

**Appraisal Subcommittee**  
*Federal Financial Institutions Examination Council*

January 23, 2012

Mr. Thomas Stevens, Board Chairman  
Board of Real Estate Appraisers  
301 South Park, 4th Floor  
Helena, MT 59620-0513

RE: ASC Compliance Review of Montana's appraiser regulatory program

Dear Mr. Stevens:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of the Montana appraiser regulatory program (Program) on June 26-28, 2012. This is the final ASC Compliance Review Report (Report) on that Review.

The ASC has considered the preliminary findings regarding the Review and the State's response. The ASC has determined the Program is not in substantial compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended. The ASC identified the following area of non-compliance:

- States should resolve all complaints filed against appraisers within one year, except for special documented circumstances.<sup>1</sup>

ASC staff will confirm corrective actions have taken place and are appropriate through off-site monitoring and during the next Review. Montana will be moved to a two-year Review Cycle.

This letter and the attached Report are public record and available on the ASC website in accordance with the Freedom of Information Act.

Please contact us if you have any questions.

Sincerely,



Peter Gillispie  
Chairman

Attachment  
cc: Ms. Billie Veerkamp, Executive Officer

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<sup>1</sup> Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.

## ASC Compliance Review Report

**ASC Finding: Not In Substantial Compliance**  
**Final Report Issue Date: January 23, 2012**

**Montana Appraiser Regulatory Program (Program)**

**Board of Real Estate Appraisers (Board)  
/ Decision Making**

**PM: N. Fenochietti**

**ASC Compliance Review Date: June 26-28, 2012**

**Review Period: June 2011 to June 2012**

**Umbrella Agency: Department of Labor & Industry (Department)**

**Number of State Credentialed Appraisers on National Registry: 415**

**Review Cycle: Two Year**

Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
<b>Montana Statutes, Regulations, Policies and Procedures:</b>	X							
				No compliance issues noted.	N/A	None	None	None
<b>Temporary Practice:</b>	X							
				No compliance issues noted.	N/A	None	None	None
<b>National Registry:</b>	X							
				No compliance issues noted.	N/A	None	None	None
<b>Application Process:</b>	X							
				No compliance issues noted.	N/A	None	None	None
<b>Reciprocity:</b>	X							
				No compliance issues noted.	N/A	None	None	None
<b>Education:</b>	X							
				No compliance issues noted.	N/A	None	None	None

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**Montana Appraiser Regulatory Program (Program)**

<b>Board of Real Estate Appraisers (Board) / Decision Making</b>	PM: N. Fenochietti	ASC Compliance Review Date: June 26-28, 2012	Review Period: June 2011 to June 2012
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Umbrella Agency: Department of Labor & Industry (Department)	Number of State Credentialed Appraisers on National Registry: 415	Review Cycle: Two Year
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Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
<b>Enforcement:</b>		X						
States should resolve all complaints filed against appraisers within one year, except for special documented circumstances. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.)				<p>Montana had 49 outstanding complaints of which 13 were unresolved for more than one year. Of the complaints outstanding for more than 1 year, 4 fall under the exception for special documented circumstances.</p> <p>Of those remaining 9 cases, 1 was more than 3 years old, 5 more than 2 years, and 3 more than 1 year.</p>	<p>On October 31, 2012 the Board reported to ASC staff that it has implemented a number of changes that are intended to expedite the process of resolving complaints in a manner consistent with due process requirements. These changes include:</p> <ul style="list-style-type: none"> <li>• employing a new database system that allows better tracking and assignment of cases,</li> <li>• scheduling additional meetings to screen and adjudicate cases when necessary to speed up the disciplinary process</li> <li>• requesting authority to hire a contract reviewer to assist in completing investigations, and communicating with administrative law judges regarding the requirement to resolve cases within one year.</li> </ul> <p>In addition, requests for extensions and continuances are not granted unless the request is clearly warranted and necessary under the circumstances and will be documented in the file.</p>	<p>The Board must monitor its revised processes to ensure timely processing of complaints, reduce the backlog of aged complaints and ensure that the complaints of appraiser misconduct or wrongdoing are resolved in a timely manner as required by ASC Policy Statement 10E.</p> <p>In addition, the Board must continue to submit quarterly complaint logs to ASC staff.</p>	None	During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement number 10E.

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**Montana Appraiser Regulatory Program (Program)**

Board of Real Estate Appraisers (Board)  
/ Decision Making

PM: N. Fenochietti

ASC Compliance Review Date: June 26-28, 2012

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Review Cycle: Two Year

Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
<b>Enforcement (continued):</b>			X					
States must maintain relevant documentation to enable the ASC staff to understand the status of complaints filed. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.)				One of the continuing education audit enforcement files provided to ASC staff was not appropriately documented. The file did not include enough information to understand the reasoning behind the resolution. The respondent, an applicant for renewal, requested that discipline be mitigated due to extenuating circumstances. However, the file did not contain documentation corroborating the applicant's claims. As a result, ASC staff was unable to properly evaluate whether or not the action taken was appropriate, fair and equitable.	On October 31, 2012 the Board reported to ASC staff that it will fully document the reasoning behind dismissals. The Board adjusted its procedure to require that mitigating circumstances and the rationale for a dismissal are documented in the record for each case.	None	The Board and Department staff should monitor the documentation process procedures to ensure compliance with Title XI and ASC Policy Statement 10.	During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 10.