

**STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
DEPARTMENT OF SAFETY : CR 14-016
AND PROFESSIONAL SERVICES :
:**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

N/A

III. FISCAL ESTIMATE AND EIA

The Fiscal Estimate and EIA are attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

Licensed and certified real estate appraisers are regulated by both state and federal regulations. Federally, the Financial Institutions Reforms Recovery Act of 1989 (“FIRREA”) 12 U.S.C. 3331 et seq. gives authority to the Appraiser Qualification Board, of the Appraisal Foundation, to set forth the minimum qualification requirements for real estate appraisers. Those minimum federal requirements will change on January 1, 2015. Licensed and certified real estate appraisers must comply with these new federal regulations in order to conduct federally related transactions. Federally related transactions include any real estate related financial transactions which a federal financial institution engages in such as Fannie Mae or Freddie Mac. These transactions make up the majority of real estate appraiser’s employment opportunities.

Relevant state statute, s. 458.085, Stats., grants the department the authority to promulgate rules establishing the educational, experience, and continuing education requirements for real estate appraiser credentials. This proposed rule carries out this mandate by amending current rules to comply with the federal mandates.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD’S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Department held a public hearing on March 14, 2014. No one attended or testified at the hearing and no public comments were received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment: 2 b. This rule executes a very extensive and complex renumbering of the provisions of current chs. SPS 80 to 87. It is generally best to avoid renumbering, especially when inserting new rule sections or subunits, eliminating a gap in numbering, or reusing a previously existing number that is eliminated by repeal. Te numbering impairs the ability to trace a provision’s history and may result in ambiguity or error. The agency should review its use of renumbering to ensure that such renumbering is necessary and consistent with ss. 1.03 (5) (a) and (c) and 1.067, Manual. If the agency decides to renumber, there are several errors in the proposed rule as a result of the renumbering. The agency should carefully review the numbering done by the proposed rule.

Response: The Department decided to renumber chs. SPS 80 to 87 for ease of use and clarity for its intended audience. By collapsing chs. 80 to 84 into subchapters of ch. 85 and grouping the subsections into categories that cover the pertinent topics, readers will be able to find sections of interest in a more efficient manner.

Comment: 2. v. (2) With regard to s. SPS 85.330, the second sentence is superfluous and should be omitted; it merely reiterates what the first sentence says. With regard to ss. SPS 85.430 and 85.530, the first and second sentences should be restructured to list the alterative prerequisites, such as: “An applicant for _____ shall have completed one of the following:”.

Response: The second sentence in s. SPS 85.330 was deleted. The Department restructured the first sentence in ss. SPS 85.430 and 85.530 from passive voice to active voice. The current wording also makes it clear what the applicant must acquire before sitting for the examination.

Comment: 5 e. Section SPS 85.600 (7) is confusing. First, what approval does it refer to? This should be identified by cross-reference. Perhaps more importantly, what is the meaning of the second sentence? Does a credential holder have to retake the exam every 24 months? Or does this mean that completion of the exam up to 24 months prior to approval satisfies the requirement of this subsection? Also, what are the consequences of failing to meet this requirement-is the applicant’s approval revoked?

Response: An addition was made to the language indicating the approval referred to is approval from the department to sit for the examination. Also a cross-reference was added to further clarify that the examination is required by s. SPS 85.600 (1).

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

N/A