

BEFORE THE BOARD OF REAL ESTATE APPRAISERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.207.401 fees, 24.207.404)
appraisal review - USPAP exemption,)
24.207.406 definitions, 24.207.501)
examination, 24.207.502 application)
requirements, 24.207.504 approval of)
qualifying and continuing education)
courses, 24.207.508 ad valorem)
appraisal experience, 24.207.509)
qualifying experience, 24.207.515)
inactive license/certification,)
24.207.516 inactive to active license,)
24.207.517 trainee requirements,)
24.207.518 mentor requirements,)
24.207.1501 registration and renewal)
of appraisal management companies,)
24.207.2101 continuing education -)
compliance and auditing, 24.207.2301)
unprofessional conduct for appraisers,)
24.207.2305 unprofessional conduct)
for appraisal management companies;)
the adoption of New Rule I)
incorporation by reference of the real)
property appraiser qualification criteria,)
New Rule II appraiser reporting)
obligations to the board, New Rule III)
appraisal management company)
reporting obligations to the board; and)
the repeal of ARM 24.207.403)
regulatory reviews, 24.207.503)
experience - number of hours required,)
24.207.505 qualifying education)
requirements for licensed real estate)
appraisers, 24.207.506 qualifying)
education requirements for residential)
certification, 24.207.507 qualifying)
education requirements for general)
certification, 24.207.510 scope of)
practice, 24.207.2102 continuing)
education noncompliance)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT,
ADOPTION, AND REPEAL

TO: All Concerned Persons

1. On November 26, 2018, at 9:00 a.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment, adoption, and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Real Estate Appraisers (board) no later than 5:00 p.m., on November 19, 2018, to advise us of the nature of the accommodation that you need. Please contact Sharon Peterson, Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2375; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsirea@mt.gov (board's e-mail).

3. GENERAL REASONABLE NECESSITY STATEMENT: As required by 37-54-105 and 37-54-303, MCA, the board must adopt rules pertaining to education, experience, and examination that are at least as stringent as those required by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). FIRREA established the Appraisal Foundation and its Appraisal Qualifications Board (AQB) to establish education and experience criteria of appraisers. These criteria are known as the Real Property Appraiser Qualification Criteria and Interpretations of the Criteria – more commonly referred to as the "AQB criteria." The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council is the organization that, along with the Appraisal Foundation, ensures that real estate appraisers who perform appraisals in federally related real estate transactions are sufficiently trained and tested to assure competency and independent judgment as dictated by uniform professional standards. The ASC is responsible for monitoring individual state licensing and certification of real property appraisers, and acts as an oversight mechanism for the activities of the Appraisal Foundation. Requirements of the ASC are expressed in policy statements which are based on Title XI of FIRREA.

The board concluded it is reasonably necessary to amend the rules to incorporate the AQB criteria by reference and repeal rules that unnecessarily repeat these criteria. The AQB criteria are well-organized, clearly worded, and accessible. Incorporation by reference of the AQB criteria will make it clear by contrast if or when the board exceeds the federal requirements and provide assurance that the current version is in effect. The board may adopt future versions by reference as well. Otherwise, the language is capable of inadvertent omission, variable word choice, and inconsistency with federal requirements. It is unduly cumbersome, expensive, and inexpedient to compare board rules line-by-line with federal requirements. Adoption by reference will eliminate such efforts by appraisers in the field, board members, staff, and other users of this information. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule.

4. The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

24.207.401 FEES (1) The following fees shall apply to all licensed and certified real estate appraisers, trainees, and applicants. Fees are not refundable or transferable. Fees are not prorated for portions of the year.

(a) original license application <u>by examination</u>	\$475
(b) address change or change of business	45
(c) through (e) remain the same but are renumbered (b) through (d).	
(f) (e) upgrade or downgrade fee	300
(g) (f) Applicants and renewing licensed or certified appraisers must pay a federal registry fee in the amount required by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council in accordance with Title XI of the Federal Financial Institutions Reform, Recovery, and Enforcement Act. The current federal registry fee is specified in the application and renewal forms and can be found by a link from the board's web site.	
<u>Appraiser national registry fee</u>	<u>40</u>
(h) (g) inactive <u>renewal</u> license fee <u>(50 percent of active renewal)</u>	<u>225</u>
(i) (h) <u>reciprocal license application by credentialing</u>	<u>475</u>
(j) (i) license or certification renewal fee	475 <u>450</u>
(k) through (m) remain the same but are renumbered (j) through (l).	
(n) (m) reactivation fee (inactive to active status)	250 <u>225</u>

(2) The following fees apply to registered appraisal management companies and applicants for registration. Fees are not refundable or transferable. Fees are not prorated for portions of the year.

(a) remains the same.	
(b) appraisal management company address change, (including web site, e-mail, telephone, fax, etc.)	45
(c) application for change in controlling person	500
(d) (b) application for <u>redesignation</u> <u>change</u> of controlling person or <u>contact person</u>	250
(e) application for change in contact person under 37-54-504, MCA	100
(f) (c) renewal fee for appraisal management company with 200 or fewer engagements during previous renewal cycle	1000
(g) renewal fee for appraisal management company with more than 200 engagements during previous renewal cycle	3000
(h) remains the same but is renumbered (d).	
(i) (e) application to change business structure with addition or substitution of <u>ten percent</u> <u>an</u> owner	250
(j) (f) application to change business structure without addition or substitution of <u>ten percent</u> <u>an</u> owner	45

~~(k) (g) Applicants and renewing appraisal management companies must pay a federal registry fee in the amount required by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council in accordance with Title XI of the Federal Financial Institutions Reform, Recovery, and Enforcement Act. The current federal registry fee is specified in the application and renewal forms and can be found by a link from the board's web site.~~ An appraisal management company shall, with each renewal of its registration, pay a fee for the AMC national registry of \$25 multiplied by the number of appraisers performing an appraisal in a covered transaction for the AMC during the previous year. A year for this purpose is

September 1 through August 31.

~~(l) All audited registered appraisal management companies shall pay an audit fee in the amount of \$450 within 30 days of receiving notification of selection for audit. If the board incurs costs in excess of \$450, the board may assess the appraisal management company for such additional costs incurred, and the appraisal management company shall pay such assessments within 30 days of invoicing or as allowed by the board.~~

(3) remains the same.

AUTH: 37-1-131, 37-1-134, 37-54-105, MCA

IMP: 37-1-131, 37-1-134, 37-1-141, 37-54-105, 37-54-112, 37-54-212, 37-54-302, 37-54-310, MCA

REASON: The board is amending (1)(a) and (h) to differentiate between a license application by examination and a reciprocal license application. This change will further align with amendments in this notice to utilize ASC license terminology.

The board is striking (1)(b) and (2)(b) because the division's database now allows licensees to change their addresses online and a fee for an address change is no longer warranted. The board is amending (1)(e) as unnecessary since no appraisers have requested to downgrade their licenses in over six years and staff can find no downgrade fee code in the database. Additionally, if an appraiser's scope of practice and licensure level is downgraded as part of a disciplinary action, any applicable costs or fees would be addressed as part of a final order.

The board is amending (1)(f) because it unnecessarily repeats the federal requirement underlying the fee. Additionally, because the fee has remained unchanged since January 1, 2012, it is preferable and more convenient to include the actual fee amount in the rule.

Following the department's recommendation, the board is amending (1)(g) to align with standardized department procedures and for consistency in administration of board fees. Per ARM 24.101.403, the fee to reactivate an inactive license is limited to half of the active renewal fee.

In addition to distinguishing reciprocal license applications from examination applications, the board is amending (1)(h) to adopt the ASC's use of "reciprocal" for licensing out-of-state persons. The term "credential" refers to an appraiser's license.

The board is combining (2)(c) through (e) into (2)(b) after determining there is no difference between the word "change" and "redesignation," and the same background check and license verification applies regardless of whether a "controlling" or "contact" person is designated. The board proposes to charge \$250 for the application to change controlling or contact person or persons. This fee will be consistent with changes in the business structure that adds new owners in (2)(e).

The board is amending (2)(c) and striking (g) after concluding that the renewal process should be the same regardless of the number of engagements an appraisal management company (AMC) had in the previous renewal year. The board further determined that a single renewal fee of \$1000 should apply to all AMCs whether it had more than 200 engagements or 200 or fewer engagements during the previous renewal year. Tracking and auditing the number of engagements for this purpose is administratively burdensome and unnecessary.

The board is amending (2)(e) and (f) to remove the reference to ten percent and align with statute. In 2017, House Bill 106 removed this language from 37-54-503, MCA, to ensure that any owner who is a license holder, regardless of their share in the business, is subject to the professional good-standing requirement.

The board is amending (2)(g) to introduce and clarify a new federal requirement, and provide the underlying fee. The board determined it is reasonably necessary to strike (2)(l) because the board is standardizing the information requested in audits. The board determined that with this standardization, there is no reason that any audit will be broader in scope to incur or assess additional costs and the unlimited ability to charge additional costs is unacceptably vague in its scope.

The board estimates 374 renewing licensees will be affected by the \$25 renewal fee reduction, resulting in a \$9,350 decrease in revenue; 12 AMCs will be affected by the fee restructure for change of controlling/contact person, resulting in a \$1,100 increase in revenue; and 12 AMCs will be affected by the \$2,000 reduction in the renewal fee for companies with more than 200 engagements in the previous renewal cycle, resulting in a decrease of \$24,000 in revenue. The remaining fee changes will have zero cumulative effect on board revenue. The board estimates the proposed rule changes will affect approximately 398 licensees/AMCs and result in a cumulative decrease in annual revenue of \$32,250.

24.207.404 APPRAISAL REVIEW – USPAP EXEMPTION (1) ~~A licensed or certified appraiser who serves on the Board of Real Estate Appraisers is exempt from completing an appraisal review in accordance with USPAP as promulgated by the Appraisal Foundation in the performance of their board duties. Board members and department staff are not required to comply with USPAP in performance of official board duties. However, the board may require contracted reviews to conform with USPAP.~~

~~(2) An appraisal review report shall be completed prior to any disciplinary proceedings for noncompliance with USPAP.~~

AUTH: ~~37-1-131~~, 37-54-105, MCA
IMP: 37-54-105, MCA

REASON: The board is amending (1) to improve grammar, eliminate vagueness, and clarify that the exemption provided by the scope of practice covers board members and board agents. Review of appraisals related to licensing and disciplinary decisions by the board or its agents are not considered appraisal reviews or appraisals under USPAP. The board is striking (2) as it imposes an unnecessarily high standard on any reasonable cause finding the board may make that does not require expert testimony to decide. The board in conjunction with legal counsel must decide on a case-by-case basis whether such expert testimony is required.

Authority citations are being amended to provide the complete sources of the board's rulemaking authority.

24.207.406 DEFINITIONS (1) "AQB" means the Appraiser Qualifications Board of the Appraisal Foundation as provided for under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).

(2) "AQB criteria" means minimum education, experience, and examination requirements to obtain and the continuing education requirements to maintain a license or certification as an appraiser, supervisory appraiser, or trainee appraiser. The AQB publishes these requirements in The Real Property Appraiser Qualification Criteria, which is adopted and incorporated by reference at [NEW RULE I].

(2) remains the same but is renumbered (3).

(a) The qualifications component will include a completed appraisal review prepared by an individual designated by the board, unless the applicant is qualified for a license by reciprocity or is applying for a mentor endorsement, temporary practice permit, or trainee license.

(3) remains the same but is renumbered (4).

~~(4) "Nonroutine Reciprocal Applicant" means an applicant holding a license in another state in which the licensing requirements in the domicile state are not equal to or greater than the licensing requirements in Montana; the license is not in good standing; or there is a reason to deny the license under the laws of Montana governing the real estate appraisers profession or occupation.~~

(5) "USPAP" means the Uniform Standards of Professional Appraisal Practice, promulgated by the Appraisal Standards Board of the Appraisal Foundation.

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-1-304, 37-54-202, 37-54-302, 37-54-403, ~~37-54-501~~,
MCA

REASON: The board determined it is reasonably necessary to add (2) and define "AQB criteria" as that term is used repeatedly throughout the proposed new rules.

The board is amending (3)(a) to align with changes proposed in ARM 24.207.518(1) to no longer require review of mentor experience. Because the review is being eliminated, the board is adding it as exempt in this rule.

The board is striking "nonroutine reciprocal applicant" in favor of the AQB criteria per the general statement of reasonable necessity and New Rule I(3)(c). The new language in (5) is proposed to identify the publisher so persons unfamiliar with USPAP can more easily locate it.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.207.501 EXAMINATION (1) Upon approval by the department of an original applicant's education and experience requirements, the department will issue a letter of exam eligibility to take the examination pending completion of fingerprint and background checks.

(2) Only an original applicant for licensure or certification as an appraiser must take an examination. Reciprocal applicants, temporary permit applicants, and trainees and trainee mentors are not generally subject to an examination. However, for nonroutine reciprocal applicants under ARM 24.207.502 or licensees reactivating

an inactive or administratively suspended license, the board may require the applicant to demonstrate competency by taking the licensing examination.

~~(1) A passing score on an examination shall be valid for two years from the examination date until December 31, 2014.~~

~~(2) An applicant must complete all qualifying education and experience prior to taking the examination.~~

~~(3) An applicant shall be required to successfully complete and pass the 2015 or later examination requirements of the AQB.~~

~~(4) The applicant must successfully complete and pass the examination required in (3) within 24 months of receiving the board's approval to take the examination.~~

~~(5) (3) The examination is Examinations are administered by a testing agency under contractual agreement with the board.~~

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-202, 37-54-302, MCA

REASON: The board is amending this rule by striking the requirements that are set forth in the AQB criteria and need not be repeated. The board is adding new provisions to address questions from staff and applicants by clearly setting forth the standardized department procedures utilized to process examination applications.

24.207.502 APPLICATION REQUIREMENTS (1) Applicants for licensure, a mentor endorsement, or a temporary practice permit must submit a complete application form provided by the department, electronically or by paper, including appropriate fees and all required documentation.

(2) An applicant for licensure by examination must additionally submit:

(a) a set of fingerprints to the Montana Department of Justice;

(b) qualifying education certificates or transcripts; and

(c) an experience log on a form provided by the department.

(3) Department staff will identify and direct an applicant by examination to submit three appraisal reports from the experience log for review. If the review indicates that the work is not compliant with USPAP, or staff have otherwise determined the applicant's background check indicates board review, staff will refer the application to the board as nonroutine. The board may request additional information or clarification of information provided in the application as it deems reasonably necessary.

~~(2) An applicant for licensure may qualify in one of two methods, either by examination or reciprocity.~~

~~(3) To qualify for licensure by examination, the applicant must complete the following requirements:~~

~~(a) An examination pursuant to ARM 24.207.501;~~

~~(b) Qualifying education for:~~

~~(i) a licensed real estate appraiser pursuant to ARM 24.207.505;~~

~~(ii) a certified residential appraiser pursuant to ARM 24.207.506; or~~

~~(iii) a certified general appraiser pursuant to ARM 24.207.507.~~

~~(c) Qualifying experience pursuant to ARM 24.207.503, 24.207.508, and 24.207.509;~~

~~(d) Applications will be reviewed for compliance with board law and rules and the applicant shall be notified in writing of any discrepancies or incompleteness in the application or required documentation. The board may request additional information or clarification of information provided in the application as it deems reasonably necessary;~~

~~(e) The board will select a representative sample of the applicant's work product from the experience log.~~

~~(f) The applicant shall correct any deficiencies and submit required material within 60 days of notice with no additional application fee. Failure to submit the required materials will be treated as a voluntary withdrawal. After voluntary withdrawal, an applicant will be required to submit an entirely new application to begin the process again;~~

~~(g) All examination applications are considered nonroutine and must be reviewed by the board; and~~

~~(h) Incomplete applications, whether missing information or documentation will not be scheduled for a board meeting. Applications including the appraisal review must be completed for board review at least 15 days prior to the scheduled board meeting or the application will be referred to the next scheduled board meeting.~~

~~(4) To qualify Applicants for licensure by reciprocity, the applicant must additionally:~~

~~(a) have a current and unencumbered license in a jurisdiction where the appraisers are approved by the ASC as eligible to perform appraisals for federally related transactions or a jurisdiction that is in compliance with the ASC standards;~~

~~(b) have no current or pending disciplinary action against any other licenses the applicant holds; and~~

~~(a) submit a set of fingerprints to the Montana Department of Justice;~~

~~(b) have an active license in good standing, as shown on the ASC national appraiser registry, from a state that has:~~

~~(i) licensing requirements that meet or exceed those in Montana; and~~

~~(ii) a rating above a "poor" for compliance with Title XI of FIRREA as determined by the ASC; and~~

~~(c) be listed as AQB-compliant with continuing education on the ASC national appraiser registry.~~

~~(5) If the criteria in (4)(b) and (c) are not met or there is a criminal history revealed by the fingerprint background check, the reciprocal application will require review by the board as nonroutine for issuance of the license in the board's discretion.~~

~~(5) (6) To qualify for a temporary practice permit to perform an appraisal assignment for a federally related transaction, the applicant must, as shown in the ASC national appraiser registry:~~

~~(a) complete the appropriate application and submit fees; and~~

~~(b) (a) have an active status with the ASC national registry license in good standing as a credentialed appraiser; and~~

~~(b) be AQB-compliant.~~

~~(6) The applicant shall correct any deficiencies and submit required material within 60 days of notice with no additional application fee. Failure to submit materials will be treated as a voluntary withdrawal. After voluntary withdrawal, an applicant will be required to submit an entirely new application to begin the process again.~~

(7) Trainee appraisers from other states are not eligible for temporary practice permits.

(8) Staff may request additional information or clarification of information provided in the application. If the applicant fails to complete the application or comply with the request, the application will expire within one year. After expiration, an applicant will be required to submit an entirely new application to begin the process again.

(9) A fingerprint report is valid for six months from date of receipt of the report from the Federal Bureau of Investigation. If an application is still pending after this six-month period, the board may require the applicant to resubmit fingerprints.

~~(7) A nonroutine reciprocal applicant shall make application on forms provided by the board and pay any applicable fee.~~

~~(a) The board or its designee shall select appraisal reports from the experience log of all applicants. The appraisal reports requested shall be commensurate with the level of licensure sought:~~

~~(i) licensure level - single unit residential appraisal reports are required;~~

~~(ii) certified residential - two to four unit income producing residential appraisal reports with all three approaches to value are required; and~~

~~(iii) general certification - nonresidential report with all three approaches to value are required.~~

~~(b) The applicant shall correct any deficiencies and submit required material within 60 days of notice with no additional application fee. Failure to submit materials will be treated as a voluntary withdrawal. After voluntary withdrawal, an applicant will be required to submit an entirely new application to begin the process again.~~

~~(8) A routine reciprocal applicant shall make application on forms provided by the board and pay any applicable fee.~~

~~(9) The board will not issue a license if an applicant has had a license or certification revoked in any jurisdiction within the five-year period preceding the date of application in this state.~~

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-202, MCA

REASON: The board is striking (2) as unnecessary because these distinctions are present in the licensure qualifications and on the department application forms.

The board is striking (3) because it refers to rules being repealed in this notice. New (3) qualifies the term "representative sample" (formerly in (3)(e)) and explains when the board must review an application or work product associated with an application. The language is further intended to replace the language in stricken (7) that unnecessarily defines that type of experience that will be required for the

level of licensure sought. The experience qualifications are defined in the AQB and incorporated by reference; therefore it is redundant to repeat them in rule.

The board is striking (3)(g) as the board no longer treats all examination applications as nonroutine. Only applications determined by staff to be nonroutine will require board review. To license individuals who have met all the criteria for licensure, the board decided it is necessary to utilize staff to process routine license applications and reserve only those decisions requiring board expertise and discretion as nonroutine.

The board is striking (3)(h) in favor of a department policy that recognizes only the deadline for providing public notice items on a meeting agenda as the deadline to get appraisals before the board. The benefit of a shorter three-day deadline will not unnecessarily infringe upon a person's ability to work or have their rights adjudicated and outweighs the burden of additional paper or information distributed at board meetings.

The board is amending (4) to clarify a misstatement of law regarding "approval of appraisers by the ASC" as well as to clarify the grounds on which the reciprocal license will be issued, and incorporating the term "nonroutine" into this category of license applications. Two misconceptions refer to a reciprocity applicant holding a license in a jurisdiction where the appraisers are approved by the ASC as eligible to perform appraisals for federally related transactions, or if the jurisdiction complies with ASC standards. That language is incorrect. The ASC does not approve appraisers for eligibility to do federally related transactions. Neither does the ASC have "standards" in the strict sense of the term. Instead, the ASC uses Title XI of FIRREA, policy statements, and regulations.

The board is adding new (5) to make clear that the board may review nonroutine applications and therefore take more time to process. Further, new (5) provides the board with discretion to issue a license despite the state's rating with the ASC.

The board is amending (6) to clarify that staff will utilize the ASC national registry to verify the licensing status of temporary practice permit applicants.

The board is adding new (7) to clarify that trainees are not eligible for temporary practice permits because the board concluded that the burden involved in requiring a mentor would be too great. Further, only licensed or certified appraisers from another state have the autonomy that would allow a temporary practice permit to practice in this state as contemplated by the AQB. Under AQB qualifications, a temporary permit must be issued in a very short five-day window to allow a practitioner to come to the state to perform an appraisal assignment.

The board is removing (7)(a) and restating it more succinctly in new (3). Additionally, to the extent the rule suggests that all reciprocal applicants are nonroutine applications, the board rejects that idea and clarifies in new (5) when an application is considered nonroutine. The board is removing (7)(b) and addressing this requirement in new (8), as well as extending the timeline from 60 days to one year, with the caveat that fingerprint background checks older than six months will need to be resubmitted, as provided in new (9). The board is striking (8) as the process is adequately addressed in (1).

The board is striking (9) because the limitation on issuing licenses to reciprocal applicants conflicts with AQB guidance and has perhaps been

impermissibly expanded from the limitation against mentor (supervisor) appraisers from having had disciplinary action within the last five years. With respect to license holders from other professions who present a history of disciplinary action, the board must address each application on a case-by-case basis and make a decision on the individual facts. A board decision based solely on this section without accompanying facts, which may differ from case to case, would not be defensible.

Other changes are made to avoid passive voice, redundancy, and wordiness and make the rule easier to read and comprehend.

24.207.504 APPROVAL OF QUALIFYING AND CONTINUING EDUCATION REQUIREMENTS COURSES (1) through (15) remain the same.

AUTH: 37-1-131, 37-1-319, 37-54-105, MCA

IMP: 37-1-131, 37-1-306, 37-54-105, 37-54-202, MCA

REASON: The board is amending the rule title to clearly reflect the substance of the rule and avoid confusion.

24.207.508 AD VALOREM TAX APPRAISAL EXPERIENCE (1) ~~Experience credit may be awarded to a credentialed Montana Department of Revenue appraiser who can effectively demonstrate compliance with the USPAP. An applicant for licensure may claim 80 percent of the required experience from conducting ad valorem or mass appraisal assignments. The remaining hours of experience must be gained as a licensed trainee under an approved mentor.~~

(2) The applicant shall provide ~~proper documentation as follows:~~

~~(a) The documentation shall include an experience log which is prescribed by the board, completed by the applicant, and each page attested to with the signature of by the applicant's credentialed Montana Department of Revenue supervisor and approved mentor.~~

~~(b) (a) The documentation shall be limited to appraisals which hours must have been completed in compliance with the USPAP within the last five years. For licensure as a licensed real estate appraiser and licensure as a certified residential real estate appraiser, the appraisals must be for residential properties. For licensure as a certified general real estate appraiser, the appraisals must be for nonresidential properties.~~

(3) Applicants for the following license or certification categories shall hold, at a minimum, the following certification(s) issued by the Montana Department of Revenue, or equivalent from another state, as verified on supervisor's affidavit, or by separate documentation issued to applicant:

(a) Applicants ~~for licensure as a licensed real estate appraiser or licensure as a~~ and certified residential real estate appraiser shall hold a Montana Department of Revenue require residential certification; ~~or~~

(b) Applicants ~~for licensure as a certified general real estate appraiser shall hold a Montana Department of Revenue requires~~ commercial, industrial, or agricultural certification.

~~(4) Experience credit accepted under other provisions of applicable statutes or rules such as ARM 24.207.503 is limited to include a maximum of 1,000 hours~~

~~from the ad valorem experience set forth above. All other experience credit must be obtained as a licensed trainee with an approved mentor.~~

~~(5) All ad valorem appraisal experience claimed for credit toward licensure or certification must have been completed as a Montana Department of Revenue certified real estate appraiser as described in (3) and must have been performed in accordance with the USPAP.~~

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, MCA

REASON: The board determined that ad valorem tax appraisals require current valuation, and therefore do not allow experience gained in using highest and best use valuation. Further, ad valorem experience does not provide a candidate experience writing individual property appraisal reports. For these reasons, the board determined it is reasonably necessary to require a portion of a candidate's experience to be performed under the supervision of a licensed or certified appraiser. The amendments will allow a greater portion of an ad valorem appraiser's experience to be counted toward licensure because the current rule expresses the experience in total hours which varies in percentage, depending on the type of licensure or certification sought.

The board is amending (2)(a) to eliminate the limitation on the experience taking place within the last five years to be consistent with the AQB which has no maximum period to gain the experience. Rather, the AQB focuses on minimum time periods. The board is further amending this rule to eliminate redundancy and improve clarity.

24.207.509 QUALIFYING EXPERIENCE ~~(1) Acceptable appraisal experience must be for an unrelated client or where the applicant has no financial interest in the property.~~

~~(2) All applicants claiming experience shall have made a substantial contribution in arriving at a value conclusion as evidenced by the applicant's signature on the experience log and the applicant's name identified within the signed certification as required by the USPAP. To claim qualifying experience, the applicant's contribution must be identified within the certification and scope of work. The experience log must demonstrate progressive participation in the appraisal process.~~

~~(3) All evidence of experience must be supported by a work file or written report and made available to the board for review.~~

~~(4) The experience log claimed by an applicant shall be on forms prescribed by the board which shall include:~~

~~(a) type of property;~~

~~(b) date of report;~~

~~(c) address of appraised property;~~

~~(d) description of work performed by the trainee/applicant and signature and license number of the trainee;~~

~~(e) number of actual work hours claimed by the trainee/applicant on the assignment in accordance with (8), (9), and (10); and~~

~~(f) scope of the review and the signature and certification number of the mentor.~~

~~(5) All experience submitted to the board must be done in conformance with the USPAP as promulgated by the Appraisal Foundation that is current at the time the appraisal experience is completed.~~

~~(6) Qualifying experience must be obtained within five years prior to application date, unless otherwise previously approved by the board.~~

~~(7) and (8) remain the same but are renumbered (1) and (2).~~

~~(9) (3) Appraisal review reports that do not contain the reviewer's opinion of value will be allowed a maximum one-third of the allotted time found in (8) (2).~~

~~(10) (4) The board may provide a variance from the hourly standards provided in (8) and (9) (2) and (3). To be considered for such a variance, an applicant must submit a written request for a variance supported by documentation, which demonstrates the need for additional credit hours.~~

AUTH: 37-1-131, 37-54-105, 37-54-303, MCA

IMP: 37-1-131, 37-54-105, 37-54-202, 37-54-303, MCA

REASON: The board is amending this rule by deleting (1) through (6) because applicants are required to submit experience hours in the format required on the experience log provided by the board.

24.207.515 INACTIVE LICENSE/CERTIFICATION (1) A licensed or certified appraiser can place their license or certification in an inactive status by notifying the board in writing:-

~~(a) paying the required fee in accordance with 37-54-105, 37-54-112, MCA, and ARM 24.207.401;~~

~~(b) indicating, in writing, "inactive at present"; and~~

~~(c) submitting proof of obtaining the required continuing education on the schedule currently adhered to by the board, in accordance with ARM 24.207.2101.~~

~~(2) A licensed or certified appraiser who has placed their license on an inactive status with the board has the sole responsibility to keep the board informed as to any change of residency or mailing address during the period of time the license or certification remains on inactive status.~~

~~(3) (2) Inactive licensees must pay their inactive renewal fee annually to avoid license lapse and termination. Failure to renew the inactive status or become active will result in the lapsing of their license or certification.~~

~~(4) remains the same but is renumbered (3).~~

AUTH: 37-1-131, 37-1-319, 37-54-105, MCA

IMP: 37-1-131, 37-1-319, 37-54-105, 37-54-310, MCA

REASON: The board is proposing substantive changes to this rule in (1)(a) and (c). Following amendment, no fee will be charged for the simple act of requesting inactive status. Inactive licensees will pay an inactive license fee at renewal time, as directed in (3). Further, the board will no longer require licensees to submit proof of continuing education during inactive status. The board will only require proof of

continuing education and payment of a reactivation fee upon request to convert to active status as specified in the proposed amendments to ARM 24.207.516.

The board is striking (2) as the duty to keep the department informed of address changes is set forth in statute and is being relocated to New Rule II.

Other changes improve clarity and organization.

24.207.516 INACTIVE TO ACTIVE LICENSE (1) For a licensed or certified real estate appraiser to become active, the appraiser must:

(a) file an updated application form with the board office and pay the required reactivation fee in accordance with ARM 24.207.401; and

(b) complete all required continuing education hours that would have been required if the licensee was in an active status, including the most recent edition of a 7-hour National USPAP Update Course (or AQB-approved equivalent).

AUTH: 37-1-131, 37-1-319, 37-54-105, MCA

IMP: 37-1-131, 37-1-319, 37-54-105, 37-54-310, MCA

REASON: The board determined it is reasonably necessary to relocate the continuing education provisions for inactive status from ARM 24.207.515 to this rule. The board will no longer require licensees to submit proof of continuing education during inactive status, but only upon request to convert to active status.

24.207.517 TRAINEE REQUIREMENTS (1) A trainee shall apply to the board as required in ARM 24.207.502(1).

(2) A trainee who has completed 500 hours of training may exercise a one-time option to submit to the board for review an appraisal of the type of property for which the trainee seeks licensure to determine if the appraisal complies with USPAP.

(3) Applying the same criteria for reciprocal applicants in ARM 24.201.502, the board will accept hours earned in another jurisdiction as a licensed trainee in an AQB-compliant training program.

~~(1) A trainee shall:~~

~~(a) be 18 years of age or older;~~

~~(b) make application to the board on forms approved by the board; and~~

~~(c) have completed 100 percent of approved qualifying education prior to making application.~~

~~(2) A trainee shall be under the direct supervision of at least one board-approved mentor. A trainee may have more than one mentor.~~

~~(3) A trainee shall maintain an activity experience log as prescribed by the board for qualifying activity completed in accordance with USPAP.~~

~~(4) A trainee license must be renewed by the date set by ARM 24.101.413, following the trainee's original year of licensure. A trainee license may be renewed a total of four times, but may be extended by the board for cause.~~

~~(5) All qualifying appraisal assignments performed by a trainee must meet USPAP standards.~~

~~(6) Beginning with the trainee's original licensing year, a trainee shall meet continuing education requirements established by rule. Qualifying education may be~~

~~used to meet the continuing education requirements, with the additional requirement to take the seven-hour USPAP update course within each education cycle.~~

~~(7) A trainee may not perform qualifying experience without a board-approved mentor.~~

~~(8) A trainee shall perform qualifying experience within Montana.~~

~~(9) A trainee may not perform qualifying experience outside the scope of the mentor's licensure or certification.~~

~~(10) The core curriculum for trainee licensure is:~~

~~(a) basic appraisal principles _____ 30 hours~~

~~(b) basic appraisal procedures _____ 30 hours~~

~~(c) the 15-hour national USPAP course _____ 15 hours~~

~~(d) total trainee education requirements _____ 75 hours~~

~~(11) All qualifying education must be completed within the five-year period prior to the date of submission of an application for a trainee license.~~

~~(12) A trainee shall complete a course that, at a minimum, complies with the specifications for course content established by the AQB. The course will be oriented toward the requirements and responsibilities of mentors and trainees and must be completed by the trainee prior to obtaining a trainee license and completed by the trainee's mentor prior to the mentor's supervision of the trainee.~~

~~(13) A trainee shall notify the board within ten days of the occurrence of any change that affects the status of the trainee-mentor relationship.~~

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, ~~37-54-201~~, 37-54-202, 37-54-303, ~~37-54-403~~, MCA

REASON: The board is striking (1) through (7) from this rule because they mirror the requirements in the AQB criteria. See the REASON for New Rule I.

The board is adding (2) to afford license candidates an opportunity sooner than their final experience submission to have their work assessed for USPAP compliance. The requirement is not mandatory.

The board is reversing its position by amending (3) to accept a trainee's hours received in another state when the state is AQB-compliant. The board determined this is reasonably necessary to increase mobility and competition and to ensure a qualified pool of candidates for licensure as appraisers in this state.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.207.518 MENTOR REQUIREMENTS (1) A licensed or certified appraiser who intends to supervise a trainee shall first obtain a license endorsement by applying to the board as required in ARM 24.207.502.

~~(1) A mentor for a licensed trainee must:~~

~~(a) be a certified residential or certified general appraiser for a minimum of three years;~~

~~(b) be approved by the board prior to beginning mentoring duties;~~

~~(i) a mentor shall make application on forms provided by the board, pay the required fee, and submit two appraisal reports prepared by the mentor in accordance with USPAP standards with all three approaches to value; and~~

~~(ii) failure to prepare appraisal reports in compliance with USPAP can result in denial of mentor status.~~

~~(c) be in good standing with the board, not currently hold a probationary license with the board, and may not have been subject to any disciplinary action within any jurisdiction within the past three years that affects the mentor's legal ability to engage in appraisal practice;~~

~~(d) certify the mentor's agreement to provide ongoing supervision of the licensed trainee;~~

~~(e) be responsible for and must provide direct supervision of all appraisal assignments performed by the trainee in accordance with the USPAP;~~

~~(f) review and sign each page of the activity experience log with their name and license number, certifying its accuracy;~~

~~(g) inspect the first 50 properties with each trainee under the mentor's supervision;~~

~~(h) prior to allowing the trainee to perform an appraisal assignment with limited supervision, the mentor shall evaluate the competency of the trainee after the first 50 properties. The mentor must determine that the trainee is competent to perform an appraisal assignment within the minimum criteria of USPAP, with limited supervision. Failure to provide adequate supervision is unprofessional conduct according to 37-1-316, MCA;~~

~~(i) be limited to mentoring a total of three trainees at any particular time; and~~

~~(j) be limited to mentoring trainees in areas where the mentor is competent to perform appraisal assignments.~~

~~(2) A mentor must notify the board within ten days when mentoring of a trainee has terminated.~~

~~(3) Any and all disciplinary actions against a mentor's appraiser license in any state where licensure is held must be disclosed in writing to the board within five days of receiving notification of the disciplinary action.~~

~~(4) The board may, in its discretion, allow a mentor to provide limited supervision to a trainee with whom the mentor has not inspected a minimum of 50 properties when:~~

~~(a) the mentor making this evaluation has personally inspected a minimum of ten properties with the trainee and supervised the trainee, with respect to all corresponding assignments;~~

~~(b) the trainee has completed a minimum of 50 appraisal assignments related to properties that were personally inspected by an approved mentor for the trainee at the time of the inspection;~~

~~(c) the mentor has evaluated all appraisal activity the trainee completed under the mentor's supervision, including the appraisal assignments involving properties which the mentor inspected with the trainee;~~

~~(d) on the basis of the mentor's evaluation of the appraisal assignments completed, while the trainee was under the mentor's supervision, the mentor has determined that the trainee is competent to perform appraisal assignments within the minimum criteria of USPAP, with limited supervision by the mentor; and~~

~~(e) the mentor and trainee request and receive approval from the board to allow the trainee to complete appraisal assignments with limited supervision.~~

~~(5) A mentor shall complete a course that, at a minimum, complies with the specifications for course content established by the AQB. The course will be oriented toward the requirements and responsibilities of mentors and trainees and must be completed by the mentor prior to the mentor's supervision of a trainee.~~

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, ~~37-54-201, 37-54-202, 37-54-301, 37-54-403, 37-54-411~~, MCA

REASON: The board is striking (1)(b) to no longer require review of mentor experience as the requirement exceeds that required by the AQB. There is a lack of evidence between the requirement and the quality of the work submitted by trainee candidates for licensure, as reviewed at the time of application. Rather, the board is proposing to offer trainee applicants an opportunity to have their work reviewed, as provided in ARM 24.207.517. Further, without the requirement to submit work to the board for review, more licensed or certified appraisers may become mentors.

The board is striking (1)(g), (h), and (4) in response to several comments from trainees that the requirement for 50 inspections by a mentor is somewhat arbitrary. The board is unable to determine what number would appropriately determine a trainee's competency to perform inspections on their own and believes each supervision situation is unique. Therefore, it is reasonably necessary to allow each mentor to determine when a trainee is competent to inspect a property with limited supervision.

The board is striking (1)(a), (c) through (f), (i) and (j), and (5) as these are covered by the AQB criteria.

The board is relocating the notification provisions of (2) to a single location at New Rule II.

Section (3) is unnecessary given this information is reported by the national registry. Nevertheless, the board concluded it is a good idea to require independent reporting by individuals, as is required by all boards, and this requirement is being moved to New Rule II.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.207.1501 REGISTRATION AND RENEWAL OF APPRAISAL MANAGEMENT COMPANIES (1) An applicant for registration as an appraisal management company in Montana must:

(a) submit a complete application on forms prescribed by the department ~~and approved by the board~~;

(b) through (h) remain the same.

(i) provide specific information requested by the board regarding the business practices, any civil, criminal, or administrative actions, ethical practice of the appraisal management company's individual owners of ~~more than ten percent of~~ the company, and controlling and contact persons as part of the background examination pursuant to 37-54-503, MCA.

(2) remains the same.

~~(3) When the ownership or business structure of a currently registered appraisal management company changes, the appraisal management company is required to complete a new appraisal management company registration application and pay the appropriate fees within 30 days of the change. Failure to notify and submit the appropriate application and fees to the board within 30 days shall be cause for suspension or revocation of the appraisal management company's registration.~~

~~(4) When the individual designated as a controlling person by the registered appraisal management company is no longer employed, appointed, or contractually authorized by the appraisal management company to serve as the controlling person, the appraisal management company must submit an application to redesignate the controlling person. The application to redesignate the controlling person must be made on a form prescribed by the department, accompanied by the appropriate fees, and submitted to the board office within 30 days. Failure to notify and submit the appropriate application and fees to the board within 30 days shall be cause for suspension or revocation of the appraisal management company's registration.~~

~~(5) When the individual designated as the contact person by the registered appraisal management company is no longer the contact person and is not the designated owner or the controlling person of the appraisal management company, the appraisal management company must submit an application for change of contact person prescribed by the department and the appropriate fees to the board office within 30 days. Failure to notify and submit the appropriate application and fees to the board within 30 days shall be cause for suspension or revocation of the appraisal management company's registration.~~

~~(6) A registered appraisal management company must report all pending, current, or completed license disciplinary action or investigation against the company, controlling person, or other licensed individuals affiliated with the company to the board within 30 days of the proposed action or notice of such action or investigation. Failure to report such information shall be cause for suspension or revocation of the appraisal management company's registration.~~

~~(7) Annually, the registered appraisal management company must report to the board whether it had more than 200 engagements or 200 or fewer engagements during the previous renewal year. This requirement is subject to audit. The subsequent renewal fee will be based on the appraisal management company's reporting of engagements for the previous renewal year. If the AMC's report of 200 or fewer engagements is found to be inaccurate, the board will notify the AMC and the AMC shall pay an additional engagement fee of \$2500 within 30 days of notification.~~

~~(8) When the registered appraisal management company adds or deletes a licensed or certified appraiser from the appraisal management company's appraiser panel, the appraisal management company must notify the board office within ten days by submitting an amended appraiser panel list with the appropriate fees. Failure to provide such information shall be cause for suspension or revocation of the appraisal management company's registration.~~

~~(9) If a registered appraisal management company is no longer providing appraisal management services in Montana, the appraisal management company must notify the board office within 30 days that they are no longer providing services. If an appraisal management company that is no longer providing services in Montana wishes to maintain its registration, it must comply with all applicable requirements, including renewal and reporting provisions. Prior to resuming services in this state, the appraisal management company must notify the board office that it intends to resume services in Montana and must provide updates regarding any changes in the information collected by the board, pursuant to this rule. Failure to provide such information shall be cause for suspension or revocation of the appraisal management company's registration.~~

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-501, MCA

REASON: The board is amending (1)(a) as the department provides standardized forms for all boards as part of its administrative services. The board is removing from (1)(i) a reference to an AMC applicant's provision of certain information relating to more than 10 percent of the appraisal management company's owners because HB 106 in the 2017 legislature removed this percentage requirement. The board has an obligation to investigate or at least to inquire about and consider the business practices and ethical practice of an appraisal management company applicant's individual owners regardless of how much of the company the individual owns.

The board is relocating (3) through (6) to New Rule III with changes described in that REASON.

The board is eliminating fees based on number of engagements from (7). See REASON for ARM 24.207.401.

The board is striking (8) as it unnecessarily repeats the provisions of ARM 24.207.1504(2). The board concluded that it is sufficient to require the maintenance of a list of appraisal panel members and their appointment or deletion dates, as required by ARM 24.207.1507(1)(d).

It is reasonably necessary to strike (9) as the board does not cancel an AMC license when notified they are no longer providing services in the state. Any non-renewed licenses will lapse, expire, and terminate according to 37-1-141, MCA.

24.207.2101 CONTINUING EDUCATION – COMPLIANCE AND AUDITING

~~(1) Continuing education courses shall be approved according to the criteria of ARM 24.207.504, including application for reapproval after three years.~~

~~(2) An examination may not be required.~~

~~(3) Courses must be a minimum of two hours in length to receive approval.~~

~~(4) Application may be made for continuing education credit for participation other than as a student in appraisal education processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities, which are determined by the board to be equivalent to obtaining continuing education. These activities cannot be approved for more than 50 percent of continuing education requirements.~~

~~(5) Every other renewal year, licensees must complete at least 28 hours of instruction in courses or seminars approved by the board, at least seven hours of which must be the national USPAP update course or its AQB-approved equivalent.~~

~~(6) All continuing education courses must be taken and completed within the licensee's educational cycle.~~

~~(7) (1) The board may audit licensees shall direct by motion a percentage of licensees to audit for compliance with continuing education requirements. Audited licensees must shall provide copies of completion certificates to the board office as verification of compliance within 30 days after mailing of as directed by the audit request.~~

~~(2) Failure to respond to the audit or to comply with continuing education requirements may result in the administrative suspension of the license and reporting to the appraiser national registry until the licensee cures the continuing education deficiency. Repeated failures by a licensee to respond to or comply with a continuing education audit may result in the filing of a complaint and referral for disciplinary action.~~

~~(3) If more than 10 percent of appraisers audited fail to meet continuing education requirements, the board shall conduct the next annual audit using a higher percentage of audited appraisers as set by board motion.~~

~~(8) (4) Licensees shall retain Education completion certificates must be retained and available for audit for a period of five years, according to the record-keeping requirements of the USPAP.~~

~~(9) Appraisers must successfully complete the seven-hour national USPAP update course or its AQB-approved equivalent every two calendar years. Equivalency shall be determined through the AQB course approval program.~~

AUTH: 37-1-131, 37-1-319, 37-54-105, 37-54-303, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, 37-1-321, 37-54-105, 37-54-303, 37-54-310, MCA

REASON: The board is striking (1) because continuing education (CE) provisions are adequately addressed in ARM 24.207.504. The board is striking (2) through (6) and (9) as these provisions are addressed by the AQB criteria and need not be repeated.

The board is amending (1) to allow flexibility in conducting random CE audits. This amendment will allow the board to respond to staffing and budget issues, and audit failure, as suggested by ASC policy statements, by adjusting the licensees audited, while remaining consistent with the statutory maximum of 50 percent in 37-1-306, MCA.

The board is adding (2) and (3) to clarify any ambiguity regarding whether the board "may" audit and to align with and further facilitate the department's standardized renewal, administrative suspension, and audit procedures. Because of the seriousness of the consequences, the amendment advises licensees of the potential results of failing to respond to or comply with a CE audit.

The board is amending (4) because the USPAP record-keeping rule addresses work-related opinion and conclusion documentation and has nothing to do with maintaining CE certificates.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.207.2301 UNPROFESSIONAL CONDUCT FOR APPRAISERS (1) In addition to ~~other unprofessional conduct provisions contained in the statutes and rules administered by the board,~~ the provisions of 37-1-316, MCA, the following are also considered unprofessional conduct:

(a) ~~failing to comply with any request from the board or its designee~~ failing to comply with any law or rule governing the conduct of an appraiser;

(b) failing to provide information or documents requested by the board or its designee in relation to an audit, investigation, or complaint; ~~or~~

(c) failing to comply with ~~the~~ continuing education, reporting, or renewal requirements; or

(d) failing to provide adequate supervision of a trainee by a mentor.

~~(2) In addition to a complaint and possible disciplinary action, in the event of any failure to respond to a request from the board or failure to comply with the continuing education requirements, notification to the ASC's national registry of suspension to perform federally related transactions may occur until the licensee fully complies with the request.~~

AUTH: 37-1-131, 37-1-136, 37-1-319, 37-54-105, MCA

IMP: 37-1-131, 37-1-137, 37-1-141, 37-1-306, 37-1-307, 37-1-312, 37-1-316, 37-1-319, 37-54-105, MCA

REASON: The board determined it is reasonably necessary to cite to the unprofessional conduct statute than to vaguely refer to "other statutes and rules." The board is amending (1)(a) to clearly specify that the board views failure to comply with any law or rule governing the conduct of an appraiser as unprofessional conduct. Additionally, the board concluded the prohibition on failure to comply with any request could be found as overreaching the board's authority. This requirement is covered sufficiently by (1)(b), which accurately and specifically reflects the scenarios in which the board has authority to compel information. Subsection (1)(d) is being relocated here from ARM 24.207.518.

The board is eliminating (2) as it conflicts with due process procedures which require some degree of notice of a deficiency and an opportunity to cure before the department may report to the ASC national registry. The requirement to report is set forth in the ASC policy statements and applies both to appraisers and appraisal management companies.

24.207.2305 UNPROFESSIONAL CONDUCT FOR APPRAISAL MANAGEMENT COMPANIES (1) In addition to ~~other unprofessional conduct provisions contained in the statutes and rules administered by the board,~~ the provisions of 37-1-316 and 37-54-519, MCA, the following are also considered unprofessional conduct for appraisal management companies:

(a) ~~failing to comply with any request from the board or its designee~~ failing to comply with any law or rule governing the conduct of an appraisal management company;

(b) through (d) remain the same.

AUTH: 37-1-131, 37-1-136, 37-1-319, 37-54-105, MCA

IMP: 37-1-131, 37-1-137, 37-1-307, 37-1-312, 37-1-316, 37-1-319, 37-54-105, 37-54-512, 37-54-514, MCA

REASON: See REASON for ARM 24.207.2301 regarding changes in (1) and (1)(a).

5. The proposed new rules are as follows:

NEW RULE I INCORPORATION BY REFERENCE OF THE REAL PROPERTY APPRAISER QUALIFICATION CRITERIA (1) Except as stated in (3) and ARM 24.207.508 regarding ad valorem appraisal experience, the board adopts and incorporates by reference the Real Property Appraiser Qualification Criteria effective May 1, 2018, in its entirety, inclusive of the criteria, interpretations, guide notes, and Q&A, and Policy Statements, effective March 2018, published by the Appraiser Qualifications Board of the Appraisal Foundation. The Real Property Appraiser Qualification Criteria are commonly referred to as the "AQB criteria." A copy of the criteria and policy statements are available from the Appraisal Foundation at www.appraisalfoundation.org, or 1155 15th Street NW, Suite 1111, Washington, DC 20005.

(2) The AQB criteria covers the qualifying experience, education, examination, and background check requirements necessary to become a trainee, trainee supervisor, licensed appraiser, or certified appraiser; and the standards, scopes of practice, and continuing education requirements for each category of licensure.

(3) The board amends the following AQB Criteria:

(a) "Criteria Specific to Continuing Education," Part II F, paragraph 11 is amended with the addition of the following: "The board has a two-year continuing education cycle."

(b) "Criteria Specific to Continuing Education," Part III F, paragraph 13, delete the first sentence and replace with the following: "If after audit, a credential holder is determined to be deficient in continuing education, the state will offer a 60-day opportunity to cure and complete all required education hours for that continuing education cycle. If the credential holder fails to cure the continuing education deficiency, the state will place the credential holder in an "administrative suspension" status and report the credential holder to the national registry as AQB-noncompliant until the audited deficiency and any accrued deficiency is cured. A demonstrated pattern of deficiencies may result in referral to the board for traditional disciplinary action."

(c) "Background Checks," Part VI, paragraph C, is amended with the addition of the following: "As provided by Title 37, chapter 1, part 2, MCA, the board may not base a denial of a license solely on a previous criminal conviction unless it finds, after investigation, the applicant has not been sufficiently rehabilitated as to warrant the public trust."

AUTH: 37-1-131, 37-43-105, MCA

IMP: 37-1-131, 37-1-203, 37-1-321, 37-54-105, MCA

REASON: See GENERAL REASONABLE NECESSITY STATEMENT for (1) and (2). The board is adopting (3)(a) and (b) to recognize Montana statutes that are more stringent than the federal requirements, or that embody constitutionally based rights of Montana citizens.

NEW RULE II APPRAISER REPORTING OBLIGATIONS TO THE BOARD

(1) All licensees shall report in writing to the board, within ten days of the occurrence of:

(a) change in the licensee's physical, postal, or e-mail address, or phone numbers;

(b) constructive notice to the licensee of a final order of disciplinary action, an order of summary suspension, or legal action related to the practice of real estate appraisal against the licensee; and

(c) personal knowledge of the licensee of the unprofessional conduct of another licensee.

(2) To ensure that a mentor adheres to the limitation on the number of trainees the mentor supervises at a time, all mentors shall report in writing to the board, within ten days of the ending or beginning of a training relationship.

(3) "In writing" includes by postal mail or e-mail, or if available, by updating the licensee's online account with the division (e.g., address changes and supervisory relationships).

(4) Failure to report under this rule shall be cause for disciplinary action up to and including suspension or revocation of the license.

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-105, 37-1-131, 37-1-309, 37-54-105, MCA

REASON: Currently, the department enforces 37-1-105, MCA, by questions posed on the licensure application and renewal forms. While the department will continue to question applicants about past legal or disciplinary action, in lieu of asking the question at renewal time, the department will instead remind the licensee of the obligation to report and ask the licensee to certify compliance with this rule. The rule will enable the department to learn about the action closer to its occurrence when the events are recent rather than waiting until annual renewal time. Although appraisers and AMCs renew annually, some license types in the division renew every two years. The new reporting obligation will allow faster processing of renewals and spread workload throughout the year rather than focusing it at renewal time. The board is also relocating reporting requirements from other rules to this single new rule.

NEW RULE III APPRAISAL MANAGEMENT COMPANY REPORTING OBLIGATIONS TO THE BOARD

(1) The designated contact person for a registered AMC shall report in writing to the board, and submit any necessary application forms within ten days of occurrence, the following information pertaining to the AMC:

- (a) change in controlling person, with application;
 - (b) change in contact person, with application;
 - (c) change in owners, with application;
 - (d) change in physical, postal, or e-mail address, or phone numbers;
 - (e) institution of legal or disciplinary action against the AMC, the controlling person, or contact person that is related to the conduct of the AMC;
 - (f) pending, current, or completed license disciplinary action or investigation against the company, controlling person, contact person, or other licensed individuals affiliated with the company to the board within ten days of the proposed action or notice of such action or investigation; or
 - (g) the personal knowledge of agents of the AMC of unprofessional conduct of an appraiser or other AMC.
- (2) "In writing" includes by postal mail or e-mail, or if available, by updating the licensee's online account with the division (e.g., address changes and relationships).
- (3) Failure to report or make application under this rule shall be cause for disciplinary action up to and including suspension or revocation of the registration.

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-105, 37-1-131, 37-1-309, 37-54-105, MCA

REASON: The board is relocating ARM 24.207.1501(3) through (6) to this new rule to avoid redundancy and wordiness and increase readability and comprehension. For all types of information, the reporting period is shortened from 30 to 10 days in the interest of ensuring consistency in reporting obligations and to convey the urgency of updating the department regarding the information. The board notes that "days" mean calendar days unless otherwise stated as business days. The board is also providing guidance regarding various methods to communicate to the board to encourage licensee use of online services.

6. The rules proposed to be repealed are as follows:

24.207.403 REGULATORY REVIEWS

AUTH: 37-54-105, MCA

IMP: 37-1-136, 37-54-416, MCA

REASON: The board is repealing this rule because it unnecessarily repeats statute. Section 37-54-105, MCA, expresses the board's authority to require licensees to submit reports, information, and documents to the board, as does the authority of the department to investigate under 37-1-101, MCA. Without an articulated peer review program, which the board does not have, nor is interested in expanding its regulation to include, 37-54-105, MCA, should only be construed to require submission of documents connected to an application or complaint investigation. In practice, board members and board staff have no recollection of a random "regulatory review" of an appraiser's work ever taking place without relation to the investigation of a complaint or an application for licensure. Further, the references to unprofessional conduct in

37-1-316, MCA, unnecessarily repeat ARM 24.207.2301, which adequately sets forth unprofessional conduct.

24.207.503 EXPERIENCE - NUMBER OF HOURS REQUIRED

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-202, 37-54-303, MCA

REASON: The board is repealing ARM 24.207.503, 24.207.505, 24.207.506, 24.207.507, and 24.207.510 because the provisions are set forth in the AQB criteria. See GENERAL REASONABLE NECESSITY STATEMENT.

24.207.505 QUALIFYING EDUCATION REQUIREMENTS FOR LICENSED REAL ESTATE APPRAISERS

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-202, MCA

24.207.506 QUALIFYING EDUCATION REQUIREMENTS FOR RESIDENTIAL CERTIFICATION

AUTH: 37-1-131, 37-54-105, 37-54-303, MCA

IMP: 37-1-131, 37-54-105, 37-54-303, MCA

24.207.507 QUALIFYING EDUCATION REQUIREMENTS FOR GENERAL CERTIFICATION

AUTH: 37-1-131, 37-54-105, 37-54-303, MCA

IMP: 37-1-131, 37-54-105, 37-54-303, MCA

24.207.510 SCOPE OF PRACTICE

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-201, MCA

24.207.2102 CONTINUING EDUCATION NONCOMPLIANCE

AUTH: 37-1-136, 37-1-319, 37-54-105, MCA

IMP: 37-1-131, 37-1-136, MCA

REASON: It is reasonably necessary to repeal this rule because it no longer states the correct process for addressing CE noncompliance since the enactment of 37-1-321, MCA, and the board's ratification of the department's standardized administrative suspension process which provides for opportunity to cure CE deficiencies. This process has specifically been acknowledged as more stringent than Title XI of FIRREA and is concurred in by the appraisal subcommittee. The process and deviation from the AQB criteria are called out in New Rule I(3)(b).

7. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsirea@mt.gov, and must be received no later than 5:00 p.m., November 30, 2018.

8. An electronic copy of this notice of public hearing is available at realestateappraiser.mt.gov (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

9. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsirea@mt.gov; or made by completing a request form at any rules hearing held by the agency.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on August 16, 2017, by telephone.

11. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.207.404, 24.207.406, 24.207.501, 24.207.502, 24.207.504, 24.207.508, 24.207.509, 24.207.515, 24.207.516, 24.207.517, 24.207.518, 24.207.1501, 24.207.2101, 24.207.2301, and 24.207.2305 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the adoption of New Rules I through III will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.207.403, 24.207.503, 24.207.505, 24.207.506, 24.207.507, 24.207.510, and 24.207.2102 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.207.401 will significantly and directly impact small businesses. The group of small businesses affected are appraisal management companies (AMCs) registered in Montana who reported more than 200

engagements during the previous renewal cycle. The significant and direct effect on the AMCs in question is a \$2,000 decrease in their annual renewal fee. The board has determined that the proposed rule amendment would be a positive change to the AMCs affected. Therefore, it is not necessary to minimize or eliminate any potential adverse effects of the proposed rule.

Documentation of the board's above-stated determinations is available upon request to the Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2375; facsimile (406) 841-2305; or to dlibsirea@mt.gov.

12. Sharon Peterson, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF REAL ESTATE APPRAISERS
THOMAS STEVENS, CERTIFIED
GENERAL APPRAISER
PRESIDING OFFICER

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ GALEN HOLLENBAUGH
Galen Hollenbaugh, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State October 23, 2018.