

TITLE 10. INVESTMENT
Chapter 6.5 BUREAU OF REAL ESTATE APPRAISERS

FINAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: Align Appraisal Review Requirements with USPAP

Section(s) Affected: Amend Section 3705 of Chapter 6.5 of Title 10 of the California Code of Regulations (CCR)¹.

Updated Information:

The Initial Statement of Reasons is included in the file. The information contained therein is updated as follows.

The 45-day public comment period began on September 26, 2025 and was originally noticed as ending on November 10, 2025. The Bureau of Real Estate Appraisers (Bureau) inadvertently posted the rulemaking documents for this action in a location different than what was indicated in the Notice of Proposed Regulatory Action (“Notice”). After discovering the error, on October 1, 2025, the Bureau mailed, emailed and posted on its website to the location specified in its Notice a “Notice of Extension of Comment Period for Proposed Regulation,” which extended the public comment period to November 17, 2025.

The Bureau received written comments as described below. The comments received as well as the responses to those comments are summarized in the “Objections or Recommendations/Responses” section below. The Bureau considered the comments and authorized modified text changes as follows.

Modified Text

In response to a comment received (see comments “accepted” below), the Bureau made changes to the noticed proposed regulations to strike the word “review” and add it behind the word “appraisal” for consistency in terminology throughout the Bureau’s regulations (see e.g., 10 CCR § 3704) as follows:

(b) Every ~~review~~ appraisal review report upon final completion shall bear the signature and license number of the reviewer. The affixing of such signature and number shall constitute acceptance by the reviewer of responsibility for the review under Standards Rule 3 and 4 of

¹ All CCR references are to Title 10 unless otherwise noted.

USPAP.

The Bureau issued a Notice of Modified Text on December 10, 2025, to make these changes, and that public comment period closed on December 26, 2025. The Bureau received a comment during the 15-day comment period. A summary of the comment received, along with the Bureau's response, is included below.

LOCAL MANDATE

The proposed mandate does not impose a mandate on local agencies or school districts.

SMALL BUSINESS IMPACT

The Bureau has determined that the proposed regulations will not affect small businesses. The Bureau has determined that the proposed regulations will not affect small businesses as stated in the "Business Impact Estimates" section of the Bureau's Notice of Proposed Regulatory Action. Any costs of compliance are a result of current law. This proposal simply conforms the regulation regarding review appraisal requirements to current law and Bureau enforcement practices and would not affect small businesses.

CONSIDERATION OF ALTERNATIVES

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Bureau as part of public comments received would be more effective in carrying out the purpose for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the adopted regulations, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. All recommendations provided during this rulemaking were considered by the Bureau and accepted or rejected as discussed below.

OBJECTIONS OR RECOMMENDATIONS/RESPONSES

Summary and Response to Comments Received During 45- Day Public Comment Period

A. Summary of Comments from Jeremy Baggott, MAI, AI-GRS, Real Property Appraiser

SUMMARY OF COMMENT #1 (September 29, 2025)

In an email to the Bureau dated Monday, September 29, 2025, the commenter asks if the Notice of Proposed Action to amend Section 3705 of Title 10 of the California Code of Regulations related to Alignment of Appraisal Review Requirements with USPAP will be published in the California Regulatory Notice Register.

Bureau Response: The Bureau rejects the comment and declines to make any changes due to this comment. The proposed regulations were published in the California Regulatory Notice Register on Friday, September 26, 2025 (see OAL Notice File No. Z-2025-0916-04) in compliance with the California Administrative Procedure Act (APA). By email on September 29, 2025, a Bureau representative confirmed this publication date and provided the commenter with a link to the Office of Administrative Law’s website for the specific Notice register publication for this rulemaking.

SUMMARY OF COMMENT #2 (September 29, 2025)

In a follow-up email on Monday, September 29, 2025, the commenter asked if the BREA has put the 2024 version of USPAP through a notice-and-comment rulemaking. He states that he scoured the Regulatory Notice Register toward the end of 2023 and the first few months of 2024 and found no sign of it.

Bureau Response: The Bureau rejected this comment and declined to make any changes due to this comment. The Bureau confirmed with the commenter that the specific 2024 version of USPAP did not go through the California regulatory rulemaking process. However, the commenter was referred to the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA -see further discussion immediately below), which authorizes the Appraisal Foundation to set such standards and Business and Professions Code section 11319, which adopts USPAP as the minimum standard of conduct and performance for a licensee in California in any work or service performed that is addressed by the USPAP standards.

FIRREA’s 12 U.S.C. § 323.4 requires, in pertinent part, for all federally related transactions, appraisals shall, in pertinent part, include:

- (a) Conform to generally accepted appraisal standards as evidenced by the **Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the Appraisal Standards Board of the Appraisal Foundation.** (Emphasis added.)

The mandate for California and other states to enforce appraiser compliance with the Uniform Standards of Professional Appraisal Practice (USPAP) is established under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), which is codified primarily in 12 U.S.C. §§ 3331–3351. In particular, 12 U.S.C. § 3348 (recognition of state certified and licensed appraisers): defines state-certified and state-licensed appraisers as those who have satisfied requirements in states where the licensing procedures comply with Title XI and the consequences for failing to follow the requirements, effectively forcing states to adopt and enforce USPAP to remain compliant.

Through these provisions, FIRREA creates a system where states must implement and enforce USPAP through their own regulatory agencies to allow their appraisers to work on federally related transactions, which includes any real estate-related financial transaction that:

- (A) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and
(B) requires the services of an appraiser. (12 USC § 3350.)

To comply with that FIRREA mandate and the Bureau's Real Estate Appraisers' Licensing and Certification Law, the Bureau has adopted regulations that incorporate the USPAP standards. While the specific version of the USPAP mentioned by the commenter was not put through a rulemaking by the Bureau, the Bureau has adopted California Code of Regulations, title 10, section 3701, which effectively incorporates the current USPAP standards. Section 3701 states:

Every holder of a license under this part **shall conform to and observe the Uniform Standards of Professional Appraisal Practice (USPAP) and any subsequent amendments thereto** as promulgated by the Appraisal Standards Board of The Appraisal Foundation which standards are herein **incorporated into these regulations by reference as if fully set forth herein**. (Emphasis added.)

Business and Professions Code section 11314 provides, in pertinent part:

"The bureau is **required to include in its regulations** requirements for licensure and discipline of real estate appraisers that ensure protection of the public interest and **comply in all respects with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law 101-731 and any subsequent amendments thereto**. Requirements for each level of licensure shall, at a minimum, meet the criteria established by the Appraiser Qualification Board of the Appraisal Foundation." (Emphasis added.)

Since California law mandates the enforcement of these standards at Business and Professions Code sections 11314 (including "subsequent amendments" to USPAP), 11319, 11328, 11340(c), 11345.3, and 11345.6, the Bureau has properly incorporated by reference subsequent amendments to USPAP in this manner in accordance with California Code of Regulations, title 1, section 20(c)(4) and as previously approved by the Office of Administrative Law. Since the amended 2024 USPAP standards are already effectively incorporated by reference in Section 3701, it is not necessary to repeat them here.

SUMMARY OF COMMENT #3 (October 1, 2025)

In an email to the Bureau dated Wednesday, October 1, 2025, the commenter states:

"The wording of the proposed rule is in violation of state administrative law and the state Constitution. It does not provide the version name of the code it incorporates by reference, for example, the "2024 Uniform Standards of Professional Appraisal Practice." This is a big omission.

The wording of the proposed rule reinforces an existing so-called "rolling incorporation

by reference" allowing for enforcement of the 2024 version (unadopted but enforced by your agency) and unwritten future versions of the continually changing code in perpetuity. It effectively makes the code's publisher a fourth branch of state government. It has created a yearslong "underground regulation," to use a term coined by the California Office of Administrative Law.

The California Bureau of Real Estate Appraisers has never adopted this version of the code or exposed this version – or any previous version for that matter – to a required notice-and-comment rulemaking pursuant to the procedures and standards set forth in California's Administrative Procedure Act (Government Code § 11340 et seq.) and 1 CCR § 20, which requires documents incorporated by reference into a state regulation "be incorporated by title and date of publication or issuance." The neglect also violates the non-delegation doctrine of the California Constitution.

Since the code's federal incorporation by reference into the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) has been included as justification for the neglect in the proposed wording for the state regulation, please be aware that the federal statute does not name any specific version of the code. Instead, it relies on the authorizing statute of a little-known organization called the Appraisal Subcommittee of the Federal Financial Institutions Examination Council to adopt versions of the code the federal government wishes to make enforceable.

Not only has no specific version ever been submitted to the Director of the Federal Register for a federal NPRM notice-and-comment rulemaking, but the Director of the Federal Register will not allow an industry code to be incorporated by reference into a federal regulation without the document's full name and effective date. There are 25 versions of this particular code in all. None has ever been legally adopted in California or federally. The code's Washington, D.C., publisher has learned to monetize the neglect.

The enforcement flexibility and convenience you've created here comes at the expense of two things needed for the survival of your stakeholders: predictability and the rule of law."

Bureau Response: The Bureau rejected this comment and declines to make any changes in response to this comment. Please see the Bureau's response to the commenter's COMMENT #2 above. Again, BPC section 11314 requires the Bureau to adopt these USPAP standards and "any subsequent amendments thereto" in its regulations. California Code of Regulations, title 1, section 20(c)(4) provides that a regulation does need to provide the date of publication or issuance under the following circumstances:

(4) The regulation text states that the document is incorporated by reference and identifies the document by title and date of publication or issuance. **Where an authorizing California statute or other applicable law requires the adoption or enforcement of the incorporated provisions of the document as well as any subsequent amendments thereto, no specific date is required.** (Emphasis added.)

As a result, the Bureau's incorporated standards at 10 CCR section 3701 are compliant with California law governing incorporation by reference.

It is unclear what the commenter means when he refers to this practice violating the non-delegation doctrine of the California Constitution. However, the Bureau believes that the courts have found that incorporation by reference of external documents and standards to be lawful exercises of an agency's discretion, which are also scrutinized by the Office of Administrative Law to ensure compliance with the APA. (See 1 CCR § 20; *Kings Rehabilitation Ctr., Inc. v. Premo* (1999) 69 Cal.App.4th 215, 217-220 (upholding regulation and practice of incorporation by reference.))

With respect to the commenter's concern that the federal FIRREA statute does not name any specific version of the code and no specific version ever been submitted to the Director of the Federal Register for a federal NPRM notice-and-comment rulemaking, the federal Administrative Procedure Act provisions do not govern compliance here (5 U.S.C. § 701 et seq. -- the federal APA applies to both the federal executive departments and agencies), rather the Bureau is required to comply with the California Administrative Procedure Act (Gov. Code, §§ 11340 et seq.) and has done so legally as noted above and as explained in response to Comment #2 above. In the Bureau's experience, updates to its regulations as proposed here, help ensure that stakeholders are made "predictably" made aware of changes to the USPAP standards over time.

B. Summary of Comments from Stephen (Steve) Roach, MAI, SRA, AI-GRS, CDEI:

In an email sent on Monday, September 29, 2025, the commenter commented on this language from the proposed rule: "(b) Every review appraisal report upon final completion shall bear the signature and license number of the reviewer."

The commenter states that "[s]imply put, there is no such thing as a "review appraisal report"; this term does not appear in USPAP. The correct term is "appraisal review report", a term that appears many times in USPAP. In fact, the title of Standards Rule 4-2 is shown at line 940 as "STANDARDS RULE 4-2, CONTENT OF AN APPRAISAL REVIEW REPORT". Thank you for this opportunity to comment. The precision of the language in rules and laws is important, and this new rule should use the correct terminology."

Bureau Response: The Bureau accepts this comment and agrees that for consistency with USPAP standards and in the Bureau's regulations, the text should be amended to use the correct "appraisal review report" terminology. The following modified text changes were made to the text at subsection (b) in response to this comment:

(b) Every ~~review~~ appraisal review report upon final completion shall bear the signature and license number of the reviewer. The affixing of such signature and number shall constitute acceptance by the reviewer of responsibility for the review under Standardsu

Rule 3 and 4 of USPAP.

C. Summary of Comments from Albert W. Franke, III, MAI, SRA (email dated October 3, 2025), Kimberly De Filippis, AGA (email dated October 3, 2025), Chris Call, ASA, IFA, GAA (email dated October 3, 2025), Henry Arlin Salmon, CREA (emailed from “Paula Dowling” email dated October 3, 2025), Max Boxberger, Certified General Appraiser (email dated October 3, 2025), William W. Moroney, Jr, MAI (email dated October 3, 2025), Wayne F. Prescott, MAI (email dated October 3, 2025), Neill F. McDonald, MAI, AI-GRS (email dated October 3, 2025), and Warren H. Neville (email dated October 4, 2025):

All commenters listed above submitted the same comments verbatim as Mr. Baggott did and therefore the Bureau incorporates by reference the summary of his COMMENT #3 (October 1, 2025) listed above for these comments here. The commenters also added the following statement to the end of their letters that was not in Mr. Baggott’s comment: “The California Bureau of Real Estate Appraisers currently provides neither”, which refers to a prior statement concerning “predictability and the rule of law”. Mr. Boxberger also noted that “I have been puzzled and frustrated for over 20 years by the many changes (from the trivial to the substantial) in ‘USPAP’.

Bureau Response: The Bureau rejects these comments, and no changes were made to the text based upon these comments for the reasons noted above in response to Mr. Baggott’s COMMENT #3 (October 1, 2025).

D. Summary of Comments from James Pratt, AR029013:

In an email sent on Tuesday, September 30, 2025, the commenter stated:

“Many years back I sent a report to you to be reviewed about 18 months or so later I sent a second report Time went by, more than 6 months

Then one day out of the blue someone from your office called me He asked if I could provide any more data for the report now under Review As it had been over 2 years for the original report I sent in I took it to mean that he was looking for data on the second report how wrong I was

It was the first report that I sent in **OVER TWO YEARS** prior I still had the data WHY Because this was in my view **FRAUD** and BREA should have Contacted the **FEDS**

Anyway, due to the Review Process taking **FAR TO LONG**

I want to offer an Idea that would HELP your team to comb through what is clearly a stack of work that is building faster than it can be gone through

SIMPLE SYSTEM

When a report comes in for Review, a Complaint has been filed it gets a LEVEL 1 Review

This review is QUICK and is Related to JUST the Points that were the Reason for it to be Sent to BREa

No Spell Check, No Punctuation Check, No Did Grannies Underwear show up in a Photo

If the Reason for the complaint appears to have Merit then it goes in

STACK A with comments

from the Reviewer as to How the complaint appears to be WORTHY of a Level 2 Review

If not, then comments are noted that the complaint appears NOT to be WORTHY of any

further review and Why

This then goes into **Stack B** and is Filed away

The above is QUICK and SIMPLE as it ONLY Requires a CLERK on your End

How

When a Report comes in to BREa, the Clerk logs it in

Then it is Passed on to an APPRAISER (Certified) from an Area NOT Adjacent to the County

where the Original Appraiser or Subject Property is located

example, I am in Shasta County, So I could review reports from Mendocino, Lake, Glenn,

Butte, Sierra and other counties south of there

Note, I am NOT Reading the Entire Report for Issues or even USPAP

I am taking the COMPLAINT and Reviewing JUST for what is related to it, reviewing any data

that was provided with the Complaint and nothing more

To this point ONLY the Clerk at BREa has even seen the Report

It has been may be a Week

and the Cursory First Review has been Completed

I estimate that between 70 and 80% of all complaints would fall into this area

reducing the
Deep Reviews for your staff to manageable levels

A REPORT WORTHY OF A FULL REVIEW (Level 2)

If a review deems that the Complaint is WORTHY of a Deeper Review then your Staff takes on the review from that point

I would expect this could reduce the Time Frame from Complaint Delivery to Deep Review from YEARS to just a Few Months

How to Treat the Review Team (like me) as regards to employment

We would be treated as Independent Contractors (1099)

We would be Required to maintain a work file for each report

Fees would be Pre-Set (*think VA*)

in my view the Fee for each Review maybe \$100 or \$200

as we are NOT reviewing the Full Report, just the details related to the complaint

Appraisers must agree to ONLY Accept Reviews that they can turn around in 3 Days or less

Yes

Appraisers may be removed from the Approved List if they fail to perform sd required

I know this was Long, but if anyone at BREA would like to have a Face-to-Face about this

over lunch or coffee it is about a 3 hour drive for me to meet with your team.

I would be happy to meet with anyone to go over this or any other options that the team

has been considering putting into effect”

Bureau Response: The Bureau rejects these comments, and no changes were made to the text based upon these comments as the comments are not directed to the Bureau’s proposed rulemaking action or to the procedures followed by the Bureau in proposing or adopting this action.

E. Summary of Comments from Mark DiGaetano, AR 017189:

In an email sent on Wednesday, October 1, 2025, the commenter asked the following questions about the Bureau’s Notice of Proposed Regulatory Action Concerning: Align Appraisal Review requirements with USPAP:

“The written comment period shows a due date of November 10,2025.
Has this date been extended?
Notice of Citation indicates due date of October 15,2025.
Has the Notice of Citation been extended to November 10?”

Bureau Response: The Bureau rejects these comments, and no changes were made to the text based upon these comments as the comments are not directed to the Bureau’s proposed rulemaking action or to the procedures followed by the Bureau in proposing or adopting this action.

F. Summary of Comments from Kevin Moore

The commenter sent an email on Wednesday, October 1, 2025 acknowledging the Bureau’s Notice of Proposed Regulatory Action email with “I got it.”

Bureau response: The Bureau acknowledges this receipt from the commenter, but no changes were in response to this comment.

G. Summary of Comments from Joseph Baldino, AR 001957

In an email sent on Sunday, October 19, 2025, the commenter stated:

YOU SHOULD MAKE ALL CHANGES NECESSARY BUT MORE IMPORTANT THAN THAT IS

YOU SHOLD REQUIRE THE USPAP CLASS & STATE LAW CLASS & THE CLASS ON BIAS IS APPRAISING ALL BE REQUIRED TO BE LIVE IN PERSON CLASSES. THESE ARE THE MOST IMPORTANT CLASSES WE CAN TAKE FOR APPRAISING. WHEN YOU TAKE AN ON LINE CLASS I LEARN NOTHING THERE IS NO INTERACTION WITH OTHERS THAT CAN ASK A QUESTION THAT YOU DID NOT THINK OF & YOU LEARN SOMETHING YOU WOULD HAVE NEVER LEARNED. BREA SHOULD BE A LEADER SO THAT APPRAISERS IN CALIFORNIA ARE THE BEST IN THE COUNTRY I KNOW APPRAISERS WHO NEVER EVEN READ WHAT IT THERE ON MANY CLASSES & KNOW ENOUGH TO PASS THE MICKEY MOUSE QUESTIONS AT THE END OF EACH CHAPTER IT WILL NOT COST THE STATE ANYTHING TO REQUIRE THOSE CLASSES TO BE LIVE INPERSON CLASSES.

I HAVE BEEN AN APPRAISER SINCE 1976 THERE ARE NOT MANY

APPRAISERS THAT HAVE BEEN AROUND AS LONG AS I HAVE
I HAVE SEEN THE CHANGES IN THE INDUSTRY MOST FOR THE GOOD OF
ALL OF US. THE STATE SHOULD MAKE THE MOVE
TO REQUIRE THOSE CLASSES TO BE LIVE IN PERSON CLASSES

Bureau Response: The Bureau rejects these comments, and no changes were made to the text based upon these comments as the comments are not directed to the current scope of the Bureau’s proposed rulemaking action or to the procedures followed by the Bureau in proposing or adopting this action. This proposal would update the Bureau’s regulations consistent with USPAP review appraisal requirements by retaining USPAP Standard 3, while adding a reference to USPAP Standard 4 in CCR section 3705(b) as further described in the Bureau’s Notice of Proposed Regulatory Action and its Initial Statement of Reasons. To review other rulemaking proposals and regulatory actions, the commenter is directed to the Bureau’s website for the posting of proposed regulations at: <https://www.brea.ca.gov/html/rulemaking.html>.

COMMENTS RECEIVED DURING THE 15-DAY MODIFIED TEXT PUBLIC COMMENT PERIOD (December 10, 2025 through December 26, 2025)

Summary of Comments from Joseph Baldino:

In an email sent on Thursday, December 11, 2025, the commenter asked:

IT MAKES NO SENSE TO ME IF HAS BEEN THIS WAY FOR OVER 30 YEARS
WHAT DIFFERENCE DOES IT MAKE NOW
I DO NOT UNDERSTAND WHAT THE DIFFERENCE IS?
SEEMS LIKE A WASTE OF TIME
NO WHERE DO YOU EXPLAIN THE DIFFERENCE OR CONSEQUENCES OF
NOT DOING THIS?

Bureau response: The Bureau rejects these comments, and no changes were made to the text based upon these comments. The Bureau is making these changes in response to comments received from the public (see Bureau’s response and explanation under Comment Item B. noted above). In addition, the changes from “review appraisal” report to “appraisal review” report are self-evident and simply involve a technical clean-up to terminology for consistency with USPAP and other Bureau regulations. The Notice of Modified Text posted and mailed or emailed on December 10, 2025 also specifically advises that: “All written comments received by December 26, 2025, that pertain to these modifications will be reviewed and responded to by the Bureau's staff as part of the compilation of the rulemaking file.” Consistent with that notice, this response is hereby provided and the response made available as part of this final statement of reasons.