

BEFORE THE BOARD OF REAL ESTATE APPRAISERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.207.501 examination,)
24.207.504 qualifying education)
requirements, 24.207.517 trainee)
requirements, 24.207.518 mentor)
requirements, 24.207.2102 continuing)
education noncompliance and the)
adoption of NEW RULE I complaints)
involving appraisal management)
companies)

NOTICE OF AMENDMENT AND
ADOPTION

TO: All Concerned Persons

1. On August 9, 2012, the Board of Real Estate Appraisers (board) published MAR notice no. 24-207-35 regarding the public hearing on the proposed amendment and adoption of the above-stated rules, at page 1591 of the 2012 Montana Administrative Register, issue no. 15.

2. On August 31, 2012, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. Several comments were received by the September 10, 2012, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments received and the board's responses are as follows:

New Rule I General Comment

COMMENT 1: One commenter suggested the board postpone adopting New Rule I until the board holds additional discussions.

RESPONSE 1: The board is proceeding to adopt the new rule at this time, but will be considering rules regarding complaints against appraisal management companies (AMC) in the next six months. The board will seek additional input from the public when those rules are proposed.

New Rule I (1)

COMMENT 2: A commenter requested more clarity on how confidentiality will be maintained when the board shares information with other regulators or individuals as proposed in (1).

RESPONSE 2: The board will ensure that it complies with public record laws, including those found in Title 2, chapter 1 of the Montana Code Annotated and in the

Montana Constitution, when sharing information with individuals and other regulators. The board may provide further guidance in the future if necessary.

COMMENT 3: One commenter asked whether complaints against appraisers who work for an AMC would be shared with other regulators, as well as complaints filed solely against an AMC.

RESPONSE 3: The board will consider complaints against appraisers and AMCs independently and will then determine if records can be released based on the individual facts and circumstances of each case.

COMMENT 4: A commenter stated that the new rule fails to address whether an AMC must receive notice when a complaint it has responded to is shared with another regulatory agency.

RESPONSE 4: Generally, the board informs all parties to a complaint of the board's decision on a matter. However, because such decisions are made on a case-by-case basis, the board prefers not to adopt a categorical rule to apply in all instances.

New Rule I (2)

COMMENT 5: One commenter asked the board to amend (2) and give AMCs a reasonable time longer than 30 days to notify the board regarding an appraiser's possible USPAP violation.

RESPONSE 5: The board agrees that the 30-day reporting period may be insufficient in many cases. Therefore, the board is amending (2) to allow AMCs up to 90 days from the discovery of a potential violation to report it to the board.

COMMENT 6: A commenter asked the board to clarify that the ASC is required to report only material USPAP violations pursuant to the definition of "material" in the Interim Final Rule of the Board of Governors of the Federal Reserve System (Interim Final Rule).

RESPONSE 6: The board acknowledges that the Interim Final Rule only requires that AMCs report apparent violations that "significantly affect[s] the value." The board also notes that, under the Appraisal Subcommittee's Policy Statement 10E, it cannot consider absence of harm when determining whether to pursue a complaint.

The board is not amending the new rule as suggested at this time, but will continue to monitor the development of new regulations and guidance at the federal level. When conducting compliance reviews of AMCs, the board will be mindful that not all appraisal errors are material violations of the USPAP.

4. The board has amended ARM 24.207.501, 24.207.504, 24.207.517, 24.207.518, and 24.207.2102 exactly as proposed.

5. The board has adopted NEW RULE I (24.207.1508) with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I COMPLAINTS INVOLVING APPRAISAL MANAGEMENT COMPANIES (1) remains as proposed.

(2) An appraisal management company shall report a potential Uniform Standards of Professional Appraisal Practice (USPAP) violation to the board within ~~30~~ 90 days of discovering the potential violation.

BOARD OF REAL ESTATE APPRAISERS
TOM STEVENS, CERTIFIED
GENERAL, CHAIRPERSON

/s/ DARCEE L. MOE
Darcee L. Moe
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State December 10, 2012