



**VIRTUAL/TELECONFERENCE
REAL ESTATE APPRAISERS BOARD
Virtual, 4822 Madison Yards Way, Madison
Contact: Valerie Payne (608) 266-2112
August 3, 2021**

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions of the Board.

AGENDA

9:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-3)**
- B. Approval of Minutes of May 4, 2021 (4-6)**
- C. Reminders: Conflicts of Interest, Scheduling Concerns
- D. 9:00 A.M. PUBLIC HEARING – Clearinghouse Rule 21-037 Revising SPS 85 to 87, Relating to Uniform Standards of Professional Appraisal Practice (USPAP) (7-16)**
 - 1) Review Public Hearing Comments and Clearinghouse Report
- E. Administrative Matters – Discussion and Consideration**
 - 1) Department, Staff, and Board Updates
 - 2) Board Members – Term Expiration Dates
- F. Administrative Rule Matters – Discussion and Consideration (17-18)**
 - 1) SPS 85, Relating to Real Estate Appraisers
 - 2) SPS 85 to 87, Relating to Uniform Standards of Professional Appraisal Practice (USPAP)
 - 3) Pending or Possible Rulemaking Projects
- G. COVID-19 – Discussion and Consideration**
- H. Report from the Real Estate Appraisers Application Advisory Committee
- I. Discussion and Consideration of Items Added After Preparation of Agenda
Introductions, Announcements and Recognition
 - 1) Administrative Matters
 - 2) Election of Officers
 - 3) Appointment of Liaisons and Alternates
 - 4) Delegation of Authorities
 - 5) Education and Examination Matters

- 6) Credentialing Matters
- 7) Practice Matters
- 8) Legislative and Policy Matters
- 9) Administrative Rule Matters
- 10) Liaison Reports
- 11) Board Liaison Training and Appointment of Mentors
- 12) Informational Items
- 13) Division of Legal Services and Compliance (DLSC) Matters
- 14) Presentations of Petitions for Summary Suspension
- 15) Petitions for Designation of Hearing Examiner
- 16) Presentation of Stipulations, Final Decisions and Orders
- 17) Presentation of Proposed Final Decisions and Orders
- 18) Presentation of Interim Orders
- 19) Petitions for Re-Hearing
- 20) Petitions for Assessments
- 21) Petitions to Vacate Orders
- 22) Requests for Disciplinary Proceeding Presentations
- 23) Motions
- 24) Petitions
- 25) Appearances from Requests Received or Renewed
- 26) Speaking Engagements, Travel, or Public Relation Requests, and Reports

J. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

K. Deliberation on Division of Legal Services and Compliance Matters

- 1) **Administrative Warnings**
 - a. 20 APP 024 – J.J.H. **(19-21)**
- 2) **Case Closings**
 - a. 20 APP 010 – D.W.L. **(22-31)**
 - b. 20 APP 029 – J.D.B. **(32-40)**
- 3) **Proposed Stipulations, Final Decisions, and Orders**
 - a. 20 APP 008 – Richard N. Atkinson **(41-48)**
 - b. 20 APP 009 – Raymond A. Christ **(49-56)**
 - c. 20 APP 011 – Mike A. McBrayer **(57-63)**
 - d. 20 APP 041 – Timothy J. Packard **(64-70)**
 - e. 20 APP 065 – Courtney R. Prentice **(71-77)**

L. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions

- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Orders
- 9) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Case Closings
- 15) Board Liaison Training
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

M. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

N. Vote on Items Considered or Deliberated Upon in Closed Session if Voting is Appropriate

O. Open Session Items Noticed Above Not Completed in the Initial Open Session

ADJOURNMENT

NEXT MEETING: NOVEMBER 9, 2021

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 4822 Madison Yards Way, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Requests for interpreters for the deaf or hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer, 608-266-2112, or the Meeting Staff at 608-266-5439.

**VIRTUAL/TELECONFERENCE
REAL ESTATE APPRAISERS BOARD
MEETING MINUTES
MAY 4, 2021**

PRESENT: Carl Clementi, Jennifer Coates, Thomas Kneesel, Dennis Myers (*arrived at 9:05 a.m.*), David Wagner

STAFF: Valerie Payne, Executive Director; Jameson Whitney, Legal Counsel; Kassandra Walbrun, Administrative Rule Coordinator; Megan Glaeser, Bureau Assistant; and other DSPS Staff

CALL TO ORDER

Carl Clementi, Chairperson, called the meeting to order at 9:00 a.m. A quorum was confirmed with four (4) members present.

ADOPTION OF AGENDA

MOTION: Thomas Kneesel moved, seconded by Jennifer Coates, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF FEBRUARY 9, 2021

MOTION: Jennifer Coates moved, seconded by David Wagner, to approve the minutes of February 9, 2021 as published. Motion carried unanimously.

(Dennis Myers arrived at 9:05 a.m.)

COVID-19

MOTION: Dennis Myers moved, seconded by Carl Clementi, to express the support and encouragement of the Board for its licensees to receive a COVID-19 vaccine as soon as they are eligible to do so and the vaccine is available to them. Motion carried unanimously.

**SPEAKING ENGAGEMENTS, TRAVEL, OR
PUBLIC RELATION REQUESTS, AND REPORTS**

Consider Attendance: Fall 2021 Association of Appraiser Regulatory Officials (AARO) Conference, October 15-18, 2021, Washington DC

MOTION: Dennis Myers moved, seconded by Jennifer Coates, to designate Carl Clementi as the Board's delegate, and David Wagner as alternate delegate, to attend the 2021 Association of Appraiser Regulatory Officials (AARO) Conference, October 15-18, 2021, Washington DC and to authorize travel. Motion carried unanimously.

CLOSED SESSION

MOTION: Dennis Myers moved, seconded by Jennifer Coates, to convene to Closed Session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.). Carl Clementi, Chairperson, read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Carl Clementi-yes; Jennifer Coates-yes; Thomas Kneesel-yes; Dennis Myers-yes; and David Wagner-yes. Motion carried unanimously.

The Board convened into Closed Session at 9:44 a.m.

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Administrative Warnings

20 APP 020 – L.A.

MOTION: Dennis Myers moved, seconded by Carl Clementi, to issue an Administrative Warning in the matter of L.A., DLSC Case Number 20 APP 020. Motion carried unanimously.

Proposed Stipulations, Final Decisions and Orders

MOTION: Dennis Myers moved, seconded by David Wagner, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings of the following cases:

- a. 19 APP 023 – Joseph M. Mazurek
- b. 19 APP 029 – Joy A. Newton
- c. 20 APP 038 – David E. Hopkins

Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Dennis Myers moved, seconded by David Wagner, to reconvene into Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 9:52 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

MOTION: Jennifer Coates moved, seconded by Thomas Kneesel, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the Closed Session motions stand for the purposes of the affirmation vote.)

ADJOURNMENT

MOTION: David Wagner moved, seconded by Jennifer Coates, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 9:54 a.m.

DRAFT

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Nilajah Hardin Administrative Rules Coordinator		2) Date when request submitted: 07/21/21 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Real Estate Appraisers Board			
4) Meeting Date: 08/03/21	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 9:00 A.M. Public Hearing – Clearinghouse Rule 21-037 Revising SPS 85 to 87, Relating to Uniform Standards of Professional Appraisal Practice (USPAP) 1) Review Public Hearing Comments and Clearinghouse Report	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: The Board will hold a Public Hearing on this rule as required by the rulemaking process.			
11) Authorization			
 Signature of person making this request		07/21/21 Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	DEPARTMENT
DEPARTMENT OF SAFETY AND	:	ADOPTING RULES
PROFESSIONAL SERVICES	:	(CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the department to amend SPS 85.115, relating to the Uniform Standards of Professional Appraisal Practice.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

None.

Statutory authority:

Section 458.24, Stats.

Explanation of agency authority:

Section 458.24, Stats., provides that “[t]he department may promulgate rules establishing standards for appraisal practice. In promulgating rules under this section, the department shall consider including as part or all of the standards part or all of the ‘Uniform Standards of Professional Appraisal Practice’ established by the appraisal standards board of the appraisal foundation. The department shall periodically review the ‘Uniform Standards of Professional Appraisal Practice’ and, if appropriate, revise the rules promulgated under this section to reflect revisions to the ‘Uniform Standards of Professional Appraisal Practice.’”

Related statutes or rules:

Section 458.19, Stats., provides requirements for appraisal practice. Specifically, an appraiser is required to include all of the following in each appraisal report prepared by the appraiser:

- If the appraiser has not conducted an on-site inspection of the real estate for which the appraisal report is prepared, a statement must be included that the appraiser has not done so.
- If any buildings or dwelling units are located on the real estate for which the appraisal report is prepared and the appraiser has not conducted an on-site inspection of both the exterior and the interior of each building or dwelling unit, a statement must be included that the appraiser has not done so.
- If the appraisal report pertains to residential real estate, the appraiser’s opinion of the highest and best use of the real estate must be included.

Plain language analysis:

Section SPS 85.115 is updated to incorporate by reference into chs. SPS 85 to 87 the Uniform Standards of Professional Appraisal Practice (USPAP) issued by the Appraisal Standards Board of The Appraisal Foundation with an effective date of January 1, 2023. It is anticipated this version of USPAP will be finalized in October 2022, at which time it will be reviewed by the Attorney General as required under s. 227.21 (2), Stats.

Summary of, and comparison with, existing or proposed federal statutes and regulations:

The Financial 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.”

Under FIRREA, all appraisals conducted in connection with federally related transactions must be written appraisals performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation and subject to appropriate review for compliance with the Uniform Standards of Professional Appraisal Practice.

The regulations in the proposed rule will comply with the provisions of FIRREA.

Comparison with rules in adjacent states:

Illinois: Rules of the Illinois Department of Financial and Professional Regulation address the practice of real estate appraisal in Illinois (68 Ill. Adm. Code 1455). The rules incorporate by reference with no later amendments or editions the 2020-2021 Uniform Standards of Professional Appraisal Practice issued by the Appraisal Standards Board of The Appraisal Foundation [68 Ill. Adm. Code 1455.240].

Iowa: Rules of the Iowa Real Estate Appraiser Examining Board address the practice of real estate appraisal in Iowa [193F IAC 1 to 17]. The rules provide the Board has adopted the Uniform Standards of Professional Appraisal Practice issued by The Appraisal Foundation [193F IAC 1.1(1)].

Michigan: Rules of the Michigan Department of Licensing and Regulatory Affairs address the practice of real estate appraisal in Michigan [Mich Admin Code, R 339.23101 to R 339.23405]. The rules reference the Uniform Standards of Professional Appraisal Practice, and specifically provide [Mich Admin Code, R 339.23104] the following individuals are exempt from the appraisal review and development requirements of Standard 3:

- A member of the Board of Real Estate Appraisers who is performing an investigation or testifying at an adjudicatory hearing on behalf of the Department.
- A member of the Board of Real Estate Appraisers who is serving in the capacity of a reviewer while reviewing the work experience of an applicant for licensure.

- An investigator employed by or retained by the Department who is performing an investigation or testifying at an adjudicatory hearing.

Minnesota: The Minnesota Statutes, Sections 82B.021 to 82B.24, address the practice of real estate appraisal in Minnesota. The statutes define “standards of professional practice” to mean the Uniform Standards of Professional Appraisal Practice of the Appraisers Standards Board of The Appraisal Foundation in effect as of January 1, 1991, or other version of the standards designated by the Commissioner of the Department of Commerce (Minnesota Statutes, Section 82B.021, Subdivision 26).

Summary of factual data and analytical methodologies:

The proposed rules were developed, in consultation with the Real Estate Appraisers Board, by reviewing the most current version of the Uniform Standards of Professional Appraisal Practice (USPAP).

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

The proposed rules will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

Effect on small business:

These rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator, Dan Hereth, may be contacted by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. SPS 85.115 is amended to read:

SPS 85.115 Adoption of standards. The Uniform Standards of Professional Appraisal Practice, ~~2020-2021~~, issued by the Appraisal Standards Board of The Appraisal Foundation with an effective date of January 1, 2023, are incorporated by reference into chs. SPS 85 to 87.

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on January 1, 2023, pursuant to s. 227.22 (2) (b), Stats.

(END OF TEXT OF RULE)

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 4/9/2021
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) SPS 85 to 87	
4. Subject Uniform Standards of Professional Appraisal Practice (USPAP)	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule Section SPS 85.115 is updated to incorporate by reference into chs. SPS 85 to 87 the 2022-2023 Uniform Standards of Professional Appraisal Practice issued by the Appraisal Standards Board of The Appraisal Foundation (2022-2023 USPAP). It is anticipated the 2022-2023 USPAP will be finalized in October 2021, at which time it will be reviewed by the Attorney General as required under s. 227.21 (2), Stats.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The EIA was posted for 14 days and no comments were received.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. None.	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The proposed rule will not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units and the state's economy as a whole.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit to implementing the rule is maintaining current standards for professional appraisal practice. If the rule is not implemented, the standards in chs. SPS 85 to 87 will become outdated.	
16. Long Range Implications of Implementing the Rule The long range implication of implementing the rule is maintaining current standards for professional appraisal practice.	
17. Compare With Approaches Being Used by Federal Government None	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Rules of the Illinois Department of Financial and Professional Regulation address the practice of real estate appraisal in Illinois (68 Ill. Adm. Code 1455). The rules incorporate by reference with no later amendments or editions the 2020-2021 Uniform Standards of Professional Appraisal Practice issued by the Appraisal Standards Board of The Appraisal Foundation [68 Ill. Adm. Code 1455.240].

Iowa: Rules of the Iowa Real Estate Appraiser Examining Board address the practice of real estate appraisal in Iowa [193F IAC 1 to 17]. The rules provide the Board has adopted the Uniform Standards of Professional Appraisal Practice issued by The Appraisal Foundation [193F IAC 1.1(1)].

Michigan: Rules of the Michigan Department of Licensing and Regulatory Affairs address the practice of real estate appraisal in Michigan [Mich Admin Code, R 339.23101 to R 339.23405]. The rules reference the Uniform Standards of Professional Appraisal Practice, and specifically provide [Mich Admin Code, R 339.23104] the following individuals are exempt from the appraisal review and development requirements of Standard 3:

- A member of the Board of Real Estate Appraisers who is performing an investigation or testifying at an adjudicatory hearing on behalf of the Department.
- A member of the Board of Real Estate Appraisers who is serving in the capacity of a reviewer while reviewing the work experience of an applicant for licensure.
- An investigator employed by or retained by the Department who is performing an investigation or testifying at an adjudicatory hearing.

Minnesota: The Minnesota Statutes, Sections 82B.021 to 82B.24, address the practice of real estate appraisal in Minnesota. The statutes define “standards of professional practice” to mean the Uniform Standards of Professional Appraisal Practice of the Appraisers Standards Board of The Appraisal Foundation in effect as of January 1, 1991, or other version of the standards designated by the Commissioner of the Department of Commerce (Minnesota Statutes, Section 82B.021, Subdivision 26).

19. Contact Name Kassandra Walbrun	20. Contact Phone Number (608) 261-4463
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This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
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Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant 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 **21-037**

AN ORDER to amend SPS 85.115, relating to the Uniform Standards of Professional Appraisal Practice.

Submitted by **DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

04-09-2021 RECEIVED BY LEGISLATIVE COUNCIL.

05-04-2021 REPORT SENT TO AGENCY.

SG:PH

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

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Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 21-037

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

2. Form, Style and Placement in Administrative Code

a. The proposed Uniform Standards will not be finalized until approximately October 2022 and will not be in effect until January 1, 2023. Therefore, it is difficult to know the economic impact of the standards, and public comment or analysis is of diminished usefulness until the standards are finalized. Does the department anticipate revising the Fiscal Estimate and Economic Impact Analysis after the Uniform Standards are finalized?

b. Generally, related to comment 2. a., above, what is the department’s expectation regarding the next steps in the rulemaking process? Its plain language analysis indicates the proposed rule will be submitted to the Attorney General after the Uniform Standards are finalized, but does not speak to other steps in the rulemaking process. As discussed in s. 1.14 (5), Manual, prospective incorporation by reference should be avoided, as it raises questions of improper delegation of authority. As such, it would appear the department should also plan to delay submission of the proposed rule to the Governor and Legislature until after the Uniform Standards are finalized, as those entities would not be considering the “final” version of the proposed rule prior to that time.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the comparison with other states, consider changing the parentheses surrounding “68 Ill. Adm. Code 1455” and “Minnesota Statutes, Section 82B.021, Subdivision 26” to brackets in order to be consistent with other citations.

b. The Fiscal Estimate and Economic Impact Analysis states that it is anticipated that the Uniform Standards will be finalized in October 2021; it appears this is an error and the correct date is October 2022.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Nilajah Hardin Administrative Rules Coordinator		2) Date when request submitted: 07/21/21 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Real Estate Appraisers Board			
4) Meeting Date: 08/03/21	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rules – Discussion and Consideration 1. Pending or Possible Rulemaking Projects a. SPS 85 Relating to Real Estate Appraisers b. SPS 85 to 87 Relating to Uniform Standards of Professional Appraisal Practice (USPAP)	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: An update on the Board’s current rules for review.			
11) Authorization			
 Signature of person making this request		07/21/21 Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

Administrative Rule	Status of Current Project	Anticipated Next Steps	Comments
SPS 85, relating to real estate appraisers	Adoption Order Pending Signature by DSPS Secretary	Submission to the Legislative Reference Bureau for Publication in the Administrative Register	Anticipated Rule Effective Date of 09/01/2021
SPS 85-87, relating to the Uniform Standards of Professional Appraisal Practice (USPAP)	Public Hearing held at August 3, 2021 Meeting	Board Member Designated to Work with DSPS Staff to Complete Legislative Report and Final Rule Draft	Rule Anticipated to be Submitted to the Governor’s Office prior to the next Board Meeting