



VIRTUAL TELECONFERENCE
REAL ESTATE APPRAISERS BOARD
Room 121C, 1400 East Washington Avenue, Madison
Contact: Tom Ryan (608) 266-2112
August 4, 2016

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

AGENDA

9:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A) Welcome New Members
- B) Adoption of Agenda (1-3)**
- C) Approval of Minutes of May 5, 2016 (4-6)**
- D) Administrative Updates**
 - 1) Department and Staff Updates
 - 2) Appointments/Reappointments/Confirmations
 - 3) Board Members – Term Expiration Dates
 - a) Scott Brunner – 5/1/2016
 - b) Carl Clementi – 5/1/2016
 - c) Jennifer Coates – 5/1/2019
 - d) Thomas Kneesel – 5/1/2018
 - e) Steven Miner – 5/1/2019
 - f) Lawrence Nicholson – 5/1/2018
 - g) Henry Simon – 5/1/2009
 - 4) Other Items
- E) Nominations, Elections, and Appointments
- F) Report from Real Estate Appraisers Application Advisory Committee**
- G) Legislative/Administrative Rule Matters**
 - 1) Status of Statute and Administrative Rule Matters
 - 2) Mandatory Appraiser Licensing Legislation
 - 3) Appraisal Management Company (AMC) Legislation
 - a) Appraisal Subcommittee (ASC) Notice of Proposed Rulemaking on AMC Registry Fees **(7-16)**
 - b) Appraiser News From Other States **(17-22)**

H) Informational Items

I) Items Added After Preparation of Agenda:

- 1) Introductions, Announcements and Recognition
- 2) Nominations, Elections, and Appointments
- 3) Administrative Updates
- 4) Education and Examination Matters
- 5) Credentialing Matters
- 6) Practice Matters
- 7) Legislation/Administrative Rule Matters
- 8) Liaison Report(s)
- 9) Informational Item(s)
- 10) Disciplinary Matters
- 11) Presentations of Petition(s) for Summary Suspension
- 12) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
- 13) Presentation of Proposed Decisions
- 14) Presentation of Interim Order(s)
- 15) Petitions for Re-Hearing
- 16) Petitions for Assessments
- 17) Petitions to Vacate Order(s)
- 18) Petitions for Designation of Hearing Examiner
- 19) Requests for Disciplinary Proceeding Presentations
- 20) Motions
- 21) Petitions
- 22) Appearances from Requests Received or Renewed
- 23) Speaking Engagement(s), Travel, or Public Relation Request(s), and Reports

J) Public Comments

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

K) Deliberation on Division of Legal Services and Compliance (DLSC) Matters

- 1) **Proposed Stipulations, Final Decisions and Orders**
 - a) 14 APP 039, 14 APP 064, and 14 APP 069 – Bill L. Schumacher **(23-28)**
 - b) 15 APP 014 - Jeanna I. Fischbach **(29-36)**
 - c) 15 APP 045 – Charles A. Hartung **(37-43)**
 - d) 15 APP 052 – Joshua M. Briggs **(44-49)**
 - e) 16 APP 014 – David B. Lockrem **(50-55)**
 - f) 16 APP 016 – Cori Hutchison-Mateuffel **(56-61)**
 - g) 16 APP 018 – John D. Martin **(62-67)**
 - h) 16 APP 034 – Douglas X. Adams **(68-73)**
- 2) **Case Closings**
 - a) 15 APP 044 (R.J.K.) **(74-97)**
 - b) 16 APP 020 (T.R.) **(98-100)**

- 3) **Monitoring (101-134)**
 - a) Mark Snoda – Requesting Full Licensure **(103-120)**
 - b) Willard Parr – Requesting Voluntary Surrender of License **(121-134)**

L) Deliberation on Order(s) Fixing Costs in the Matter of Disciplinary Proceedings Against:

- 1) Kelly McNamara, Respondent (ORDER0004703) (DHA Case # SPS-16-0010)(DLSC Case # 15 APP 037) **(135-140)**

M) Deliberation of Items Added After Preparation of the Agenda:

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) Disciplinary Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petition(s) for Summary Suspensions
- 7) Proposed Stipulations, Final Decisions and Orders
- 8) Administrative Warnings
- 9) Proposed Decisions
- 10) Matters Relating to Costs
- 11) Complaints
- 12) Case Closings
- 13) Case Status Report
- 14) Petition(s) for Extension of Time
- 15) Proposed Interim Orders
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

N) Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

- O) Open Session Items Noticed Above not Completed in the Initial Open Session
- P) Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

ADJOURNMENT

The Next Scheduled Meeting is November 1, 2016.

**REAL ESTATE APPRAISERS BOARD
VIRTUAL TELECONFERENCE MEETING MINUTES
MAY 5, 2016**

PRESENT: Scott Brunner (*via GoToMeeting*), Jennifer Coates (*via GoToMeeting*), Thomas Kneesel (*via GoToMeeting*), Steven Miner (*via GoToMeeting, joined the meeting at 10:07 a.m.*), Lawrence Nicholson (*via GoToMeeting*)

EXCUSED: Carl Clementi, Henry Simon

STAFF: Tom Ryan - Executive Director; Nilajah Hardin - Bureau Assistant, and other DSPS Staff

CALL TO ORDER

Lawrence Nicholson, Chair, called the meeting to order at 9:32 a.m. A quorum of four (4) members was confirmed.

ADOPTION OF AGENDA

Amendments to the Agenda:

- *Remove Item Q. Board Member Training Presentation*

MOTION: Scott Brunner moved, seconded by Thomas Kneesel, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Thomas Kneesel moved, seconded by Jennifer Coates, to approve the minutes of February 10, 2016 as published. Motion carried unanimously.

The May 1st Board Member Term Expiration Dates were confirmed.

CLOSED SESSION

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

The Board convened into Closed Session at 9:50 a.m.

RECONVENE TO OPEN SESSION

MOTION: Jennifer Coates moved, seconded by Steven Miner, to reconvene in Open Session at 10:31 a.m. Motion carried unanimously.

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

MOTION: Scott Brunner moved, seconded by Jennifer Coates, to affirm all Motions made and Votes taken in Closed Session. Motion carried unanimously.

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Administrative Warnings

MOTION: Jennifer Coates moved, seconded by Thomas Kneesel, to issue an Administrative Warning in the following matters:

1. 15 APP 001 and 15 APP 003 – W.C.M.
2. 15 APP 036 – D.M.B.
3. 15 APP 042 – P.R.E.

Motion carried unanimously.

Proposed Stipulations, Final Decisions and Orders

MOTION: Jennifer Coates moved, seconded by Scott Brunner, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the following matters:

1. 14 APP 058 - Joshua L. Posthuma
2. 14 APP 063 – Robert E. Sherman
3. 14 APP 070 – Michael T. Fisher
4. 15 APP 011 – John M. Guarisco
5. 15 APP 018 – Diane L. Blomfelt
6. 15 APP 021 – Amy J. Battle
7. 15 APP 021 – James R. Boneham

Motion carried unanimously.

Steven Miner joined the meeting at 10:07 a.m.

15 APP 007 – Lucas T. Schreiber

MOTION: Steven Miner moved, seconded by Scott Brunner, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of Lucas T. Schreiber, DLSC case number 15 APP 007. Motion carried unanimously.

Case Closings

16 APP 004 – P.J.D.

MOTION: Jennifer Coates moved, seconded by Scott Brunner, to close case 16 APP 004, against Peter J. Didier, for Prosecutorial Discretion (P7). Motion carried unanimously.

Monitoring

Mark Snoda – Requesting Full Licensure

MOTION: Jennifer Coates moved, seconded by Thomas Kneesel, to deny the request of Mark Snoda for full licensure. **Reason for Denial:** Respondent must comply with the terms of the Order (11/13/2013), and must provide proof of successfully completing the required Continuing Education (CE) for the biennium ending December 14, 2015. (Respondent has provided proof of completion of only 21 hours of CE rather than the required 28 total hours). After completion of the remaining hours, Respondent may submit a new petition to the Board. The CE provided to comply with the Order may NOT be used for the current biennium ending December 14, 2017. Motion carried unanimously.

PROPOSED FINAL DECISION(S) AND ORDER(S)

Kelly McNamara, Respondent (DHA Case # SPS-16-0010)(DLSC Case # 15 APP 037)

MOTION: Scott Brunner moved, seconded by Jennifer Coates, to delegate to Michael J. Berndt, Department Chief Legal Counsel, the Board's authority to preside over and resolve disciplinary matter of Kelly McNamara, Respondent (DHA Case # SPS-16-0010)(DLSC Case # 15 APP 037). Motion carried. Recused: Lawrence Nicholson

(Lawrence Nicholson recused himself for deliberation, and voting in the matter concerning Kelly McNamara, Respondent (DHA Case # SPS-16-0010)(DLSC Case # 15 APP 037).)

MOTION: Steven Miner moved, seconded by Scott Brunner, to delegate signature authority to the Department Staff for all matters on today's agenda. Motion carried unanimously.

ADJOURNMENT

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

The meeting adjourned at 10:35 a.m.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Nilajah Hardin, Bureau Assistant on behalf of Tom Ryan, Executive Director		2) Date When Request Submitted: 06/07/16 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Real Estate Appraisers Board			
4) Meeting Date: 08/04/16	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? A) Legislative/Administrative Rule Matters 1) Appraisal Management Company (AMC) Legislation a) Appraisal Subcommittee (ASC) Notice of Proposed Rulemaking on AMC Registry Fees	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Please see the attached information.			
11) Authorization			
<i>Nilajah D. Hardin</i>		06/07/16	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

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Appraisal Subcommittee

Federal Financial Institutions Examination Council

May 20, 2016

Dear State Appraiser Regulatory Official:

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC) today issued a proposed rule pursuant to authority granted in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) that would implement collection and transmission of appraisal management company (AMC) annual registry fees by State appraiser certifying and licensing agencies that elect to register and supervise AMCs. The ASC requests comment on all aspects of this proposed rule. The Notice of Proposed Rulemaking has been published in the *Federal Register* and is available at <https://www.gpo.gov/fdsys/pkg/FR-2016-05-20/pdf/2016-11914.pdf>. A copy is attached for your convenience.

Section 1109 of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI), *Roster of State certified or licensed appraisers; authority to collect and transmit fees*, was amended by the Dodd-Frank Act to require States that elect to register and supervise AMCs to collect:

- (1) from AMCs that have been in existence for more than a year an annual registry fee of \$25 multiplied by the number of appraisers working for or contracting with such AMC in such State during the previous year; and
- (2) from AMCs that have not been in existence for more than a year, \$25 multiplied by an appropriate number to be determined by the ASC.

The \$25 may be adjusted, up to a maximum of \$50, at the discretion of the ASC, if necessary to carry out the ASC's Title XI functions.

The proposed rule would set the annual AMC registry fee that States would collect and transmit to the ASC if they elect to register and supervise AMCs. The proposed rule sets forth the ASC's interpretation of the phrase "working for or contracting with" as used in the calculation of annual AMC registry fees.

Section 1103 of Title XI, *Functions of Appraisal Subcommittee*, was amended by the Dodd-Frank Act to require the ASC to maintain the AMC Registry of AMCs that are either:

- (1) registered with and subject to supervision by a State that has elected to register and supervise AMCs; or
- (2) supervised by a Federal financial institutions regulator (Federally regulated AMCs).

It is anticipated that on or before the effective date of this rule, the ASC will issue an ASC Bulletin to States that will address the following:

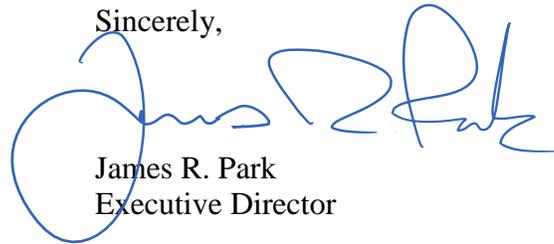
- (1) When the AMC Registry will be open for States; and
- (2) Reporting requirements (information required to be submitted by States in order to register AMCs on the AMC Registry).

Only those entities that meet the Federal definition of AMC will be eligible to be on the AMC Registry.

The Notice of Proposed Rulemaking is being published for a 60-day comment period with comments due on July 19th. Commenters are encouraged to submit comments by the Federal eRulemaking Portal or email, if possible. Instructions for commenters, as well as alternate methods for submitting comments, are set forth in the Notice of Proposed Rulemaking.

Please contact your ASC Policy Manager with any questions or concerns.

Sincerely,



James R. Park
Executive Director

Attachment

From: Neal Fenochietti [<mailto:neal@asc.gov>]
Sent: Wednesday, June 15, 2016 8:54 AM
To: Debra Rudd; Shea, Eleanor - DSPS; Sharp, Dee (DOL); Anne Brassett; anne.petit@com.state.oh.us;
anne.petit@com.ohio.gov; JUNTA EXAMINADORA DE EVALUADORES PROFESIONALES DE BIENES
RAICES DEPTO. DE ESTADO; Alan C. Taniguchi; Beauchamp, Vanessa; Bren, Sherry; Weaver, Blake
Subject: ASC AMC Proposed Rule

Good morning,

Just a reminder:

The ASC issued a proposed rule pursuant to authority granted in the Dodd-Frank Wall Street Reform and Consumer Protection Act that would implement collection and transmission of appraisal management companies (AMC) annual registry fees by State appraiser certifying and licensing agencies that elect to register and supervise AMCs. The ASC requests comment on all aspects of this proposed rule. The Notice of Proposed Rulemaking has been published in the Federal Register and also on our website: www.asc.gov.

The comment period closes on July 19, 2016.

Regards,

Neal Fenochietti
ASC Policy Manager
202-834-0485

Proposed Rules

Federal Register

Vol. 81, No. 98

Friday, May 20, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

12 CFR Part 1102

[Docket No. AS16–06]

Appraisal Subcommittee; Notice of Proposed Rulemaking To Implement Collection and Transmission of Annual AMC Registry Fees

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC) is proposing a rule pursuant to authority granted in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to implement collection and transmission of appraisal management company (AMC) annual registry fees by State appraiser certifying and licensing agencies that elect to register and supervise AMCs. The ASC requests comment on all aspects of this Notice.

DATES: Comments must be received on or before July 19, 2016.

ADDRESSES: Commenters are encouraged to submit comments by the Federal eRulemaking Portal or email, if possible. You may submit comments, identified by Docket Number AS16–06, by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Click on the “Help” tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments.

- *Email:* webmaster@asc.gov. Include the docket number in the subject line of the message.

- *Fax:* (202) 289–4101. Include docket number on fax cover sheet.

- *Mail:* Address to Appraisal Subcommittee, Attn: Lori Schuster, Management and Program Analyst, 1401

H Street NW., Suite 760, Washington, DC 20005.

- *Hand Delivery/Courier:* 1401 H Street NW., Suite 760, Washington, DC 20005.

In general, the ASC will enter all comments received into the docket and publish those comments on the *Regulations.gov* Web site without change, including any business or personal information that you provide, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. At the close of the comment period, all public comments will also be made available on the ASC’s Web site at <https://www.asc.gov> (follow link in “What’s New”) as submitted, unless modified for technical reasons.

You may review comments and other related materials that pertain to this rulemaking action by any of the following methods:

- *Viewing Comments Electronically:* Go to <https://www.regulations.gov>. Enter “Docket ID AS16–06” in the Search box and click “Search.” Click on the “Help” tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.

- *Viewing Comments Personally:* You may personally inspect comments at the ASC office, 1401 H Street NW., Suite 760, Washington, DC 20005. To make an appointment, please call Lori Schuster at (202) 595–7578.

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

SUPPLEMENTARY INFORMATION:

I. Background

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI),¹

¹ Public Law 101–73, 103 Stat. 183; 12 U.S.C. 3331–3355.

established the ASC.² Title XI’s purpose is to “provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.”³

On July 21, 2010, the Dodd-Frank Act⁴ was signed into law. Section 1473 of the Dodd-Frank Act included amendments to Title XI. Section 1117 of Title XI, *Establishment of State appraiser certifying and licensing agencies*, was amended by the Dodd-Frank Act to: (1) Authorize States,⁵ if they so choose, to register and supervise AMCs; and (2) allow States to add information about AMCs in their State to the National Registry of AMCs (AMC Registry). States electing to register and supervise AMCs under Section 1117 must implement minimum requirements in accordance with the AMC Rule.⁶

Title XI as amended by the Dodd-Frank Act imposes a statutory restriction that applies 36 months from the effective date of the AMC Rule (Implementation Period).⁷ In summary, beginning 36 months from the effective

² The ASC Board is comprised of seven members. Five members are designated by the heads of the FFIEC agencies (Board of Governors of the Federal Reserve System (Board), Consumer Financial Protection Bureau (CFPB), Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), and National Credit Union Administration (NCUA)). The other two members are designated by the heads of the Department of Housing and Urban Development (HUD) and the Federal Housing Finance Agency (FHFA).

³ Title XI § 1101, 12 U.S.C. 3331.

⁴ Public Law 111–203, 124 Stat. 1376.

⁵ As of January, 2016, the 50 States, the District of Columbia, and four Territories, which are the Commonwealth of Puerto Rico, Commonwealth of the Northern Mariana Islands, Guam, and United States Virgin Islands, had State appraiser certifying and licensing agencies.

⁶ The Dodd-Frank Act added section 1124 to Title XI, *Appraisal Management Company Minimum Requirements*, which required the OCC, Board, FDIC, NCUA, CFPB, and FHFA to establish, by rule, minimum requirements for the registration and supervision of AMCs by States that elect to register and supervise AMCs pursuant to Title XI and the rules promulgated thereunder. The Agencies issued a final rule (AMC Rule) with an effective date of August 10, 2015. (80 *Federal Register* 32658, June 9, 2015).

⁷ 12 U.S.C. 3353(f)(1).

date of the AMC Rule, an AMC, as defined by Title XI, may not provide services for a Federally related transaction in a State unless the AMC is registered with a State that has established a registration and supervision program under Section 1117, or is subject to oversight by a Federal financial institutions regulatory agency.

Section 1103 of Title XI, *Functions of Appraisal Subcommittee*, was amended by the Dodd-Frank Act to require the ASC to maintain the AMC Registry of AMCs that are either: (1) Registered with and subject to supervision by a State that has elected to register and supervise AMCs; or (2) supervised by a Federal financial institutions regulator (Federally regulated AMCs). It is anticipated that on or before the effective date of this rule, the ASC will issue an ASC Bulletin to States that will address:

1. When the AMC Registry will be open for States; and
2. Reporting requirements (information required to be submitted by States in order to register AMCs on the AMC Registry).

Only those companies that meet the Federal definition of AMC will be eligible to be on the AMC Registry.⁸

Section 1109 of Title XI, *Roster of State certified or licensed appraisers; authority to collect and transmit fees*, was amended by the Dodd-Frank Act to require States that elect to register and supervise AMCs to collect: (1) From AMCs that have been in existence for more than a year an annual registry fee of \$25 multiplied by the number of appraisers working for or contracting with such AMC in such State during the previous year; and (2) from AMCs that have not been in existence for more than a year, \$25 multiplied by an appropriate number to be determined by the ASC.⁹ The \$25 may be adjusted, up to a maximum of \$50, at the discretion of the

ASC, if necessary to carry out the ASC's Title XI functions.¹⁰

This proposed rule would set the annual AMC registry fee that States would collect and transmit to the ASC if they elect to register and supervise AMCs. This proposed rule sets forth the ASC's interpretation of the phrase "working for or contracting with" as used in the calculation of annual AMC registry fees.

The ASC recognizes that the time required for notice and comment rulemaking for AMC registry fees could impede States' ability to implement the fees within the Implementation Period. However, the restriction on performance of services for Federally related transactions applies to AMCs that are not registered with the State or subject to oversight by a Federal financial institutions regulatory agency. Therefore, it is the ASC's understanding that the failure of a State to collect the fees under this rule within the Implementation Period would not subject otherwise properly registered and supervised AMCs in that State to the ban on providing services for Federally related transactions in that State.

II. The Proposed Rule

The ASC is issuing this proposal to implement Section 1109 of Title XI for collection and transmission of AMC registry fees by those States electing to register and supervise AMCs.¹¹ The proposed rule would establish the annual AMC registry fee and interpret the phrase "working for or contracting with" in accordance with section 1109 as amended by the Dodd-Frank Act. As with appraisers, an AMC operating in more than one State that elects to register and supervise AMCs would be required to pay a registry fee in each State in order to be on the AMC Registry for each of those States.

Definitions

AMC Registry. Proposed § 1102.401(a) proposes to define *AMC Registry* as the national registry maintained by the ASC of those AMCs that meet the Federal definition of AMC, as defined in 12 U.S.C. 3350(11), are registered by a State or are Federally regulated, and have paid the annual AMC registry fee.

AMC Rule. Proposed § 1102.401(b) proposes to define *AMC Rule* as the interagency final rule on minimum requirements for AMCs, 12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; CFR 1222.20–1222.26 (2015).

ASC. Proposed § 1102.401(c) proposes to define *ASC* as the Appraisal Subcommittee of the Federal Financial Institutions Examination Council established under section 1102 (12 U.S.C. 3310) as it amended the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 *et seq.*) by adding section 1011.

Performance of an appraisal. Proposed § 1102.401(d) proposes to define *performance of an appraisal* to mean the appraisal service requested of an appraiser by the AMC was provided to the AMC.

State. Proposed § 1102.401(e) proposes to define *State* as any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the United States Virgin Islands, and American Samoa.

Terms incorporated by reference. Proposed § 1102.401(f) states that the definitions of: *Appraisal management company (AMC)*; *appraisal management services*; *appraiser panel*; *consumer credit*; *covered transaction*; *dwelling*; *Federally regulated AMC* are incorporated from the AMC Rule by reference because the proposed rule is closely related to the AMC Rule.

Establishing the Annual AMC Registry Fee

Proposed § 1102.402 would establish the annual AMC registry fee for States that elect to register and supervise AMCs as follows: (1) In the case of an AMC that has been in existence for more than a year, \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC on a covered transaction in such State during the previous year; and (2) in the case of an AMC that has not been in existence for more than a year, \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC on a covered transaction in such State since the AMC commenced doing business. Performance of an appraisal means the appraisal service requested of an appraiser by the AMC was provided to the AMC.

For AMCs that have been in existence for more than a year, Section 1109 of Title XI provides that the annual AMC registry fee is based on the number of appraisers "working for or contracting with" an AMC in a State during a 12-month period multiplied by \$25, up to a maximum of \$50.¹² The proposed rule adopts the minimum fee of \$25 as set by statute and interprets the phrase "working for or contracting with" to mean those appraisers on an AMC

⁸ Title XI as amended by the Dodd-Frank Act defines "appraisal management company" to mean, in part, an external third party that oversees a network or panel of more than 15 appraisers (State certified or licensed) in a State, or 25 or more appraisers nationally (two or more States) within a given year. (12 U.S.C. 3350(11)). Title XI as amended by the Dodd-Frank Act also allows States to adopt requirements in addition to those in the AMC Rule. (12 U.S.C. 3353(b)). For example, States may decide to supervise entities that provide appraisal management services, but do not meet the size thresholds of the Title XI definition of AMC. If a State has a more expansive regulatory framework that covers entities that provide appraisal management services but do not meet the Title XI definition of AMC, the State should only submit information regarding AMCs meeting the Title XI definition to the AMC Registry.

⁹ 12 U.S.C. 3338(a)(4)(B).

¹⁰ *Id.*

¹¹ *Id.*

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

appraiser panel that performed an appraisal for the AMC on a covered transaction¹³ during the previous year in a particular State. The annual AMC registry fee for AMCs that have not been in existence for more than a year requires a determination by the ASC of an appropriate multiplier. The ASC proposes to use the same factors of \$25 multiplied by the number of appraisers that performed an appraisal for the AMC on a covered transaction, but the fee would be based on the actual period of time since the AMC commenced doing business rather than 12 months.

The ASC considered three options with respect to interpreting the phrase “working for or contracting with.” Under the first option, the phrase “working for or contracting with” would have been interpreted to include every appraiser on an AMC appraiser panel during the reporting period¹⁴ in a particular State. The multiplier in this option would have included all appraisers on an AMC’s appraiser panel in a particular State, including appraisers accepted by the AMC for consideration for future appraisal assignments.

Under the second option, the phrase “working for or contracting with” would have been interpreted to include those appraisers engaged by the AMC to perform an appraisal on a covered transaction during the reporting period in a particular State. The time the appraiser would be considered in the calculation is at the point of engagement to perform a particular appraisal, regardless of whether the appraisal was fully performed during the reporting period. The ASC seeks comment in Question 3 below on whether this interpretation would be preferable for States to administer over the third option, which is set forth in the proposed rule.

Under the third option, which is set forth in the proposed rule, the phrase “working for or contracting with” would include appraisers that performed an appraisal for the AMC on a covered transaction during the reporting period in a particular State. This option would exclude appraisers accepted by the AMC for consideration for future appraisal assignments as well as appraisers who performed appraisals

¹³ Consistent with the AMC Rule, the proposed determination of performing an appraisal is proposed to be based on “covered transactions” rather than “Federally related transactions.”

¹⁴ In the case of AMCs that have been in existence for more than a year, the reporting period would be 12 months. In the case of an AMC that has not been in existence for more than a year, the reporting period would be since the AMC commenced doing business.

in the past, but did not perform any appraisals in the reporting period. The AMC registry fee is not intended to result in duplicate fees for the same appraisal, even if there are multiple drafts of an appraisal. Therefore, the AMC registry fee is to be calculated based on an appraisal one time only.

The ASC believes the third option imposes the minimum fee allowed under the statutory provisions of section 1109 and therefore imposes the least burden on AMCs. Based on the ASC’s anticipated costs of overseeing States that elect to register and supervise AMCs, as well as the ASC’s anticipated costs of maintaining the AMC Registry, the ASC believes the proposed annual AMC registry fee would adequately cover those costs while supporting other Title XI functions of the ASC as mandated by Congress, including further development of its grant programs, particularly for States.

Collection and Transmission of Annual AMC Registry Fees

Proposed § 1102.403 would implement collection and transmission of annual AMC registry fees for States that elect to register and supervise AMCs following the statutory scheme set forth in section 1117 and section 1109 as amended by the Dodd-Frank Act. The proposed rule would require AMC registry fees to be collected and transmitted to the ASC on an annual basis by States that elect to register and supervise AMCs. Only those AMCs whose registry fees have been transmitted to the ASC would be eligible to be on the AMC Registry for the 12-month period following the payment of the fee.

Under the proposed rule, States would have the flexibility to align a one-year period with any 12-month period, which may or may not be based on the calendar year. Just as many States do not use a calendar year for their existing appraiser credentialing process, the ASC believes that allowing States to set the 12-month period provides appropriate flexibility and will help States comply with the collection and transmission of AMC fees and reduce regulatory burden for State governments. States may choose to do this as they currently do for their appraisers, meaning some States have a date certain every year. Other States use, for example, the appraiser’s date of birth (States could use AMC registration date similarly). The registration cycle would be left to the individual States to determine, but note that the statutory requirement in section 1109(a)(4) requires States that elect to register and supervise AMCs to

submit AMC registry fees to the ASC annually.

According to the AMC Rule, Federally regulated AMCs must report to the State or States in which they operate that have elected to register and supervise AMCs the information required to be submitted by the State pursuant to the ASC’s policies, including: (i) Information regarding the determination of the AMC registry fee; and (ii) information required by the AMC Rule.¹⁵

III. Request for Comment

The ASC requests comment on all aspects of this proposed rule, including specific requests for comment that appear throughout the Supplementary Information above. In addition, the ASC requests comments on the following questions:

Question 1. The ASC requests comment on all aspects of the proposed annual AMC registry fee.

Question 2. The ASC requests comment on the ASC’s interpretation of the phrase “working for or contracting with.”

Question 3. The ASC requests comment on the second option’s interpretation of the phrase “working for or contracting with.” While the proposal defines “working for or contracting with” to include only those appraisers that performed an appraisal for the AMC during the reporting period, the second option would define “working for or contracting with” to mean “the AMC engaged an appraiser to perform an appraisal, regardless of whether the appraiser completed the appraisal during the reporting period.” The ASC is requesting comment on whether this would be an easier interpretation for the States to administer.

Question 4. The ASC requests comment on all aspects of proposed collection and transmission of annual AMC registry fees.

Question 5. The ASC requests comment on Federally regulated AMCs operating in a State that does not elect

¹⁵ According to the AMC Rule, States are not required to identify Federally regulated AMCs operating in their States; nor are they responsible for supervising or enforcing a Federally regulated AMC’s compliance with information submission requirements. A State is also not required to assess whether any licensing issues exist in that State concerning an owner of a Federally regulated AMC that may disqualify the AMC from being on the National Registry of AMCs. Rather, Federally regulated AMCs are subject to oversight by the Federal financial institutions regulators that supervise the financial institutions that own and control AMCs. The AMC Rule does not bar a State from collecting a fee from Federally regulated AMCs to offset the cost of collecting the AMC registry fee and the information related to the fee.

to register and supervise AMCs. Should the ASC collect information and fees directly from Federally regulated AMCs that wish to appear on the AMC Registry but operate in States that do not elect to register and supervise AMCs?

Question 6. What barriers, if any, exist that would make it difficult for a State to implement the collection and transmission of AMC registry fees?

Question 7. What costs (both direct in terms of fees and indirect in terms of administrative costs) would be associated with collection and transmission of AMC registry fees?

Question 8. What aspects of the proposed rule, if any, would be challenging for States to implement? To the extent such challenges would exist, what alternative approaches do commenters suggest that would make implementation easier, while maintaining consistency with the statute?

IV. Regulatory Analysis

Paperwork Reduction Act

Certain provisions of the proposed rule contain “information collection” requirements within the meaning of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Under the PRA, the ASC may not conduct or sponsor, and, notwithstanding any other provision of law, a person is not required to respond to, an information collection unless the information collection displays a valid Office of Management and Budget (OMB) control number. The information collection requirements contained in this proposed rule are being submitted to OMB for review and approval at the proposed rule stage by the ASC pursuant to section 3506 of the PRA and section 1320.11 of the OMB’s implementing regulations (5 CFR part 1320). The collection of information requirements in the proposed rule are found in §§ 1102.400–1102.403. This information is required to implement section 1473 of the Dodd-Frank Act.

Title of Information Collection: Collection and Transmission of Annual AMC Registry Fees.

OMB Control Nos.: The ASC will be seeking new control numbers for these collections.

Frequency of Response: Event generated.

Affected Public: States; businesses or other for-profit and not-for-profit organizations.

Abstract

State Recordkeeping Requirements

States that elect to register and supervise AMCs would be required to

collect and transmit annual AMC registry fees to the ASC. Section 1102.402 would establish the annual AMC registry fee for States that elect to register and supervise AMCs as follows: (1) In the case of an AMC that has been in existence for more than a year, \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC on a covered transaction in such State during the previous year; and (2) in the case of an AMC that has not been in existence for more than a year, \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC on a covered transaction in such State since the AMC commenced doing business. Performance of an appraisal means the appraisal service requested of an appraiser by the AMC was provided to the AMC.

Section 1102.403 would require AMC registry fees to be collected and transmitted to the ASC on an annual basis by States that elect to register and supervise AMCs. Only those AMCs whose registry fees have been transmitted to the ASC would be eligible to be on the AMC Registry for the 12-month period following the payment of the fee. Section 1102.403 clarifies that States may align a one-year period with any 12-month period, which may, or may not, be based on the calendar year. The registration cycle is left to the individual States to determine.

State Reporting Burden

Section 1103 of Title XI, *Functions of Appraisal Subcommittee*, was amended by the Dodd-Frank Act to require the ASC to maintain a registry of AMCs that are either: (1) Registered with and subject to supervision by a State; or (2) Federally regulated AMCs. It is anticipated that on or before the effective date of this rule, the ASC will issue an ASC Bulletin to States that will address:

1. When the AMC Registry will be open for States; and

2. Reporting requirements (information required to be submitted by States in order to register AMCs on the AMC Registry).

Burden Estimates:

Total Number of Respondents: 500 AMCs, 55 States.

Burden Total: 500 hours.

The ASC has a continuing interest in public opinion regarding the ASC’s collection of information. Comments regarding the questions set forth below may be sent to the OMB desk officer for the ASC by mail to U.S. Office of Management and Budget, Office of Information and Regulatory Affairs, Washington DC 20503, or by the

Internet to aira_submission@omb.eop.gov, with copies to the ASC at the address listed in the **ADDRESSES** section of this **SUPPLEMENTARY INFORMATION**.

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) The accuracy of the agency’s estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the proposed rule on small entities. However, the regulatory flexibility analysis otherwise required under the RFA is not required if an agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a brief explanatory statement in the **Federal Register** together with the proposed rule. Based on its analysis, and for the reasons stated below, the ASC believes that the proposed rule will not have a significant economic impact on a substantial number of small entities.

Section 1109 of Title XI provides that State appraiser certifying and licensing agencies that elect to register and supervise AMCs shall collect (1) from AMCs that have been in existence for more than a year, annual AMC registry fees in the amount of \$25 (up to a maximum of \$50) multiplied by the number of appraisers “working for or contracting with” an AMC in a State during the previous year; and (2) from AMCs that have not been in existence for more than a year, annual AMC registry fees in the amount of \$25 (up to a maximum of \$50) multiplied by an appropriate number to be determined by the ASC.¹⁶ The purpose of the statutory fee is to support the ASC’s functions under Title XI. Because the ASC believes the minimum fee required by the statute would be adequate to support its functions, the proposed rule

¹⁶ 12 U.S.C. 3338(a)(4)(B).

would adopt the minimum fee of \$25 as set by statute. The proposed rule would also interpret the phrase “working for or contracting with” to mean those appraisers that performed an appraisal for the AMC on a covered transaction during the reporting period. For AMCs that have existed for more than a year, the formula would be \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC on a covered transaction during the previous year. For AMCs that have not existed for more than a year, the \$25 fee would be multiplied by the number of appraisers that performed an appraisal for the AMC on a covered transaction, since the AMC commenced doing business.

Regarding the proposed fee for AMCs that have been in existence for more than a year, the ASC believes the proposed rule would impose the minimum fee allowed under the statutory provisions of section 1109. The ASC proposal would not exercise statutory discretion granted to the ASC to increase the fee above \$25. Further, the ASC would interpret “working for or contracting with” to mean only those appraisers who actually performed an appraisal for the AMC, as opposed to all appraisers on the AMC’s panel or all appraisers engaged, regardless of whether the assignment was performed. The ASC believes this formula would result in the lowest fee allowed by the statute and the ASC would be choosing not to exercise its authority to increase this minimum fee. Therefore, any burden produced is the result of statutory and not regulatory requirements.

The ASC has also decided to propose the statutory minimum fee of \$25 for AMCs that have not existed for a year. As required by statute, the ASC is proposing an appropriate number against which to multiply the \$25 fee. The ASC is proposing to use the same multiple as used for AMCs that have existed for more than a year (*i.e.*, the number of appraisers that have performed appraisal assignments for the AMC). It is possible that the ASC may have been able to propose a multiple that would result in a lower fee and would still be deemed appropriate. In this regard, the rule may create burden for AMCs that have not existed for more than a year, beyond the burden created by the statutory requirements alone.

While some burden beyond the statutory requirements may result from the rule for AMCs that have not existed for more than a year, the ASC does not believe the rule will have a significant economic impact on a substantial number of small entities. There are only

approximately 500 AMCs operating in the United States. The annual regulatory burden will only apply to new AMCs that have not existed for more than a year. Given the small number of AMCs currently in operation, it is unlikely that there will be a substantial number of AMCs that commence doing business in any given year. Further, the ASC is proposing the lowest possible fee of \$25. Therefore, the ASC does not believe that the exercise of its discretion in setting the fee formula for such AMCs will have a significant economic impact on a substantial number of small entities.

The collection and transmission to the ASC of AMC registry fees by the States would create some recordkeeping, reporting and compliance requirements. However, these collection and transmission requirements are imposed by the statute, not the proposed rule. Further, the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts when the agency’s rule directly regulates the small entities.¹⁷

Based on its analysis, and for the reasons stated above, the ASC believes that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, the ASC certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities. Accordingly, an initial regulatory flexibility analysis is not required. The ASC requests comment on all aspects of this analysis.

Unfunded Mandates Reform Act of 1995 Determination

The ASC has analyzed the proposed rule under the factors in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the ASC considered whether the proposed rule includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of

¹⁷ For purposes of assessing the impacts of the proposed rule on small entities, “small entities” is defined in the RFA to include small businesses, small not-for-profit organizations, and small government jurisdictions. 5 U.S.C. 601(6). A “small business” is determined by application of SBA regulations and reference to the North American Industry Classification System (NAICS) classifications and size standards. 5 U.S.C. 601(3). A “small organization” is any “not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” 5 U.S.C. 601(4). A “small governmental jurisdiction” is the government of a city, county, town, township, village, school district, or special district with a population of less than 50,000. 5 U.S.C. 601(5). Given these definitions, States that elect to establish licensing and certification authorities are not small entities and the burden on them is not relevant to this analysis.

\$100 million or more in any one year (adjusted annually for inflation). For the following reasons, the ASC finds that the proposed rule does not trigger the \$100 million UMRA threshold. First, the mandates in the proposed rule apply only to those States that choose to establish an AMC registration and supervision system. Second, the costs specifically related to requirements set forth in statute are excluded from expenditures under the UMRA. Given that the proposed rule reflects requirements that arise from section 1473 of the Dodd-Frank Act, the UMRA cost estimate for the proposed rule is zero. For this reason, and for the other reasons cited above, the ASC has determined that this proposed rule will not result in expenditures by State, local, and tribal governments, or the private sector, of \$100 million or more in any one year. Accordingly, this proposed rule is not subject to section 202 of the UMRA.

List of Subjects in 12 CFR Part 1102

Administrative practice and procedure, Appraisers, Banks, Banking, Freedom of information, Mortgages, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the ASC proposes to amend 12 CFR part 1102 as follows:

PART 1102—APPRAISER REGULATION

- 1. The authority citation for part 1102 is revised to read as follows:

Authority: 12 U.S.C. 3348(a), 3332, 3335, 3338 (a)(4)(B), 3348(c), 5 U.S.C. 552a, 553(e); Executive Order 12600, 52 FR 23781 (3 CFR, 1987 Comp., p. 235).

- 2. Subpart E to part 1102 is added to read as follows:

Subpart E—Collection and Transmission of Appraisal Management Company (AMC) Registry Fees

Sec.	
1102.400	Authority, purpose, and scope.
1102.401	Definitions.
1102.402	Establishing the Annual AMC Registry Fee.
1102.403	Collection and Transmission of Annual AMC Registry Fees.

§ 1102.400 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued by the Appraisal Subcommittee (ASC) under sections 1106 and 1109 (a)(4)(B) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI), as amended by the

Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (Pub. L. 111–203, 124 Stat. 1376 (2010)), 12 U.S.C. 3335, 3338 (a)(4)(B)).

(b) *Purpose.* The purpose of this subpart is to implement section 1109 (a)(4)(B) of Title XI, 12 U.S.C. 3338.

(c) *Scope.* This subpart applies to States that elect to register and supervise appraisal management companies pursuant to 12 U.S.C. 3353 and the regulations promulgated thereunder.

§ 1102.401 Definitions.

For purposes of this subpart:

(a) *AMC Registry* means the national registry maintained by the ASC of those AMCs that meet the Federal definition of AMC, as defined in 12 U.S.C. 3350(11), are registered by a State or are Federally regulated, and have paid the annual AMC registry fee.

(b) *AMC Rule* means the interagency final rule on minimum requirements for AMCs, 12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26 (2015).

(c) *ASC* means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council established under section 1102 (12 U.S.C. 3310) as it amended the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 *et seq.*) by adding section 1011.

(d) *Performance of an appraisal* means the appraisal service requested of an appraiser by the AMC was provided to the AMC.

(e) *State* means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the United States Virgin Islands, and American Samoa.

(f) *Terms incorporated by reference.* Definitions of: Appraisal management company (AMC); appraisal management services; appraisal panel; consumer credit; covered transaction; dwelling; Federally regulated AMC are incorporated from the AMC Rule by reference.

§ 1102.402 Annual AMC registry fee.

The annual AMC registry fee to be applied by States that elect to register and supervise AMCs is established as follows:

(a) In the case of an AMC that has been in existence for more than a year, \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction in such State during the previous year; and

(b) In the case of an AMC that has not been in existence for more than a year,

\$25 multiplied by the number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction in such State since the AMC commenced doing business.

§ 1102.403 Collection and transmission of annual AMC registry fees.

(a) *Collection of annual AMC registry fees.* States that elect to register and supervise AMCs pursuant to the AMC Rule shall collect an annual registry fee as established in § 1102.402 (a) from AMCs eligible to be on the AMC Registry.

(b) *Transmission of annual AMC registry fee.* States that elect to register and supervise AMCs pursuant to the AMC Rule shall transmit AMC registry fees as established in § 1102.402 (a) to the ASC on an annual basis. Only those AMCs whose registry fees have been transmitted to the ASC will be eligible to be on the AMC Registry for the 12-month period subsequent to payment of the fee.

By the Appraisal Subcommittee.

Dated: May 16, 2016.

James R. Park,

Executive Director.

[FR Doc. 2016–11914 Filed 5–19–16; 8:45 am]

BILLING CODE P

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1312

Protection of Archaeological Resources

AGENCY: Tennessee Valley Authority.

ACTION: Proposed rule.

SUMMARY: The Tennessee Valley Authority (TVA) proposes to amend its regulations for the protection of archaeological resources by providing for the issuance of petty offense citations for violations of the Archaeological Resources Protection Act (ARPA) and the Antiquities Act of 1906 (AA). Amending the regulations such that TVA law enforcement agents are authorized to issue citations will help prevent loss and destruction of these resources resulting from unlawful excavations and pillage.

DATES: Written comments must be received on or before June 20, 2016.

ADDRESSES: You may submit comments by any of the following methods:

- *Mail/Hand Delivery:* Ralph E.

Majors, Supervisor, Investigation Unit, TVA Police & Emergency Management, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 2D–K, Knoxville, Tennessee 37902–1401.

- *Email:* remajors@tva.gov.

FOR FURTHER INFORMATION CONTACT:

Ralph E. Majors, 865–632–4176.

SUPPLEMENTARY INFORMATION:

I. Legal Authority

These proposed amendments are promulgated under the authority of the TVA Act, as amended, 16 U.S.C. 831–831ee, the Archaeological Resources Protection Act, 16 U.S.C. 470aa–470mm, and the Antiquities Act of 1906, 16 U.S.C. 431, 432 & 433.

II. Background and Proposed Amendments

This proposed rule amends TVA's regulations implementing the Archaeological Resources Protection Act of 1979 (Pub. L. 96–95, as amended by Pub. L. 100–555, Pub. L. 100–588; 93 Stat. 721; 102 Stat. 2983; 16 U.S.C. 470aa–mm) to provide for the issuance of petty offense citations by TVA's law enforcement agents for violations of ARPA or AA.

Section 10(a) of ARPA requires the Departments of Interior, Agriculture and Defense and the Tennessee Valley Authority to promulgate such uniform rules and regulations as may be necessary to carry out the purposes of ARPA. The first purpose of ARPA is “to secure, for the present and future benefit of the American people, the protection of archaeological resources and sites which are on public lands and Indian lands.” 16 U.S.C. 470aa(b). The uniform regulations for ARPA originally were published on January 6, 1984 to implement the Act of 1979. The uniform regulations were then revised on January 26, 1995 to incorporate the amendments to ARPA promulgated by Congress in 1988.

Section 10(b) of ARPA requires each Federal land manager (FLM) to promulgate such regulations, consistent with the uniform regulations under Section 10(a), as may be appropriate for the carrying out of the FLM's functions and authorities under the Act. Thus, Section 10(b) allows individual Federal agencies to tailor the uniform regulations to suit their own particular needs with a view to effectively implementing the authorities under the Act. TVA has adopted the uniform regulations as its own. See 18 CFR part 1312 (1984 and 1995). This proposed rule amends TVA's ARPA regulations by enabling TVA's law enforcement agents to issue petty offense citations for

IN THE STATES

North Carolina Supreme Court Sides with Owners in Eminent Domain Dispute

The Supreme Court of North Carolina on June 10 unanimously affirmed a lower court's ruling that the North Carolina Department of Transportation effectively takes away property rights and initiates eminent domain when it records a corridor protection map under the state's Map Act. As such, property owners are due just compensation.

North Carolina's Map Act authorizes the NCDOT to file official roadway maps that list properties in the path of a proposed roadway in order to create a "protected corridor." The NCDOT had refused to pay owners just compensation for the harms that result from having their properties listed in a protected corridor, including the inability to develop or make improvements to the properties.

Property owners argued that corridor protection maps and related development restrictions are an exercise of the NCDOT's eminent domain power entitling them to just compensation. The NCDOT had argued that corridor protection maps are more like basic planning or zoning activities, and therefore no compensation was owed.

The case is [Kirby vs. North Carolina Department of Transportation](#).

Minnesota Law Updates Appraiser Licensing, AMC Registration

Minnesota Gov. Mark Dayton on May 23 signed into law [SF 2665](#), legislation that makes several changes to the state's existing appraiser licensing and appraisal management company registration law, which originally was enacted in 2010.

The new law changes definitions to clarify that entities utilizing employee appraisers to complete appraisal assignments are not AMCs. The law also clarifies that entities with more than 15 independent contractor appraisers in Minnesota or more than 25 contractor appraisers in two or more states are AMCs and therefore subject to the state's AMC registration and oversight law.

The new law also will require AMCs operating in Minnesota to compensate appraisers at a rate that is reasonable and customary, and to pay appraisers within 30 days or otherwise face disciplinary action by the state's Department of Commerce.

Additionally, the Minnesota law eliminates a provision in the state's appraiser licensing and certification law that had permitted the Minnesota Department of Commerce to charge appraisers the costs of an investigation even if the investigation

found no violations on the part of the appraiser.

Colorado Reviewing Appraiser Regulatory Rules

The Colorado Division of Real Estate currently is conducting a review of the [Board of Real Estate Appraiser rules](#) to assess the continuing need for and the appropriateness and cost-effectiveness of the regulations.

The review will help officials determine if the rules should continue in their current form, be modified or get repealed. Among the issues under consideration:

- Necessity of the rules
- Effectiveness of the rules
- Clarity of the rules
- Efficiency of rules implementation and enforcement
- Whether the rules overlap or duplicate other agency, federal, state or local government rules
- Whether the rules can be amended to provide flexibility, reduce regulatory burdens or reduce unnecessary paperwork or steps
- Whether a cost-benefit analysis was performed by the applicable rule-making agency or official in the principal departments
- Whether the rules provide adequate safety, health and welfare for the state and its residents

Oregon Appraiser Board Still Wrong on Due Dates, AI Finds

An Appraisal Institute review of the minutes from a May 3 meeting of the Enforcement Oversight Committee of the Oregon Appraiser Licensing and Certification Bureau indicates that the ALCB continues to believe — incorrectly — that missing an appraisal due date is an actionable violation of the Oregon appraiser licensing law.

The ALCB previously issued an alert to appraisers in Oregon indicating that missing an appraisal due date violated the Uniform Standards of Professional Appraisal Practice.

A Q&A released Feb. 10 by the Appraisal Standards Board of The Appraisal Foundation refuted the ALCB belief stating, “Assignment due dates are contractual obligations but are not assignment conditions under USPAP. Turnaround times and similar items are business practice issues and are outside the scope of USPAP.”

The ALCB meeting minutes stated, “Although late reports are not a USPAP violation, it might be a statute violation such as negligence or fraud” and continued, “According to legal counsel, the public needs to be protected and [it] won’t be a problem going to a hearing with this problem.”

Indiana Court: Appraiser Owes No Duty of Care to Seller

The Indiana Court of Appeals ruled May 16 that an appraiser has no duty of care to a seller after he or she appraises a house for much less than the proposed purchase price. The court upheld summary judgment for the appraiser in a case where the seller alleged negligence, fraud and slander of title. The case is [BSA Construction LLC v. Jimmie E. Johnson, 49A02-1506-CT-749](#).

BSA Construction entered into an agreement to sell residential real estate to Lilia Lopez. Lopez received financing from Bank of America pending a final appraisal, which was done by Jimmie Johnson of LandSafe. The purchase price was agreed at \$60,000, but Johnson only appraised the property for \$50,000 and Bank of America denied financing.

BSA claimed Johnson owed them a duty of care on negligence principles, but the court disagreed, ruling that Johnson's duty of care was to the bank that hired him, not BSA. "In an arms-length transaction like the one here, we cannot conclude that Johnson had any duty to serve two masters with conflicting interests. Whether Johnson was bound by or aware of the code of ethics of a professional association, or knew that a poor appraisal might be associated with the real estate for some period of time, does not change the fundamental arrangement of the duties at issue here," Judge L. Mark Bailey wrote for the panel. "Johnson's duty was to the bank and as a matter of law cannot — because of the contradictory interests at issue — have extended to BSA."

Louisiana Enacts AMC Legislation and Rules

Louisiana Gov. John Bel Edwards on May 26 signed into law [HB 804](#), legislation that clarifies that appraisal management companies are required to compensate appraisers in accordance with the reasonable and customary fee provisions contained in federal law. The law also gives the Louisiana Real Estate Appraisal Board the authority to collect from AMCs the required National Registry Fees.

Also in Louisiana, the state's Real Estate Appraisers Board on June 20 promulgated [several new rules](#) applicable to AMCs, including one that prohibits AMCs from requiring appraisers to sign an indemnification agreement. Additionally, the rules state that the LREAB can take action against an AMC or any person who owns or participates in the business of an AMC if the AMC fails to notify the board within 10 days of any disciplinary action imposed against the AMC, its owners or employees in any state. The rule also requires AMCs to pay appraisers within 30 days after the date on which the appraiser provides the completed report to the AMC. Finally, the rules require appraisers and appraisal firms performing services for AMCs to disclose in the appraisal certification the compensation that was paid to the appraiser or the appraisal firm.

Illinois Creates AMC Recovery Fund

The Illinois General Assembly on May 31 completed action on [HB 3333](#), a bill that would create an Appraisal Management Recovery Fund to be used in lieu of the existing surety bond. This fund will be used to provide restitution to Illinois state-credentialed appraisers when they have not been paid by a failed AMC but have obtained a final judgment from a court. The fund will be subsidized by a fee (up to \$500) that each AMC operating in Illinois has to pay until such time as the fund reaches \$500,000. Once that amount is reached, the fee will no longer be imposed unless claims are paid.

The Appraisal Institute on June 28 sent Gov. Bruce Rauner a letter [urging him to sign](#)

[the bill](#). Read Al's letter.

Massachusetts Working on AMC Legislation

Work continues in Massachusetts on [HB 4399](#), legislation that would enact a comprehensive registration and oversight program for appraisal management firms operating in the commonwealth.

Michigan Legislation Would Alter Tax Appeals

Legislation currently pending in Michigan would change the way the state's Tax Tribunal would be required to consider property tax assessment appeals. [HB 5578](#) would require the MTT to conduct its own appraisal of the subject property and include comparable properties that have the same highest and best use.

The bill was introduced in repose to the "dark store" phenomenon in which large big box stores see lower than expected property valuations because the value is based on comparable sales of other properties instead of true cash value. The bill, which has passed the House and is pending in the Senate, is supported by the Michigan Municipal League, the Michigan Townships Association and the Michigan Association of Counties.

New Jersey Pursuing AMC Regulations

Legislation in New Jersey that would regulate appraisal management companies passed the Assembly and will now be considered by the Senate. Further amendments to [A 1973](#), the Appraisal Management Company Registration and Regulation Act, are pending.

North Carolina Passes AMC Legislation

North Carolina Gov. Pat McCrory on June 30 signed into law [SB 600](#), legislation that requires appraisal management companies operating in the state to compensate appraisers at a reasonable and customary rate in accordance with federal law. AMCs that violate the reasonable and customary fee compensation requirements would be subject to disciplinary action by the North Carolina Appraisal Board.

Pennsylvania Legislation Targets AQB Compliance

Legislative action in Pennsylvania that would bring the state into compliance with Appraiser Qualifications Board requirements is nearing completion. [SB 1270](#) would allow the State Board of Certified Real Estate Appraisers to consider criminal history record information only "to the extent required by standards and regulations for the qualifications of appraisers promulgated by the AQB when deciding whether to grant or renew an appraiser credential." Previous versions of the bill would have required applicants to undergo fingerprint-based background checks, but those provisions were removed at the request of the Coalition of Pennsylvania Real Estate Appraisers.

South Carolina Alters Appraiser Licensing and Certification Law

South Carolina Gov. Nikki Haley on June 5 signed into law [HB 5023](#), legislation that makes changes to the state's appraiser licensing and certification law.

The law will require that two of the four appraisers on the South Carolina Real Estate Appraisers Board must be certified general appraisers and one must be a certified residential appraiser. The law also exempts from the state appraiser licensing requirements “an employee of a lender in the performance of appraisals or valuations with respect to which federal law or regulations does not require a licensed or certified appraiser.” The exemption does not apply to third party contractors. Lastly, the law will allow the Board to issue both public and private reprimands to appraisers who are the subject of disciplinary action by the Board.

South Dakota Reviews Appraiser Licensing and Certification Rules

The South Dakota Department of Labor and Regulation on July 8 held a hearing on proposed amendments to the state’s appraiser licensing and certification rules. The rules under consideration would allow appraisers to submit appraisals for compliance review midway through the experience hours required to upgrade to a higher level of licensure or certification. They also would introduce the term “Allegation of Non-Compliance” to note the first step to initiate an investigation, replacing the term “noncompliant.”

AMC License Registration: CoreLogic® Valuation Solutions

Table reflects all states that have enacted AMC legislation. Information is current as of 7/1/2016.

STATE	LICENSE NUMBER	EXPIRATION DATE
Alabama	AL0003	10/1/2017
Arizona	40033	7/29/2017
Arkansas	27	12/31/2016
California	1316	5/9/2018
Colorado	AMC.200000190	12/31/2016
Connecticut	AMC.0000015	12/31/2016
Delaware	X7-0000118	10/31/2017
Florida	MC79	11/30/2016
Georgia	4	9/30/2016
Illinois	558.000237	12/31/2016
Indiana	AMC1100065	3/28/2017
Kansas	KS020	9/30/2016
Kentucky	15	10/31/2016
Louisiana	AMC.0023	12/31/2016
Maryland	31418	8/31/2016
Michigan	1202000089	7/31/2017
Minnesota	20630840	8/31/2016
Mississippi	AMC-033	12/31/2016
Missouri	2015038837	6/30/2018
Montana	REA-AMC-LIC-3485	10/31/2016
Nebraska	NE2012040	1/18/2018
Nevada	AMC.0000181	9/20/2016
New Hampshire	AMC-78	12/31/2016
New Mexico	AMC1015	1/22/2017
North Carolina	NC-1019	6/30/2017
Oklahoma	60060AMC	4/30/2017
Oregon	AM-020	12/31/2016
Pennsylvania	AMC000100	6/30/2017
South Dakota	AMC-SD-1019-2015	12/31/2016
Tennessee	59	7/31/2017
Texas	2000132	7/31/2016
Utah	1372488-AMCO	11/30/2017
Vermont	077.0068784-MAIN	5/31/2018
Virginia	4009000136	12/31/2017
Washington	3000074	2/1/2018
West Virginia	WV010058	6/30/2017
Wyoming	AMC-65	10/23/2016