STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS, DESIGNERS, AND PROFESSIONAL LAND SURVEYORS

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS, DESIGNERS, AND PROFESSIONAL LAND SURVEYORS	:	PROPOSED ORDER OF THE EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS, DESIGNERS, AND PROFESSIONAL LAND SURVEYORS ADOPTING RULES (CLEARINGHOUSE RULE 19-153)

PROPOSED ORDER

An order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors to repeal s. A-E 7.02 (1) and (2) and s. A-E 7.06 (2); to renumber and amend s. A-E 7.03 and s. A-E 7.08 (2); to amend s. A-E 7.02 (3), s. A-E 7.025, s. A-E 7.04 (1), (3), and (4), s. A-E 7.05, s. A-E 7.06 (title) and (1), s. A-E 7.06 (3), s. A-E 7.07, s. A-E 7.08 (1) (intro.) and (a) to (c), s. A-E 7.08 (2) (Note), and s. A-E 7.08 (3) (i); to repeal and recreate s. A-E 7.01; and to create s. A-E 7.02 (1m), s. A-E 7.03 (2), s. A-E 7.05 (7m), s. A-E 7.06 (1m), s. A-E 7.08 (1g) and (1r), s. A-E 7.08 (2) (b), and s. A-E 7.08 (4), relating to minimum standards for property surveys.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 443.015 (2) and 443.12 (1), Stats.

Statutory authority: ss. 15.08 (5) (b) and 443.015 (2), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides an examining board, "shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains…"

Section 443.015 (2), Stats., provides that "each section of the examining board may promulgate rules governing the professional conduct of individuals, firms, partnerships, and corporations registered, permitted, certified, or granted a certificate of authorization by that section."

Related statute or rule:

A-E 2, relating to general requirements and procedures; A-E 8, relating to professional conduct

Plain language analysis:

The Section conducted an evaluation and update of ch. A-E 7 to ensure consistency with current professional practices and applicable Wisconsin statutes. As a result, the following updates have been made:

- Recreates A-E 7.01 to require that all property surveys performed by professional land surveyors comply with the minimum accuracies required by A-E 7.06, and to enumerate the sections of A-E 7 that professional land surveyors and clients may exclude from their contracts.
- Amends the definition of "survey report" to remove the requirement that the existing map have been recorded or filed within the last 6 years.
- Clarifies that maps shall show evidence of possession or use by others if observed by the professional land surveyor while establishing corners.
- Creates requirements for U.S. Public Land Survey Monument Record Addendums, as an alternative to U.S. Public Land Survey Monument Records, where the witness ties or monuments have been destroyed or disturbed.
- Replaces references to "registers of deeds" or "county surveyor" with "the county office deemed appropriate to receive and retain property survey records."
- Simplifies the relative positional accuracy measurements provision.
- Amends the chapter to conform to drafting standards for consistency and clarity, revises provisions to be more clear, and updates cross-references in light of other amendments.

Summary of, and comparison with, existing or proposed federal regulation:

When the land was first surveyed in Wisconsin, it was divided into a grid and each grid is approximately 36 square miles (the measurements were not always precise due to the instruments the surveyors were using, among other limitations). This grid system is known as the U.S. Public Land Survey System (PLSS). Where federal interests and rights exist, the Bureau of Land Management (BLM) is the legally identified authority and data steward for the PLSS under the Office of Management and Budget (OMB) Revised Circular A-16. The Circular provides direction for federal agencies that produce, maintain, or use spatial data either directly or indirectly in the fulfillment of their mission and provides for improvements in the coordination and use of spatial data. The Circular also describes effective and economical use and management of spatial data assets in the digital environment for the benefit of the federal government and the nation. The Circular establishes a coordinated approach to electronically develop the National Spatial Data Infrastructure and establishes the Federal Geographic Data Committee (FGDC).

Individual states and counties have authority and data stewardship where no such federal interests or rights exist.

Comparison with rules in adjacent states:

Illinois:

The Land Surveyors Licensing Board is under the Illinois Department of Financial and Professional Regulation and advises the Secretary on matters of education, experience, professional conduct and competence. Illinois has a chapter on the Minimum Standards of Practice for professional land surveyors. The chapter outlines standards for ALTA/ACSM land title surveys, boundary surveys, condominium surveys, subdivision surveys, mortgage inspections, topographic surveys, and minimum standards for writing parcel legal descriptions. Section 1270.56, Illinois Administrative Code.

Iowa:

The Engineering and Land Surveying Examining Board is under the Iowa Professional Licensing Bureau. Iowa has a chapter on Standards for Land Surveying for professional land surveyors. The chapter outlines standards for plats of surveys, plats for subdivisions, U.S. public land survey corner certificates, and requirements relating to the Iowa plane coordinate system, boundary locations, measurements, and monumentation. Chapter 355, Standards for Land Surveying.

Michigan:

The Michigan Board of Professional Surveyors is under the Department of Licensing and Regulatory Affairs. Michigan has standards of practice and professional conduct on the solicitation of employment, conflicts of interest, and requirements for competence and that, "[a] licensee is responsible for clear, accurate, and complete development of plats, plans, drawings, specifications, survey reports, and other instruments of service as is customary in the practice of the licensee's profession, and the material shall properly satisfy the need for which it is intended." R 339.17403 (2), Michigan Administrative Code. No more specific minimum standards for property surveys are established by administrative rule.

Minnesota:

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design regulates the professions and enforces the statutes and rules in order to protect the health, safety and welfare of the public. Chapter 1805 outlines rules of professional conduct for all of the professions of the Board for professional and personal conduct, conflicts of interest, improper solicitation of employment, false or malicious statements, knowledge of the misconduct of others, and discrimination. Chapter 1805, Minnesota Rules. No more specific minimum standards for property surveys are established by administrative rule.

Summary of factual data and analytical methodologies:

The Professional Land Surveyor Section of the A-E Board reached out to stakeholders once the scope statement was approved for implementation to gather input from interested parties. The Wisconsin Society of Land Surveyors submitted comments which were considered and acted upon by the Professional Land Surveyors Section at their

August 22, 2018 meeting. A draft of A-E 7 was further considered at the November 1, 2018 meeting. On December 3, 2018, the working draft of A-E 7 was posted on the department website to provide opportunity for stakeholders to consider the proposed amendments. The Professional Land Surveyor Section met on January 10, 2019 to consider public comments on the proposed amendments to A-E 7. After further amendments in response to public comments, the working draft of A-E 7 was posted on the department website on January 14, 2018. The Professional Land Surveyor Section met on April 23, 2019 to consider public comments on the proposed amendments to A-E 7 before approving the preliminary rule draft, with additional clarifications, to the A-E Rules Committee and A-E Board.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held on the proposed rules. Information concerning the date, time, and location of the public hearing will be published in the Wisconsin Administrative Register and posted on the Legislature's website at https://docs.legis.wisconsin.gov/code/chr/hearings.

TEXT OF RULE

SECTION 1. A-E 7.01 is repealed and recreated to read:

A-E 7.01 Scope. (1) The minimum standards of this chapter apply to any property survey performed by professional land surveyors in this state, except where otherwise provided in this chapter.

(2) The minimum accuracies in s. A-E 7.06 apply to any property survey performed by professional land surveyors in this state.

(3) If other standards for property surveys are prescribed by statute, administrative rule, or ordinance, and the standards are more restrictive than those in this chapter, the more restrictive standards govern.

(4) Except with regard to a U.S. public land survey monument record or addendum and a map of work performed, the professional land surveyor and client may enter into a written agreement, signed by both parties, to exclude land surveying work from the requirements of ss. A-E 7.03 (2), 7.05 (5) and (7m), and 7.07, where all of the following are performed:

(a) The professional land surveyor shall certify on the face of the map to the existence of the agreement.

(b) The map includes a note which states that an agreement to exclude work from the requirements of this chapter has been made and a list of those exclusions.

SECTION 2. A-E 7.02 (1) and (2) are repealed.

SECTION 3. A-E 7.02 (1m) is created to read:

A-E 7.02 (1m) "Property survey" means an activity performed in the practice of professional land surveying, as defined in s. 443.01 (6s), Stats., or the result of such activity.

SECTION 4. A-E 7.02 (3) is amended to read:

A-E 7.02 (3) "Survey report" means a ~~report~~ property survey that may be prepared in compliance with s. A-E 7.025 when there is an existing map recorded or filed ~~within the last 6 years~~ and no new monuments are established in the survey.

SECTION 5. A-E 7.025 is amended to read:

A-E 7.025 Survey report, requirements. A survey report, as defined in A-E 7.02 (3), shall include the purpose of the survey, information concerning the documents that were examined for the survey, and the measurements that were made to verify the locations of the monuments found~~, and a copy of the map that was recorded or filed~~. The survey report shall be in compliance with all sections of this chapter ~~except s. A-E 7.05 (1), (2), (3), and (4)~~ and shall be filed as required under s. 59.45 (1), Stats., on media accepted by the county.

SECTION 6. A-E 7.03 is renumbered A-E 7.03 (1) and is amended to read:

A-E 7.03 Boundary location. (1) Every property survey shall be made in accordance with the records of the register of deeds as nearly as practicable. The professional land surveyor shall acquire data necessary to retrace record title boundaries such as U.S. Public Land Survey Monument Records, deeds, surveys, maps, certificates of title, highway, and center line or right-of-way lines, and other boundary line locations. The professional land surveyor shall make field measurements necessary for the location of the parcel and shall analyze the data and make a careful determination of the position of the boundaries of the parcel being surveyed. ~~The professional land surveyor shall set monuments marking the corners of the parcel unless monuments already exist at the corners.~~

SECTION 7. A-E 7.03 (2) is created to read:

A-E 7.03 (2) The professional land surveyor shall set monuments marking the corners of the parcel unless monuments already exist at the corners.

SECTION 8. A-E 7.04 (1), (3), and (4) are amended to read:

(1) By metes and bounds commencing with a monument at a section corner or quarter section corner of the quarter section in which that land is located or a monument established by the U.S. Public Land Survey that it is not the center of the section, or commencing with a monument at the end of a boundary line of a recorded private claim or federal reservation in which the land is located. Descriptions shall meet the requirements in s. A-E 7.06 ~~(3)~~.

(3) By land boundaries being surveyed as an existing lot, outlot or parcel, on a recorded certified survey map, the <u>property</u> survey shall be described by lot, outlot or parcel number and certified map number for all purposes.

(4) By the parcel described as an aliquot part of a section from the ~~public land system~~ <u>U.S. Public Land Survey</u>.

SECTION 9. A-E 7.05 is amended to read:

A-E 7.05 Maps. A map shall be drawn for every property survey, unless a survey report is filed as provided in s. A-E ~~7.02 (3)~~ <u>7.025</u>, showing information developed by the <u>property</u> survey. The map shall <u>include all of the following requirements</u>:

(1) ~~Be~~ <u>The map shall be</u> drawn on media with the minimum size of 8 ½ x 11 inches and to a commonly accepted scale which shall be clearly stated and graphically illustrated by a bar scale on each map sheet containing a graphical depiction of the <u>property</u> survey unless otherwise required by law.

(2) ~~Be~~ <u>The map shall be</u> referenced as provided in s. 59.73 (1), Stats., along with a north arrow and reference to a monumented line.

(3) ~~Show~~ <u>The map shall show</u> the length and bearing of the boundaries of the parcels surveyed. Bearings, angles, and distances on any property survey map shall be in accordance with s. A-E 7.06 (5). Where the boundary lines show bearings, lengths or

locations which vary from those recorded in deeds, abutting plats, or other instruments, there shall be the following note placed along such line, "recorded as (show recorded bearing, length or location)". Curve data shall be shown by ~~any~~ at least 3 of the following: central angle, radius, long chord bearing and length, and arc length.

(4) ~~Describe all~~ The map shall describe by bearing and distance the corner monuments used ~~for~~ in determining the location of the parcel boundary and show by bearing and distance ~~their~~ the relationship of at least 2 government monuments, if not previously tied, and all newly established monuments, to the surveyed parcel. All the monuments shown on the map shall indicate whether such monuments were found or set, including a description of the monument with a legend or notes for all symbols and abbreviations used on the map.

(5) ~~Show observed~~ The map shall show evidence of possession or use by others in the parcel or across any perimeter line of the property if observed by the professional land surveyor while establishing corners.

(6) ~~Show~~ The map shall show surveyed parcel bounded by water or inaccessible areas, the part shall be enclosed by a meander line showing complete data along all lines extending beyond the enclosure. The true boundary shall be clearly indicated on the map.

(7) ~~Identify~~ The map shall identify the professional land surveyor's name and address, ~~the person or entity for whom the survey was made,~~ completion date of the field work, and description of the parcel as provided in s. A-E 7.04.

(7m) The map shall identify the person or entity for whom the property survey was made.

(8) ~~Bear~~ The map shall bear the stamp or seal, name and address and signature of the professional land surveyor under whose direction and control the property survey was made with a statement certifying that the property survey complies with this chapter and is correct to the best of the professional land surveyor's knowledge and belief.

(10) ~~Identify~~ The map shall identify boundary lines on the property survey. Boundary lines shall be clearly differentiated from other lines on the map.

(11) ~~Coordinate~~ When coordinate values ~~when~~ are shown on the face of the map ~~they~~ , the map shall comply with and be subject to the provisions of s. 236.18, Stats., and include the coordinate system, datum, and adjustment.

SECTION 10. A-E 7.06 (title) and (1) are amended to read:

A-E 7.06 (title) ~~Measurements~~ Relative positional accuracy measurements.
(1) Measurements shall be made with instruments and methods capable of attaining the ~~required accuracy for the particular circumstances involved~~ relative positional accuracy in accordance with this section.

SECTION 11. A-E 7.06 (1m) is created to read:

A-E 7.06 (1m) Relative positional accuracy shall be the value expressed in feet that represents the uncertainty between points of the boundary of the parcel being surveyed due to random errors in measurements at a 95 percent confidence level.

SECTION 12. A-E 7.06 (2) is repealed.

SECTION 13. A-E 7.06 (3) is amended to read:

A-E 7.06 (3) The maximum allowable deviation in relative positional accuracy ~~for a survey is plus or minus 0.07 foot plus 50 parts per million, based on the direct distance~~ between ~~the~~ any two adjacent property corners ~~being tested. In certain circumstances, the size or configuration of the surveyed property, or the relief, vegetation or improvements on the surveyed property will result in survey measurements for which the maximum allowable relative positional precision may be exceeded at the discretion of the licensee performing the survey. The licensee shall provide justification for exceeding the maximum allowable relative positional accuracy.~~ may not exceed plus or minus 0.13 foot plus 100 parts per million.

SECTION 14. A-E 7.07 is amended to read:

A-E 7.07 Monuments. The type and position of monuments to be set on any property survey shall be according to s. 236.15 (1), Stats., unless determined by the nature of the property survey, the permanency required, the nature of the terrain, the cadastral features involved, and the availability of material. Coordinate values are not acceptable in lieu of monuments.

SECTION 15. A-E 7.08 (1) (intro.) and (a) to (c) are amended to read:

A-E 7.08 (1) WHEN MONUMENT RECORD REQUIRED. A U.S. public land survey monument record or U.S. public land survey monument record addendum shall be prepared and filed with the county survey records as part of any land survey within 60 days ~~of setting or accepting the corner which includes or requires the perpetuation, restoration, or use of~~ if a U.S. public land survey corner has been reestablished, perpetuated, or restored and a monument set or reset, and when any of the following situations arise:

(a) There is no U.S. public land survey monument record for the corner on file in the office of the county surveyor or ~~the register of deeds for the county in which the corner is located; or,~~ the county office deemed appropriate to receive and retain property survey records.

(b) The professional land surveyor who performs the property survey accepts a location for the U.S. public land survey corner which differs from that shown on a U.S. public land survey monument record filed in the office of the county surveyor or ~~register of deeds for the county in which the corner is located; or,~~ the county office deemed appropriate to receive and retain property survey records.

(c) The ~~witness ties or~~ U.S. public land survey monument referenced in an existing U.S. public land survey monument record ~~have~~ that has been destroyed or disturbed~~, except where the witness ties and the U.S. public land survey monument referenced in an existing U.S. public land survey monument record have been found and verified and a note stating this has been placed on the property survey~~.

SECTION 16. A-E 7.08 (1g) and (1r) are created to read:

A-E 7.08 (1g) VERIFICATION OF THE MONUMENT. If a U.S. public land survey corner monument of record is recovered in place and holding securely at the previously documented corner location, based on the witness ties, no additional U.S. public land survey monument record or U.S. public land survey monument record addendum shall be required. Where the U.S. public land survey monument referenced in an existing U.S. public land survey monument record have been found and verified, a note stating this shall be placed on the property survey.

(1r) WAIVER OF THE MONUMENT RECORD. The preparation of a U. S. public land survey monument record or U. S. public land survey monument addendum may be waived in writing by the county surveyor of the county in which the U.S. public land survey corner is located, if a U.S. public land survey monument record is on file and the county surveyor has an active U.S. public land survey monument maintenance program in place.

SECTION 17. A-E 7.08 (2) is renumbered A-E 7.08 (2) (a) and amended to read:

A-E 7.08 (2) FORM REQUIRED. **(a)** A U.S. public land survey monument record shall be prepared for items (1) (a) and (b) on the ~~board~~ approved form or on a form substantially the same as the ~~board~~ approved form which includes all the elements required by this section. A form used for this purpose shall be entitled, "U.S. Public Land Survey Monument Record".

SECTION 18. A-E 7.08 (2) (b) is created to read:

A-E 7.08 (2) (b) A U.S. public land survey monument record addendum shall be prepared for item (1) (c) on the approved form or on a form substantially the same as the approved form. A form used for this purpose shall be entitled, "U.S. Public Land Survey Monument Record Addendum".

SECTION 19. A-E 7.08 (2) (Note) is amended to read:

A-E 7.08 (2) (Note) Forms are available on the department's website at dsps.wi.gov, or ~~by calling~~ by request from the Department of Safety and Professional Services, P.O. Box 8935, Madison, Wisconsin 53708, or call (608) 266 - 2112.

SECTION 20. A-E 7.08 (3) (i) is amended to read:

A-E 7.08 (3) (i) The stamp and signature or seal and signature of the professional land surveyor under whose direction and control the corner location was determined and a statement certifying that the U.S. public land survey monument record is correct and complete to the best of ~~his or her~~ the professional land surveyor's knowledge and belief.

SECTION 21. A-E 7.08 (4) is created to read:

A-E 7.08 (4) MONUMENT RECORD ADDENDUM REQUIREMENTS. A U.S. public land survey monument record addendum shall include all of the following elements:

(a) The monument marking the corner location, or monuments giving reference to a nearby inaccessible corner location, and include the elements found in sub. (3) (a), (b), (d), and (e).
(b) A description of the record evidence used to reset the corner monument back in its prior location.
(c) The stamp and signature or seal and signature of the professional land surveyor under whose direction and control the corner location was determined or witness monument established.
(d) A statement certifying that the U.S. public land survey monument record addendum is correct and complete to the best of the professional land surveyor's knowledge and belief.

SECTION 22. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

This Proposed Order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors is approved for submission to the Governor and Legislature.

Dated _____ Agency _____

Chair
Rules Committee
Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors