

# WHAT IFs (May 15, 2014)

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## What Ifs for 2013 Changes

### Section 1: Trainee Appraisers/Supervisory Appraisers

- a) **A State has not changed its law, regulation or policy to implement AQB minimum requirements for Trainee Appraisers/Supervisory Appraisers. What are the implications for the State?**

States are not required to have a Trainee/Supervisory Appraiser program. However, the Dodd-Frank Act mandates that any requirements established by a State for Trainee Appraisers and Supervisory Appraisers must meet or exceed AQB Criteria minimum requirements. States were notified that beginning July 1, 2013, the ASC would begin reviewing State Programs for compliance with this requirement.

- b) **A State has not changed its law, regulation or policy to implement AQB Criteria continuing education (CE) requirements for Trainee Appraisers. What are the implications for the State?**

AQB Criteria requires all appraisers, including Trainee Appraisers, to complete CE. (See Criteria Applicable to All Appraiser Classifications, section III F, *Criteria Specific to Continuing Education*.) A State with Trainee Appraisers must, at a minimum, implement the CE requirement as follows:

States must ensure Trainee Appraisers are required to demonstrate CE beginning with the first full renewal cycle after July 1, 2013 and each following cycle. Therefore, Trainee Appraisers who receive a credential on or after July 1, 2013, must complete CE in accordance with AQB Criteria for each year during the credential cycle before any subsequent renewals.

States may impose additional CE requirements so long as it does not preclude compliance with AQB Criteria.

- c) **A State has Trainee Appraiser/Supervisory Appraiser requirements that are consistent with AQB Criteria. The State requires all applicants for licensure or certification to obtain experience as a Trainee Appraiser. If an applicant for licensure or certification was not a Trainee Appraiser, but rather obtained experience through their employer (e.g. Department of Transportation, Assessor's Office, bank), may the State waive the requirement that experience be obtained as a Trainee Appraiser?**

The State's requirement that applicants for licensure or certification obtain all experience as a Trainee Appraiser exceeds AQB Criteria minimum requirements. If the State has a mechanism in place to waive this requirement under certain conditions, the State may do so, and it would not violate Title XI so long as the State implements minimum AQB Criteria requirements.

- d) **A State has Trainee Appraiser/Supervisory Appraiser requirements that are consistent with AQB Criteria. If the State has an applicant for initial licensure/certification who obtained the requisite number of appraisal experience hours unsupervised in another State that does not have a Trainee Appraiser classification, may the State refuse work product because it was not prepared under a Supervisory Appraiser?**

Yes, this is a determination left to the States.

**Is this still the case if the State were to find the applicant's work samples USPAP compliant?**

Yes, this is still a determination left to the States.

- e) **If a State has requirements for Trainee Appraisers, must the State actually issue a credentialing document?**

AQB Criteria refers specifically to "appraisers holding a Trainee Real Property Appraiser credential . . ." While there are no requirements for a paper document to be issued, States should ensure that Trainee Appraisers are appropriately identified in their administrative systems as credentialed.

- f) A State with a Trainee/Supervisory Appraiser program does not have a procedure in place to track how many Trainee Appraisers each Supervisory Appraiser has agreed to supervise. Will the ASC consider this to be a violation of Title XI?**

AQB Criteria minimum requirements do not allow Supervisory Appraisers to supervise more than three Trainee Appraisers at any given time, unless, as stated in the AQB Criteria, the State Program “provides for progress monitoring, supervising certified appraiser qualifications, and supervision and oversight requirements” for Supervisory Appraisers. Therefore, the State must have policies and procedures in place to demonstrate compliance with AQB Criteria.

- g) During a Compliance Review after July 1, 2013, the ASC determines the State’s Trainee Appraiser requirements do not meet the AQB minimums in all respects. Will the ASC find the State out of compliance?**

Yes. The State would be cited for non-compliance in this area. States must have a process in place that ensures both Trainee Appraisers and Supervisory Appraisers are AQB compliant.

- h) A State has some requirements about appraisers supervising individuals wishing to become licensed or certified. Does this mean the State must have AQB-compliant requirements for both Trainee Appraisers and Supervisory Appraisers?**

Yes. Any requirements for either category will trigger the requirement for AQB Criteria minimum qualification requirements for both categories. A State, however, is not required to have a Trainee/Supervisory Appraiser program.

- i) A State with a Trainee/Supervisory Appraiser program also allows unlicensed individuals to gain experience toward credentialing outside the Trainee/Supervisory Appraiser program. Do AQB Criteria restrictions on the number of Trainees a Supervisory Appraiser may supervise apply to the supervising of such unlicensed individuals?**

No. The supervising of such unlicensed individuals is not subject to AQB Criteria. However if the State establishes any requirements regarding a Supervisory/Trainee relationship, it will trigger the requirement for AQB Criteria minimum requirements for both categories. A State, however, is not required to have a Trainee/Supervisory Appraiser program.

## Section 2: Reciprocity

Consistent with Title XI and AQB Criteria, the following is guidance for States on reciprocity and how it will be reviewed during the Compliance Review process.

- I. The 3-prong test set forth in Title XI is the most restrictive reciprocity policy allowed (States may be more “open door”). Applying this most restrictive policy, if the following 3 prongs are met, a State must grant a reciprocal credential:
  - a. applicant holds a valid credential;
  - b. from a Title XI-compliant State; and
  - c. that State’s current “requirements for credentialing” meet or exceed those of the State of application.
- II. IF a State has established additional steps for qualifying for a credential as part of its “administrative process,” those steps are also permissible for reciprocal credentialing (e.g., open book exams, inquiry into pending complaints/discipline, background checks). “Administrative process” is a matter left to the States to develop and document for Policy Managers’ review during the Compliance Review process.
- III. IF a State has additional “requirements for credentialing” that exceed AQB Criteria (e.g. more experience hours), such a requirement may not be imposed upon reciprocal applicants as a condition of reciprocity. It would violate the most restrictive policy allowed (see section I above). However, the State may deny the reciprocal application based on failure to meet the third prong (c above) and refer the application for an alternative credentialing process, initial or otherwise (NOT reciprocity).

Note: Some States will accept education, examination and/or experience from an applicant’s home State, though this is entirely up to the State.

- a) If a State routinely denies applications for appraiser credentials if a complaint is pending against the applicant in any jurisdiction, can the State deny reciprocity to an applicant who has a complaint pending in another jurisdiction?**

If a State has established additional steps for qualifying for a credential as part of its “administrative process,” those steps are also permissible for reciprocal credentialing (e.g., open book exams, inquiry into pending complaints/discipline, background checks). “Administrative process” is a matter left to the States to develop and document for Policy Managers’ review during the Compliance Review process.

**b) A State does not have a Title XI-compliant reciprocity policy in place by July 1<sup>st</sup>.  
What are the implications to the State Program?**

During the Compliance Review process, a non-compliant State would be cited for failing to comply with Title XI reciprocity requirements. While the Dodd-Frank Act amendment is self-enabling (appraiser credentials from a State that does not have a compliant reciprocity policy are not eligible to perform appraisal for FRTs), a State would run the risk of being subject to ASC sanctioning authority.

Title XI requires a State to have, at a minimum, such a policy in place in order for its appraisers to be eligible to perform appraisals for FRTs. Policy Statement 8 sets forth interim sanction authority granted to the ASC by the Dodd-Frank Act, which includes removing appraisers from the National Registry for up to 90 days, thereby rendering (or in this case, confirming) them ineligible to appraise for FRTs. (Note: A State may have a more open door policy and not be in violation of Title XI.)

**c) A State has determined that one or more States do not have credentialing requirements that meet or exceed their own. What must the State have in the file to justify the determination to deny a reciprocal credential on that basis?**

The State must maintain all relevant documentation to enable ASC staff to understand the basis of the determination.

- Must this decision be submitted to the ASC for approval?

No.

- Must the State notify the other State of its decision?

No.

- How often must the State reevaluate the situation to ensure that nothing has changed?

This is entirely up to the State. (In reality, an applicant may challenge the denial of the reciprocal credential to show the State that it is in error due to a change in credentialing requirements. Because credentialing requirements within a State may change, the ASC makes no recommendation on frequency for reevaluating.)

- d) A State already knows that it's neighboring States do not have credentialing requirements that meet or exceed its own and, as such, will not reciprocate with those jurisdictions. Does the fact that the State is not adopting an "open door" policy mean it must now evaluate the credentialing requirements of all States and territories to make a determination regarding each?**

Unless a State has a more "open door policy," it would need to document the basis for its determination that a reciprocal applicant's State credentialing requirements either do or do not "meet or exceed" its own.

(Note: A State may not have an "open door" policy for some States but not for all States. The reciprocity policy required by Title XI does not allow for such selective application by a State.)

- e) The reciprocating State wants to continue to tie those who receive a reciprocal credential to the State upon which the reciprocal credential was based by requiring the appraiser to continue to maintain their credential in the other State. May the reciprocating State do this, and declare the reciprocal credential invalid if the appraiser fails to do so?**

No. Once a reciprocal credential is obtained, it is treated like any other appraiser credential issued by the State.

- f) A State deems the other State's credentialing requirements as failing to meet or exceed its own, so it will not reciprocate with that State. Must the State have alternative procedures to consider credentialing appraisers from that jurisdiction or must the appraisers apply as new applicants and prove education, experience and the examination?**

The State may have an alternative procedure for applicants in this case, however it is not required. For example, if an applicant for reciprocity does not qualify for a reciprocal credential, the State could offer to process the appraiser as a new applicant, but give credit for examination, education and/or experience as a courtesy.

- g) A State has decided to have an "open door" reciprocal policy with one exception: the State wants to require reciprocal applicants to undergo background checks as part of the application process, just as it requires of all new (not renewing) applicants. Can the State do this?**

State may have additional requirements as part of "administrative process" (e.g., open book exams, pending complaints/discipline, background checks). "Administrative process" is a matter left to the States to develop and document for Policy Managers' review during the Compliance Review process.

- h) A State without a State licensed appraiser classification has been told by the ASC that it must offer temporary practice to State licensed level appraisers from other States. Must the State also offer reciprocity to State licensed level appraisers, if all other requirements for reciprocity are met?**

No. Temporary practice is different because Title XI requires States to recognize both certification and license issued by another State under specific circumstances. However, in the case of reciprocity, a State may consider the lack of a licensed appraiser classification in evaluating the credentialing requirements “meets or exceeds test.”

- i) A State has determined that one or two classification’s credentialing requirements of another State meet or exceed their own; may reciprocal recognition be limited to those classifications and still be deemed consistent with Title XI?**

Yes.

- j) A State denies reciprocity to an individual who currently resides in the State but holds a valid license or certificate in another jurisdiction, and is now seeking reciprocity based on that credential. Does this violate Title XI?**

Generally, if all other criteria for reciprocity are met, this would violate Title XI. However, if the State has in place the requirement that residents may only be credentialed through an initial application, then an application for a reciprocal credential from a resident of that State could be denied as part of the State’s “administrative process” and the applicant referred for an initial application instead. “Administrative process” is a matter left to the States to develop and document for Policy Managers’ review during the Compliance Review process.

- k) Can a State deny reciprocity to an individual solely because the applicant was previously issued a credential at the same level by the State which has since lapsed?**

Depending on the State’s policy, regulation and/or statute, the applicant could be subject to reinstatement requirements, or alternatively could be processed either as a new applicant or an applicant for reciprocity, the determining factor being the State’s own requirements.

- l) An appraiser seeking reciprocity holds a credential in good standing in one State, but has been disciplined or previously suspended in three other States. May the reciprocating State consider the discipline and possibly deny reciprocal recognition?**

Yes. States may have additional requirements as part of “administrative process” (e.g., open book exams, pending complaints/discipline, background checks).

“Administrative process” – States develop and document.

“Administrative process” is a matter left to the States to develop and document for Policy Managers’ review during the Compliance Review process.

- m) Do appraisers have to comply with the CE requirements in all States in which they are credentialed, whether by reciprocity or otherwise?**

Yes. However, some States give credit for CE earned in another State, though this is not required.

- n) May States use the phrase “substantially equivalent” in their reciprocity policy/regulation/statute for purposes of comparing credentialing requirements in another State?**

Yes, States may use the term “substantially equivalent” in lieu of “meets or exceeds.” However, because the standard set forth in Title XI is “meets or exceeds,” during a Compliance Review, Policy Managers would review reciprocity files to ensure a State is not applying the language in a more restrictive manner than Title XI’s “meets or exceeds” standard.

- o) May a State require an applicant for reciprocity to provide information on credentialing requirements in the applicant’s home State as part of the application process?**

Title XI and the Policy Statements are silent on how States make the determination that one State’s credentialing requirements meet or exceed their own. States should document the basis for such determination in their files.

- p) May a State condition renewal of a reciprocal credential on a requirement that the home State credential be maintained?**

No. Once a reciprocal credential is issued, it is the same status as credentials issued by initial application and subject to the same State requirements as all other appraisers within the same classification. A State may not impose any condition on renewals of reciprocal credentials that it does not require of all other applicants for renewal.



- q) What if a State has not adopted the AQB Criteria for upgrading; does that State exceed the minimum AQB Criteria?**

The AQB Criteria allows for an alternative method of “upgrading” a credential, however it is not required. A State that does not allow the alternative method could be considered to have in place more strict requirements, depending on how the State processes upgrading of credentials.

## **What Ifs for 2015 Changes**

### **Section 1: Supervisor/Trainee Course**

- a) My State wants to offer its own Supervisor/Trainee course. Can the State do so?**

Yes, so long as it complies with specifications for course content established by the AQB.

- b) Does a Trainee Appraiser who has already taken the required Trainee Appraiser course need to take the course again when becoming eligible to be a Supervisory Appraiser?**

AQB Criteria states that the course must be completed by a Trainee Appraiser before being credentialed, and completed by a Supervisory Appraiser before supervising Trainees.

However, taking the course as Trainee satisfies the requirement if the Trainee later becomes a Supervisory Appraiser.

- c) How long is the Trainee/Supervisor course valid?**

AQB Criteria does not specify a validity period, but does specify that the course is a prerequisite for Trainee Appraisers to obtain a credential, and for Supervisory Appraisers to supervise. States may, however, adopt a stricter requirement and impose a validity period.

## Section 2: Increased Education

- a) **Effective January 1, 2015, a bachelor's degree is required at the Certified Residential and Certified General levels, thereby eliminating the "in lieu of" education option. If a State has been unable to change its statute and/or regulation to eliminate the "in lieu of" education, may the State continue to issue licenses or certificates?**

The State may continue to issue licenses and certificates; however the State must implement the current AQB Criteria minimum requirements. If credentials are issued inappropriately to appraisers, the State could be required to ensure those appraisers meet AQB Criteria within a specific time period or recall the credentials.