regulations alter various requirements relating to boundary surveys, field run topographic surveys, field run planimetric surveys, location drawings, as-constructed or record surveys, metes and bounds descriptions, right-of-way or easement surveys, special purpose surveys, and general business practices.

Regulation .02 repeals definitions for “positional tolerance” and “positional uncertainty” and instead establishes a definition for “relative positional precision.”

Regulation .03 (1) repeals a requirement that a surveyor make a reasonable effort to maintain specified records if the party requesting the survey does not request a plat; (2) requires specified easements to be labeled in a specified manner; (3) repeals specified accuracy standards

and establishes relative positional precision requirements for boundary surveys; and (4) requires a surveyor to add a note explaining site conditions if the survey measurements exceed the allowable relative positional precision amount.

Regulation .04 (1) specifies that a plat may not be smaller than 8 1/2 by 11 inches, rather than 8 1/3 by 11 inches; (2) increases to two the allowable minimum number of benchmarks that a surveyor must establish on or near the site and indicate on the plat; (3) requires the surveyor who prepared or approved a typographic survey to include a seal and signature; and (4) repeals a requirement that a surveyor make a reasonable effort to maintain specified records.

Regulation .05 requires the surveyor who prepared or approved a planimetric survey to include a seal and signature, and repeals a requirement that a surveyor make a reasonable effort to maintain specified records. Regulation .06 requires the surveyor who prepared or approved a location drawing to include a seal and signature, and repeals a requirement that a surveyor make a reasonable effort to maintain specified records. Regulation .07 repeals a requirement that a surveyor make a reasonable effort to maintain specified records. Regulation .08 repeals a requirement that a surveyor make a reasonable effort to maintain specified records, and requires the surveyor who prepared or approved a metes and bounds description to include a seal and signature. Regulation .10 repeals a requirement that a surveyor make a reasonable effort to maintain specified records.

Finally, Regulation .12 authorizes a surveyor to sign documents by handwritten signature in permanent ink or by an electronic authentication process and requires a digital signature (1) to contain identification unique to the licensee; (2) be under exclusive control of the licensee; (3) be independently verifiable; and (4) be attached to an electronic document in such a manner that any modifications to the data are invalidated.

Legal Issue

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites § 15-208(b)(4) of the Business Occupations and Professions Article as authority for the regulations. Specifically, § 15-208(b)(4) requires the board to formalize minimum standards of practice for licensees by regulation. More generally, although not cited, § 15-208(a)(2) further authorizes the board to adopt any regulation necessary to carry out Title 15.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

The department agreed to revise the Statement of Proposed Action to more closely reflect the text of the regulations and further agreed to make the following technical corrections:

- in subsection .02B(11), the definition will be changed from “Relative Positional Precision” to “Relative positional precision” for consistency with other definitions. This requires

conforming changes to be made throughout the chapter. Also, the reference to “pr0perty” will be corrected to “property”;

- in subsections .03F(3) and .04D(3), the text for new (a) through (d) will be shown and semi-colons will be inserted for new (a) through (f);
- in subsection .05D(3), the reference to “D.(3).” will be corrected to take out the unnecessary period. Also, the text “In addition to the criteria set forth in (2) above,” will be italicized, and D(3)(vi) will be renumbered to be D(3)(f);
- in paragraph .06D(3)(e), the regulation will use a semi-colon instead of a comma to connect (e) to (f);
- in section .08B, the extraneous period after “Result.” will be deleted; and
- in Regulation .12, the text in new (d) will be italicized.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulations have minimal or no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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