



100 North Hamilton St. Room 411
P.O. Box 8953, State Capitol
Madison, Wisconsin 53708
(608) 267-7990 • Toll-Free (800) 362-9472
144 County Road C
Oshkosh, Wisconsin 54904
(414) 589-4262

CAROL OWENS
WISCONSIN STATE REPRESENTATIVE

Assembly Housing Committee

MEMO

To: Members of The Assembly Housing Committee

From: Representative Carol Owens, Chair

Date: March 16, 1995

The following Clearinghouse rule has been referred to the Assembly Housing Committee:

Rule No. 94-186: AN ORDER to amend Appendix I to chs. RL 80 to 87, Definitions, and Standard 3; and to repeal and recreate Appendix I, Departure Provision, Jurisdictional Exception and Supplemental Standards, and Standard 2, relating to the uniform standards of professional appraisal practice as promulgated by the appraisal standards board of the appraisal foundation.

A copy of the rule can be obtained by contacting my office. The deadline for committee action on this rule is April 14, 1995. If you are interested in requesting a hearing and/or submitting comments, please do so prior to that date.



State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING

Tommy G. Thompson
Governor

Marlene A. Cummings
Secretary

1400 E. WASHINGTON AVENUE
P.O. BOX 8935
MADISON, WISCONSIN 53708
608 266-2112

Administrative Rules in Final Draft Form

Department of Regulation and Licensing

Rule: Appendix I to Chapters RL 80 to 87

Relating to: Uniform Standards of Professional Appraisal Practice

Clearinghouse Rule: No. 94-186

Regulatory Boards

Accounting; Architects, Professional Engineers, Designers and Land Surveyors; Barbering and Cosmetology; Chiropractic; Dentistry; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Psychology; Real Estate; Real Estate Appraisers; Social Workers, Marriage and Family Therapists and Professional Counselors; and Veterinary.

Committed to Equal Opportunity in Employment and Licensing

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-94-186)

TO: David Prosser
Speaker of the Assembly
119 Martin Luther King Jr., Blvd.
Room 101
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the DEPARTMENT OF REGULATION AND LICENSING is submitting in final draft form proposed rules relating to the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Standards Board of The Appraisal Foundation.

If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.

WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

Richard Sweet
Assistant Director
(608) 266-2982

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

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 94-186

AN ORDER to amend Appendix I to chs. RL 80 to 87, Definitions, and Standard 3; and to repeal and recreate Appendix I, Departure Provision, Jurisdictional Exception and Supplemental Standards, and Standard 2, relating to the uniform standards of professional appraisal practice as promulgated by the appraisal standards board of the appraisal foundation.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

10-13-94 RECEIVED BY LEGISLATIVE COUNCIL.
11-10-94 REPORT SENT TO AGENCY.

RNS:RW:kjf:jt

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 94-186

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 October 1994.]

2. Form, Style and Placement in Administrative Code

- a. The agency may wish to review the introductory paragraph to Appendix I to assure that it accurately identifies the revised Uniform Standards.
- b. The agency might consider revising the table at the end of the Appendix to reflect the amendments by the Appraisal Standards Board.

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
DEPARTMENT OF REGULATION : ON CLEARINGHOUSE RULE 94-186
AND LICENSING : (s. 227.19 (3), Stats.)

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:

These rules will have no significant impact upon state or local units of government.

IV. STATEMENT EXPLAINING NEED:

In this proposed rule-making order the Department of Regulation and Licensing amends, repeals and recreates several provisions contained in Appendix I to chapters RL 80 to 87, which were adopted by the department on July 29, 1991 (Clearinghouse Rule 93-151).

This proposed order is the result of modifications to the Uniform Standards of Professional Appraisal Practice ("USPAP") adopted by the Appraisal Standards Board of the Appraisal Foundation on March 22, 1994 and July 19, 1994. The department is required under s. 458.24, Stats., to periodically review USPAP, and if appropriate, revise the administrative rules to reflect revisions to the Standards.

V. NOTICE OF PUBLIC HEARING:

A public hearing was held on November 16, 1994. There were no appearances at the hearing nor were any written comments received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All of the recommendations suggested in the Clearinghouse Report were accepted in whole.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

The 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 94-186)

PROPOSED ORDER

An order of the Department of Regulation and Licensing to repeal footnotes in Appendix I; to amend Appendix I to chapters RL 80 to 87, Introductory Paragraphs, Definitions, Standard 3 and Origin and History of the Uniform Standards of Professional Appraisal Practice; to repeal and recreate Appendix I, Departure Provision, Jurisdictional Exception and Supplemental Standards, and Standard 2 relating to the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Standards Board of The Appraisal Foundation.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: s. 227.11 (2) and ch. 458, Stats.

Statutes interpreted: s. 458.24, Stats.

In this proposed rule-making order the Department of Regulation and Licensing amends, repeals and recreates several provisions contained in Appendix I to chapters RL 80 to 87, which were adopted by the department on July 29, 1991 (Clearinghouse Rule 93-151).

This proposed rule-making order is the result of modifications to the Uniform Standards of Professional Appraisal Practice ("USPAP") adopted by the Appraisal Standards Board of the Appraisal Foundation on March 22, 1994 and July 19, 1994. The department is required under s. 458.24, Stats., to periodically review USPAP and, if appropriate, revise the administrative rules to reflect revisions to the Standards.

Section 1. The introductory phrase is amended to reflect the copyright date of 1995.

Section 2. The Departure Provision, Jurisdictional Exception and Supplemental Standards sections of USPAP are being repealed and recreated to reflect changes made to those sections by the Appraisal Standards Board.

Section 3. This section reflects changes made to the Definition section of USPAP by the Appraisal Standards Board. The term "appraisal" is being amended to clarify what constitutes a "complete" and a "limited" appraisal. The term "report" is amended to identify the types of written reports which apply to real property appraisal; namely, "self-contained appraisal report,"

"summary appraisal report" and "restricted appraisal report." The terms "binding guideline" and "specific guideline" are being created.

Section 4. Standard 2 of USPAP is being repealed and recreated to reflect changes made to the Standard by the Appraisal Standards Board.

Section 5. Standard 3 of USPAP is being amended to reflect changes made to the Standard by the Appraisal Standards Board.

Section 6. The origin and history section is amended to reflect the effective dates of the particular sections.

Section 7. The footnotes that appear throughout Appendix I are repealed. The footnotes make reference to advisory opinions and statements on appraisal standards. These advisory opinions and statements on appraisal standards are available from the Appraisal Foundation as indicated in the introductory paragraphs of Appendix I.

TEXT OF RULE

SECTION 1. Appendix I, introductory paragraphs, are amended to read:

The Uniform Standards of Professional Appraisal Practice ("USPAP") Copyright (c) ~~1994~~ 1995 by The Appraisal Foundation, are reproduced with permission of The Appraisal Foundation. All rights reserved. No part of the USPAP may be reproduced without prior consent of The Appraisal Foundation.

Copies of the USPAP (including advisory opinions and statements on appraisal standards) are available from the Appraisal Foundation, 1029 Vermont Avenue, N.W., Suite 900, Washington, D.C. 20005, (202) 347-7722.

SECTION 2. Appendix I - Uniform Standards of Professional Appraisal Practice, Departure Provision, Jurisdictional Exception and Supplemental Standards are repealed and recreated to read:

DEPARTURE PROVISION

This provision permits limited departures from sections of the Uniform Standards that are classified as specific guidelines rather than binding requirements. The burden of proof is on the appraiser to decide before accepting an assignment and invoking this provision that the result will not confuse or mislead. The burden of disclosure is also on the appraiser to report any departures from specific guidelines.

An appraiser may enter into an agreement to perform an assignment that calls for something less than, or different from, the work that would otherwise be required by the specific guidelines, provided that prior to entering into such an agreement:

DRAFT OF MARCH 8, 1995

1. the appraiser has determined that the appraisal or consulting process to be performed is not so limited that the resulting assignment would tend to mislead or confuse the client or the intended users of the report;
2. the appraiser has advised the client that the assignment calls for something less than, or different from, the work required by the specific guidelines and that the report will clearly identify and explain the departure(s); and
3. the client has agreed that the performance of a limited appraisal or consulting service would be appropriate.

Exceptions to the following requirements are not permitted: Standards Rules 1-1, 1-5, 2-1, 2-2, 2-3, 2-5, 3-1, 3-2, 4-1, 5-1, 5-3, 6-1, 6-3, 6-6, 6-7, 6-8, 7-1, 8-1, 8-3, 8-5, 9-1, 9-3, 9-5, 10-1, 10-3 and 10-5. This restriction on departure is reiterated throughout the document with the reminder comment: Departure from this binding requirement is not permitted.

Comment: For the purpose of this provision, intended users of the report might include parties such as lenders, employees of government agencies, partners of a client, and a client's attorney and accountant. In this context, the purpose and intended use of the appraisal or consulting service are critical.

If an appraiser enters into an agreement to perform an appraisal or consulting service that calls for something less than, or different from, the work that would otherwise be required by the specific appraisal guidelines, Standards Rules 2-2(a)(xi), 2-2(b)(xi), 2-2(c)(xi), 5-2(i), 8-2(m), and 10-2 (h) require that the report clearly identify and explain departure(s) from the specific guidelines.

JURISDICTIONAL EXCEPTION

If any part of these standards is contrary to the law or public policy of any jurisdiction, only that part shall be void and of no force or effect in that jurisdiction.

Comment: The purpose of the Jurisdictional Exception is strictly limited to providing a saving or severability clause intended to preserve the balance of USPAP if one or more of its parts are determined as contrary to law or public policy of a jurisdiction. By logical extension, there can be no violation of USPAP by an appraiser disregarding, with proper disclosure, only the part or parts of USPAP that are void and of no force and effect in a particular assignment by operation of legal authority. It is misleading for an appraiser to disregard a part or parts of USPAP as void and of no force and effect in a particular assignment without identifying the part or parts disregarded and the legal authority justifying this action in the appraiser's report.

As used in the Jurisdictional Exception, law means a body of rules with binding legal force established by controlling governmental authority. This broad meaning includes, without limitation, the federal and state constitutions, legislative and court made law, and

administrative rules, regulations, and ordinances. Public policy refers to more or less well defined moral and ethical standards of conduct, currently and generally accepted by the community as a whole, and recognized by the courts with the aid of statutes, judicial precedents, and other similar available evidence. Jurisdiction relates to the legal authority to legislate, apply, or interpret law in any form at the federal, state, and local levels of government.

SUPPLEMENTAL STANDARDS

These Uniform Standards provide the common basis for all appraisal practice. Supplemental standards applicable to appraisals prepared for specific purposes or property types may be issued by public agencies and certain client groups, e.g. regulatory agencies, eminent domain authorities, asset managers, and financial institutions. Appraisers and clients must ascertain whether any supplemental standards in addition to these Uniform Standards apply to the assignment being considered.

Comment: The purpose of the Supplemental Standards section is to provide a reasonable means to augment USPAP with additional requirements set by clients, employers, governmental entities and/or professional appraisal organizations. Supplemental Standards cannot diminish the purpose, intent or content of the requirements of USPAP.

By certifying conformity with USPAP for an assignment in which an appraiser satisfied a professional appraisal ethics or practice standard not in USPAP, the appraiser acknowledges that this supplemental standard adds to but does not diminish the purpose, intent or content of USPAP.

SECTION 3. Appendix I - Definitions are created and amended to read:

DEFINITIONS

For the purpose of these Standards, the following definitions apply:

APPRAISAL: (noun) the act or process of estimating value; an estimate of value.
(adjective) of or pertaining to appraising and related functions, e.g. appraisal practice, appraisal services.

Complete Appraisal: The act or process of estimating value or an estimate of value performed without invoking the Departure Provision.

Limited Appraisal: The act or process of estimating value or an estimate of value performed under and resulting from invoking the Departure Provision.

APPRAISAL PRACTICE: the work or services performed by appraisers, defined by three terms in these standards: appraisal, review, and consulting.

DRAFT OF MARCH 8, 1995

Comment: These three terms are intentionally generic, and not mutually exclusive. For example, an estimate of value may be required as part of a review or consulting service. The use of other nomenclature by an appraiser (e.g. analysis, counseling, evaluation, study, submission, valuation) does not exempt an appraiser from adherence to these standards.

BINDING REQUIREMENT: all or part of a standards rule of USPAP from which departure is not permitted. (See DEPARTURE PROVISION)

BUSINESS ASSETS: tangible and intangible resources that are employed by a business enterprise in its operations.

BUSINESS ENTERPRISE: a commercial, industrial or service organization pursuing an economic activity.

BUSINESS EQUITY: the interests, benefits, and rights inherent in the ownership of a business enterprise or a part thereof in any form (including but not necessarily limited to capital stock, partnership interests, cooperatives, sole proprietorships, options, and warrants).

CASH FLOW ANALYSIS: a study of the anticipated movement of cash into or out of an investment.

CLIENT: any party for whom an appraiser performs a service.

CONSULTING: the act or process of providing information, analysis of real estate data, and recommendations or conclusions on diversified problems in real estate, other than estimating value.

FEASIBILITY ANALYSIS: a study of the cost-benefit relationship of an economic endeavor.

INTANGIBLE PROPERTY (INTANGIBLE ASSETS): non physical assets, including but not limited to franchises, trademarks, patents, copyrights, goodwill, equities, mineral rights, securities, and contracts, as distinguished from physical assets such as facilities and equipment.

INVESTMENT ANALYSIS: a study that reflects the relationship between acquisition price and anticipated future benefits of a real estate investment.

MARKET ANALYSIS: a study of real estate market conditions for a specific type of property.

MARKET VALUE: Market value is the major focus of most real property appraisal assignments. Both economic and legal definitions of market value have been developed and refined. A current economic definition agreed upon by agencies that regulate federal financial institutions in the United States of America is:

DRAFT OF MARCH 8, 1995

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. buyer and seller are typically motivated;
2. both parties are well informed or well advised, and acting in what they consider their best interests;
3. a reasonable time is allowed for exposure in the open market;
4. payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and
5. the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Substitution of another currency for United States dollars in the fourth condition is appropriate in other countries or in reports addressed to clients from other countries.

Persons performing appraisal services that may be subject to litigation are cautioned to seek the exact legal definition of market value in the jurisdiction in which the services are being performed.

MASS APPRAISAL: the process of valuing a universe of properties as of a given date utilizing standard methodology, employing common data, and allowing for statistical testing.

MASS APPRAISAL MODEL: a mathematical expression of how supply and demand factors interact in a market.

PERSONAL PROPERTY: identifiable portable and tangible objects which are considered by the general public as being "personal," e.g. furnishings, artwork, antiques, gems and jewelry, collectibles, machinery and equipment; all property that is not classified as real estate.

REAL ESTATE: an identified parcel or tract of land, including improvements, if any.

REAL PROPERTY: the interests, benefits, and rights inherent in the ownership of real estate.

Comment: In some jurisdictions, the terms real estate and real property have the same legal meaning. The separate definitions recognize the traditional distinction between the two concepts in appraisal theory.

DRAFT OF MARCH 8, 1995

REPORT: any communication, written or oral, of an appraisal, review, or consulting service; the document that is transmitted to the client upon completion of an assignment.

Comment: Most reports are written and most clients mandate written reports. Oral report guidelines (~~See Standards Rule 2-4~~) and restrictions (See Ethics Provision: Record Keeping) are included to cover court testimony and other oral communications of an appraisal, review or consulting service.

The types of written reports listed below apply to real property appraisals:

Self-Contained Appraisal Report: A written report prepared under Standards Rule 2-2 (a) of a Complete or Limited Appraisal performed under Standard 1.

Summary Appraisal Report: A written report prepared under Standards Rule 2-2 (b) of a Complete or Limited Appraisal performed under Standard 1.

Restricted Appraisal Report: a written report prepared under Standards Rule 2-2 (c) of a Complete or Limited Appraisal performed under Standard 1.

REVIEW: the act or process of critically studying a report prepared by another.

SPECIFIC GUIDELINE: all or part of a standards rule of USPAP from which departure is permitted under certain limited conditions. (See DEPARTURE PROVISION)

SECTION 4. Appendix I - STANDARD 2 is repealed and recreated to read:

STANDARD 2

In reporting the results of a real property appraisal an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

Comment: Standard 2 governs the form and content of the report that communicates the results of an appraisal.

Standards Rule 2-1

Each written or oral real property appraisal report must:

- (a) clearly and accurately set forth the appraisal in a manner that will not be misleading;

Comment: Departure from this binding requirement is not permitted.

- (b) contain sufficient information to enable the person(s) who are expected to receive or rely on the report to understand it properly;

Comment: Departure from this binding requirement is not permitted. The person(s) expected to receive or rely on a Self-Contained or Summary Appraisal Report are the client and intended users. Only the client is expected to receive or rely on the Restricted Appraisal Report.

- (c) clearly and accurately disclose any extraordinary assumption or limiting condition that directly affects the appraisal and indicate its impact on value.

Comment: Departure from this binding requirement is not permitted. Examples of extraordinary assumptions or conditions might include items such as the execution of a pending lease agreement, atypical financing, a known but not yet quantified environmental issue, or completion of onsite or offsite improvements. In a written report the disclosure would be required in conjunction with statements of each opinion or conclusion that is affected.

Standards Rule 2-2

Each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report or Restricted Appraisal Report.

Comment: The essential difference among the three options is in the use and application of the terms describe, summarize and state. Describe is used to connote a comprehensive level of detail in the presentation of information. Summarize is used to connote a more concise presentation of information. State is used to connote the minimal presentation of information.

- (a) The Self-Contained Appraisal Report must:
- (i) identify and describe the real estate being appraised;
 - (ii) state the real property interest being appraised;

Comment on (i) and (ii): Identifying the real estate can be accomplished by any combination of a legal description, address, map reference, copy of a survey or map, property sketch and/or photographs. A property sketch and photographs also provide some description of the real estate in addition to written comments about the physical attributes of the real estate. The statement of the real property rights being appraised must be substantiated as needed by copies or summaries of legal descriptions or other documents that set forth any known encumbrances.

- (iii) state the purpose and intended use of the appraisal;
- (iv) define the value to be estimated;

- (v) state the effective date of the appraisal and the date of the report;

Comment on (iii), (iv) and (v): These three requirements call for clear disclosure to the reader of a report the "who, why, what and when" surrounding the appraisal. The purpose and intended use of the appraisal are critical to the identification of any intended users of the report. Intended users of the report might include parties such as lenders, employees of government agencies, partners of a client, and a client's attorney and accountant. Defining the value to be estimated requires both an appropriately referenced definition and any comments needed to clearly indicate to the reader how the definition is being applied [See Standards Rule 1-2(b)]. The effective date of the appraisal establishes the context for the value estimate, while the data of the report indicates whether the perspective of the appraiser on the market conditions as of the effective date of the appraisal was prospective, current, or retrospective. Reiteration of the date of the report and the effective date of the appraisal at various stages of the report in tandem is important for the clear understanding of the reader whenever market conditions on the date of the report are different from market conditions on the effective date of the appraisal.

- (vi) state the extent of the process of collecting, confirming, and reporting data;

Comment: This requirement is designed to inform the client and intended users whose expected reliance on an appraisal report may be affected by the extent of the appraiser's investigation; i.e., the process of collecting, confirming and reporting data.

Standards Rule 2-2 (a)(vi) only requires that the extent of the process of collecting, confirming, and reporting data be stated, since the full extent of the process should be apparent to the reader in the contents of the report.

- (vii) state all assumptions and limiting conditions that affect the analyses, opinions, and conclusions;

Comment: While typical or ordinary assumptions and limiting conditions may be grouped together in an identified section of the report, SR 2-1(c) requires that an extraordinary assumption or limiting condition must be disclosed in conjunction with statements of each opinion or conclusion that is affected.

- (viii) describe the information considered, the appraisal procedures followed, and the reasoning that supports the analyses, opinions, and conclusions;

Comment: This requirement calls for the appraiser to describe the data considered and the procedures that were followed. Each item must be addressed in the depth and detail required by its significance to the appraisal. The appraiser must be certain that sufficient information is provided so that the client and the intended users of the report will understand it and will not be misled or confused. The substantive content of the report, not its size, determines its compliance.

- (ix) describe the appraiser's opinion of the highest and best use of the real estate, when such an opinion is necessary and appropriate;

Comment: This requirement calls for a report to contain the appraiser's opinion as to the highest and best use of the real estate, unless an opinion as to highest and best use is unnecessary, e.g. insurance valuation or value in use appraisals. If an opinion as to highest and best use is required, the reasoning in support of the opinion must also be described in the depth and detail required by its significance to the appraisal.

- (x) explain and support the exclusion of any of the usual valuation approaches;
- (xi) describe any additional information that may be appropriate to show compliance with, or clearly identify and explain permitted departures from the specific guidelines of Standard 1;

Comment: This requirement calls for a Self-Contained Appraisal Report to include sufficient information to indicate that the appraiser complied with the requirements of Standard 1, including the requirements governing any permitted departures from the appraisal guidelines. The amount of detail required will vary with the significance of the information to the appraisal.

When the Departure Provision is invoked, the assignment is deemed to be a Limited Appraisal. Use of the term Limited Appraisal makes it clear that the assignment involved something less than, or different from the work required by the specific guidelines. The report of a Limited Appraisal must contain a prominent section that clearly identifies the extent of the appraisal process performed and the departures taken.

The reliability of the results of a Complete Appraisal or Limited Appraisal developed under Standard 1 is not affected by the type of report prepared under Standard 2. The extent of the appraisal process performed under Standard 1 is the basis for the reliability of the value conclusion.

Information considered and analyzed in compliance with Standards Rule 1-5 is significant information that deserves comment in any report. If such information is unobtainable, comment on the efforts undertaken by the appraiser to obtain the information is required.

- (xii) include a signed certification in accordance with Standards Rule 2-3.

Comment: Departure from binding requirements (i) through (xii) above is not permitted.

- (b) The Summary Appraisal Report must:

Comment: The essential difference between the Self-Contained Appraisal Report and the Summary Appraisal Report is the level of detail of presentation. As examples: a two-

page narrative section with conclusion in a Self-Contained Appraisal Report might translate to a two paragraph section with the same conclusion in a Summary Appraisal Report; narrative presentation of data in a Self-Contained Appraisal Report might translate to tabular presentation of data in a Summary Appraisal Report.

- (i) identify and provide a summary description of the real estate being appraised;
- (ii) state the real property interest being appraised;

Comment on (i) and (ii): Identifying the real estate can be accomplished by any combination of a legal description, address, map reference, copy of a survey or map, property sketch and/or photographs. A property sketch and photographs also provide some description of the real estate in addition to written comments about the physical attributes of the real estate. The statement of the real property rights being appraised must be substantiated as needed by copies or summaries of legal descriptions or other documents that set forth any known encumbrances.

- (iii) state the purpose and intended use of the appraisal;
- (iv) define the value to be estimated;
- (v) state the effective date of the appraisal and the date of the report;

Comment on (iii), (iv) and (v): These three requirements call for clear disclosure to the reader of a report the "who, why, what and when" surrounding the appraisal. The purpose and intended use of the appraisal are critical to the identification of any intended users of the report. Intended users of the report might include parties such as lenders, employees of government agencies, partners of a client, and a client's attorney and accountant. Defining the value to be estimated requires both an appropriately referenced definition and any comments needed to clearly indicate to the reader how the definition is being applied [See Standards Rule 1-2(b)]. The effective date of the appraisal establishes the context for the value estimate, while the date of the report indicates whether the perspective of the appraiser on the market conditions as of the effective date of the appraisal was prospective, current, or retrospective. Reiteration of the date of the report and the effective date of the appraisal at various stages of the report in tandem is important for the clear understanding of the reader whenever market conditions on the date of the report are different from market conditions on the effective date of the appraisal.

- (vi) summarize the extent of the process of collecting, confirming, and reporting data;

Comment: This requirement is designed to inform the client and intended users whose expected reliance on an appraisal report may be affected by the extent of the appraiser's investigation; i.e., the process of collecting, confirming and reporting data.

Standards Rule 2-2(b)(vi) requires that the extent of the process of collecting, confirming, and reporting data be summarized, since the full extent of the process may not be apparent to the reader in the contents of the report.

- (vii) state all assumptions and limiting conditions that affect the analyses, opinions, and conclusions;

Comment: While typical or ordinary assumptions and limiting conditions may be grouped together in an identified section of the report, SR 2-1(c) requires that an extraordinary assumption or limiting condition must be disclosed in conjunction with statements of each opinion or conclusion that is affected.

- (viii) summarize the information considered, the appraisal procedures followed, and the reasoning that supports the analyses, opinions, and conclusions;

Comment: This requirement calls for the appraiser to summarize the data considered and the procedures that were followed. Each item must be addressed in the depth and detail required by its significance to the appraisal. The appraiser must be certain that the summary is sufficient enough that the client and the intended users of the report will understand it and will not be misled or confused. The substantive content of the report, not its size, determines its compliance.

- (ix) summarize the appraiser's opinion of the highest and best use of the real estate, when such an opinion is necessary and appropriate;

Comment: This requirement calls for a report to contain the appraiser's opinion as to the highest and best use of the real estate, unless an opinion as to highest and best use is unnecessary, e.g. insurance valuation or value in use appraisals. If an opinion as to highest and best use is required, the reasoning in support of the opinion must also be summarized in the depth and detail required by its significance to the appraisal.

- (x) explain and support the exclusion of any of the usual valuation approaches;
- (xi) summarize any additional information that may be appropriate to show compliance with, or clearly identify and explain permitted departures from the specific guidelines of Standard 1;

Comment: This requirement calls for a Summary Appraisal Report to include sufficient information to indicate that the appraiser complied with the requirements of Standard 1, including the requirements governing any permitted departures from the appraisal guidelines. The amount of detail required will vary with the significance of the information to the appraisal.

When the Departure Provision is invoked, the assignment is deemed to be a Limited Appraisal. Use of the term Limited Appraisal makes it clear that the assignment involved

something less than, or different from the work required by the specific guidelines. The report of a Limited Appraisal must contain a prominent section that clearly identifies the extent of the appraisal process performed and the departure taken.

The reliability of the results of a Complete Appraisal or Limited Appraisal developed under Standard 1 is not affected by the type of report prepared under Standard 2. The extent of the appraisal process performed under Standard 1 is the basis for the reliability of the value conclusion.

Information considered and analyzed in compliance with Standards Rule 1-5 is significant information that deserves comment in any report. If such information is unobtainable, comment on the efforts undertaken by the appraiser to obtain the information is required.

(xii) include a signed certification in accordance with Standards Rule 2-3.

Comment: Departure from binding requirements (i) through (xii) above is not permitted.

(c) The Restricted Appraisal Report must:

Comment: The essential difference between the Self-Contained and Summary Appraisal Reports and the Restricted Appraisal Report is both the level of detail of presentation and a use restriction that limits the reliance on the report to the client and considers anyone else using the report an unintended user.

(i) identify the real estate being appraised;

Comment: Identifying the real estate can be accomplished by a legal description, address, copy of a survey, or property sketch.

(ii) state the real property interest being appraised;

(iii) state the purpose and intended use of the appraisal;

Comment: The intended use of the appraisal must be consistent with the use restriction on the report. (See Standards Rule 2-2(c)(ix) below.)

(iv) state and reference a definition of the value to be estimated;

(v) state the effective date of the appraisal and the date of the report;

Comment: The effective date of the appraisal establishes the context for the value estimate, while the date of the report indicates whether the perspective of the appraiser on the market conditions as of the effective date of the appraisal was prospective, current, or retrospective.

DRAFT OF MARCH 8, 1995

- (vi) describe the extent of the process of collecting, confirming, and reporting data;

Comment: This requirement is designed to inform the client and intended users whose expected reliance on an appraisal report may be affected by the extent of the appraiser's investigation; i.e., the process of collecting, confirming and reporting data.

Standards 2-2(c)(vi) requires that the extent of the process of collecting, confirming, and reporting data be described, since the extent of the process will not be apparent to the reader in the contents of the report.

- (vii) state all assumptions and limiting conditions that affect the analyses, opinions, and conclusions;

Comment: While typical or ordinary assumptions and limiting conditions may be grouped together in an identified section of the report, SR 2-1(c) requires that an extraordinary assumption or limiting condition must be disclosed in conjunction with statements of each opinion or conclusion that is affected.

- (viii) state the appraisal procedures followed, state the value conclusion and reference the existence of specific file information in support of the conclusion;

Comment: An appraiser must maintain a specific, coherent file in support of a Restricted Appraisal Report. The contents of the file should mirror the contents of a Self-Contained Appraisal Report. The file should be available for inspection by the client, such third parties as may be authorized by due process of law, and a duly authorized professional peer review committee.

- (ix) state the appraiser's opinion of the highest and best use of the real estate, when such an opinion is necessary and appropriate;

Comment: This requirement calls for a report to contain a statement of the appraiser's opinion as to the highest and best use of the real estate, unless an opinion as to highest and best use is unnecessary, e.g. insurance valuation or value in use appraisals.

- (x) state the exclusion of any of the usual valuation approaches;

- (xi) contain a prominent use restriction that limits reliance on the report to the client and warns that the report that cannot be understood properly without additional information in the workfile of the appraiser, and clearly identify and explain any permitted departures from the specific guidelines of Standard 1;

Comment: The Restricted Appraisal Report is intended for use only by the client. Before entering into an agreement, the appraiser should establish with the client the situations where this type of report is to be used, and should ensure that the client understands the limited utility of the Restricted Appraisal Report.

When the Departure Provision is invoked, the assignment is deemed to be a Limited Appraisal. Use of the term Limited Appraisal makes it clear that the assignment involved something less than, or different from the work required by the specific guidelines. The report of a Limited Appraisal must contain a prominent section that clearly identifies the extent of the appraisal process performed and the departures taken.

Information considered and analyzed in compliance with Standards Rule 1-5 is significant information that deserves comment in any report. If such information is unobtainable, comment on the efforts undertaken by the appraiser to obtain the information is required.

(xii) include a signed certification in accordance with Standards Rule 2-3.

Comment: Departure from binding requirements (i) through (xii) is not permitted.

Standards Rule 2-3

Each written real property appraisal report must contain a certification that is similar in content to the following form:

I certify that, to the best of my knowledge and belief:

the statements of fact contained in this report are true and correct.

the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions, and conclusions.

I have no (or the specified) present or prospective interest in the property that is the subject of this report, and I have no (or the specified) personal interest or bias with respect to the parties involved.

my compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.

my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.

I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs the report, this certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)

no one provided significant professional assistance to the person signing this report.

(If there are exceptions, the name of each individual providing significant professional assistance must be stated.)

Comment: Departure from this binding requirement is not permitted.

Standards Rule 2-4

To the extent that it is both possible and appropriate, each oral real property appraisal report (including expert testimony) must address the substantive matters set forth in Standards Rule 2-2(b).

Comment: In addition to complying with the requirements of Standards Rule 2-1, an appraiser making an oral report must use his or her best efforts to address each of the substantive matters in Standards Rule 2-2(b).

Testimony of an appraiser concerning his or her analyses, opinions, and conclusions is an oral report in which the appraiser must comply with the requirements of this Standards Rule.

See Record Keeping under the ETHICS PROVISION for corresponding requirements.

Standards Rule 2-5

An appraiser who signs a real property appraisal report prepared by another in any capacity accepts full responsibility for the appraisal and the contents of the appraisal report.

Comment: Departure from this binding requirement is not permitted.

This requirement is directed to an appraiser acting as an employer or supervisor signing a report of an employee or subcontractor. The employer or supervisor signing the report is as responsible as the individual preparing the appraisal for the content and conclusions of the appraisal and the report. Using a conditional label next to the signature of the employer or supervisor does not exempt that individual from adherence to these standards.

This requirement does not address the responsibilities of a review appraiser, the subject of Standard 3.

SECTION 5. Appendix I - Standard 3 is amended to read:

STANDARD 3

In reviewing an appraisal and reporting the results of that review, an appraiser must form an opinion as to the adequacy and appropriateness of the report being reviewed and must clearly disclose the nature of the review process undertaken.

Comment: The function of reviewing an appraisal requires the preparation of a separate report or a file memorandum by the appraiser performing the review setting forth the

results of the review process. Review appraisers go beyond checking for a level of completeness and consistency in the report under review by providing comment on the content and conclusions of the report. They may or may not have first-hand knowledge of the subject property or data in the report. The COMPETENCY PROVISION applies to the appraiser performing the review as well as the appraiser who prepared the report under review.

Reviewing is a distinctly different function from that addressed in Standards Rule 2-5. In accordance with Standards Rule 2-5, any appraiser who signs the appraisal report accepts full responsibility for the appraisal and appraisal report. To avoid confusion ~~in the marketplace~~ between these two functions, review appraisers should not sign the report under review unless they intend to take the responsibility of a cosigner.

Review appraisers must take appropriate steps to indicate ~~to third parties~~ the precise extent of the review process. A separate report or letter is one method. Another appropriate method is a form or check-list prepared and signed by the appraiser conducting the review and attached to the report under review. It is also possible that a stamped impression on the appraisal report under review, signed or initialed by the reviewing appraiser, may be an appropriate method for separating the review function from the actual signing of the report. To be effective, however, the stamp must briefly indicate the extent of the review process and refer to a file memorandum that clearly outlines the review process conducted.

The review appraiser must exercise extreme care in clearly distinguishing between the review process and the appraisal or consulting processes. Original work by the review appraiser may be governed by STANDARD 1 or STANDARD 4 rather than this standard. A misleading or fraudulent review and/or report violates the ETHICS PROVISION.

Standards Rule 3-1

In reviewing an appraisal, an appraiser must:

- (a) identify the report under review, the real estate and real property interest being appraised, the effective date of the opinion in the report under review, and the date of the review;

Comment: The review should be conducted in the context of market conditions as of the effective date of the opinion in the report being reviewed.

- (b) identify the extent of the review process to be conducted;
- (c) form an opinion as to the completeness of the report under review in light of the requirements in these standards;

Comment: ~~The review should be conducted in the context of market conditions as of the effective date of the opinion in the report being reviewed~~ In real property appraisals, review appraisers are required to form an opinion as to the completeness of the report under review within the context of the reporting requirements for the type of report submitted for review: Self-Contained Appraisal Report (Standards Rule 2-2(a)), Summary Appraisal Report (Standards Rule 2-2(b)) or Restricted Appraisal Report (Standards Rule 2-2(c)).

- (d) form an opinion as to the apparent adequacy and relevance of the data and the propriety of any adjustments to the data;
- (e) form an opinion as to the appropriateness of the appraisal methods and techniques used and develop the reasons for any disagreement;
- (f) form an opinion as to whether the analyses, opinions, and conclusions in the report under review are appropriate and reasonable, and develop the reasons for any disagreement.

Comment: Departure from binding requirements (a) through (f) above is not permitted.

An opinion of a different estimate of value from that in the report under review may be expressed, provided the review appraiser:

1. satisfies the requirements of STANDARD 1;
2. identifies and sets forth any additional data relied upon and the reasoning and basis for the different estimate of value; and,
3. clearly identifies and discloses all assumptions and limitations connected with the different estimate of value to avoid confusion in the marketplace.

Standards Rule 3-2

In reporting the results of an appraisal review, an appraiser must:

- (a) disclose the nature, extent, and detail of the review process undertaken;
- (b) disclose the information that must be considered in Standards Rule 3-1 (a) and (b);
- (c) set forth the opinions, reasons, and conclusions required in Standards Rule 3-1 (c), (d), (e) and (f);
- (d) include all known pertinent information;
- (e) include a signed certification similar in content to the following:

I certify that, to the best of my knowledge and belief:

DRAFT OF MARCH 8, 1995

the facts and data reported by the review appraiser and used in the review process are true and correct.

the analyses, opinions, and conclusions in this review report are limited only by the assumptions and limiting conditions stated in this review report, and are my personal, unbiased professional analyses, opinions and conclusions.

I have no (or the specified) present or prospective interest in the property that is the subject of this report and I have no (or the specified) personal interest or bias with respect to the parties involved.

my compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or the use of, this review report.

my analyses, opinions, and conclusions were developed and this review report was prepared in conformity with the Uniform Standards of Professional Appraisal Practice.

I did not (did) personally inspect the subject property of the report under review.

no one provided significant professional assistance to the person signing this review report. (If there are exceptions, the name of each individual providing significant professional assistance must be stated.)

Comment: Departure from binding requirements (a) through (e) above is not permitted.

SECTION 6. Origin and History of the Uniform Standards of Professional Appraisal Practice is amended to read:

ORIGIN AND HISTORY OF THE
UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL
PRACTICE

These standards are based on the original Uniform Standards of Professional Appraisal Practice developed in 1986-87 by the Ad Hoc Committee on Uniform Standards and copyrighted in 1987 by The Appraisal Foundation. Prior to the establishment of the ASB in 1989, the USPAP had been adopted by major appraisal organizations in North America and became recognized throughout the United States as the generally accepted standards of appraisal practice.

At its organizational meeting on January 30, 1989, the ASB unanimously approved and adopted the original USPAP as the initial appraisal standards promulgated by the ASB. These standards may be altered, amended, interpreted, supplemented, or repealed by the ASB after exposure to the appraisal foundation, users of appraisal services and the public in accordance with established rules of procedure.

Effective Date of Original Uniform Standards: April 27, 1987

Amendments by the Appraisal Standards Board to Date:

Preamble April 20, 1990
Ethics Provision December 4, 1989

DRAFT OF MARCH 8, 1995

<u>Preamble through Standard 2 Competency Provision</u>	April 20, 1990
<u>Departure Provision</u>	<u>March 22, 1994</u>
<u>Jurisdictional Exception and Supplemental Standards sections</u>	<u>July 19, 1994</u>
<u>Definitions section</u>	<u>March 22, 1994</u>
<u>Standard 1</u>	<u>April 20, 1990</u>
<u>Standard 2</u>	<u>March 22, 1994</u>
<u>Standard 3</u>	<u>March 22, 1994</u>
Standards 3, 4 and 5	June 5, 1990
Standard 6	September 10, 1991
Standards 7 and 8	March 3, 1992
Standards 9 and 10	September 16, 1992

SECTION 7. Footnotes that appear throughout Appendix I are repealed.

(END OF TEXT)

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 _____
Patricia McCormack, Deputy Secretary
Department of Regulation and Licensing

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

FINAL REGULATORY FLEXIBILITY ANALYSIS

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

3/8/95