

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. BOARD OF APPRAISAL

PREAMBLE

- 1. Sections Affected**
R4-46-401
- Rulemaking Action**
Amend
- 2. The specific statutory authority for the rulemaking, including the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 32-3605(A)
Implementing statute: A.R.S. § 32-3605(B)(1)
- 3. A list of all previous notices appearing in the Register addressing the proposed rules:**
Notice of Rulemaking Docket Opening: 8 A.A.R. 5235, December 27, 2002
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Edward C. Logan, Executive Director
Address: 1400 W. Washington, Suite 360
Phoenix, AZ 85007
Telephone: (602) 542-1543
Fax: (602) 542-1598
E-mail: elogan@appraisal.state.az.us
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
The Board of Appraisal's rules are written to comply with the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989; and, state statutes applicable to Real Estate Appraisers and Property Tax Agents. The change in this existing rule is to comply with Title XI and A.R.S. § 32-3635(A) by adopting the current version of professional appraisal standards, which is issued each year by the Appraisal Standards Board (ASB) of the Appraisal Foundation. The Appraisal Foundation issues the new USPAP after extensive public exposure to proposed changes. The current version is the Uniform Standards of Professional Appraisal Practice (USPAP) 2003 edition. The 2003 edition is the result of exposure drafts that occurred on February 13 and May 7, 2002. On the basis of written responses, substantial public testimony at Appraisal Standards Board (ASB) public meetings, and extensive deliberation by the Board, the ASB formally adopted the 2003 USPAP on June 11, 2002. The effective date of the 2003 USPAP is January 1, 2003. The Key Features in the 2003 edition are:

A. Definitions:

The Comment to the definition of *Appraisal Review* was modified by deleting the word appraisal. This edit was necessary to be consistent with changes to STANDARD 3.

B. Ethics Rule:

The ETHICS RULE was edited to clarify that an individual...*should* comply any time that individual represents that he or she is performing the service as an appraiser.

C. Standards Rules 1-5:

This Standards Rule was modified to require appraisers to analyze all prior sales of the subject property within the past three (3) years for all types of real property, if such information is available in the normal course of business.

D. Standards Rule 1-6:

This new Standards Rule was added to clearly demonstrate that reconciliation is a separate component of the appraisal process rather than a function within the analysis of sales history.

E. STANDARD 3:

This standard was edited in several locations to accomplish the following:

Make STANDARD 3 inclusive of all appraisal disciplines, real Property and Personal Property (including Mass Appraisal) and Business Appraisal.

Require an appraisal review that includes the reviewer's own opinion of value to be reported in at least a Summary Appraisal Report format.

Remove the requirement that the scope of work in an appraisal review match the scope of work in the appraisal under review.

F. Standards Rule 7-5:

This Standards Rule was modified to clarify that all prior sales of the subject property that occurred within a reasonable and applicable time period must be analyzed.

G. Standards Rule 7-6:

This new Standards Rule was added to clearly demonstrate that reconciliation is a separate component of the appraisal process rather than a function of the analysis of sales history.

H. STATEMENT No.7 and Advisory Opinion 3 (AO-3):

SMT-7 was edited to remove certain language pertaining to commonly used terminology, which was moved to AO-3; and AO-3 was revised to provide new requirements and advice relative to "updates" of prior appraisal reports.

I. Advisory Opinion 9 (AO-9):

This AO was revised to provide appraisers with a better understanding of USPAP's application in the appraisal of properties impacted by environmental contamination.

J. USPAP Structure and Usability Enhancements:

In order to continue enhancing the clarity of USPAP, each Statement and Advisory Opinion has been labeled as to its applicability to the various appraisal disciplines. These labels are located in the beginning of each SMT and AO as well as in the Table of Contents. The abbreviations are:

Real Property = UP

Personal Property = PP

Intangible (business) Property = IP

All disciplines = ALL

However, no Intangible Property, which includes business interests, abbreviations are utilized since all STATEMENTS and Advisory Opinions that apply to Intangible Property also apply to Real Property and Personal Property, and thus are part of the "ALL" label.

K. ASB Work In Progress:

Over the years USPAP has evolved as a document in content, form, and organizational structure. It is a work in progress, with an overall goal of Standards becoming more stable over time and guidance in the form of Statements and Advisory Opinions appearing as required. Toward this end the ASB has developed a process for developing both

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Standards and guidance text based, in part, on written comments submitted in response to exposure draft materials and oral testimony presented at public meetings. This process requests input on proposed changes to USPAP from all interested parties, including professional appraisers and professional appraisal organizations, educators, regulators and state enforcement agencies. In July 1998, the ASB established a mechanism for organizations to interact with the ASB and present official positions on USPAP topics during the research phase of the exposure draft process. Known as "work groups," these entities, which are registered with the Appraisal Foundation, may develop recommendations for consideration by the ASB prior to its dissemination of proposed changes through the exposure draft process. Parties interested in registering as a work group must do so through the Appraisal Foundation.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review the study, all data underlying each study, and any analysis of the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The Board will bear the costs of rulewriting and other administrative updating, which are covered in its budget as routine expenses. The appraiser community will bear the expense of purchasing the USPAP 2003 edition which is still only \$30. Not all appraisers will find it necessary to own a copy. Some may share office copies. This is a business expense that can be deducted. The benefits to be gained are: maintaining compliance with current standards as required by law; and, improving the professional work product. No cost is anticipated to private persons and consumers who may be directly affected by the proposed rulemaking.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Edward C. Logan, Executive Director
Address: 1400 W. Washington, Suite 360
Phoenix, AZ 85007
Telephone: (602) 542-1543
Fax: (602) 542-1598
E-mail: elogan@appraisal.state.az.us

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: February 19 and 20, 2003
Time: 9:00 a.m.
Location: 1400 W. Washington, Phoenix, AZ 85007; Basement Conference Room B-2
Nature: The Board will hold an open meeting to hear opinions and suggestions, and to adopt, amend, or repeal the rule. The Agenda for this Board Meeting will be available to the public the day before each meeting. It may be obtained by contacting the Board Office at (602) 542-1539.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

The Uniform Standards of Professional Appraisal Practice, 2003 edition published by the Appraisal Foundation and effective nationally on January 1, 2003. The location in the rules is R4-46-401.

13. The full text of the rule follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. BOARD OF APPRAISAL

ARTICLE 4. STANDARDS OF PRACTICE

Section

R4-46-401. Standards of Appraisal Practice

ARTICLE 4. STANDARDS OF PRACTICE

R4-46-401. Standards of Appraisal Practice

Every appraiser, in performing the acts and services of an appraiser, shall comply with the Uniform Standards of Professional Appraisal Practice (USPAP), ~~2002~~ 2003 edition, published by the Appraisal Foundation, which is incorporated by reference and on file with the Board and the Office of the Secretary of State. This incorporation by reference contains no future additions or amendments. A copy of the USPAP 2003 edition may be obtained from the Appraisal Foundation, 1029 Vermont Avenue, NW, Suite 900, Washington, DC 20005; toll free 1-800-805-7857; (202) 347-7722; fax (202) 347-7727; or web site www.appraisalfoundation.org.