

👉 **07hr_CRule_07-098_SC-LEUA_pt01**



Details:

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Labor, Elections and Urban Affairs (SC-LEUA)

COMMITTEE NOTICES ...

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INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
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(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Senate

Record of Committee Proceedings

Committee on Labor, Elections and Urban Affairs

Clearinghouse Rule 07-098

Relating to the uniform standards of professional appraisal practice (USPAP) for real estate appraisers.

Submitted by Department of Regulation and Licensing.

February 05, 2008 Referred to Committee on Labor, Elections and Urban Affairs.

March 5, 2008 No action taken.



Adam Plotkin
Committee Clerk



Packet

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 07-098)

TO: Senator Fred Risser
President of the Senate
Room 220 South, State Capitol
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the DEPARTMENT OF REGULATION AND LICENSING is submitting in final draft form rules relating to the uniform standards of professional appraisal practice (USPAP) for real estate appraisers.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.

Thank you.

**STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING**

**IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 07-098
DEPARTMENT OF REGULATION : (s. 227.19 (3), Stats.)
AND LICENSING :**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required by these rules.

III. FISCAL ESTIMATES:

The department estimates that this proposed rule will have no significant fiscal impact. The department finds that this rule has no significant fiscal effect on the private sector.

IV. STATEMENT EXPLAINING NEED:

In this proposed rule-making order the Department of Regulation and Licensing proposes to renumber and amend ch. RL 87, Appendix I, which incorporates by reference the 2006 edition of the Uniform Standards of Professional Appraisal Practice (USPAP). Currently, the 2006 edition of USPAP states that the effective date of the publication is from July 1, 2006 to December 31, 2007. The department proposes to amend the rule to state that the effective date of the publication is from January 1, 2008 to December 31, 2009. The department also proposes to incorporate by reference the 2008 edition of USPAP.

As required under s. 227.21, Stats., the department has obtained the consent of the attorney general to the incorporation of the 2008 edition of USPAP into the rules by reference.

V. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

In this proposed rule-making order, the Department of Regulation and Licensing proposes to renumber and amend ch. RL 87, Appendix I, which incorporates by reference the 2006 edition of the Uniform Standards of Professional Appraisal Practice (USPAP). The department proposes to incorporate by reference the 2008 edition of USPAP.

In Wisconsin, USPAP is incorporated by reference in Appendix I, ch. RL 87. As required under s. 458.24, Stats., the department periodically reviews USPAP and updates Appendix I to reflect revisions made to USPAP by the Appraisal Standards Board (ASB) of the Appraisal Foundation.

In addition, under the federal law, all states must assure that certified appraisers comply with USPAP. The ASB updates USPAP on a regular basis. This proposed rule-making order incorporates by reference the changes made by the ASB to the 2006 edition of USPAP that are contained in the 2008 edition of USPAP.

The Federal Institutions Reform, Recovery, and Enforcement Act (“FIRREA”), 12 U.S.C. 3331 et. seq., (Title XI) was enacted in 1989. Under FIRREA, insured financial institutions and insured credit unions are required to obtain the services of a state certified or licensed appraiser for appraisals conducted in connection with “federally related transactions.”

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council is authorized under FIRREA to monitor the requirements established by the states for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, *21 USC 3333; Appraisal Subcommittee – Policy Statements Regarding State Certification and Licensing of Appraisers.*

Under FIRREA, real estate appraisals performed in connection with federally related transactions are required to be performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board (ASB) of the Appraisal Foundation. *21 USC 3339; Appraisal Subcommittee – Policy Statements Regarding State Certification and Licensing of Appraisers, Statement 3.*

The appraisal standards promulgated by the ASB are contained in the Uniform Standards of Professional Appraisal Practice (USPAP). USPAP is available on the Appraisal Foundation’s website at: <http://www.appraisalfoundation.org>.

VI. THIRTY-DAY NOTICE:

A 30-day notice was published in the Wisconsin Administrative Register No. 623, effective November 15, 2007. [Section 227.16 (2) (e), Stats.] The department did not receive any petitions for a public hearing.

VII. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 2.a. There is no reference to ch. RL 87, Appendix I, either in the text of or a note to pertinent rules. Consequently, the effect of incorporating the Uniform Standards of Professional Appraisal Practice (USPAP) by reference into the appendix is unclear. Furthermore, the relevance of the appendix to ch. RL 87 is unclear. It is suggested that the department review the references to USPAP in ss. RL 80.03 (18) and 86.01 (1) and

(2) and elsewhere. Perhaps the appendix can be made an appendix to ch. RL 86 and the appendix cross-referenced in a note to the pertinent rules.

Response: Section RL 83.01 (3) (b) states that appraisal experience claimed by an applicant shall comply with the USPAP in effect at the time the appraisals were prepared. In addition, s. RL 86.01 01 (1) and (2) states that all appraisals shall conform to USPAP. Chapter RL 87, Appendix J, has been renumbered ch. RL 86, Appendix I and amended. A Note has been added following ss. RL 83.01 (3) and 86.01 (2).

Comment 2.b. The incorporation of the 2008 edition of USPAP is proposed to be effective January 1, 2008. The proposed rule will not be formally promulgated by that date. Clarification of the initial applicability and effective date of the rule should be considered.

Response: The Uniform Standards of Professional Appraisal Practice (USPAP) is published by the Appraisal Standards Board of the Appraisal Foundation. The 2008-2009 edition of USPAP states that the publication is effective January 1, 2008 through December 31, 2009. The department's proposed rule-making order states that, pursuant to s. 227.22 (2) (intro.), Stats., the rules in the proposed rule-making order shall take effect on the first day of the month following publication in the Wisconsin administrative register.

VIII. CHANGES MADE TO THE PLAIN LANGUAGE ANALYSIS:

The introductory clause and the plain language analysis have been amended to reflect that ch. RL 87, Appendix I is being renumbered ch. RL 86, Appendix I and amended. Also, a Note has been created following ss. RL 83.01 (3) and 86.01 (2). These changes were made as recommended in the Clearinghouse Report.

IX. FINAL REGULATORY FLEXIBILITY ANALYSIS:

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 07-098)

PROPOSED ORDER

An order of the Department of Regulation and Licensing to renumber and amend ch. RL 87, Appendix I; and to create a Note following RL 83.01 (3) and 86.01 (2), relating to the uniform standards of professional appraisal practice (USPAP) for real estate appraisers.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Sections 458.24 and 458.26 (3) (b), Stats.

Statutory authority:

Sections 227.11 (2) and 458.24, Stats.

Explanation of agency authority:

The Department of Regulation and Licensing is authorized under ss. 227.11 (2) and 458.24, Stats., to promulgate rules establishing the standards for appraisal practice for licensed and certified appraisers.

Related statutes or rules:

Section RL 86.01 (1) and (2).

Plain language analysis:

In this proposed rule-making order, the Department of Regulation and Licensing proposes to renumber and amend ch. RL 87, Appendix I, which incorporates by reference the 2006 edition of the Uniform Standards of Professional Appraisal Practice (USPAP). The department proposes to incorporate by reference the 2008 edition of USPAP.

SECTIONS 1 and 2 create a Note identifying where to find a copy of the Uniform Standards of Professional Appraisal Practice (USPAP).

SECTION 3. The department proposes to renumber and amend ch. RL 87, Appendix I, which incorporates by reference the 2006 edition of the USPAP, to incorporate by reference the 2008 edition of USPAP.

As required under Wis. Stats. § 227.21, the department has obtained the consent of the attorney general to the incorporation of the 2008 edition of USPAP into the rules by reference.

Summary of, and comparison with, existing or proposed federal regulation:

The Federal Institutions Reform, Recovery, and Enforcement Act (“FIRREA”), 12 U.S.C. 3331 et seq., (Title XI) was enacted in 1989. Under FIRREA, insured financial institutions and insured credit unions are required to obtain the services of a state certified or licensed appraiser for appraisals conducted in connection with “federally related transactions.”

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council is authorized under FIRREA to monitor the requirements established by the states for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions. *21 USC3333; Appraisal Subcommittee – Policy Statements Regarding State Certification and Licensing of Appraisers.*

Under FIRREA, real estate appraisals performed in connection with federally related transactions are required to be performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board (ASB) of the Appraisal Foundation. *21 USC 3339; Appraisal Subcommittee – Policy Statements Regarding State Certification and Licensing of Appraisers, Statement 3.*

The appraisal standards promulgated by the ASB are contained in the Uniform Standards of Professional Appraisal Practice (USPAP). USPAP is available on the Appraisal Foundation’s website at: <http://www.appraisalfoundation.org>.

Comparison with rules in adjacent states:

Under FIRREA, all states, including Illinois, Iowa, Michigan and Minnesota, must assure that certified appraisers comply with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board. In Wisconsin, USPAP has been incorporated by reference in Appendix I to ch. RL 86. See, also, s. 458.24, Stats.

Summary of factual data and analytical methodologies:

No study resulting in the collection of factual data was used relating to this rule. The primary methodology for revising the rule is the department’s and board’s analysis and determination that a rule change is necessary.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

The proposed rule would change the standards for appraisal practice for licensed and certified appraisers licensed in Wisconsin. There are 839 licensed appraisers, 1,025 residential appraisers, and 650 certified general appraisers who are licensed in Wisconsin and would have to comply with the standards. Of the appraisers in Wisconsin with credentials, a majority of them probably work in small businesses.

Under the Federal Reform, Recovery and Enforcement Act (FIRREA), all states must assure that certified appraisers comply with the Uniform Standards of Appraisal Practice that are promulgated by the Appraisals Standards Board. This will be the latest update of practice standards and will not have an effect on small business.

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an “agency” in this section.

Anticipated costs incurred by private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The department estimates that the proposed rule will have no significant fiscal impact.

Effect on small business:

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at larry.martin@drl.state.wi.us, or by calling (608) 266-8608.

Agency contact person:

Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935; telephone (608) 266-0495; email pamela.haack@drl.state.wi.us.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email at pamela.haack@drl.state.wi.us.

Comments must be received on or before November 22, 2007, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. A Note following RL 83.01 (3) is created to read:

Note: Instructions for obtaining a copy of the Uniform Standards of Professional Appraisal Practice (USPAP) are contained in ch. RL 86, Appendix I.

SECTION 2. A Note following RL 86.01 (2) is created to read:

Note: Instructions for obtaining a copy of the Uniform Standards of Professional Appraisal Practice (USPAP) are contained in ch. RL 86, Appendix I.

SECTION 3. Ch. RL 87, Appendix I is renumbered ch. RL 86, Appendix I and amended to read:

Chapter RL 86

APPENDIX I

UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE

The ~~2005~~ 2008 edition of the Uniform Standards of Professional Appraisal Practice (USPAP) is hereby incorporated by reference into this Appendix. The ~~2005~~ 2008 edition of USPAP is effective January 1, ~~2005~~ 2008 to ~~June 30, 2006~~ December 31, 2009.

After January 1, ~~2005~~ 2008, copies of the ~~2005~~ 2008 edition of USPAP may be purchased from the Appraisal Standards Board of the Appraisal Foundation, 1155 15th Street, N.W., Suite 1111, Washington, D.C. 20005, and (202) 347-7722. After January 1, ~~2005~~ 2008, copies of the ~~2005~~ 2008 edition of USPAP may also be obtained, at no charge, from the Appraisal Foundation's website at <http://www.appraisalfoundation.org>. ~~The direct link to the electronic copy of the 2005 and prior year publications of the Uniform Standards of Professional Appraisal Practice is:~~
~~<http://www.appraisalfoundation.org/html/standards.asp?FileName=current-uspap>~~

~~The 2006 edition of the Uniform Standards of Professional Appraisal Practice (USPAP) is hereby incorporated by reference into this Appendix. The 2006 edition of USPAP is effective July 1, 2006 to December 31, 2007.~~

~~After July 1, 2006, copies of the 2006 edition of USPAP may be purchased from the Appraisal Standards Board of the Appraisal Foundation, 1155 15th Street, N.W., Suite 1111, Washington, D.C. 20005, (202) 347-7722. After July 1, 2006, copies of the 2006 edition of USPAP may also be obtained, at no charge, from the Appraisal Foundation's website at: <http://www.appraisalfoundation.org>.~~

Note: As required under s. 227.21, Stats., the attorney general ~~and revisor of statutes have~~ has consented to the incorporation by reference of the ~~2005 and the 2006 editions~~ 2008 edition of the Uniform Standards of Professional Appraisal Practice. Copies of the ~~2005 and the 2006 editions~~ 2008 edition of the USPAP will be on file in the offices of the department, and the secretary of state ~~and the revisor of statutes~~.

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated: _____

Agency _____
Celia M. Jackson, Secretary
Department of Regulation and Licensing

Ch. RL 87, Appendix I CR07-098 (USPAP) Draft to Leg 1-22-08



WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 07-098

AN ORDER to amend chapter RL 87, Appendix I, relating to the uniform standards of professional appraisal practice (USPAP) for real estate appraisers.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

10-22-2007 RECEIVED BY LEGISLATIVE COUNCIL.

11-12-2007 REPORT SENT TO AGENCY.

RNS:DD

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]
Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

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Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 07-098

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]

2. Form, Style and Placement in Administrative Code

a. There is no reference to ch. RL 87, Appendix 1, either in the text of or a note to pertinent rules. Consequently, the effect of incorporating the Uniform Standards of Professional Appraisal Practice (USPAP) by reference into the appendix is unclear. Furthermore, the relevance of the appendix to ch. RL 87 is unclear. It is suggested that the department review the references to USPAP in ss. RL 80.03 (18) and 86.01 (1) and (2) and elsewhere. Perhaps the appendix can be made an appendix to ch. RL 86 and the appendix cross-referenced in a note to the pertinent rules.

b. The incorporation of the 2008 edition of USPAP is proposed to be effective January 1, 2008. The proposed rule will not be formally promulgated by that date. Clarification of the initial applicability and effective date of the rule should be considered.