

(v) Obligations of the African Development Bank, Asian Development Bank, Inter-American Development Bank, and the International Bank for Reconstruction and Development;

(vi) Commercial paper;

(vii) Notes issued by bank and savings and loan holding companies, banks, or savings associations organized under the laws of the United States or any state thereof or notes issued by branches or agencies of foreign banks, provided that the notes are payable in the United States, and provided further, that the

issuing branch or agency of a foreign bank is not an affiliate of the pledging bank or from the same country as the pledging bank's domicile;

(viii) Banker's acceptances that are payable in the United States and that are issued by any state bank, national bank, state or federal savings association, or branch or agency of a foreign bank; provided, that the maturity of any acceptance is not greater than 180 days; and provided further, that the branch or agency issuing the acceptance is not an affiliate of the pledging bank or from the

same country as the pledging bank's domicile;

(ix) General obligations of any state of the United States, or any county or municipality of any state of the United States, or any agency, instrumentality, or political subdivision of the foregoing or any obligation guaranteed by a state of the United States or any county or municipality of any state of the United States;

(x) Any other asset determined by the FDIC to be acceptable.

* * * * *

TABLE 1 TO § 347.209—SUPERVISORY HAIRCUTS FOR ASSETS PLEDGED UNDER § 347.209(d)

Remaining maturity	Haircut % assigned based on maturity and risk weight			
	Risk weight (%) by issuer as specified in part 324.32			
	0%	20%	50%	100%
≤to 1 Year	0	1.0	2.0	4.0
>1 Year but ≤5 Years	0	4.0	6.0	8.0
>5 years	0	8.0	12.0	16.0

Dated at Washington, DC, on February 14, 2018.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2018-04255 Filed 3-2-18; 8:45 am]

BILLING CODE 6714-01-P

DATES: The revised ASC Policy Statements adopted February 14, 2018, are applicable March 5, 2018.

FOR FURTHER INFORMATION CONTACT:

James R. Park, Executive Director, at (202) 595-7575, or Alice M. Ritter, General Counsel, at (202) 595-7577, Appraisal Subcommittee, 1401 H Street NW, Suite 760, Washington, DC 20005.

SUPPLEMENTARY INFORMATION:

I. Background

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI), established the ASC.¹ The purpose of Title XI is to provide protection of Federal financial and public policy interests by upholding Title XI requirements for appraisals performed for federally related transactions.² Pursuant to Title XI, one of the ASC's core functions is to monitor the requirements established by the States³

for certification and licensing of appraisers qualified to perform appraisals in connection with federally related transactions. This is accomplished through periodic ASC Compliance Reviews of each State appraiser regulatory program (Appraiser Program) to determine compliance or lack thereof with Title XI, and to assess implementation of minimum requirements for credentialing of appraisers as adopted by the Appraiser Qualifications Board (*The Real Property Appraiser Qualification Criteria* or AQB Criteria). The revised ASC Policy Statements provide guidance to the States regarding how Appraiser Programs will be evaluated during ASC Compliance Reviews.

Title XI as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act)⁴ expanded the ASC's core functions to include monitoring of the requirements established by States that elect to register and supervise the operations and activities of appraisal management companies⁵ (AMCs). States electing to register and supervise AMCs must implement minimum requirements in accordance with the AMC Rule.⁶ As a result, States with an

Rico, Commonwealth of the Northern Mariana Islands, Guam, and United States Virgin Islands.

⁴Public Law 111-203, 124 Stat. 1376.

⁵Title XI § 1103 (a)(1)(B), 12 U.S.C. 3332.

⁶The Dodd-Frank Act added section 1124 to Title XI, *Appraisal Management Company Minimum Requirements*, which required the OCC, Board, FDIC, NCUA, CFPB, and FHFA to establish, by rule, minimum requirements for the registration and supervision of AMCs by States that elect to register

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

12 CFR Chapter XI

[Docket No. AS18-02]

Appraisal Subcommittee; Revised ASC Policy Statements

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Adoption of revised ASC Policy Statements.

SUMMARY: The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council is adopting revised ASC Policy Statements. The ASC Policy Statements provide guidance to ensure State appraiser certifying and licensing agencies comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, and the rules promulgated thereunder. The revised ASC Policy Statements supersede the current ASC Policy Statements.

¹The ASC Board is comprised of seven members. Five members are designated by the heads of the FFIEC agencies (Board of Governors of the Federal Reserve System [Board], Bureau of Consumer Financial Protection [CFPB], Federal Deposit Insurance Corporation [FDIC], Office of the Comptroller of the Currency [OCC], and National Credit Union Administration [NCUA]). The other two members are designated by the heads of the Department of Housing and Urban Development (HUD) and the Federal Housing Finance Agency (FHFA).

²Refers to any real estate related financial transaction which: (a) A federal financial institutions regulatory agency engages in, contracts for, or regulates; and (b) requires the services of an appraiser. (Title XI § 1121 (4), 12 U.S.C. 3350.)

³The 50 States, the District of Columbia, and four Territories, which are the Commonwealth of Puerto

AMC regulatory program (AMC Program) will be evaluated during the ASC's Compliance Review to determine compliance or lack thereof with Title XI, and to assess implementation of the minimum requirements for State registration and supervision of AMCs as established by the AMC Rule. The amendments to Title XI by the Dodd-Frank Act also allow States with an AMC Program to add information about AMCs in their State to the National Registry of AMCs (AMC Registry). The revised ASC Policy Statements include guidance to the States regarding how AMC Programs will be evaluated during ASC Compliance Reviews.

The ASC published Proposed Revised Policy Statements on January 10, 2017. The comment period was scheduled to close on April 10, 2017. The ASC suspended the comment period in response to the White House Chief of Staff Memorandum titled *Regulatory Freeze Pending Review*, signed on January 20, 2017, pending review by the Office of Management and Budget (OMB). The ASC re-published Proposed Revised Policy Statements on September 20, 2017, with a 60-day comment period.⁷ With certain changes to the proposal, the revised ASC Policy Statements were adopted by the ASC at its February 14, 2018 Meeting substantially as proposed.

II. Revised ASC Policy Statements

The revised ASC Policy Statements⁸ are being issued by the ASC in three parts to provide States with the necessary information to maintain their Appraiser Programs and AMC Programs in compliance with Title XI and the rules promulgated thereunder:

➤ Part A, *Appraiser Program*—Policy Statements 1 through 7 correspond with the categories that are: (a) Evaluated during the Appraiser Program Compliance Review; and (b) included in the *ASC's Compliance Review Report of the Appraiser Program*.

➤ Part B, *AMC Program*—Policy Statements 8 through 10 correspond with the categories that are: (a) Evaluated during the AMC Program Compliance Review; and (b) included in the *ASC's Compliance Review Report of the AMC Program*. Policy Statement 11

and supervise AMCs pursuant to Title XI and the rules promulgated thereunder. (Title XI § 1124 (a), 12 U.S.C. 3353(a)). Those rules were finalized and published on June 9, 2015, at 80 FR 32658 with an effective date of August 10, 2015. (12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26).

⁷ 82 FR 43966 (Sept. 20, 2017).

⁸ These Policy Statements, adopted February 14, 2018, supersede all previous Policy Statements adopted by the ASC.

addresses the statutory implementation period.

➤ Part C, *Interim Sanctions* – Policy Statement 12 sets forth required procedures in the event that interim sanctions are imposed against a State by the ASC for non-compliance in either the Appraiser Program or the AMC Program.

The revised ASC Policy Statements include two appendices:

1. Appendix A provides an overview of the Compliance Review process; and
2. Appendix B provides a glossary of terms.

For reasons discussed in section III of this **SUPPLEMENTARY INFORMATION**, the revised Policy Statements are adopted substantially as proposed with modifications to Policy Statements 7 and 10 removing proposed additional requirements for complaint logs. The revised Policy Statements also contain technical, nonsubstantive changes.

III. Revised ASC Policy Statements and Public Comments on the Proposed Policy Statements

The following provides a section by section review of the proposed Policy Statements and a discussion of public comments received by the ASC concerning the proposal. The ASC received 29 comments, 27 of which addressed issues such as wind turbines and environmental issues, and were non-responsive to the proposal. The 2 comments that were responsive to the proposal were received from State appraiser certifying and licensing agencies.

1. Introduction and Purpose

The ASC proposal to expand the introduction to include the monitoring of States that elect to register and supervise the operations and activities of AMCs, and to include an explanation of the proposed Policy Statements' three parts and appendices is adopted without change in the revised ASC Policy Statements.

2. Part A: Appraiser Program

a. Policy Statement 1: Statutes, Regulations, Policies and Procedures Governing State Appraiser Programs

The ASC proposal to modify Policy Statement 1 to include a definition of trainee appraiser to better reflect how changes to Title XI affect Appraiser Programs with trainee requirements is adopted without change in the revised ASC Policy Statement.

b. Policy Statement 2: Temporary Practice

The ASC proposal to modify Policy Statement 2 to clarify requirements for

temporary practice, including requirements to track temporary practice permits and maintain documentation, is adopted without change in the revised ASC Policy Statements.

c. Policy Statement 3: National Registry of Appraisers

The ASC received one comment regarding the proposal to add language to Policy Statement 3 stating, "Only those appraisers whose registry fees have been transmitted to the ASC will be eligible to be on the Appraiser Registry for the period subsequent to payment of the fee." The commenter expressed concern that States would not be able to upload information to the Appraiser Registry until after the monthly invoice is paid. This would not, however, be the case. There is no change in how States populate the Appraiser Registry; States are invoiced after the information is added to the Appraiser Registry. Nothing in that process would change. An appraiser on the Appraiser Registry would only be impacted if the State failed to pay the invoice amount for that appraiser timely, which has always been ASC practice and policy. The ASC proposal to modify Policy Statement 3 to clarify requirements regarding States' submission of registry fees and eligibility of appraisers for the Appraiser Registry is adopted without change in the revised ASC Policy Statements.

d. Policy Statement 4: Application Process

The ASC proposal to modify Policy Statement 4 to include: (1) Additional guidance to States implementing AQB Criteria regarding the background of applicants for credentials and requiring States to document applicant files with evidence supporting decisions made regarding individual appraisers; (2) additional guidance on requirements for States to validate renewal requirements for appraisers and parameters for auditing education-related affidavits; and (3) clarification on the requirement that States engage analysts who are knowledgeable about the *Uniform Standards of Professional Appraisal Practice* (USPAP) and document how the analysts are qualified is adopted without change in the revised ASC Policy Statements.

e. Policy Statement 5: Reciprocity

The ASC proposal to modify Policy Statement 5 to include a requirement that States obtain and maintain sufficient relevant documentation pertaining to an application for issuance

of a credential by reciprocity is adopted without change in the revised ASC Policy Statements.

f. Policy Statement 6: Education

The ASC proposal to modify Policy Statement 6 to clarify that States may not continue to accept AQB approved courses after the AQB's expiration date unless the course content is reviewed and approved by the State is adopted without change in the revised ASC Policy Statements.

g. Policy Statement 7: State Agency Enforcement

The ASC received one comment regarding the proposal to require additional information on complaint logs. As proposed, States would be required to include terms of disposition, and, in the case of open complaints, the most recent activity and date thereof. The commenter addressed the burden imposed on States by requiring them to duplicate information that is readily available and documented elsewhere. The commenter also suggested that such additional requirements may be more appropriate in the case of a State that needs additional monitoring due to compliance issues with Title XI. The ASC agrees with the commenter's concerns and is adopting Policy Statement 7 without the proposed additional requirements for complaint logs. Policy Statement 7 is otherwise adopted as proposed.

3. *Part B: AMC Program*

a. Policy Statement 8: Statutes, Regulations, Policies and Procedures Governing State AMC Programs

Policy Statement 8 reflects the statutory provision that States are not required to establish an AMC Program, and clarifies for those States that establish AMC Programs the ASC oversight during ASC Compliance Reviews. Policy Statement 8 reiterates that States with an AMC Program must: (1) Establish and maintain an AMC Program with the legal authority and mechanisms consistent with the AMC Rule; (2) impose requirements on AMCs consistent with the AMC Rule; and (3) enforce and document ownership limitations for State-registered AMCs. Policy Statement 8 informs States that while they may have a more expansive definition of an AMC in their State statute, only AMCs that meet the federal definition in Title XI may be included on the AMC Registry. The language in Policy Statement 8 has been modified to clarify that formal ASC oversight of State AMC Programs will begin at the next regularly scheduled Compliance

Review of a State after a State elects to register and supervise AMCs pursuant to the AMC Rule. Policy Statement 8 is otherwise adopted as proposed.

b. Policy Statement 9: National Registry of AMCs (AMC Registry)

The ASC proposal for new Policy Statement 9 is adopted without change in the revised ASC Policy Statements. Policy Statement 9 clarifies requirements for States with an AMC Program to maintain the AMC Registry.

c. Policy Statement 10: State Agency Enforcement

Consistent with Policy Statement 7, Policy Statement 10 is adopted without the proposed additional requirements for complaint logs. Policy Statement 10 is otherwise adopted as proposed and clarifies requirements for States' AMC enforcement programs in those States with an AMC Program.

d. Policy Statement 11: Statutory Implementation Period

The ASC proposal for new Policy Statement 11 is adopted without change in the revised ASC Policy Statements. Policy Statement 11 clarifies the statutory implementation period and any extensions that may be granted.

4. *Part C: Interim Sanctions*

a. Policy Statement 12: Interim Sanctions

The ASC proposal for new Policy Statement 12 is adopted without change in the revised ASC Policy Statements. Policy Statement 12 clarifies interim sanctions which may be imposed on State Programs when those programs fail to be effective. The procedures include due process provisions and rules of evidence, and establish timeliness for proceedings.

5. *Appendices*

The ASC proposal for Appendix A, which provides an overview of the Compliance Review process; and Appendix B, which provides a glossary of terms, is adopted without change in the revised ASC Policy Statements.

The ASC revised Policy Statements are adopted as follows:

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Introduction and Purpose

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended (Title XI) established the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC).⁹ The purpose of Title XI is to provide protection of Federal financial and public policy interests by upholding Title XI requirements for appraisals performed for federally related transactions. Specifically, those appraisals shall be performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

Pursuant to Title XI, one of the ASC's core functions is to monitor the requirements established by the States¹⁰ for certification and licensing of appraisers qualified to perform appraisals in connection with federally related transactions.¹¹ Title XI as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act)¹² expanded the ASC's core functions to include monitoring of the requirements established by States that elect to register and supervise the operations and activities of appraisal management companies¹³ (AMCs).¹⁴

The ASC performs periodic Compliance Reviews¹⁵ of each State appraiser regulatory program (Appraiser Program) to determine compliance or lack thereof with Title XI, and to assess implementation of minimum requirements for credentialing of appraisers as adopted by the Appraiser

Qualifications Board (*The Real Property Appraiser Qualification Criteria* or AQB Criteria). As a result of the Dodd-Frank Act amendments to Title XI, States with an AMC regulatory program (AMC Program) will be evaluated during the Compliance Review to determine compliance or lack thereof with Title XI, and to assess implementation of the minimum requirements for State registration and supervision of AMCs as established by the AMC Rule.¹⁶

The ASC is issuing these revised Policy Statements¹⁷ in three parts to provide States with the necessary information to maintain their Appraiser Programs and AMC Programs in compliance with Title XI:

➤ Part A, *Appraiser Program*—Policy Statements 1 through 7 correspond with the categories that are: (a) Evaluated during the Appraiser Program Compliance Review; and (b) included in the *ASC's Compliance Review Report of the Appraiser Program*.

➤ Part B, *AMC Program*—Policy Statements 8 through 10 correspond with the categories that are: (a) Evaluated during the AMC Program Compliance Review; and (b) included in the *ASC's Compliance Review Report of the AMC Program*.

➤ Part C, *Interim Sanctions*—Policy Statement 12 sets forth required procedures in the event that interim sanctions are imposed against a State by the ASC for non-compliance in either the Appraiser Program or the AMC Program.

Part A: Appraiser Program

Policy Statement 1

Statutes, Regulations, Policies and Procedures Governing State Appraiser Programs

A. State Regulatory Structure

Title XI requires the ASC to monitor each State appraiser certifying and licensing agency for the purpose of determining whether each such agency has in place policies, practices and procedures consistent with the

requirements of Title XI.¹⁸ The ASC recognizes that each State may have legal, fiscal, regulatory or other factors that may influence the structure and organization of its Appraiser Program. Therefore, a State has flexibility to structure its Appraiser Program so long as it meets its Title XI-related responsibilities.

States should maintain an organizational structure for appraiser certification, licensing and supervision that avoids conflicts of interest. A State agency may be headed by a board, commission or an individual. State board¹⁹ or commission members, or employees in policy or decision-making positions, should understand and adhere to State statutes and regulations governing performance of responsibilities consistent with the highest ethical standards for public service. In addition, Appraiser Programs using private entities or contractors should establish appropriate internal policies, procedures and safeguards to promote compliance with the State agency's responsibilities under Title XI and these Policy Statements.

B. Funding and Staffing

The Dodd-Frank Act amended Title XI to require the ASC to determine whether States have sufficient funding and staffing to meet their Title XI requirements. Compliance with this provision requires that a State must provide its Appraiser Program with funding and staffing sufficient to carry out its Title XI-related duties. The ASC evaluates the sufficiency of funding and staffing as part of its review of all aspects of an Appraiser Program's effectiveness, including the adequacy of State boards, committees, or commissions responsible for carrying out Title XI-related duties.

C. Minimum Criteria

Title XI requires States to adopt and/or implement all relevant AQB Criteria. Requirements established by a State for certified residential or certified general appraisers, as well as requirements established for licensed appraisers, trainee appraisers and supervisory appraisers must meet or exceed applicable AQB Criteria.

D. Federally Recognized Appraiser Classifications

State Certified Appraisers

“State certified appraisers” means those individuals who have satisfied the requirements for residential or general

⁹ The ASC Board is made up of seven members. Five members are designated by the heads of the FFIEC agencies (Board of Governors of the Federal Reserve System, Bureau of Consumer Financial Protection, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and National Credit Union Administration). The other two members are designated by the heads of the Department of Housing and Urban Development and the Federal Housing Finance Agency.

¹⁰ See Appendix B, Glossary of Terms, for the definition of “State.”

¹¹ See Appendix B, Glossary of Terms, for the definition of “federally related transaction.”

¹² Public Law 111–203, 124 Stat. 1376.

¹³ Title XI § 1103 (a)(1)(B), 12 U.S.C. 3332.

¹⁴ See Appendix B, Glossary of Terms, for the definition of “appraisal management company” or AMC.

¹⁵ See Appendix A, Compliance Review Process.

¹⁶ The Dodd-Frank Act required the Office of the Comptroller of the Currency; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; National Credit Union Administration; Bureau of Consumer Financial Protection; and Federal Housing Finance Agency to establish, by rule, minimum requirements to be imposed by a participating State appraiser certifying and licensing agency on AMCs doing business in the State. (Title XI § 1124 (a), 12 U.S.C. 3353(a)). Those rules were finalized and published on June 9, 2015, at 80 FR 32658 with an effective date of August 10, 2015. (12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26.)

¹⁷ These Policy Statements, adopted February 14, 2018, supersede all previous Policy Statements adopted by the ASC.

¹⁸ Title XI § 1118 (a), 12 U.S.C. 3347.

¹⁹ See Appendix B, *Glossary of Terms*, for the definition of “State board.”

certification in a State whose criteria for certification meet or exceed the applicable minimum AQB Criteria. Permitted scope of practice and designation for State certified residential or certified general appraisers must be consistent with State and Federal laws, including regulations and supplementary guidance.

State Licensed Appraisers

“State licensed appraisers” means those individuals who have satisfied the requirements for licensing in a State whose criteria for licensing meet or exceed the applicable minimum AQB Criteria. The permitted scope of practice and designation for State licensed appraisers must be consistent with State and Federal laws, including regulations and supplementary guidance.

Trainee Appraisers

“Trainee appraisers” means those individuals who have satisfied the requirements for credentialing in a State whose criteria for credentialing meet or exceed the applicable minimum AQB Criteria. Any minimum qualification requirements established by a State for individuals in the position of “trainee appraiser” or “supervisory appraiser” must meet or exceed the applicable minimum AQB Criteria. ASC staff will evaluate State designations such as “registered appraiser,” “apprentice appraiser,” “provisional appraiser,” or any other similar designation to determine if, in substance, such designation is consistent with a “trainee appraiser” designation and, therefore, administered to comply with Title XI. The permitted scope of practice and designation for trainee appraisers must be consistent with State and Federal laws, including regulations and supplementary guidance.

Any State or Federal agency may impose additional appraiser qualification requirements for trainee, State licensed, certified residential or certified general classifications, if they consider such requirements necessary to carry out their responsibilities under Federal and/or State statutes and regulations, so long as the additional qualification requirements do not preclude compliance with AQB Criteria.

E. Non-Federally Recognized Credentials

States using non-federally recognized credentials or designations²⁰ must ensure that they are easily distinguished

from the federally recognized credentials.

F. Appraisal Standards

Title XI and the Federal financial institutions regulatory agencies’ regulations mandate that all appraisals performed in connection with federally related transactions be in written form, prepared in accordance with generally accepted appraisal standards as promulgated by the Appraisal Standards Board (ASB) in the Uniform Standards of Professional Appraisal Practice (USPAP), and be subject to appropriate review for compliance with USPAP.²¹ States that have incorporated USPAP into State law should ensure that statutes or regulations are updated timely to adopt the current version of USPAP, or if State law allows, automatically incorporate the latest version of USPAP as it becomes effective. States should consider ASB Advisory Opinions, Frequently Asked Questions, and other written guidance issued by the ASB regarding interpretation and application of USPAP.

Any State or Federal agency may impose additional appraisal standards if they consider such standards necessary to carry out their responsibilities, so long as additional appraisal standards do not preclude compliance with USPAP or the Federal financial institutions regulatory agencies’ appraisal regulations for work performed for federally related transactions.

The Federal financial institutions regulatory agencies’ appraisal regulations define “appraisal” and identify which real estate-related financial transactions require the services of a State certified or licensed appraiser. These regulations define “appraisal” as a “written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of an adequately described property as of a specific date(s) supported by the presentation and analysis of relevant market information.” Per these regulations, an appraiser performing an appraisal review which includes the reviewer providing his or her own opinion of value constitutes an appraisal. Under these same regulations, an appraisal review that does not include the reviewer providing his or her own opinion of value does not constitute an appraisal. Therefore, under the Federal financial institutions

regulatory agencies’ regulations, only those transactions that involve appraisals for federally related transactions require the services of a State certified or licensed appraiser.

G. Exemptions

Title XI and the Federal financial institutions regulatory agencies’ regulations specifically require the use of State certified or licensed appraisers in connection with the appraisal of certain real estate-related financial transactions.²² A State may not exempt any individual or group of individuals from meeting the State’s certification or licensing requirements if the individual or group member performs an appraisal when Federal statutes and regulations require the use of a certified or licensed appraiser. For example, an individual who has been exempted by the State from its appraiser certification or licensing requirements because he or she is an officer, director, employee or agent of a federally regulated financial institution would not be permitted to perform an appraisal in connection with a federally related transaction.

H. ASC Staff Attendance at State Board Meetings

The efficacy of the ASC’s Compliance Review process rests on the ASC’s ability to obtain reliable information about all areas of a State’s Appraiser Program. ASC staff regularly attends open State board meetings as part of the on-site Compliance Review process. States are expected to make available for review by ASC staff minutes of closed meetings and executive sessions. States are encouraged to allow ASC staff to attend closed and executive sessions of State board meetings where such attendance would not violate State law or regulation or be inconsistent with other legal obligations of the State board. ASC staff is obligated to protect information obtained during the Compliance Review process concerning the privacy of individuals and any confidential matters.

I. Summary of Requirements

1. States must require that appraisals be performed in accordance with the latest version of USPAP.²³
2. States must, at a minimum, adopt and/or implement all relevant AQB Criteria.²⁴

²² Title XI § 1112, 12 U.S.C. 3341; Title XI § 1113, 12 U.S.C. 3342; Title XI § 1114, 12 U.S.C. 3343.

²³ Title XI § 1101, 12 U.S.C. 3331; Title XI § 1118 (a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

²⁴ Title XI §§ 1116 (a), (c) and (e), 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347.

²⁰ See Appendix B, *Glossary of Terms*, for the definition of “non-federally recognized credentials or designations.”

²¹ See Appendix B, *Glossary of Terms* for the definition of “Uniform Standards of Professional Appraisal Practice.”

3. States must have policies, practices and procedures consistent with Title XI.²⁵

4. States must have funding and staffing sufficient to carry out their Title XI-related duties.²⁶

5. States must use proper designations and permitted scope of practice for certified residential; certified general; licensed; and trainee classifications.²⁷

6. State board members, and any persons in policy or decision-making positions, must perform their responsibilities consistent with Title XI.²⁸

7. States' certification and licensing requirements must meet the minimum requirements set forth in Title XI.²⁹

8. State requirements for trainee appraisers and supervisory appraisers must meet or exceed the AQB Criteria.

9. State agencies must be granted adequate authority by the State to maintain an effective regulatory Appraiser Program in compliance with Title XI.³⁰

Policy Statement 2

Temporary Practice

A. Requirement for Temporary Practice

Title XI requires State agencies to recognize, on a temporary basis, the certification or license of an out-of-State appraiser entering the State for the purpose of completing an appraisal assignment³¹ for a federally related transaction. States are not, however, required to grant temporary practice permits to trainee appraisers. The out-of-State appraiser must register with the State agency in the State of temporary practice (Host State). A State may determine the process necessary for "registration" provided such process complies with Title XI and does not impose "excessive fees or burdensome requirements," as determined by the ASC.³² Thus, a credentialed appraiser³³ from State A has a statutory right to enter State B (the Host State) to perform an assignment concerning a federally related transaction, so long as the appraiser registers with the State agency in State B prior to performing the assignment. Though Title XI

contemplates reasonably free movement of credentialed appraisers across State lines, an out-of-State appraiser must comply with the Host State's real estate appraisal statutes and regulations and is subject to the Host State's full regulatory jurisdiction. States should utilize the National Registry of Appraisers to verify credential status on applicants for temporary practice.

B. Excessive Fees or Burdensome Requirements

Title XI prohibits States from imposing excessive fees or burdensome requirements, as determined by the ASC, for temporary practice.³⁴ Adherence by State agencies to the following mandates and prohibitions will deter the imposition of excessive fees or burdensome requirements.

Host State agencies must:

a. issue temporary practice permits on an assignment basis;

b. issue temporary practice permits within five business days of receipt of a completed application, or notify the applicant and document the file as to the circumstances justifying delay or other action;

c. issue temporary practice permits designating the permit's effective date;

d. take regulatory responsibility for a temporary practitioner's unethical, incompetent and/or fraudulent practices performed while in the State;

e. notify the appraiser's home State agency³⁵ in the case of disciplinary action concerning a temporary practitioner;

f. allow at least one temporary practice permit extension through a streamlined process;

g. track all temporary practice permits using a permit log which includes the name of the applicant, date application received, date completed application received, date of issuance, and date of expiration, if any (States are strongly encouraged to maintain this information in an electronic, sortable format); and

h. maintain documentation sufficient to demonstrate compliance with this Policy Statement.

Host State agencies may not:

a. limit the valid time period of a temporary practice permit to less than 6 months (unless the applicant requests a specific end date and the applicant is allowed an extension if required to complete the assignment, the applicant's credential is no longer in active status during that period of time);

b. limit an appraiser to one temporary practice permit per calendar year;³⁶

c. charge a temporary practice permit fee exceeding \$250, including one extension fee;

d. impose State appraiser qualification requirements for education, experience and/or exam upon temporary practitioners;

e. require temporary practitioners to obtain a certification or license in the State of temporary practice;

f. require temporary practitioners to affiliate with an in-State licensed or certified appraiser;

g. refuse to register licensed or certified appraisers seeking temporary practice in a State that does not have a licensed or certified level credential; or

h. prohibit temporary practice.

Home State agencies may not:

a. delay the issuance of a written "letter of good standing" or similar document for more than five business days after receipt of a request; or

b. fail to consider and, if appropriate, take disciplinary action when one of its certified or licensed appraisers is disciplined by another State.

C. Summary of Requirements

1. States must recognize, on a temporary basis, appraiser credentials issued by another State if the property to be appraised is part of a federally related transaction.³⁷

2. States must adhere to mandates, prohibitions and documentation requirements as set forth above in Section B above, titled *Excessive Fees or Burdensome Requirements*.³⁸

Policy Statement 3

National Registry of Appraisers (Appraiser Registry)

A. Requirements for the Appraiser Registry

Title XI requires the ASC to maintain a National Registry of State certified and licensed appraisers who are eligible to perform appraisals in federally related transactions.³⁹ Title XI further requires the States to transmit to the ASC: (1) A roster listing individuals who have received a State certification or license

³⁶ State agencies may establish by statute or regulation a policy that places reasonable limits on the number of times an out-of-State certified or licensed appraiser may exercise his or her temporary practice rights in a given year. If such a policy is not established, a State agency may choose not to honor an out-of-State certified or licensed appraiser's temporary practice rights if it has made a determination that the appraiser is abusing his or her temporary practice rights and is regularly engaging in real estate appraisal services within the State.

³⁷ Title XI § 1122 (a)(1), 12 U.S.C. 3351.

³⁸ Title XI § 1122 (a)(2), 12 U.S.C. 3351.

³⁹ Title XI § 1103 (a)(3), 12 U.S.C. 3332.

²⁵ Title XI § 1118 (a), 12 U.S.C. 3347.

²⁶ *Id.*; Title XI § 1118 (b), 12 U.S.C. 3347.

²⁷ Title XI §§ 1116 (a), (c) and (e), 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; Title XI § 1113, 12 U.S.C. 3342; AQB *Real Property Appraiser Qualification Criteria*.

²⁸ Title XI § 1118 (a), 12 U.S.C. 3347.

²⁹ Title XI §§ 1116 (a), (c) and (e), 12 U.S.C. 3345.

³⁰ Title XI § 1118 (b), 12 U.S.C. 3347.

³¹ See Appendix B, *Glossary of Terms*, for the definition of "assignment."

³² Title XI § 1122 (a) (2), 12 U.S.C. 3351.

³³ See Appendix B, *Glossary of Terms*, for the definition of "credentialed appraisers."

³⁴ Title XI § 1122 (a)(2), 12 U.S.C. 3351.

³⁵ See Appendix B, *Glossary of Terms*, for the definition of "home State agency."

in accordance with Title XI; (2) reports on the issuance and renewal of licenses and certifications, sanctions, disciplinary actions, revocations and suspensions; and (3) the registry fee as set by the ASC⁴⁰ from individuals who have received certification or licensing. States must notify the ASC as soon as practicable if a credential holder listed on the Appraiser Registry does not qualify for the credential held.

Roster and registry fee requirements apply to all individuals who receive State certifications or licenses, originally or by reciprocity, whether or not the individuals are, in fact, performing or planning to perform appraisals in federally related transactions. If an appraiser is certified or licensed in more than one State, the appraiser is required to be on each State's roster of certified or licensed appraisers, and a registry fee is due from each State in which the appraiser is certified or licensed.

Only AQB-compliant certified and licensed appraisers in active status on the Appraiser Registry are eligible to perform appraisals in connection with federally related transactions. Only those appraisers whose registry fees have been transmitted to the ASC will be eligible to be on the Appraiser Registry for the period subsequent to payment of the fee.

Some States may give State certified or licensed appraisers an option to not pay the registry fee. If a State certified or licensed appraiser chooses not to pay the registry fee, then the Appraiser Program must ensure that any potential user of that appraiser's services is aware that the appraiser is not eligible to perform appraisals for federally related transactions. The Appraiser Program must place a conspicuous notice directly on the face of any evidence of the appraiser's authority to appraise stating, "Not Eligible To Appraise Federally Related Transactions," and the appraiser must not be listed in active status on the Appraiser Registry.

The ASC extranet application allows States to update their appraiser credential information directly to the Appraiser Registry. Only Authorized Registry Officials are allowed to request access for their State personnel (see section C below). The ASC will issue a User Name and Password to the designated State personnel responsible for that State's Appraiser Registry entries. Designated State personnel are

required to protect the right of access, and not share their User Name or Password with anyone. States must adopt and implement a written policy to protect the right of access, as well as the ASC issued User Name and Password. The ASC will provide detailed specifications regarding the data elements on the Appraiser Registry.

B. Registry Fee and Invoicing Policies

Each State must remit to the ASC the annual registry fee, as set by the ASC, for State certified or licensed appraisers within the State to be listed on the Appraiser Registry. Requests to prorate refunds or partial-year registrations will not be granted. If a State collects multiple-year fees for multiple-year certifications or licenses, the State may choose to remit to the ASC the total amount of the multiple-year registry fees or the equivalent annual fee amount. The ASC will, however, record appraisers on the Appraiser Registry only for the number of years for which the ASC has received payment. Nonpayment by a State of an appraiser's registry fee may result in the status of that appraiser being listed as "inactive." States must reconcile and pay registry invoices in a timely manner (45 calendar days after the invoice date). When a State's failure to pay a past due invoice results in appraisers being listed as inactive, the ASC will not change those appraisers back to active status until payment is received from the State. An inactive status on the Appraiser Registry, for whatever the reason, renders an appraiser ineligible to perform appraisals in connection with federally related transactions.

C. Access to Appraiser Registry Data

The ASC website provides free access to the public portion of the Appraiser Registry at www.asc.gov. The public portion of the Appraiser Registry data may be downloaded using predefined queries or user-customized applications.

Access to the full database, which includes non-public data (e.g., certain disciplinary action information), is restricted to authorized State and Federal regulatory agencies. States must designate a senior official, such as an executive director, to serve as the State's Authorized Registry Official, and provide to the ASC, in writing, information regarding the designated Authorized Registry Official. States must ensure that the authorization information provided to the ASC is updated and accurate.

D. Information Sharing

Information sharing (routine exchange of certain information among lenders,

governmental entities, State agencies and the ASC) is essential for carrying out the purposes of Title XI. Title XI requires the ASC, any other Federal agency or instrumentality, or any federally recognized entity to report any action of a State certified or licensed appraiser that is contrary to the purposes of Title XI to the appropriate State agency for disposition. The ASC believes that full implementation of this Title XI requirement is vital to the integrity of the system of State appraiser regulation. States are encouraged to develop and maintain procedures for sharing of information among themselves.

The Appraiser Registry's value and usefulness are largely dependent on the quality and frequency of State data submissions. Accurate and frequent data submissions from all States are necessary to maintain an up-to-date Appraiser Registry. States must submit appraiser data in a secure format to the ASC at least monthly. If there are no changes to the data, the State agency must notify the ASC of that fact in writing. States are encouraged to submit data as frequently as possible.

States must report all disciplinary action⁴¹ taken against an appraiser to the ASC via the extranet application within 5 business days after the disciplinary action is final, as determined by State law.⁴² States not reporting via the extranet application must provide, in writing to the ASC, a description of the circumstances preventing compliance with this requirement.⁴³

For the most serious disciplinary actions (i.e., voluntary surrenders, suspensions and revocations, or any action that interrupts a credential holder's ability to practice), the appraiser's status must be changed on the Appraiser Registry to "inactive," thereby making the appraiser ineligible to perform appraisals for federally related transactions or other transactions requiring the use of State certified or licensed appraisers.⁴⁴

Title XI also contemplates the reasonably free movement of certified and licensed appraisers across State lines. This freedom of movement assumes, however, that certified and licensed appraisers are, in all cases, held accountable and responsible for their actions while performing appraisal activities.

⁴⁰ Title XI § 1109, *Roster of State certified or licensed appraisers; authority to collect and transmit fees*, requires the ASC to consider at least once every 5 years whether to adjust the dollar amount of the registry fees to account for inflation. (Title XI § 1109 (a), 12 U.S.C. 3338.)

⁴¹ See Appendix B, *Glossary of Terms*, for the definition of "disciplinary action."

⁴² *Id.*

⁴³ Title XI § 1118 (a), 12 U.S.C. 3347.

⁴⁴ *Id.*

E. Summary of Requirements

1. States must reconcile and pay registry invoices in a timely manner (45 calendar days after the invoice date).⁴⁵

2. States must report all disciplinary action taken against an appraiser to the ASC via the extranet application within 5 business days after the disciplinary action is final, as determined by State law.⁴⁶

3. States not reporting via the extranet application must provide, in writing to the ASC, a description of the circumstances preventing compliance with this requirement.⁴⁷

4. For the most serious disciplinary actions (*i.e.*, voluntary surrenders, suspensions and revocations, or any action that interrupts a credential holder's ability to practice), the appraiser's status must be changed on the Appraiser Registry to "inactive," thereby making the appraiser ineligible to perform appraisals for federally related transactions or other transactions requiring the use of State certified or licensed appraisers.⁴⁸

5. States must designate a senior official, such as an executive director, who will serve as the State's Authorized Registry Official, and provide to the ASC, in writing, information regarding the selected Authorized Registry Official, and any individual(s) authorized to act on their behalf.⁴⁹

6. States must ensure that the authorization information provided to the ASC is updated and accurate.⁵⁰

7. States must adopt and implement a written policy to protect the right of access to the Appraiser Registry, as well as the ASC issued User Name and Password.⁵¹

8. States must ensure the accuracy of all data submitted to the Appraiser Registry.⁵²

9. States must submit appraiser data (other than discipline) to the ASC at least monthly. If a State's data does not change during the month, the State agency must notify the ASC of that fact in writing.⁵³

10. If a State certified or licensed appraiser chooses not to pay the registry fee, the State must ensure that any potential user of that appraiser's services is aware that the appraiser's certificate or license is limited to

performing appraisals only in connection with non-federally related transactions.⁵⁴

Policy Statement 4

Application Process

AQB Criteria sets forth the minimum education, experience and examination requirements applicable to all States for credentialing of real property appraisers (certified, licensed, trainee and supervisory). In the application process, States must, at a minimum, employ a reliable means of validating both education and experience credit claimed by applicants for credentialing.⁵⁵ Effective January 1, 2017, AQB Criteria also requires States to assess whether an applicant for a real property appraiser credential possesses a background that would not call into question public trust. The basis for such assessment shall be a matter left to the individual States, and must, at a minimum, be documented to the file.

A. Processing of Applications

States must process applications in a consistent, equitable and well-documented manner. Applications for credentialing should be timely processed by State agencies (within 90 calendar days after receipt of a completed application). Any delay in the processing of applications must be sufficiently documented in the file to explain the delay. States must ensure appraiser credential applications submitted for processing do not contain invalid examinations as established by AQB Criteria.

States must obtain and maintain sufficient relevant documentation pertaining to an application for issuance, upgrade and renewal of a credential so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations. Documentation must include:

1. Application receipt date;
2. Education;
3. Experience;
4. Examination;
5. Continuing education; and
6. Any administrative or disciplinary action taken in connection with the application process, including results of any continuing education audit.

B. Qualifying Education for Initial or Upgrade Applications

States must verify that:

(1) The applicant's claimed education courses are acceptable under AQB Criteria; and

(2) the applicant has successfully completed courses consistent with AQB Criteria for the appraiser credential sought.

States may not accept an affidavit for claimed qualifying education from applicants for any federally recognized credential.⁵⁶ States must maintain adequate documentation to support verification of education claimed by applicants.

C. Continuing Education for Reinstatement and Renewal Applications

1. Reinstatement Applications

States must verify that:

(1) The applicant's claimed continuing education courses are acceptable under AQB Criteria; and

(2) the applicant has successfully completed all continuing education consistent with AQB Criteria for reinstatement of the appraiser credential sought.

States may not accept an affidavit for continuing education claimed from applicants for reinstatement. Applicants for reinstatement must submit documentation to support claimed continuing education and States must maintain adequate documentation to support verification of claimed education.

2. Renewal Applications

States must ensure that continuing education courses for renewal of an appraiser credential are consistent with AQB Criteria and that continuing education hours required for renewal of an appraiser credential were completed consistent with AQB Criteria. States may accept affidavits for continuing education credit claimed for credential renewal so long as the State implements a reliable validation procedure that adheres to the following objectives and requirements:

a. Validation Objectives

The State's validation procedures must be structured to permit acceptable projections of the sample results to the entire population of subject appraisers. Therefore, the sample must include an

⁴⁵ Title XI § 1118 (a), 12 U.S.C. 3347; Title XI § 1109 (a), 12 U.S.C. 3338.

⁴⁶ *Id.*

⁴⁷ Title XI § 1118 (a), 12 U.S.C. 3347.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ Includes applications for credentialing of trainee, licensed, certified residential or certified general classifications.

⁵⁶ If a State accepts education-related affidavits from applicants for initial licensure in any non-certified classification, upon the appraiser's application to upgrade to a certified classification, the State must require documentation to support the appraiser's educational qualification for the certified classification, not just the incremental amount of education required to move from the non-certified to the certified classification. This requirement applies to all federally recognized credentials.

adequate number of affidavits selected from each federally recognized credential level to have a reasonable chance of identifying appraisers who fail to comply with AQB Criteria, and the sample must include a statistically relevant representation of the appraiser population being sampled.

b. Minimum Standards

(1) Validation must include a prompt post-approval audit. Each audit of an affidavit for continuing education credit claimed must be completed within 60 business days from the date the credential is scheduled for renewal (based on the credential's expiration date). To ensure the audit is a statistically relevant representation, a sampling of credentials that were renewed after the scheduled expiration date and/or beyond the date the sample was selected, must also be audited to ensure that a credential holder may not avoid being selected for a continuing education audit by renewing early or late.

(2) States must audit the continuing education-related affidavit for each credentialed appraiser selected in the sampling procedure.

(3) States must determine that education courses claimed conform to AQB Criteria and that the appraiser successfully completed each course.

(4) When a State determines that an appraiser's continuing education does not meet AQB Criteria, and the appraiser has failed to complete any remedial action offered, the State must take appropriate action to suspend the appraiser's eligibility to perform appraisals in federally related transactions until such time that the requisite continuing education has been completed. The State must notify the ASC within five (5) business days after taking such action in order for the appraiser's record on the Appraiser Registry to be updated appropriately.

(5) If a State determines that a renewal applicant knowingly falsely attested to completing the continuing education required by AQB Criteria, the State must take appropriate administrative and/or disciplinary action and report such action, if deemed to be discipline, to the ASC within five (5) business days.

(6) If more than ten percent of the audited appraisers fail to meet the AQB Criteria, the State must take remedial action⁵⁷ to address the apparent

weakness of its affidavit process. The ASC will determine on a case-by-case basis whether remedial actions are effective and acceptable.

(7) In the case of a renewal being processed after the credential's expiration date, but within the State's allowed grace period for a late renewal, the State must establish a reliable process to audit affidavits for continuing education (e.g., requiring documentation of all continuing education).

c. Documentation

States must maintain adequate documentation to support its affidavit renewal and audit procedures and actions.

d. List of Education Courses

To promote accountability, the ASC encourages States accepting affidavits for continuing education credit claimed for credential renewal to require that the appraiser provide a list of courses to support the affidavit.

D. Experience for Initial or Upgrade Applications

States must ensure that appraiser experience logs conform to AQB Criteria. States may not accept an affidavit for experience credit claimed by applicants for any federally recognized credential.⁵⁸

1. Validation Required

States must implement a reliable validation procedure to verify that each applicant's experience meets AQB Criteria, including but not limited to, being USPAP compliant and containing the required number of hours and months.

importance of compliance with continuing education requirements.

⁵⁸ See Policy Statement 1D and E for discussion of "federally recognized credential" and "non-federally recognized credential." If prior to July 1, 2013, a State accepted experience-related affidavits from applicants for initial licensure in any non-certified classification, upon the appraiser's application to upgrade to a certified classification, the State must require experience documentation to support the appraiser's qualification for the certified classification, not just the incremental amount of experience required to move from the non-certified to the certified classification. For example, if a State accepted an experience affidavit from an appraiser to support the appraiser's initial hours to qualify for the licensed classification, and subsequently that appraiser applies to upgrade to the certified residential classification, the State must require documentation to support the full experience hours required for the certified residential classification, not just the difference in hours between the two classifications.

2. Validation Procedures, Objectives and Requirements

a. Experience Hours Validation

States must determine the hours and time period claimed on the experience log are accurate. Appraiser Program staff or State board members must select the work product to validate the experience hours claimed; applicants may not have any role in this selection process.

b. USPAP Compliance

States must analyze a representative sample of the applicant's work product for compliance with USPAP. For appraisal experience to be acceptable under AQB Criteria, it must be USPAP compliant. States must exercise due diligence in determining whether submitted documentation of experience or work product demonstrates compliance with USPAP. Persons analyzing work product for USPAP compliance must be knowledgeable about appraisal practice and USPAP, and States must be able to document how such persons are so qualified.

c. Determination of Experience Time Periods

Experience time periods must conform to requirements set forth in the AQB Criteria for the credential sought.

d. Supporting Documentation

States must maintain adequate documentation to support validation methods. The applicant's file, either electronic or paper, must include the information necessary to identify each appraisal assignment selected to validate the experience hours claimed and each appraisal assignment analyzed by the State for USPAP compliance, notes, letters and/or reports prepared by the official(s) evaluating the report for USPAP compliance, and any correspondence exchanged with the applicant regarding the appraisals submitted. This supporting documentation may be discarded upon the completion of the first ASC Compliance Review performed after the credential issuance or denial for that applicant.

E. Examination

States must ensure that an appropriate AQB-approved qualifying examination is administered for each of the federally recognized appraiser classifications requiring an examination.

⁵⁷ For example:

(1) A State may conduct an additional audit using a higher percentage of audited appraisers; or

(2) a State may publicly post action taken to sanction non-compliant appraisers to increase awareness in the appraiser community of the

F. Summary of Requirements

Processing of Applications

1. States must process applications in a consistent, equitable and well-documented manner.⁵⁹

2. States must ensure appraiser credential applications submitted for processing do not contain invalid examinations as established by AQB Criteria.⁶⁰

3. States must obtain and maintain sufficient relevant documentation pertaining to an application for issuance, upgrade or renewal of a credential so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.⁶¹

Education

1. States must verify that the applicant's claimed education courses are acceptable under AQB Criteria, whether for initial credentialing, renewal, upgrade or reinstatement.⁶²

2. States must verify that the applicant has successfully completed courses consistent with AQB Criteria for the appraiser credential sought, whether for initial credentialing, renewal, upgrade or reinstatement.⁶³

3. States must maintain adequate documentation to support verification.⁶⁴

4. States may not accept an affidavit for education claimed from applicants for any federally recognized credential.⁶⁵

5. States may not accept an affidavit for continuing education claimed from applicants for reinstatement.⁶⁶

6. States may accept affidavits for continuing education credit claimed for credential renewal so long as the State implements a reliable validation procedure.⁶⁷

7. Audits of affidavits for continuing education credit claimed must be completed within sixty (60) business days from the date the credential is scheduled for renewal (based on the credential's expiration date).⁶⁸

8. In the case of a renewal being processed after the credential's expiration date, but within the State's allowed grace period for a late renewal, the State must establish a reliable

process to audit affidavits for continuing education (e.g., requiring documentation of all continuing education).⁶⁹

9. States are required to take remedial action when it is determined that more than ten percent of audited appraiser's affidavits for continuing education credit claimed fail to meet the minimum AQB Criteria.⁷⁰

10. States are required to take appropriate administrative and/or disciplinary action when it is determined that an applicant knowingly falsely attested to completing continuing education.⁷¹

11. When a State determines that an appraiser's continuing education does not meet AQB Criteria, and the appraiser has failed to complete any remedial action offered, the State must take appropriate action to suspend the appraiser's eligibility to perform appraisals in federally related transactions until such time that the requisite continuing education has been completed. The State must notify the ASC within five (5) business days after taking such action in order for the appraiser's record on the Appraiser Registry to be updated appropriately.⁷²

Experience

1. States may not accept an affidavit for experience credit claimed from applicants for any federally recognized credential.⁷³

2. States must ensure that appraiser experience logs conform to AQB Criteria.⁷⁴

3. States must use a reliable means of validating appraiser experience claims on all initial or upgrade applications for appraiser credentialing.⁷⁵

4. States must select the work product to validate the experience hours claimed on all initial or upgrade applications for appraiser credentialing.⁷⁶

5. States must analyze a representative sample of the applicant's work product for compliance with USPAP on all initial or upgrade applications for appraiser credentialing.⁷⁷

6. States must exercise due diligence in determining whether submitted documentation of experience or work product demonstrates compliance with USPAP on all initial or upgrade

applications for appraiser credentialing.⁷⁸

7. Persons analyzing work product for USPAP compliance must be knowledgeable about appraisal practice and USPAP, and States must be able to document how such persons are so qualified.⁷⁹

8. Experience time periods must conform to requirements set forth in the AQB Criteria for the credential sought.⁸⁰

Examination

1. States must ensure that an appropriate AQB-approved qualifying examination is administered for each of the federally recognized credentials requiring an examination.⁸¹

Policy Statement 5

Reciprocity

A. Reciprocity Policy

Title XI contemplates the reasonably free movement of certified and licensed appraisers across State lines. The ASC monitors Appraiser Programs for compliance with the reciprocity provision of Title XI as amended by the Dodd-Frank Act.⁸² Title XI requires that in order for a State's appraisers to be eligible to perform appraisals for federally related transactions, the State must have a policy in place for issuing reciprocal credentials IF:

a. The appraiser is coming from a State (Home State) that is "in compliance" with Title XI as determined by the ASC; AND

b. (i) the appraiser holds a valid credential from the Home State; AND (ii) the credentialing requirements of the Home State⁸³ meet or exceed those of the reciprocal credentialing State (Reciprocal State).⁸⁴

An appraiser relying on a credential from a State that does not have such a policy in place may not perform appraisals for federally related transactions. A State may be more lenient in the issuance of reciprocal credentials by implementing a more open door policy. However, States cannot impose additional impediments to obtaining reciprocal credentials.

For purposes of implementing the reciprocity policy, States with an ASC Finding⁸⁵ of "Poor" do not satisfy the

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ Title XI § 1118 (a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

⁸¹ *Id.*

⁸² Title XI § 1122 (b), 12 U.S.C. 3351.

⁸³ As they exist at the time of application for reciprocal credential.

⁸⁴ *Id.*

⁸⁵ See Appendix A, *Compliance Review Process*, for an explanation of ASC Findings.

⁵⁹ Title XI § 1118 (a), 12 U.S.C. 3347.

⁶⁰ Title XI § 1118 (a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

⁶¹ Title XI § 1118 (a), 12 U.S.C. 3347.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ Title XI § 1118 (a), 12 U.S.C. 3347.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Title XI § 1118 (a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

⁶⁸ Title XI § 1118 (a), 12 U.S.C. 3347.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Title XI § 1118 (a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

⁷⁵ Title XI § 1118 (a), 12 U.S.C. 3347.

⁷⁶ Title XI § 1118 (a), 12 U.S.C. 3347.

⁷⁷ *Id.*

“in compliance” provision for reciprocity. Therefore, States are not required to recognize, for purposes of granting a reciprocal credential, the license or certification of an appraiser credentialed in a State with an ASC Finding of “Poor.”

B. Application of Reciprocity Policy

The following examples illustrate application of reciprocity in a manner that complies with Title XI. The examples refer to the reciprocity policy requiring issuance of a reciprocal credential IF:

a. The appraiser is coming from a State that is “in compliance”; AND

b. (i) the appraiser holds a valid credential from that State; AND

(ii) the credentialing requirements of that State (as they currently exist) meet or exceed those of the reciprocal credentialing State (as they currently exist).

Example 1. Additional Requirements Imposed on Applicants

State A requires that prior to issuing a reciprocal credential the applicant must certify that disciplinary proceedings are not pending against that applicant in any jurisdiction. Under b (ii) above, if this requirement is not imposed on all of its own applicants for credentialing, STATE A cannot impose this requirement on applicants for reciprocal credentialing.

Example 2. Credentialing Requirements

An appraiser is seeking a reciprocal credential in STATE A. The appraiser holds a valid credential in STATE Z, even though it was issued in 2007. This satisfies b (i) above. However, in order to satisfy b (ii), STATE A would evaluate STATE Z’s credentialing requirements as they currently exist to determine whether they meet or exceed STATE A’s current requirements for credentialing.

Example 3. Multiple State Credentials

An appraiser credentialed in several States is seeking a reciprocal credential in State A. That appraiser’s initial credentials were obtained through examination in the original credentialing State and through reciprocity in the additional States. State A requires the applicant to provide a “letter of good standing” from the State of original credentialing as a condition of granting a reciprocal credential. State A may not impose such a requirement since Title XI does not distinguish between credentials obtained by examination and credentials obtained by reciprocity for

purposes of granting reciprocal credentials.

C. Appraiser Compliance Requirements

In order to maintain a credential granted by reciprocity, appraisers must comply with the credentialing State’s policies, rules and statutes governing appraisers, including requirements for payment of certification and licensing fees, as well as continuing education.⁸⁶

D. Well-Documented Application Files

States must obtain and maintain sufficient relevant documentation pertaining to an application for issuance of a credential by reciprocity so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.

E. Summary of Requirements

1. States must have a reciprocity policy in place for issuing a reciprocal credential to an appraiser from another State under the conditions specified in Title XI in order for the State’s appraisers to be eligible to perform appraisals for federally related transactions.⁸⁷

2. States may be more lenient in the issuance of reciprocal credentials by implementing a more open door policy; however, States may not impose additional impediments to issuance of reciprocal credentials.⁸⁸

3. States must obtain and maintain sufficient relevant documentation pertaining to an application for issuance of a credential by reciprocity so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.⁸⁹

Policy Statement 6

Education

AQB Criteria sets forth minimum requirements for appraiser education courses. This Policy Statement addresses proper administration of education requirements for compliance with AQB Criteria. (For requirements concerning qualifying and continuing education in the application process, see Policy Statement 4, *Application Process*.)

A. Course Approval

States must ensure that approved appraiser education courses are

⁸⁶ A State may offer to accept continuing education (CE) for a renewal applicant who has satisfied CE requirements of a home State; however, a State may not impose this as a requirement for renewal, thereby imposing a requirement for the renewal applicant to retain a home State credential.

⁸⁷ Title XI § 1122 (b), 12 U.S.C. 3351.

⁸⁸ *Id.*

⁸⁹ Title XI § 1118 (a), 12 U.S.C. 3347.

consistent with AQB Criteria and maintain sufficient documentation to support that approved appraiser education courses conform to AQB Criteria.

States should ensure that course approval expiration dates assigned by the State coincide with the endorsement period assigned by the AQB’s Course Approval Program or any other AQB-approved organization providing approval of course design and delivery. States may not continue to accept AQB approved courses after the AQB’s expiration date unless the course content is reviewed and approved by the State.

States should ensure that educational providers are afforded equal treatment in all respects.⁹⁰

States are encouraged to accept courses approved by the AQB’s Course Approval Program.

B. Distance Education

States must ensure that distance education courses meet AQB Criteria and that the delivery mechanism for distance education courses offered by a non-academic provider, including secondary providers, has been approved by an AQB-approved organization providing approval of course design and delivery.

States may not continue to accept courses after the AQB-approved organization’s approval of course design and delivery date has expired.

C. Summary of Requirements

1. States must ensure that appraiser education courses are consistent with AQB Criteria.⁹¹

2. States must maintain sufficient documentation to support that approved appraiser courses conform to AQB Criteria.⁹²

3. States must ensure the delivery mechanism for distance education courses offered by a non-academic provider, including secondary providers, has been approved by an AQB-approved organization providing approval of course design and delivery.⁹³

⁹⁰ For example:

(1) consent agreements requiring additional education should not specify a particular course provider when there are other providers on the State’s approved course listing offering the same course; and

(2) courses from professional organizations should not be automatically approved and/or approved in a manner that is less burdensome than the State’s normal approval process.

⁹¹ Title XI § 1118 (a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

⁹² Title XI § 1118 (a), 12 U.S.C. 3347.

⁹³ Title XI § 1118 (a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

Policy Statement 7

State Agency Enforcement

A. State Agency Regulatory Program

Title XI requires the ASC to monitor the States for the purpose of determining whether the State processes complaints and completes investigations in a reasonable time period, appropriately disciplines sanctioned appraisers and maintains an effective regulatory program.⁹⁴

B. Enforcement Process

States must ensure that the system for processing and investigating complaints⁹⁵ and sanctioning appraisers is administered in a timely, effective, consistent, equitable, and well-documented manner.

1. Timely Enforcement

States must process complaints of appraiser misconduct or wrongdoing in a timely manner to ensure effective supervision of appraisers, and when appropriate, that incompetent or unethical appraisers are not allowed to continue their appraisal practice. Absent special documented circumstances, final administrative decisions regarding complaints must occur within one year (12 months) of the complaint filing date.⁹⁶ Special documented circumstances are those extenuating circumstances (fully documented) beyond the control of the State agency that delays normal processing of a complaint such as: complaints involving a criminal investigation by a law enforcement agency when the investigative agency requests that the State refrain from proceeding; final disposition that has been appealed to a higher court; documented medical condition of the respondent; ancillary civil litigation; and complex cases that involve multiple individuals and reports. Such special documented circumstances also include those periods when State rules require referral of a complaint to another State entity for review and the State agency is precluded from further processing of the complaint until it is returned. In that circumstance, the State agency should document the required referral and the time period during which the complaint was not under its control or authority.

2. Effective Enforcement

Effective enforcement requires that States investigate allegations of

appraiser misconduct or wrongdoing, and if allegations are proven, take appropriate disciplinary or remedial action. Dismissal of an alleged violation solely due to an “absence of harm to the public” is inconsistent with Title XI. Financial loss or the lack thereof is not an element in determining whether there is a violation. The extent of such loss, however, may be a factor in determining the appropriate level of discipline.

Persons analyzing complaints for USPAP compliance must be knowledgeable about appraisal practice and USPAP and States must be able to document how such persons are so qualified.

States must analyze each complaint to determine whether additional violations, especially those relating to USPAP, should be added to the complaint.

Closure of a complaint based solely on a State’s statute of limitations that results in dismissal of a complaint without the investigation of the merits of the complaint is inconsistent with the Title XI requirement that States assure effective supervision of the activities of credentialed appraisers.⁹⁷

3. Consistent and Equitable Enforcement

Absent specific documented facts or considerations, substantially similar cases within a State should result in similar dispositions.

4. Well-Documented Enforcement

States must obtain and maintain sufficient relevant documentation pertaining to a matter so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.

a. Complaint Files

Complaint files must:

- Include documentation outlining the progress of the investigation;
- demonstrate that appraisal reports are analyzed and any USPAP violations are identified and considered, whether or not they were the subject of the complaint;
 - include rationale for the final outcome of the case (*i.e.*, dismissal or imposition of discipline);
 - include documentation explaining any delay in processing, investigation or adjudication;
 - contain documentation that all ordered or agreed upon discipline, such as probation, fine, or completion of education is tracked and that completion of all terms is confirmed; and

- be organized in a manner that allows understanding of the steps taken throughout the complaint, investigation, and adjudicatory process.

b. Complaint Logs

States must track all complaints using a complaint log. The complaint log must record all complaints, regardless of their procedural status in the investigation and/or resolution process, including complaints pending before the State board, Office of the Attorney General, other law enforcement agencies, and/or offices of administrative hearings.

The complaint log must include the following information (States are strongly encouraged to maintain this information in an electronic, sortable format):

1. Case number
2. Name of respondent
3. Actual date the complaint was received by the State
4. Source of complaint (*e.g.*, consumer, lender, AMC, bank regulator, appraiser, hotline) or name of complainant
5. Current status of the complaint
6. Date the complaint was closed (*e.g.*, final disposition by the administrative hearing agency, Office of the Attorney General, State Appraiser Regulatory Agency or Court of Appeals)
7. Method of disposition (*e.g.*, dismissal, letter of warning, consent order, final order)

C. Summary of Requirements

1. States must maintain relevant documentation to enable understanding of the facts and determinations in the matter and the reasons for those determinations.⁹⁸

2. States must resolve all complaints filed against appraisers within one year (12 months) of the complaint filing date, except for special documented circumstances.⁹⁹

3. States must ensure that the system for processing and investigating complaints and sanctioning appraisers is administered in an effective, consistent, equitable, and well-documented manner.¹⁰⁰

4. States must track complaints of alleged appraiser misconduct or wrongdoing using a complaint log.¹⁰¹

5. States must appropriately document enforcement files and include rationale.¹⁰²

⁹⁴ Title XI § 1118(a), 12 U.S.C. 3347.

⁹⁵ See Appendix B, *Glossary of Terms*, for the definition of “complaint.”

⁹⁶ The one-year period for resolution of complaints is not intended to have the impact of a statute of limitation or statute of repose.

⁹⁷ Title XI § 1117, 12 U.S.C. 3346.

⁹⁸ Title XI § 1118(a), 12 U.S.C. 3347.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

6. States must regulate, supervise and discipline their credentialed appraisers.¹⁰³

7. Persons analyzing complaints for USPAP compliance must be knowledgeable about appraisal practice and USPAP, and States must be able to document how such persons are so qualified.¹⁰⁴

Part B: AMC Program

Policy Statement 8

Statutes, Regulations, Policies and Procedures Governing State AMC Programs

A. Participating States and ASC Oversight

States are not required to establish an AMC registration and supervision program. For those States electing to participate in the registration and supervision of AMCs (participating States), ASC staff will informally monitor the State's progress to implement the requirements of Title XI and the AMC Rule.¹⁰⁵ Formal ASC oversight of State AMC Programs will begin at the next regularly scheduled Compliance Review of a State after a State elects to register and supervise AMCs pursuant to the AMC Rule. Formal ASC oversight will consist of evaluating AMC Programs in participating States during the Compliance Review process to determine compliance or lack thereof with Title XI, and to assess implementation of the minimum requirements for State registration and supervision of AMCs as established by the AMC Rule. Upon expiration of the statutory implementation period (see Policy Statement 11, *Statutory Implementation Period*), Compliance Reviews will include ASC oversight of AMC Programs for any participating State.

B. Relation to State Law

Participating States may establish requirements in addition to those in the AMC Rule.

Participating States may also have a more expansive definition of AMCs.¹⁰⁶

However, if a participating State has a more expansive definition of AMCs than in Title XI (thereby encompassing State regulation of AMCs that are not within the Title XI definition of AMC), the State must ensure such AMCs are identified as such in the State database, just as States currently do for non-federally recognized credentials or designations. Only those AMCs that meet the Federal definition of AMC will be eligible to be on the AMC Registry.

C. Funding and Staffing

The Dodd-Frank Act amended Title XI to require the ASC to determine whether participating States have sufficient funding and staffing to meet their Title XI requirements. Compliance with this provision requires that a State must provide its AMC Program with funding and staffing sufficient to carry out its Title XI-related duties. The ASC evaluates the sufficiency of funding and staffing as part of its review of all aspects of an AMC Program's effectiveness, including the adequacy of State boards, committees, or commissions responsible for carrying out Title XI-related duties.

D. Minimum Requirements for Registration and Supervision of AMCs as Established by the AMC Rule

1. AMC Registration and Supervision

If a State chooses to participate in the registration and supervision of AMCs in accordance with the AMC Rule, the State will be required to comply with the minimum requirements set forth in the AMC Rule. States should refer to the AMC Rule for compliance requirements¹⁰⁷ as this Policy Statement merely summarizes what the AMC Rule requires of participating States.

(a) The AMC Rule includes requirements for participating States to establish and maintain within the State appraiser certifying and licensing agency an AMC Program with the legal authority and mechanisms to:

- (1) Review and approve or deny AMC initial registration applications and/or renewals for registration;
- (2) Examine records of AMCs and require AMCs to submit information;

amended by the Dodd-Frank Act also allows States to adopt requirements in addition to those in the AMC Rule. (12 U.S.C. 3353(b)). For example, States may decide to supervise entities that provide appraisal management services, but do not meet the size thresholds of the Title XI definition of AMC.

If a State has a more expansive regulatory framework that covers entities that provide appraisal management services but do not meet the Title XI definition of AMC, the State should only submit information regarding AMCs meeting the Title XI definition to the AMC Registry.

¹⁰⁷ See footnote 104.

- (3) Verify that appraisers on AMCs' panels hold valid State credentials;
- (4) Conduct investigations of AMCs to assess potential violations of appraisal-related laws, regulations, or orders;
- (5) Discipline, suspend, terminate, or deny renewal of the registration of an AMC that violates appraisal-related laws, regulations, or orders; and
- (6) Report an AMC's violation of appraisal-related laws, regulations, or orders, as well as disciplinary and enforcement actions and other relevant information about an AMC's operations, to the ASC.

(b) The AMC Rule includes requirements for participating States to impose requirements on AMCs that are not Federally regulated AMCs¹⁰⁸ to:

- (1) Register with and be subject to supervision by the State appraiser certifying and licensing agency;
- (2) Engage only State-certified or State-licensed appraisers for federally related transactions in conformity with any federally related transaction regulations;
- (3) Establish and comply with processes and controls reasonably designed to ensure that the AMC, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type;
- (4) Direct the appraiser to perform the assignment in accordance with USPAP; and
- (5) Establish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with the requirements of section 129E(a) through (i) of the Truth in Lending Act, 15 U.S.C. 1639e(a) through (i), and regulations thereunder.

2. Ownership Limitations for State-registered AMCs

A. Appraiser Certification or Licensing of Owners

An AMC subject to State registration shall not be registered by a State or included on the AMC Registry if such AMC, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or

¹⁰⁸ "Federally regulated AMCs," meaning AMCs that are subsidiaries owned and controlled by an insured depository institution or an insured credit union and regulated by a Federal financial institutions regulatory agency, are not required to register with the State (Title XI § 1124 (c), 12 U.S.C. 3353(c)).

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ Title XI § 1103 (a)(1)(B), 12 U.S.C. 3332. AMC Rule means the interagency final rule on minimum requirements for State registration and supervision of AMCs (12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26).

¹⁰⁶ Title XI as amended by the Dodd-Frank Act defines "appraisal management company" to mean, in part, an external third party that oversees a network or panel of more than 15 appraisers (State certified or licensed) in a State, or 25 or more appraisers nationally (two or more States) within a given year. (12 U.S.C. 3350(11)). Title XI as

revoked in any State for a substantive cause,¹⁰⁹ as determined by the State appraiser certifying and licensing agency. A State's process for review could, for example, be by questionnaire, or affidavit, or background screening, or otherwise. States must document to the file the State's method of review and the result.

B. Good Moral Character of Owners

An AMC shall not be registered by a State if any person that owns more than 10 percent of the AMC—

- (1) Is determined by the State not to have good moral character; or
- (2) Fails to submit to a background investigation carried out by the State.

A State's process for review could, for example, be by questionnaire, or affidavit, or background screening, or otherwise. The ASC would expect written documentation of the State's method of review and the result.

3. Requirements for Federally Regulated AMCs

Participating States are not required to identify Federally regulated AMCs¹¹⁰ operating in their States, but rather the Federal financial institution regulatory agencies are responsible for requiring such AMCs to identify themselves to participating States and report required information.

A Federally regulated AMC shall not be included on the AMC Registry if such AMC, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State for a substantive cause, as determined by the ASC.

E. Summary of Requirements

1. Participating States must establish and maintain an AMC Program with the legal authority and mechanisms consistent with the AMC Rule.¹¹¹

2. Participating States must impose requirements on AMCs consistent with the AMC Rule.¹¹²

3. Participating States must enforce and document ownership limitations for State-registered AMCs.¹¹³

4. Only those AMCs that meet the Federal definition of AMC will be eligible to be on the AMC Registry. Therefore, participating States that have a more expansive definition of AMCs than in the AMC Rule must ensure such non-Federally recognized AMCs are identified as such in the State database.¹¹⁴

5. States must have funding and staffing sufficient to carry out their Title XI-related duties.¹¹⁵

Policy Statement 9

National Registry of AMCs (AMC Registry)

A. Requirements for the AMC Registry

Title XI requires the ASC to maintain the AMC Registry of AMCs that are either registered with and subject to supervision of a participating State or are operating subsidiaries of a Federally regulated financial institution.¹¹⁶ Title XI further requires the States to transmit to the ASC: (1) Reports on a timely basis of supervisory activities involving AMCs, including investigations resulting in disciplinary action being taken; and (2) the registry fee as set by the ASC¹¹⁷ from AMCs that are either registered with a participating State or are Federally regulated AMCs.¹¹⁸

As with appraiser registry fees, Title XI, § 1109(a)(4)(b) requires the AMC registry fee to be collected by each participating State and transmitted to the ASC. Therefore, as with appraisers, an AMC will pay a registry fee in each participating State in which the AMC operates. As with appraisers, an AMC operating in multiple participating States will pay a registry fee in multiple States in order to be on the AMC Registry for each State.

States must notify the ASC as soon as practicable if an AMC listed on the AMC Registry is no longer registered with or operating in the State. The ASC extranet application allows States to update their AMC information directly to the AMC Registry.

B. Registry Fee and Invoicing Policies

Each State must remit to the ASC the annual registry fee, as set by the ASC, for AMCs to be listed on the AMC Registry. Requests to prorate refunds or partial-year registrations will not be granted. If a State collects multiple-year fees for multiple-years, the State may choose to remit to the ASC the total amount of the multiple-year registry fees

or the equivalent annual fee amount. The ASC will, however, record AMCs on the AMC Registry only for the number of years for which the ASC has received payment. States must reconcile and pay registry invoices in a timely manner (45 calendar days after receipt of the invoice).

C. Reporting Requirements

State agencies must report all disciplinary action¹¹⁹ taken against an AMC to the ASC via the extranet application within 5 business days after the disciplinary action is final, as determined by State law. States not reporting via the extranet application must provide, in writing to the ASC, a description of the circumstances preventing compliance with this requirement. For the most serious disciplinary actions (*e.g.*, any action that interrupts an AMCs ability to provide appraisal management services), the AMCs status must be changed on the AMC Registry to "inactive." A Federally regulated AMC operating in a State must report to the State the information required to be submitted by the State to the ASC, pursuant to the ASC's policies regarding the determination of the AMC registry fee.

D. Access to AMC Registry Data

The ASC website provides free access to the public portion of the AMC Registry at www.asc.gov. The public portion of the AMC Registry data may be downloaded using predefined queries or user-customized applications.

Access to the full database, which includes non-public data (*e.g.*, certain disciplinary action information), is restricted to authorized State and Federal regulatory agencies. States must designate a senior official, such as an executive director, to serve as the State's Authorized Registry Official, and provide to the ASC, in writing, information regarding the designated Authorized Registry Official. States must ensure that the authorization information provided to the ASC is updated and accurate. States must adopt and implement a written policy to protect the right of access, as well as the ASC issued User Name and Password.

E. Summary of Requirements

1. States must reconcile and pay registry invoices in a timely manner (45 calendar days after receipt of the invoice).¹²⁰

2. State agencies must report all disciplinary action taken against an

¹⁰⁹ An AMC subject to State registration is not barred from being registered by a State or included on the AMC Registry of AMCs if the license or certificate of the appraiser with an ownership interest was not revoked for a substantive cause and has been reinstated by the State or States in which the appraiser was licensed or certified. (12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26.

¹¹⁰ See footnote 104.

¹¹¹ 12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26.

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ Title XI § 1118 (b), 12 U.S.C. 3347.

¹¹⁵ *Id.*

¹¹⁶ Title XI § 1103(a)(6), 12 U.S.C. 3332.

¹¹⁷ Title XI § 1109(a)(4), 12 U.S.C. 3338.

¹¹⁸ Title XI § 1109(a)(3) and (4), 12 U.S.C. 3338.

¹¹⁹ See Appendix B, *Glossary of Terms*, for the definition of "disciplinary action."

¹²⁰ Title XI § 1118(a), 12 U.S.C. 3347; Title XI § 1109 (a), 12 U.S.C. 3338.

AMC to the ASC via the extranet application within 5 business days after the disciplinary action is final, as determined by State law.¹²¹

3. States not reporting via the extranet application must provide, in writing to the ASC, a description of the circumstances preventing compliance with this requirement.¹²²

4. For the most serious disciplinary actions (e.g., any action that interrupts an AMC's ability to provide appraisal management services), the AMC's status must be changed on the AMC Registry to "inactive."¹²³

5. States must notify the ASC as soon as practicable if an AMC listed on the AMC Registry is no longer registered with or operating in the State.

6. States must designate a senior official, such as an executive director, who will serve as the State's Authorized Registry Official, and provide to the ASC, in writing, information regarding the selected Authorized Registry Official, and any individual(s) authorized to act on their behalf.¹²⁴

7. States must adopt and implement a written policy to protect the right of access to the AMC Registry, as well as the ASC issued User Name and Password.¹²⁵

8. States must ensure the accuracy of all data submitted to the AMC Registry.¹²⁶

Policy Statement 10

State Agency Enforcement

A. State Agency Regulatory Program

Title XI requires the ASC to monitor the States for the purpose of determining whether the State processes complaints and completes investigations in a reasonable time period, appropriately disciplines sanctioned AMCs and maintains an effective regulatory program.¹²⁷

B. Enforcement Process

States must ensure that the system for processing and investigating complaints¹²⁸ and sanctioning AMCs is administered in a timely, effective, consistent, equitable, and well-documented¹²⁹ manner.

1. Timely Enforcement

States must process complaints against AMCs in a timely manner to ensure effective supervision of AMCs. Absent special documented circumstances, final administrative decisions regarding complaints must occur within one year (12 months) of the complaint filing date. Special documented circumstances are those extenuating circumstances (fully documented) beyond the control of the State agency that delays normal processing of a complaint such as: Complaints involving a criminal investigation by a law enforcement agency when the investigative agency requests that the State refrain from proceeding; final disposition that has been appealed to a higher court; documented medical condition of the respondent; ancillary civil litigation; and complex fraud cases that involve multiple individuals and reports. Such special documented circumstances also include those periods when State rules require referral of a complaint to another State entity for review and the State agency is precluded from further processing of the complaint until it is returned. In that circumstance, the State agency should document the required referral and the time period during which the complaint was not under its control or authority.

2. Effective Enforcement

Effective enforcement requires that States investigate complaints, and if allegations are proven, take appropriate disciplinary or remedial action.

3. Consistent and Equitable Enforcement

Absent specific documented facts or considerations, substantially similar cases within a State should result in similar dispositions.

4. Well-Documented Enforcement

States must obtain and maintain sufficient relevant documentation pertaining to a matter so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.

a. Complaint Files

Complaint files must:

- Include documentation outlining the progress of the investigation;
- include rationale for the final outcome of the case (i.e., dismissal or imposition of discipline);
- include documentation explaining any delay in processing, investigation or adjudication;
- contain documentation that all ordered or agreed upon discipline is

tracked and that completion of all terms is confirmed; and

- be organized in a manner that allows understanding of the steps taken throughout the complaint, investigation, and adjudicatory process.

b. Complaint Logs

States must track all complaints using a complaint log. The complaint log must record all complaints, regardless of their procedural status in the investigation and/or resolution process, including complaints pending before the State board, Office of the Attorney General, other law enforcement agencies, and/or offices of administrative hearings. The complaint log must include the following information (States are strongly encouraged to maintain this information in an electronic, sortable format):

1. Case number
2. Name of respondent
3. Actual date the complaint was received by the State
4. Source of complaint (e.g., consumer, lender, AMC, bank regulator, appraiser, hotline) or name of complainant
5. Current status of the complaint
6. Date the complaint was closed (e.g., final disposition by the administrative hearing agency, Office of the Attorney General, State AMC Program or Court of Appeals)
7. Method of disposition (e.g., dismissal, letter of warning, consent order, final order)

C. Summary of Requirements

1. States must maintain relevant documentation to enable understanding of the facts and determinations in the matter and the reasons for those determinations.¹³⁰

2. States must resolve all complaints filed against AMCs within one year (12 months) of the complaint filing date, except for special documented circumstances.¹³¹

3. States must ensure that the system for processing and investigating complaints and sanctioning AMCs is administered in an effective, consistent, equitable, and well-documented manner.¹³²

4. States must track complaints of alleged AMC misconduct or wrongdoing using a complaint log.¹³³

5. States must appropriately document enforcement files and include rationale.¹³⁴

¹³⁰ Title XI § 1118(a), 12 U.S.C. 3347.

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

¹²¹ Title XI § 1118(a), 12 U.S.C. 3347.

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ Title XI § 1118(a), 12 U.S.C. 3347.

¹²⁸ See Appendix B, *Glossary of Terms*, for the definition of "complaint."

¹²⁹ See Appendix B, *Glossary of Terms*, for the definition of "well-documented."

Policy Statement 11**Statutory Implementation Period**

Title XI and the AMC Rule set forth the statutory implementation period.¹³⁵ The AMC Rule was effective on August 10, 2015. As of 36 months from that date (August 10, 2018), an AMC may not provide appraisal management services for a federally related transaction in a non-participating State unless the AMC is a Federally regulated AMC. Appraisal management services may still be provided for federally related transactions in non-participating States by individual appraisers, by AMCs that are below the minimum statutory panel size threshold, and as noted, by Federally regulated AMCs.

The ASC, with the approval of the Federal Financial Institutions Examination Council (FFIEC), may extend this statutory implementation period for an additional 12 months if the ASC makes a finding that a State has made substantial progress toward implementing a registration and supervision program for AMCs that meets the standards of Title XI.¹³⁶

Part C: Interim Sanctions**Policy Statement 12****Interim Sanctions***A. Authority*

Title XI grants the ASC authority to impose sanctions on a State that fails to have an effective Appraiser or AMC Program.¹³⁷ The ASC may remove a State credentialed appraiser or a registered AMC from the Appraiser or AMC Registry on an interim basis, not to exceed 90 days, pending State agency action on licensing, certification, registration and disciplinary proceedings as an alternative to or in advance of a non-recognition proceeding.¹³⁸ In determining whether an Appraiser or AMC Program is effective, the ASC shall conduct an analysis as required by Title XI. An ASC Finding of Poor on the Compliance Review Report¹³⁹ issued to a State at the conclusion of an ASC Compliance Review may trigger an analysis by the ASC for potential interim sanction(s). The following provisions apply to the exercise by the ASC of its authority to impose interim sanction(s) on State agencies.

¹³⁵ Title XI § 1124(f)(1), 12 U.S.C. 3353 and 12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26.

¹³⁶ Title XI § 1124(f)(2), 12 U.S.C. 3353.

¹³⁷ Title XI § 1118(a), 12 U.S.C. 3347.

¹³⁸ *Id.*

¹³⁹ See Appendix A—Compliance Review Process.

B. Opportunity To Be Heard or Correct Conditions

The ASC shall provide the State agency with:

1. Written notice of intention to impose an interim sanction; and
2. opportunity to respond or to correct the conditions causing such notice to the State.

Notice and opportunity to respond or correct the conditions shall be in accordance with section C, *Procedures*.

C. Procedures

This section prescribes the ASC's procedures which will be followed in arriving at a decision by the ASC to impose an interim sanction against a State agency.

1. Notice

The ASC shall provide a written Notice of intention to impose an interim sanction (Notice) to the State agency. The Notice shall contain the ASC's analysis as required by Title XI of the State's licensing and certification of appraisers, the registration of AMCs, the issuance of temporary licenses and certifications for appraisers, the receiving and tracking of submitted complaints against appraisers and AMCs, the investigation of complaints, and enforcement actions against appraisers and AMCs.¹⁴⁰ The ASC shall verify the State's date of receipt, and publish both the Notice and the State's date of receipt in the **Federal Register**.

2. State Agency Response

Within 15 days of receipt of the Notice, the State may submit a response to the ASC's Executive Director. Alternatively, a State may submit a Notice Not to Contest with the ASC's Executive Director. The filing of a Notice Not to Contest shall not constitute a waiver of the right to a judicial review of the ASC's decision, findings and conclusions. Failure to file a Response within 15 days shall constitute authorization for the ASC to find the facts to be as presented in the Notice and analysis. The ASC, for good cause shown, may permit the filing of a Response after the prescribed time.

3. Briefs, Memoranda and Statements

Within 45 days after the date of receipt by the State agency of the Notice as published in the **Federal Register**, the State agency may file with the ASC's Executive Director a written brief, memorandum or other statement providing factual data and policy and legal arguments regarding the matters set out in the Notice and analysis.

¹⁴⁰ Title XI § 1118(a), 12 U.S.C. 3347.

4. Oral Presentations to the ASC

Within 45 days after the date of receipt by the State agency of the Notice as published in the **Federal Register**, the State may file a request with the ASC's Executive Director to make oral presentation to the ASC. If the State has filed a request for oral presentation, the matter shall be heard within 45 days. An oral presentation shall be considered as an opportunity to offer, emphasize and clarify the facts, policies and laws concerning the proceeding, and is not a Meeting¹⁴¹ of the ASC. On the appropriate date and time, the State agency will make the oral presentation before the ASC. Any ASC member may ask pertinent questions relating to the content of the oral presentation. Oral presentations will not be recorded or otherwise transcribed. Summary notes will be taken by ASC staff and made part of the record on which the ASC shall decide the matter.

5. Conduct of Interim Sanction Proceedings

(a) Written Submissions

All aspects of the proceeding shall be conducted by written submissions, with the exception of oral presentations allowed under subsection 4 above.

Disqualification

An ASC member who deems himself or herself disqualified may at any time withdraw. Upon receipt of a timely and sufficient affidavit of personal bias or disqualification of such member, the ASC will rule on the matter as a part of the record.

(b) Authority of ASC Chairperson

The Chairperson of the ASC, in consultation with other members of the ASC whenever appropriate, shall have complete charge of the proceeding and shall have the duty to conduct it in a fair and impartial manner and to take all necessary action to avoid delay in the disposition of proceedings.

(c) Rules of Evidence

Except as is otherwise set forth in this section, relevant material and reliable evidence that is not unduly repetitive is admissible to the fullest extent authorized by the Administrative Procedure Act (5 U.S.C. 551–559) and other applicable law.

¹⁴¹ The proceeding is more in the nature of a Briefing not subject to open meeting requirements. The presentation is an opportunity for the State to brief the ASC—to offer, emphasize and clarify the facts, policies and laws concerning the proceeding, and for the ASC members to ask questions. Additional consideration is given to the fact that this stage of the proceeding is pre-decisional.

6. Decision of the ASC and Judicial Review

Within 90 days after the date of receipt by the State agency of the Notice as published in the **Federal Register**, or in the case of oral presentation having been granted, within 30 days after presentation, the ASC shall issue a final decision, findings and conclusions and shall publish the decision promptly in the **Federal Register**. The final decision shall be effective on issuance. The ASC's Executive Director shall ensure prompt circulation of the decision to the State agency. A final decision of the ASC is a prerequisite to seeking judicial review.

7. Computing Time

Time computation is based on business days. The date of the act, event or default from which the designated period of time begins to run is not included. The last day is included unless it is a Saturday, Sunday, or Federal holiday, in which case the period runs until the end of the next day which is not a Saturday, Sunday or Federal holiday.

8. Documents and Exhibits

Unless otherwise provided by statute, all documents, papers and exhibits filed in connection with any proceeding,

other than those that may be withheld from disclosure under applicable law, shall be placed by the ASC's Executive Director in the proceeding's file and will be available for public inspection and copying.

9. Judicial Review

A decision of the ASC under this section shall be subject to judicial review. The form of proceeding for judicial review may include any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction in a court of competent jurisdiction.¹⁴²

Appendices

Appendix A—Compliance Review Process

The ASC monitors State Appraiser and AMC Programs for compliance with Title XI. The monitoring of State Programs is largely accomplished through on-site visits known as a Compliance Review (Review). A Review is conducted over a two- to four-day period, and is scheduled to coincide with a meeting of the Program's decision-making body whenever possible. ASC staff reviews the Appraiser Program and the seven compliance areas addressed in Policy Statements 1 through 7. ASC staff reviews a participating State's AMC Program and the three compliance areas addressed in Policy

Statements 8 through 10. Sufficient documentation demonstrating compliance must be maintained by a State and made available for inspection during the Review. ASC staff reviews a sampling of documentation in each of the compliance areas. The sampling is intended to be representative of a State Program in its entirety.

Based on the Review, ASC staff provides the State with an ASC staff report for the Appraiser Program, and if applicable, an ASC staff report for the AMC Program, detailing preliminary findings. The State is given 60 days to respond to the ASC staff report(s). At the conclusion of the Review, a Compliance Review Report (Report) is issued to the State for the Appraiser Program, and if applicable, a Report is also issued for the AMC Program, with the ASC Finding on each Program's overall compliance, or lack thereof, with Title XI. Deficiencies resulting in non-compliance in any of the compliance areas are cited in the Report. "Areas of Concern" which potentially expose a Program to compliance issues in the future are also addressed in the Report. The ASC's final disposition is based upon the ASC staff report, the State's response and staff's recommendation.

The following chart provides an explanation of the ASC Findings and rating criteria for each ASC Finding category. The ASC Finding places particular emphasis on whether the State is maintaining an effective regulatory Program in compliance with Title XI.

ASC finding	Rating criteria	Review cycle (program history or nature of deficiency may warrant a more accelerated review cycle)
Excellent	<ul style="list-style-type: none"> State meets all Title XI mandates and complies with requirements of ASC Policy Statements. State maintains a strong regulatory Program. Very low risk of Program failure. 	2-year.
Good	<ul style="list-style-type: none"> State meets the majority of Title XI mandates and complies with the majority of ASC Policy Statement requirements. Deficiencies are minor in nature. State is adequately addressing deficiencies identified and correcting them in the normal course of business. State maintains an effective regulatory Program. Low risk of Program failure. 	2-year.
Needs Improvement	<ul style="list-style-type: none"> State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements. Deficiencies are material but manageable and if not corrected in a timely manner pose a potential risk to the Program.. State may have a history of repeated deficiencies but is showing progress toward correcting deficiencies. State regulatory Program needs improvement. Moderate risk of Program failure. 	2-year with additional monitoring.
Not Satisfactory	<ul style="list-style-type: none"> State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements. Deficiencies present a significant risk and if not corrected in a timely manner pose a well-defined risk to the Program. State may have a history of repeated deficiencies and requires more supervision to ensure corrective actions are progressing. State regulatory Program has substantial deficiencies. Substantial risk of Program failure. 	1-year.
Poor	<ul style="list-style-type: none"> State does not meet Title XI mandates and does not comply with requirements of ASC Policy Statements. 	Continuous monitoring.

¹⁴² 5 U.S.C. 703—Form and venue of proceeding.

ASC finding	Rating criteria	Review cycle (program history or nature of deficiency may warrant a more accelerated review cycle)
	<ul style="list-style-type: none"> • Deficiencies are significant and severe, require immediate attention and if not corrected represent critical flaws in the Program. • State may have a history of repeated deficiencies and may show a lack of willingness or ability to correct deficiencies. • High risk of Program failure. 	

The ASC has two primary Review Cycles: Two-year and one-year. Most States are scheduled on a two-year Review Cycle. States may be moved to a one-year Review Cycle if the ASC determines more frequent on-site Reviews are needed to ensure that the State maintains an effective Program. Generally, States are placed on a one-year Review Cycle because of non-compliance issues or serious areas of concerns that warrant more frequent on-site visits. Both two-year and one-year Review Cycles include a review of all aspects of the State's Program.

The ASC may conduct Follow-up Reviews and additional monitoring. A Follow-up Review focuses only on specific areas identified during the previous on-site Review. Follow-up Reviews usually occur within 6–12 months of the previous Review. In addition, as a risk management tool, ASC staff identifies State Programs that may have a significant impact on the nation's appraiser regulatory system in the event of Title XI compliance issues. For States that represent a significant percentage of the credentials on the Appraiser Registry, ASC staff performs annual on-site Priority Contact visits. The primary purpose of the Priority Contact visit is to review topical issues, evaluate regulatory compliance issues, and maintain a close working relationship with the State. This is not a complete Review of the Program. The ASC will also schedule a Priority Contact visit for a State when a specific concern is identified that requires special attention. Additional monitoring may be required where a deficiency is identified and reports on required or agreed upon corrective actions are required monthly or quarterly. Additional monitoring may include on-site monitoring as well as off-site monitoring.

Appendix B—Glossary of Terms

Appraisal management company (AMC): Refers to, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets, that oversees a network or panel of more than 15 certified or licensed appraisers in a State or 25 or more nationally within a given year—

- (A) To recruit, select, and retain appraisers;
- (B) to contract with licensed and certified appraisers to perform appraisal assignments;
- (C) to manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to

creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed; or

(D) to review and verify the work of appraisers.

AQB Criteria: Refers to the *Real Property Appraiser Qualification Criteria* as established by the Appraiser Qualifications Board of the Appraisal Foundation setting forth minimum education, experience and examination requirements for the licensure and certification of real property appraisers, and minimum requirements for "Trainee" and "Supervisory" appraisers.

Assignment: As referenced herein, for purposes of temporary practice, "assignment" means one or more real estate appraisals and written appraisal report(s) covered by a single contractual agreement.

Complaint: As referenced herein, any document filed with, received by, or serving as the basis for possible inquiry by the State agency regarding alleged violation of Title XI, Federal or State law or regulation, or USPAP by a credentialed appraiser or appraiser applicant, for allegations of unlicensed appraisal activity, or complaints involving AMCs. A complaint may be in the form of a referral, letter of inquiry, or other document alleging misconduct or wrongdoing.

Credentialed appraisers: Refers to State licensed, certified residential or certified general appraiser classifications.

Disciplinary action: As referenced herein, corrective or punitive action taken by or on behalf of a State agency which may be formal or informal, or may be consensual or involuntary, resulting in any of the following:

- a. Revocation of credential or registration
- b. suspension of credential or registration
- c. written consent agreements, orders or reprimands
- d. probation or any other restriction on the use of a credential
- e. fine
- f. voluntary surrender¹⁴³
- g. other acts as defined by State statute or regulation as disciplinary

With the exception of voluntary surrender, suspension or revocation, such action may be exempt from reporting to the National Registry if defined by State statute, regulation or written policy as "non-disciplinary."

Federally related transaction: Refers to any real estate related financial transaction which:

¹⁴³ A voluntary surrender that is not deemed disciplinary by State law or regulation, or is not related to any disciplinary process need not be reported as discipline provided the individual's Appraiser Registry record is updated to show the credential is inactive.

(a) A federal financial institutions regulatory agency engages in, contracts for, or regulates; and

(b) requires the services of an appraiser. (See Title XI § 1121 (4), 12 U.S.C. 3350.)

Federal financial institutions regulatory agencies: Refers to the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the National Credit Union Administration. (See Title XI § 1121 (6), 12 U.S.C. 3350.)

Home State agency: As referenced herein, State agency or agencies that grant an appraiser a licensed or certified credential. Residency in the home State is not required. Appraisers may have more than one home State agency.

Non-federally recognized credentials or designations: Refers to any State appraiser credential or designation other than trainee, State licensed, certified residential or certified general classifications as defined in Policy Statement 1, and which is not recognized by Title XI.

Real estate related financial transaction: Any transaction involving:

- (a) The sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof;
- (b) the refinancing of real property or interests in real property; and
- (c) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities. (See Title XI § 1121 (5), 12 U.S.C. 3350.)

State: Any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands. (American Samoa does not have a Program.)

State board: As referenced herein, "State board" means a group of individuals (usually appraisers, AMC representatives, bankers, consumers, and/or real estate professionals) appointed by the Governor or a similarly positioned State official to assist or oversee State Programs. A State agency may be headed by a board, commission or an individual.

Uniform Standards of Professional Appraisal Practice (USPAP): Refers to appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation establishing minimum requirements for development and reporting of appraisals, including real property appraisal. Title XI requires appraisals prepared by State certified and licensed appraisers to be performed in conformance with USPAP.

Well-documented: Means that States obtain and maintain sufficient relevant

documentation pertaining to a matter so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.

* * * * *

Dated: February 24, 2018.

By the Appraisal Subcommittee.

Arthur Lindo,
Chairman.

[FR Doc. 2018-04410 Filed 3-2-18; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 21, 25, 26, 27, 34, 43, 45, 60, 61, 63, 65, 91, 97, 107, 110, 119, 121, 125, 129, 133, 135, 137, 141, 142, 145, and 183

[Docket No.: FAA-2018-0119; Amdt Nos. 1-72, 21-101, 25-145, 26-7, 27-49, 34-6, 43-50, 45-31, 60-5, 61-141, 63-40, 65-56, 91-350, 97-1338, 107-2, 110-2, 119-19, 121-380, 125-68, 129-53, 133-16, 135-139, 137-17, 141-19, 142-10, 145-32, 183-17]

RIN 2120-AL05

Aviation Safety Organization Changes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA Aircraft Certification Service (AIR) and Flight Standards Service (AFS) have reorganized to align with functional organization design concepts. The AIR reorganization included eliminating product directorates and restructuring and re-designating field offices. The AFS reorganization included eliminating geographic regions, realigning headquarters organizations, and restructuring field offices. Currently, various rules in the Code of Federal Regulations refer to specific AIR and AFS offices that are obsolete after the reorganizations. This rule replaces specific references with generic references not dependent on any particular office structure. This rule does not impose any new obligations and is only intended to eliminate any confusion about with whom regulated entities and other persons should interact when complying with these various rules in the future.

DATES: Effective March 5, 2018.

FOR FURTHER INFORMATION CONTACT: For questions concerning AIR offices referred to in this action, contact Suzanne Masterson, Transport Standards Branch (AIR-670), Policy and Innovation Division, Aircraft Certification Service, Federal Aviation

Administration, 2200 South 216th St., Des Moines, WA 98189; telephone (206) 231-3211 or (425) 227-1855; email suzanne.masterson@faa.gov.

For questions concerning AFS offices referred to in this action, contact Joseph Hemler, Commercial Operations Branch (AFS-820), Flight Standards Service, Federal Aviation Administration, 55 M Street SE, 8th floor, Washington, DC 20003-3522; telephone (202) 267-1100; email joseph.k.hemler-jr@faa.gov.

SUPPLEMENTARY INFORMATION:

Good Cause for Immediate Adoption

Section 553(b)(3)(A) of the Administrative Procedure Act (APA) (5 U.S.C.) authorizes agencies to dispense with notice and comment procedures for rules of agency organization, procedure, or practice, except when notice or hearing is required by statute. Under this section, an agency may issue a final rule without seeking comment prior to the rulemaking.

Additionally, section 553(b)(3)(B) of the APA authorizes agencies to dispense with notice and comment procedures for rules when the agency for “good cause” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under this section, an agency, upon finding good cause, may issue a final rule without seeking comment prior to the rulemaking. The FAA finds that notice and public comment to this immediately adopted final rule are unnecessary because this rule meets the exception of section 553(b)(3)(A). The sole purpose of this rule is to reflect organizational changes within AIR and AFS. This rule imposes no additional requirements on the public. Therefore, the FAA has determined that notice and public comment are unnecessary.

The FAA further finds, under 5 U.S.C. 553(d)(3), that good cause exists for making this rule effective upon publication in the **Federal Register**. It is unnecessary to delay the effective date of this rule because the final rule consists only of organizational amendments that have no substantive effect on the public.

Authority for This Rulemaking

The FAA’s authority to issue rules is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator.

This rulemaking is promulgated under the authority described in 49 U.S.C. 106(f), which establishes the authority of the Administrator to promulgate regulations and rules, including rules that carry out the functions of the agency.

This regulation is within the scope of that authority because the rule makes non-substantive edits to agency organization, procedure, or practice that guides the public’s interaction with AIR and AFS.

I. Overview of Immediately Adopted Final Rule

AIR and AFS have reorganized to align with a functional organization design concept. Currently, various rules in title 14 of the Code of Federal Regulations (14 CFR) parts 21, 25, 26, 27, 34, 91, 121, 125, 129, 135, and 183 refer to specific AIR offices that are obsolete after its reorganization. Additionally, various rules in 14 CFR parts 1, 43, 45, 60, 61, 63, 65, 91, 97, 107, 110, 119, 121, 125, 129, 133, 135, 137, 141, 142, 145, and 183 refer to specific AFS offices that are obsolete after its reorganization. This rule replaces specific office references with generic references not dependent on any particular office structure. This rule is intended to eliminate any confusion about with whom regulated entities and other persons should interact when complying with these various rules in the future.

II. Background

AIR and AFS have played a critical role in assuring that the U.S. National Airspace System operates at the highest level of safety. This level of safety has been achieved through the development of standards, policy, and guidance to assure the safe design and production of aviation products, as well as the safe and standardized certification, operation, and oversight of multiple types of FAA certificate holders.

The aviation system is rapidly changing, placing greater demands on its participants. It is more complex, interconnected, and reliant on new technologies. Each component of the aircraft certification safety system—which extends beyond AIR and AFS to include industry’s role in ensuring compliance to regulations, and the public’s participation in the regulatory process—must address the challenges posed by the changing environment. The FAA’s ability to meet the diverse and ever-increasing expectations of its stakeholders, including the flying public, industry, Congress, and other certification authorities, requires fundamental changes to several aspects of the aircraft, airmen, and operator certification safety system, including the organizational structure of AIR and AFS.

The AIR and AFS management teams evaluated changing domestic and global demands on AIR and AFS and