

Notice of Agency Rulemaking Proposal

AGENCY: 02-298, Department of Professional and Occupational Regulation, Office of Professional and Occupational Regulation, Board of Real Estate Appraisers

CHAPTER NUMBER AND TITLE:

Chapter 220: Educational Course Requirements
Chapter 230: Supervising Appraiser Duties

TYPE OF RULE (*check one*): Routine Technical Major Substantive

PROPOSED RULE NUMBER (*leave blank; to be assigned by Secretary of State*):

BRIEF SUMMARY:

Due to the nationwide public health emergency caused by the Coronavirus Disease (COVID-19), the Appraisal Qualifications Board (AQB) temporarily allowed its programs approved for in-person delivery to be offered via synchronous distance delivery. The change became permanent beginning January 1, 2022. The proposed rulemaking would amend the Board's rule setting forth criteria for continuing education program approval by removing the requirement that program attendees must be in the actual physical presence of the instructor, and would further amend the rule to permit synchronous distance education programs. Board approval of a program would be valid for both in-person and synchronous delivery.

The proposed rulemaking also removes the requirement that a supervising appraiser, who is responsible for the training and direct supervision of a trainee real property appraiser, personally inspect a certain number of appraised properties with the trainee. The AQB requires a supervising appraiser to personally inspect each appraised property with the trainee appraiser until the supervising appraiser determines the trainee is competent to inspect the property in accordance with the Competency Rule of the Uniform Standards of Professional Appraisal Practice (USPAP) for the property type. The proposed rule removes the requirement that the supervising appraiser personally inspects each appraised property with the trainee for the first fifty (50) appraisals at a minimum and, instead, allows the supervising appraiser to determine when the trainee is competent in accordance with the Competency Rule of USPAP and no longer needs personal supervision for a particular property type. Accordingly, the proposed rulemaking removes, as no longer necessary, the requirement that in the event the trainee had a series of supervising appraisers, the determination of competency must be made by the trainee's most recent supervising appraiser on the basis of at least 25 supervised inspections.

Copies of the proposed rulemaking may be found on the agency webpage at <https://www.maine.gov/pfr/professionallicensing/professions/board-real-estate-appraisers>. Scroll down to "What's New" and the section titled Rulemaking Changes. Comments may be submitted in writing to the contact person for this filing.

Date, time and location of PUBLIC HEARING (*if any*): N/A. Pursuant to 5 M.R.S. § 8052(1) and § 8053(3)(B), a hearing may be requested by five (5) interested persons by submitting a request in writing to the contact person for this filing.

COMMENT DEADLINE: Tuesday, June 21, 2022 at 5:00 p.m. Comments may be submitted by email or mail to the contact person for this filing.

CONTACT PERSON FOR THIS FILING (*include name, mailing address, telephone, fax, TTY, email*): Catherine Pendergast, 35 State House Station, Augusta, ME 04333-0035, 207-624-8518, TTY: Maine relay 711, Catherine.Pendergast@maine.gov.

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (*if different*): N/A

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (*if any*): N/A

STATUTORY AUTHORITY FOR THIS RULE: 32 M.R.S. §§ 14012, 14027, 14039

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different): N/A

AGENCY WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/board-real-estate-appraisers>

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Kristin Racine, Esq., kristin.racine@maine.gov

* Check one of the following two boxes.

The summary provided above is for publication in both the newspaper and website notices.

The summary provided above is for the newspaper notice only. Title 5 §8053, sub-§5 & sub-§7, ¶D. A more detailed summary is attached for inclusion in the rulemaking notice posted on the Secretary of State's website. Title 5 §8053, sub-§3, ¶D & sub-§6.

Please approve bottom portion of this form and assign appropriate AdvantageME number.

APPROVED FOR PAYMENT _____ DATE: _____

(authorized signature)

FUND	AGENCY	ORG	APP	OBJ	PROGRAM	FUNDING Profile JVC	FUND Pri JVC	FUND Line JVC
014	02A	4695	01	4946				

Rulemaking Fact Sheet (5 MRS §8057-A)

AGENCY: 02-298, Department of Professional and Financial Regulation, Office of Professional of Occupational Regulation, Board of Real Estate Appraisers

NAME, ADDRESS, PHONE NUMBER, EMAIL OF AGENCY CONTACT PERSON: Catherine Pendergast, 35 State House Station, Augusta, ME 04333, 207-624-8518, TTY: Maine relay 711, Catherine.Pendergast@maine.gov.

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PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE:

Due to the nationwide public health emergency caused by the Coronavirus Disease (COVID-19) pandemic, the Appraisal Qualifications Board (AQB) temporarily allowed its programs approved for in-person delivery to be offered via synchronous distance delivery. The change became permanent beginning January 1, 2022. The proposed rulemaking would amend the Board's rule setting forth criteria for continuing education program approval by removing the requirement that program attendees must be in the actual physical presence of the instructor, and would further amend the rule to permit synchronous distance education programs. Board approval of a program would be valid for both in-person and synchronous delivery.

The proposed rulemaking also removes the requirement that a supervising appraiser, who is responsible for the training and direct supervision of a trainee real property appraiser, personally inspect a certain number of appraised properties with the trainee. The AQB requires a supervising appraiser to personally inspect each appraised property with the trainee appraiser until the supervising appraiser determines the trainee is competent to inspect the property in accordance with the Competency Rule of the Uniform Standards of Professional Appraisal Practice (USPAP) for the property type. The proposed rule removes the requirement that the supervising appraiser personally inspects each appraised property with the trainee for the first fifty (50) appraisals at a minimum and, instead, allows the supervising appraiser to determine when the trainee is competent in accordance with the Competency Rule of USPAP and no longer needs personal supervision for a particular property type. Accordingly, the proposed rulemaking removes, as no longer necessary, the requirement that in the event the trainee had a series of supervising appraisers, the determination of competency must be made by the trainee's most recent supervising appraiser on the basis of at least 25 supervised inspections.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? ___ YES ~~X~~ NO

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

The proposed changes to Chapter 220 will improve access and availability of continuing education programs to licensees in all areas of the state.

The proposed changes to Chapter 230 will allow more discretion to supervisors to determine when a trainee appraiser is competent to inspect properties, in accordance with the Competency Rule of the Uniform Standards of Professional Appraisal Practice (USPAP), and potentially encourage more qualified appraisers to train and supervise trainee appraisers.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) Expertise of board staff and board members and the AQB.

ESTIMATED FISCAL IMPACT OF THE RULE: Minimal. It is anticipated that the rule changes to the approval of continuing education programs that permit virtual synchronous interaction will expand the number of programs that may be less burdensome to attend for licensees. It is not anticipated that the rule change to the minimum number of supervised appraisals for trainees will have any fiscal impact.

FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
[see §8057-A(2)(A)]

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED: [see §8057-A(2)(B)]

BENEFITS OF THE RULE: [see §8057-A(2)(C)]

Note: If necessary, additional pages may be used.

Chapter 220: EDUCATIONAL COURSE REQUIREMENTS

Summary: This chapter requires that qualifying education be approved by the Appraisal Qualifications Board and that continuing education be approved by the Appraiser Qualifications Board or the Board of Real Estate Appraisers.

1. Qualifying Education

Class hours required for licensure as a trainee real property appraiser, licensed residential real property appraiser, certified residential real property appraiser and certified general real property appraiser must be earned in courses approved by the Appraiser Qualifications Board. The Board of Real Estate Appraisers will not recognize non-approved courses for licensing purposes.

2. Continuing Education

1. Continuing Education Requirement Generally

At time of renewal, each licensee of the board shall certify to completion of 14 hours of continuing education during the preceding license term. Up to 7 hours may be granted for participation, other than as a student, in appraisal education processes and programs. Credit for instructing any given course or seminar can only be awarded once during a continuing education cycle.

2. Course in National Uniform Standards of Professional Appraisal Practice

As part of the 14 required hours of continuing education described in subsection 1, each licensee shall, during even-numbered years, satisfactorily complete the 7-hour National Standards of Uniform Professional Appraisal Practice course approved by the Appraisal Qualifications Board.

3. Approved Programs

Continuing education must be earned in programs approved by the Appraisal Qualifications Board or the Board of Real Estate Appraisers. The Board of Real Estate Appraisers will not recognize unapproved programs for continuing education credit.

4. Criteria for Program Approval by Board of Real Estate Appraisers

Continuing education programs that have not been approved by the Appraisal Qualifications Board must meet the following criteria for approval.

- A. The program must consist of no less than 2 hours of actual instructional time, exclusive of meals, breaks, and non-instructional presentations or activities.
- B. The program must be taught “live” in a traditional classroom or seminar setting or as a synchronous distance education program. ~~such that the attendees are in the actual physical presence of the instructor.~~ No form of asynchronous distance education or recorded presentation will be approved.
- C. The material to be taught may include subjects not directly related to real estate appraisal. However, only material that is directly related to real estate appraisal will be recognized for continuing education credit.
- D. The program sponsor must distribute an evaluation form provided by the board and certificates of completion to attendees at the conclusion of the program. The sponsor must retain completed evaluations for one year following conclusion of the program and must promptly provide the evaluations to the board upon request. The sponsor must retain the roster of attendees for two years following completion of the program.

5. Approval of Continuing Education Programs by the Board of Real Estate Appraisers

Continuing education programs that have not been approved by the Appraisal Qualifications Board must be submitted to the Board of Real Estate Appraisers for review and approval as set forth in this subsection.

- A. The program sponsor or a prospective attendee shall apply for continuing education program approval on forms provided by the board. Incomplete applications will not be reviewed.

[NOTE: A prospective attendee applying for program approval need not show that the program sponsor will distribute evaluation forms and certificates of completion and abide by the retention requirements as set forth in subsection 4(D).]

- B. The complete application must be submitted sufficiently in advance of the start date of the program to permit review by the board prior to the start date. Applications submitted on or after the start date of the program will not be considered.
- C. The application must include the following information:
 - (1) The title of the program, a general overview of the material to be covered, and a detailed syllabus, including a timed outline;
 - (2) Demonstration that the program meets the criteria for approval set forth in subsection 4;
 - (3) The names and qualifications of the instructors;

(4) The fee required by Chapter 10, Section 34 of the rules of the Office of Licensing and Registration, entitled “Establishment of License Fees;” and

(5) Such other information as the board may require.

D. The board shall review program applications under the criteria set forth in subsection 4 (“Criteria for Program Approval by the Board of Real Estate Appraisers”); for sufficiency of the application under this subsection 5 (“Approval of Continuing Education Programs by the Board of Real Estate Appraisers”); for program quality; and for instructor qualifications.

E. Program approval is valid for both in-person and synchronous delivery for a period of one year from the date of approval and includes any repeat presentations of the approved program during the 1-year approval period. Any proposed change to the course content, instructor, or other information submitted in or with the application must be reported to the board for review and approval in advance of the change;

F. Any deviation from the application that has not been approved as described in paragraph E, any failure to comply with any conditions included in the board’s approval, or poor program quality may result in suspension of the sponsor’s approved program offerings, denial of future approval requests by the sponsor, or both.

STATUTORY AUTHORITY:

32 MRS §§ 14012, 14027

EFFECTIVE DATE:

September 18, 1999

REPEALED AND REPLACED:

January 1, 2008 – filing 2007-465

AMENDED:

February 20, 2012 – filing 2012-39

August 29, 2018 – filing 2018-169

Chapter 230: SUPERVISING APPRAISER DUTIES

SUMMARY: This rule establishes the supervisory responsibilities for a certified residential or certified general real property appraiser who supervises a trainee real property appraiser.

1. Commencement and Termination of Supervisory Relationship

A certified residential or certified general real property appraiser shall notify the board in writing of the commencement or termination of a supervisory relationship with a trainee real property appraiser no later than ten days after the commencement or termination.

2. Duties

A. A supervising appraiser is responsible for the training and direct supervision of the trainee real property appraiser, including:

1. Accepting responsibility for the appraisal report by signing and certifying that the report is in compliance with the Uniform Standards of Professional Appraisal Practice;
2. Reviewing with the trainee real property appraisal report(s); and
3. Personally inspecting each appraised property with the trainee real property appraiser ~~for the first 50 appraisals, at a minimum, and~~ until the supervising appraiser determines the trainee is competent in accordance with the Competency Rule of the Uniform Standards of Professional Appraisal Practice for the property type. The supervising appraiser shall make this determination of competency in writing on a form provided by the board and shall submit the determination to the board no later than ten days thereafter.
- ~~4. In the event that the trainee had a series of supervising appraisers, the determination of competency described in Section 2(A)(3) of this chapter must be made by the trainee's most recent supervising appraiser, on the basis of at least 25 appraisals (of the 50 appraisal minimum) on which the most recent supervising appraiser personally inspected the appraised property with the trainee. In extenuating circumstances, the board may accept a determination of competency from a predecessor supervising appraiser.~~
- ~~5. In the event that the trainee had multiple concurrent supervising appraisers, the determination of competency described in Section 2(A)(3) of this chapter must may be made by one any of the concurrent supervising appraisers, on the basis of at least 25 appraisals (of the 50 appraisal minimum) on which that supervisor personally inspected the appraised property with the trainee.~~

B. Records and Reporting

1. The supervising appraiser shall maintain accurate, up-to-date records of all the trainee's activities and a schedule of hours of work completed.
2. No later than the fifteenth day of each month, a supervising appraiser shall sign and submit a report to the board with respect to each trainee under the appraiser's supervision. The monthly report shall be made on a form prescribed by the Board and shall, at a minimum, include the following information for the preceding calendar month:
 - a. Type of property appraised;
 - b. Whether the supervising appraiser personally inspected the property with the trainee;
 - c. Client name and address;
 - d. Address of appraised property;
 - e. Description of work performed; and
 - f. Number of work hours.

If the trainee performed no reportable work, the monthly report shall so indicate.

STATUTORY AUTHORITY: 32 MRSA §§ [14012](#), [14039](#)

EFFECTIVE DATE:

September 18, 1999

REPEALED AND REPLACED:

January 1, 2008 – filing 2007-466