

TITLE 85: DEPARTMENT OF LANDS AND NATURAL RESOURCES

SUBCHAPTER 85-40.1

LAND COMMISSION REGULATIONS

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Subchapter Authority: 1 CMC § 2681; 2 CMC §§ 4211-4252.

Subchapter History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

Commission Comment: PL 1-8, tit. 1, ch. 13 (effective Aug. 10, 1978), formerly codified at 1 CMC §§ 2651, et seq., originally created a Department of Natural Resources within the Commonwealth government.

PL 3-79 (effective Oct. 1, 1983), the “Land Commission Act of 1983,” codified as amended at 2 CMC §§ 4211-4252, established a Land Commission as an independent agency of the Commonwealth government. See 2 CMC § 4212. PL 3-79 authorized the Land Commission, among other things, to survey and register all land within the Commonwealth and to issue and record certificates of title. 2 CMC §§ 4213 and 4222.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 104 and 306:

Section 104. Department of Lands and Natural Resources.

The Department of Natural Resources is re-designated the Department of Lands and Natural Resources.

...

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...

(b) Land Commission. The Land Commission is abolished and its functions transferred to a Division of Land Registration in the Department of Lands and Natural Resources, which shall have at its head the Senior Land Commissioner who is re-designated as the Director of Land Registration and who shall report to and serve under the direction of the Secretary of Lands and Natural Resources. The Deputy Land Commissioners are re-designated as Deputy Directors of Land Registration.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

In 1997, the Legislature passed the “Public Lands and Natural Resources Administration Act of 1997,” PL 10-57 (effective Apr. 18, 1997), codified as amended at 1 CMC §§ 2651-2691. PL 10-57 repealed and reenacted chapter 13, division 2 of title 1 of the Commonwealth Code, 1 CMC §§ 2651, et seq., and statutorily established the Department of Lands and Natural Resources (DLNR) with the structure, duties and responsibilities set forth in the act. See 1 CMC § 2651 and the commission comment thereto. 1 CMC § 2654 authorizes the Department of Lands and Natural Resources to adopt rules and regulations in furtherance of its duties and responsibilities.

PL 10-57 § 4 vacated Executive Order 94-3 § 306. PL 10-57 § 3 created a Division of Land Registration within DLNR as the successor to the Land Commission and assigned the Division all powers and duties of the Land Commission. See 1 CMC § 2681.

The Land Commission was a separate entity pursuant to the law set forth above until 1994. However, in 1980, the Department of Natural Resources published a notice to inform the public that the Land Commission was administratively within the Department of Natural Resources. See 2 Com. Reg. 847 (July 9, 1980). The Division of Lands and Surveys and the Division of Land Registration were administratively consolidated by memorandum of the Secretary of the Department of Lands and Natural Resources dated June 23, 1995.

The Land Commission promulgated the regulations codified in this subchapter in 1991, prior to the issuance of Executive Order 94-3 and PL 10-57. It is unclear whether the regulations have any remaining practical effect. They have not, however, been specifically revoked or superseded.

Part 001 - General Provisions

§ 85-40.1-001 Purpose and Authority

The regulations in this subchapter are intended to define the manner in which the Land Commission (hereafter the “Commission”) functions, under the powers set forth in PL 3-79, codified at 2 CMC § 4211 through 2 CMC § 4252, as amended.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

Commission Comment: With respect to the reference to the Land Commission in this section, see PL 10-57 vacating Executive Order 94-3 § 306 and creating a Division of Land Registration within DLNR as the successor to the Land Commission. See also 1 CMC § 2681 and the general commission comment to this subchapter.

§ 85-40.1-005 Establishment

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The Commission was established as an “independent agency” of the CNMI government pursuant to PL 3-79, § 2 [2 CMC § 4212].

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

Commission Comment: With respect to the reference to the Land Commission in this section, see PL 10-57 vacating Executive Order 94-3 § 306 and creating a Division of Land Registration within DLNR as the successor to the Land Commission. See also 1 CMC § 2681 and the general commission comment to this subchapter.

§ 85-40.1-010 Commission Functions

The Commission’s statutory functions under the direction of the Senior Land Commissioner are to register all land in the CNMI and related matters, including the statutory priority of surveying those lands to which the Trust Territory government issued title determinations without surveys.

Modified, 1 CMC § 3806(f).

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

Commission Comment: With respect to the reference to the Land Commission in this section, see PL 10-57 vacating Executive Order 94-3 § 306 and creating a Division of Land Registration within DLNR as the successor to the Land Commission. See also 1 CMC § 2681 and the general commission comment to this subchapter.

§ 85-40.1-015 Senior Land Commissioner

The Governor appoints the Senior Land Commissioner, (hereafter “Commissioner”) with the advice and consent of the Senate, to serve at the pleasure of the Governor for a term of six years or until the Commission completes its work. Any vacancy caused by death, resignation, removal or otherwise shall be filled in the same manner abovementioned.

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

Part 100 - Duties and Requirements

§ 85-40.1-101 Duties and Responsibility of Commissioner

The Commissioner has the following responsibilities:

- (a) To make land surveys and plats in the CNMI in connection with the determination of land title;
- (b) To hold hearings on disputed land claims;
- (c) To issue certificates of title;
- (d) To record certificates of title of land with the Recorder.

- (e) To record all documents previously registered with the Recorder.
- (f) To issue and adopt rules and regulations implementing PL 3-79, with the assistance and approval of the Office of the Attorney General;
- (g) To supervise the operations, and personnel, of the Commission;
- (h) To perform all acts necessary and appropriate to carry out the purposes of PL 3-79 and the regulations in this subchapter.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

§ 85-40.1-105 Commission Staff

- (a) The Commissioner may appoint two Deputy Land Commissioners, and may delegate any duties and responsibilities to them.
- (b) Subject to budgetary appropriations, to staff the Commission with necessary and qualified personnel.
- (c) The staff of the Commission shall be subject to all applicable civil service and personnel rules of the CNMI, except where specifically exempted by law.

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

§ 85-40.1-110 Surveys

The Commissioner, or his designee, shall request the Division of Lands and Surveys to make available such surveying and other staff assistance as is necessary for the Commission to carry out its functions.

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

Commission Comment: The Division of Lands and Surveys is now the Division of Land Registration and Survey and incorporates the Land Commission. See the general comment to this subchapter and to NMIAC, title 85, subchapter 40.2.

§ 85-40.1-115 Land Registration Team; Appointment and Quorum

The Commissioner shall appoint land registration teams (hereafter “teams”) as needed (subject to budget) and shall designate the geographic area or areas for which each team shall be responsible for registration. Members of the teams shall be hired on an as needed basis and not as classified civil service employees, unless the members were civil service employees prior to the effective date of PL 3-79, in which case such employees shall remain in the civil service system until they retire or voluntarily choose exempt status.

The Commissioner may appoint any number of members for each team up to a maximum of four members, but the presence of three members shall constitute a quorum for the purpose of transacting business.

Modified, 1 CMC § 3806(f).

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

Commission Comment: The Commission corrected the placement of the quotation marks around the word “teams” pursuant to 1 CMC § 3806(g).

§ 85-40.1-120 Teams; No Conflict of Interest

After a claim has been recorded in the Commission by a team, no team member (hereafter “member”), who has any interest in the land claim or who is an immediate family member of anyone having such an interest, shall take any part in leaving or considering that claim. If there is doubt as to whether a member is disqualified from taking part as to the claim, the Commissioner shall have final authority to decide whether the member may participate.

Modified, 1 CMC § 3806(f).

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

§ 85-40.1-125 Registration Areas

The Commissioner shall designate in writing, registration areas (hereafter “areas”) which, to the extent practicable, shall be registered expeditiously. When work in an area has been completed, except for disputed cases, or when work in any area cannot be completed in one year, and, in the Commissioner’s opinion the public interest would be served by moving to a new area or areas, the Commissioner may designate a new area or areas, until all of the CNMI in which the Commissioner believes it desirable to have, lands registered have been so designated.

Modified, 1 CMC § 3806(g).

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

Commission Comment: The Commission changed “once” to “one” to correct a manifest error.

§ 85-40.1-130 Area; Recording

A copy of the Commissioner’s designation of any registration shall be recorded with the Recorder within 30 days following designation.

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

§ 85-40.1-135 Area; Survey and Boundaries

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(a) Within 30 days following the Commissioner's written designation of a registration area, the Commissioner shall request the Division of Lands and Surveys to survey the exterior bounds of the area and to make such surveys of plots or claims and place such markers within the area as the Commissioner requests.

(b) After a determination is made by the Commissioner, the boundaries of the land covered by the determination shall be shown by either permanent markers set by the Division of Lands and Surveys at the Commissioner's request, or by easily recognizable natural features.

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

Commission Comment: The Division of Lands and Surveys is now the Division of Land Registration and Survey, and incorporates the Land Commission. See the general comment to this subchapter and to NMIAC, title 85, subchapter 40.2.

§ 85-40.1-140 Team Duties

Teams shall:

(a) Institute preliminary inquiries regarding the title to all lands within the designated area for which the team is responsible, by personally speaking to all occupants and recorded owners with the Commonwealth Recorder (hereafter Recorder), if any, of such land to ascertain all claims thereto. The team shall make a written statement for each plot of land indicating the person(s) spoken to, the date(s) thereof, the contents of such talks and all other efforts made to ascertain all claims to each plot.

(b) Record within the Commission well-founded claims for hearing.

(c) Upon completion of recording (within the Commission) land claims for a designated registration area, proceed, after given notice of hearing, § 85-40.1-155 hereof, to hear the parties and witnesses and adjudicate such claims subject to the exceptions provided by law (2 CMC §§ 4211, et seq.).

(d) Upon a decision being reached on any claim, record within the Commission the place name, if any, of the land, otherwise a brief description thereof, with the names of the rightful owners thereof and the type of ownership involved, and record the name of any person or group who holds either any subordinate rights (such as rights of administration or use or an encumbrance or easement upon such land).

(e) Where the parties to any claim indicate their agreement to a settlement or compromise of a claim to land, in the presence of the team, the particulars required by subsection (d), above, shall be recorded within the Commission and have the same force and effect as a decision. The terms of such settlement shall be reduced to writing and signed by all parties and a representative of the team.

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(f) Upon completion of the actions set forth above, the Team shall submit its record concerning each claim to the Senior Land Commission for review. In all cases where a dispute has arisen, tape recordings or summaries of all pertinent testimony taken shall be made and shall be included in the team's records.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

§ 85-40.1-145 Settlement of Disputed Claims

(a) Each team shall endeavor to adjudicate the claims to as much land within the area for which it is responsible as is practicable within a year after that area has been designated. It shall endeavor to avoid becoming involved in such lengthy consideration of disputed claims as will seriously interfere with such adjudication.

(b) If the team deems that consideration of a disputed claim will seriously interfere with accomplishment of the purpose of the regulations in this subchapter, it may refer the claim to the Commissioner without the team making any decision thereon.

(c) If the Commissioner deems that one of the teams is spending an undesirable amount of time on a particular disputed claim, the Commissioner may withdraw that claim from consideration by the team.

(d) In either of the situations set forth in subsections (b) and (c), above, the team shall submit to the Commissioner its record concerning the claim including the tape recordings or summaries of all pertinent testimony, if any, taken by the team. The Commissioner may then:

- (1) Proceed personally to hear the parties and witnesses and make a determination on the claim based on both the testimony, if any, taken by the team and that taken by the Commissioner or the Deputy Land Commissioner; or
- (2) Refer the claim to the Commonwealth Superior Court for adjudication without any determination by the Commission.

(e) If a claim has been referred by the Commissioner to the Commonwealth Trial Court without any determination by the Commission, the Commonwealth Superior Court may, upon the petition of one or more claimants, entertain a quiet title or other appropriate action and enter its decision. After the time for appeal from the court's decision has expired without any notice of appeal having been filed or after an appeal duly taken has been determined, the court shall certify its decision, and cause its decision to be recorded with the Commonwealth Recorder.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

Commission Comment: The "Commonwealth Judicial Reorganization Act," PL 6-25 (effective May 2, 1989), renamed the Commonwealth Trial Court and directed that references to the Commonwealth Trial

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Court in the Commonwealth Code be interpreted to refer to the new Commonwealth Superior Court. See 1 CMC § 3201 and the commission comment thereto.

§ 85-40.1-150 Review of Record of Adjudication by Commissioner

Upon receipt of an adjudication from a land registration team and the record on which it is based, the Commissioner shall review the record and:

- (a) If satisfied therewith, make a determination of ownership based thereon; or
- (b) Hold further hearings personally with the assistance of counsel from the office of the Attorney General and then make a determination of ownership based on the record and the further information obtained by the Commissioner.

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

§ 85-40.1-155 Notice of Hearing

(a) Before commencement of a hearing with respect to any claim, notice containing a description of the claim and the date, time, and place of hearing shall be given at least 30 days in advance of the hearing as follows:

- (1) By posting such notice on the land involved; and
- (2) By serving such notice upon all parties shown by the preliminary inquiry to be interested either:
 - (i) By service in the same manner as a civil summons, or
 - (ii) By registered mail, postage prepaid, to the party's last known address.

(b)(1) Such notice of hearing and notice of determinations of ownership shall be served by any policeman without charge. During the period between the giving of notice of hearing and the hearing, any person or group claiming an interest in the land adverse to the claim as stated in the notice may file their claim with the Commissioner.

(2) Notice of such adverse claims may also be given orally at the hearing, and a record thereof shall be made.

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

Commission Comment: The original paragraphs of subsection (b) were not designated. The Commission designated subsections (b)(1) and (b)(2).

§ 85-40.1-160 Authority to Administer Oaths, Take Testimony, Etc.

The Commissioner and each of the teams shall have the authority to administer oaths to witnesses, take testimony under oath, and tape record testimony, subpoena witnesses, order the production of papers and documents, and punish for contempt committed in its presence. Punishment for contempt shall be limited to a fine of not more than \$50, or imprisonment for a period of not more than 30 days, or both.

Modified, 1 CMC § 3806(f).

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History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

§ 85-40.1-165 Conduct of Hearings

In conducting hearings, the Commissioner and each team shall be guided by the regulations in this subchapter (and the Rules of Civil Procedure, in the absence of a pertinent statute or regulation). The Commissioner and each team may consider any evidence that will be helpful in reaching a just decision. Neither the Commissioner nor a team, however, shall endeavor to redetermine any matter already decided between the same parties or those under whom the present parties claim by a court judgment or by a land title officer's determination of ownership. The Commissioner and teams shall accept prior determinations as binding on the parties without further evidence than the judgment or determination of ownership. All hearings shall be public and every person claiming an interest in land under consideration shall be given an opportunity, by notice pursuant to § 85-40.1-155, above, to be heard. Hearings shall be held in the senatorial district in which the land involved lies. All parties, including any representative (appointed under § 85-40.1-170 hereof or by a court or other proper authority) of a minor or incompetent, may be represented and assisted by counsel.

Modified, 1 CMC § 3806(c), (d), (f), (g).

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

Commission Comment: The Commission corrected the spelling of "all."

§ 85-40.1-170 Hearings Involving Minors or Incompetents

If the Commissioner or a team finds that any party in interest is a minor or incompetent, the Commissioner or team, as the case may be, shall appoint one person to act as guardian and represent such minor or incompetent, unless that party in interest is already represented by a person appointed by a court or other proper authority. A guardian appointed by the Commissioner or team shall have full authority and power to act for the minor or incompetent in all matters in connection with his or her interest in land; provided, that a guardian may not encumber or in any way alienate any land under his or her guardianship except by an order of the court.

Modified, 1 CMC § 3806(f).

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

§ 85-40.1-175 Notice of Determination of Ownership

Notice of all determinations of ownership by the Commissioner shall be given promptly in the same manner as prescribed in § 85-40.1-155 above for notices of hearings.

Modified, 1 CMC § 3806(c).

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

§ 85-40.1-180 Review of Determination of Ownership

Any person who has actual or constructive notice of the determination of ownership and who claims an interest in the property which is the subject of the determination of ownership and who disagrees with the determination of ownership may file for a review of the determination of ownership by filing a complaint in the Commonwealth Superior Court within 120 days from the date of the determination. The complaint shall be in the nature of a quiet title suit and shall set forth the description of the property, the determination of ownership, the portion or parts to be reviewed, and the basis of the plaintiff's claim. The complaint shall name as defendants all those persons known to the plaintiff who claim an interest in the land. A determination of ownership shall be upheld if it is supported by substantial evidence found in the record taken as a whole including the record before the Commission and such additional evidence as shall be admitted before the Commonwealth Superior Court. The procedures of the Commonwealth Superior Court for processing and disposing of civil litigation shall apply along with rights of appeal from the Commonwealth Trial Court's decision. Any person exercising the right to appeal under this section shall within 120 days of filing the complaint serve upon the land registration team attorney a written request for the transcript of the hearing along with the reasonable costs of transcribing the record.

Modified, 1 CMC § 3806(f).

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

Commission Comment: The "Commonwealth Judicial Reorganization Act," PL 6-25 (effective May 2, 1989), renamed the Commonwealth Trial Court and directed that references to the Commonwealth Trial Court in the Commonwealth Code be interpreted to refer to the new Commonwealth Superior Court. See 1 CMC § 3201 and the commission comment thereto.

§ 85-40.1-185 Certificate of Title; Issuance

(a) After the time for appeal from a determination of ownership by the Commissioner has expired without any complaint for review having been filed, the Commissioner shall issue a certificate of title setting forth the names of all persons or groups of persons holding interest in the land pursuant to the determination and shall cause the certificate of title to be recorded with the Commonwealth Recorder. The certificate of title shall be conclusive upon all persons who have had notice of the proceedings and all those claiming under them and shall be prima facie evidence of ownership as therein stated against the world; provided, that such ownership shall be subject to the following which should, but need not, be stated in the certificate;

- (1) Any rights of way there may be over the land in question;
- (2) Any lease or use right for a term not exceeding one year.

(b) Any easements or other rights appurtenant to the land in question which are over unregistered land shall remain so appurtenant even if not mentioned in the certificate, and shall pass with the land until cut off or extinguished in some lawful manner independent of the determination covered by the certificate.

(c) In case of an appeal from a determination of ownership to the Commonwealth Superior Court, the court shall certify its decision, and shall cause the same to be recorded with the Commonwealth Recorder. In such case the judgment shall be binding and conclusive in the same manner as any other judgment affecting land in the Commonwealth, and shall also be conclusive upon all parties to the Land Commission proceedings who had notice of the appeal.

Modified, 1 CMC § 3806(f).

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

§ 85-40.1-190 Certificate of Title; Registration

The original certificate of title shall be bound in a permanent register. This register shall remain in the custody of and under the supervision of the Commissioner. All original maps, plats and subdivision maps registered with the Commission shall be the property of the Commonwealth and shall remain the custody of the Commissioner. A copy of the original certificate of title, and any maps shall be promptly provided to and recorded by the Commonwealth Recorder. A duplicate shall be issued, marked “owner’s duplicate certificate,” and delivered to the owner or his authorized representative.

Modified, 1 CMC § 3806(f).

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

Commission Comment: With respect to the reference to the Land Commission in this section, see PL 10-57 vacating Executive Order 94-3 § 306 and creating a Division of Land Registration within DLNR as the successor to the Land Commission. See also 1 CMC § 2681 and the general commission comment to this subchapter.

§ 85-40.1-195 Files

The Commission is the repository of all original documents of title and original survey maps. No private person or entity may remove any original document from Commission files. Reasonable fees for copying such documents may be assessed, as established by the Commissioner.

History: Adopted 13 Com. Reg. 8537 (Dec. 15, 1991); Proposed 13 Com. Reg. 8080 (Oct. 15, 1991).

Commission Comment: With respect to the reference to the Land Commission in this section, see PL 10-57 vacating Executive Order 94-3 § 306 and creating a Division of Land Registration within DLNR as the successor to the Land Commission. See also 1 CMC § 2681 and the general commission comment to this subchapter.