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# Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.

<b>Agency/Board/Commission:</b>	Tennessee State Board of Architectural and Engineering Examiners
<b>Division:</b>	Division of Regulatory Boards, Department of Commerce and Insurance
<b>Contact Person:</b>	John Cothron
<b>Address:</b>	500 James Robertson Parkway Nashville, Tennessee 37243
<b>Phone:</b>	(615) 741-3221
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

**ADA Contact:** Don Coleman  
 Department of Commerce and Insurance  
 500 James Robertson Parkway, 5<sup>th</sup> Floor  
**Address:** Nashville, Tennessee 37243  
**Phone:** (615) 741-0481  
**Email:** [don.coleman@tn.gov](mailto:don.coleman@tn.gov)

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	Davy Crockett Tower, Room 160 500 James Robertson Parkway		
Address 2:			
City:	Nashville		
Zip:	37243		
Hearing Date :	08/12/10		
Hearing Time:	9:00 a.m.	<input checked="" type="checkbox"/> CST	<input type="checkbox"/> EST

**Additional Hearing Information:**

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**Revision Type (check all that apply):**

- Amendment
- New
- Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only ONE Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0120-01	Registration Requirements and Procedures

<b>Rule Number</b>	<b>Rule Title</b>
0120-01-.10	Education and Experience Requirements—Engineer

<b>Chapter Number</b>	<b>Chapter Title</b>
0120-02	Rules of Professional Conduct
<b>Rule Number</b>	<b>Rule Title</b>
0120-02-.08	Seals
0120-02-.09	Civil Penalties

<b>Chapter Number</b>	<b>Chapter Title</b>
0120-04	Interior Designers
<b>Rule Number</b>	<b>Rule Title</b>
0120-04-.02	Applicability
0120-04-.10	Professional Conduct
0120-04-.11	Civil Penalties

<b>Chapter Number</b>	<b>Chapter Title</b>
0120-05	Continuing Education
<b>Rule Number</b>	<b>Rule Title</b>
0120-05-.06	Types of Acceptable Continuing Education
0120-05-.07	Credits
0120-05-.10	Records
0120-05-.13	Reciprocity

<b>Chapter Number</b>	<b>Chapter Title</b>
0120-06	Corporations, Partnerships and Firms
<b>Rule Number</b>	<b>Rule Title</b>
0120-06-.01	Definitions
0120-06-.02	Applicability
0120-06-.03	Disclosure Requirements
0120-06-.04	Responsible Charge Requirements

Chapter 0120-01  
Registration Requirements and Procedures

Amendment

Paragraph (2) of rule 0120-01-.10 Education and Experience Requirements—Engineer is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (2) In general, “progressive experience in the practice of engineering” consists of engineering experience which is supervised by a registered professional engineer. The Board may grant toward experience requirements for registration as an engineer one (1) year of credit for graduation with a Master’s degree (or higher) in engineering from an approved curriculum or up to one (1) year of qualified experience obtained in an established cooperative education program, which is carried out within the framework of an approved engineering curriculum, and which has been approved by the Board. At least one (1) year of engineering experience must be completed in the United States. Unless otherwise noted above, an applicant’s engineering experience must be obtained after graduation with the qualifying degree and completed by the date of the examination.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-401.

Chapter 0120-02  
Rules of Professional Conduct

Amendments

Paragraph (3) of rule 0120-02-.08 Seals is amended by adding the following sentence to the end of the existing language:

The registrant shall include a notation below the seal noting the expiration date of the registrant’s certificate of registration.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-306.

Paragraph (6) of rule 0120-02-.08 Seals is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (6) (a) Responsible Charge. Plans, specifications, drawings, reports or other documents will be deemed to have been prepared under the responsible charge of a registrant only when:
1. The client requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the registrant, or to the registrant’s employee at the time initial client contact is made, so long as the registrant has the right to control and direct the employee in the material details of how the work is to be performed;
  2. The registrant supervises and is involved in the preparation of the plans, specifications, drawings, reports or other documents and has input into and full knowledge of their preparation prior to their completion;
  3. The registrant reviews the final plans, specifications, drawings, reports or other documents;
  4. The registrant has the authority to, and does, make any necessary and appropriate changes to the final plans, specifications, drawings, reports or other documents; and
  5. Contributions of information or predrawn detail items or detail units that are incidental to and intended to be integrated into a registrant’s technical

submissions are from trusted sources (including, but not limited to, manufacturers, installers, consultants, owners, or contractors), are subject to appropriate review, and are then coordinated and integrated into the design by the registrant.

- (b) Any changes made to the final plans, specifications, drawings, reports or other documents after final revision and sealing by the registrant are prohibited by any person other than the registrant.
- (c) Mere review of work prepared by another person, even if that person is the registrant's employee, does not constitute responsible charge unless the registrant has met the criteria set out above.
- (d) The intent of the definition of responsible charge may be met if all provisions of the definition are met using remote electronic or communication means.

Authority: T.C.A. § 62-2-203(c).

Paragraph (1) of rule 0120-02-.09 Civil Penalties is amended by adding the following language as a new subparagraph (c) and renumbering the existing subparagraphs accordingly:

- (c) Rule 0120-01-.27..... \$50-1000

Authority: T.C.A. § 62-2-203(c).

Paragraph (2) of rule 0120-02-.09 Civil Penalties is amended by adding the following language as a new subparagraph (d) and renumbering the existing subparagraph (d) as subparagraph (e):

- (d) T.C.A. § 62-2-601..... \$500-1000

Authority: T.C.A. § 62-2-203(c).

Chapter 0120-04  
Interior Designers

Amendments

Rule 0120-04-.02 Applicability is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

Rule 0120-04-.02 Applicability

- (1) Unless otherwise indicated, the provisions of this chapter shall apply to all applicants for registration as registered interior designers and all registered interior designers.
- (2) Rule 0120-04-.11 Civil Penalties, paragraphs (2) through (4), shall apply to any person required to be registered to use the title "registered interior designer."

Authority: T.C.A. § 62-2-203(c).

Rule 0120-04-.10 Professional Conduct is amended by adding the following language as a new paragraph (18):

- (18) The registrant shall maintain the continuing education records required by rule 0120-05-.10 Records for a period of four (4) years and shall furnish such records to the Board for audit verification purposes within thirty (30) days of the Board's request.

Authority: T.C.A. § 62-2-203(c).

New Rule

0120-04-.11 Civil Penalties

0120-04-.11 Civil Penalties.

- (1) With respect to any registrant, the Board may, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty against such registrant for each separate violation of a statute, rule or order pertaining to the Board in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. § 62-2-308(a)(1).....	\$500-1000
(b) Rule 0120-04-.10.....	500-1000
(c) Board Order.....	100-1000

- (2) With respect to any person required to be registered in this state to use the title "registered interior designer," the Board may assess a civil penalty against such person for each separate violation of a statute in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. § 62-2-101.....	\$100-1000
(b) T.C.A. § 62-2-105(a)(1).....	500-1000
(c) T.C.A. § 62-2-105(b)(1).....	500-1000
(d) T.C.A. § 62-2-903.....	500-1000

- (3) Each day of continued violation may constitute a separate violation.
- (4) In determining the amount of civil penalty to be assessed pursuant to this rule, the Board may consider such factors as the following:
- (a) Whether the amount imposed will be a substantial economic deterrent to the violation;
  - (b) The circumstances leading to the violation;
  - (c) The severity of the violation and the risk of harm to the public;
  - (d) The economic benefits gained by the violator as a result of non-compliance; and
  - (e) The interest of the public.

Authority: T.C.A. §§ 56-1-308 and 62-2-203(c).

Chapter 0120-05  
Continuing Education

Amendments

Paragraph (2) of rule 0120-05-.06 Types of Acceptable Continuing Education is amended by deleting subparagraph (j) and adding the following language as new subparagraphs (j) and (k):

- (j) Active participation in educational outreach activities involving K-12 or higher education students.
- (k) All such activities as described in (a) through (j) above must be relevant to the practice of architecture, engineering, landscape architecture or interior design as determined by the Board and may include technical, ethical or managerial content.

Authority: T.C.A. § 62-2-203(d).

Paragraph (1) of rule 0120-05-.07 Credits is amended by adding the following language as a new subparagraph (f):

- (f) A maximum of four (4) PDH's per biennium may be claimed for active participation in educational outreach activities involving K-12 or higher education students.

Authority: T.C.A. § 62-2-203(d).

Paragraph (4) of rule 0120-05-.10 Records is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (4) Any registrant who fails to comply with the requirements of this rule may be deemed by the Board to have violated rule 0120-02-.02 [Proper Conduct of Practice] or rule 0120-04-.10 [Professional Conduct].

Authority: T.C.A. §§ 62-2-203(c) and (d) and 62-2-308.

Paragraph (1) of rule 0120-05-.13 Reciprocity is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (1) If a registrant resides in or has his or her principal place of business in a state or territory of the United States, or another country, that has established mandatory continuing education requirements for architects, engineers, landscape architects or interior designers, and that registrant has met the continuing education requirements of his or her home jurisdiction and is in good standing in that jurisdiction, then that registrant shall be deemed to have met the continuing education requirements of Tennessee. Documentation that the registrant is in good standing in his or her home jurisdiction must be provided at the Board's request. If the registrant is exempt from the continuing education requirements in his or her home jurisdiction, the registrant must meet the requirements of Tennessee unless he or she qualifies for an exemption in Tennessee.

Authority: T.C.A. § 62-2-203(d).

Chapter 0120-06  
Corporations, Partnerships and Firms

New Rules

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0120-06-.01 Definitions  
0120-06-.02 Applicability  
0120-06-.03 Disclosure Requirements  
0120-06-.04 Responsible Charge Requirements

0120-06-.01 Definitions.

- (1) As used in this chapter:
  - (a) "Principal" means an architect, engineer or landscape architect registered in this state who has the authority to make independent design decisions. A principal is not required to be an officer in a corporation, partnership or firm.
  - (b) "Registrant" means a person licensed by the Board as an architect, engineer or landscape architect.
  - (c) "Resident registered architect, engineer or landscape architect" means an architect, engineer or landscape architect registered in this state who is employed full-time by a corporation, partnership or firm for a minimum of thirty (30) hours per week and who is physically present at the place of business for a majority of the operating hours of the business.

Authority: T.C.A. § 62-2-203(c).

0120-06-.02 Applicability. Unless otherwise indicated, the provisions of this chapter shall apply to architectural,

engineering and landscape architectural corporations, partnerships or firms required to file a disclosure form and comply with the provisions of T.C.A. §§ 62-2-601 and 62-2-602.

Authority: T.C.A. § 62-2-203(c).

#### 0120-06-.03 Disclosure Requirements.

- (1) Corporations, partnerships and firms offering architectural, engineering and landscape architectural services to the public must comply with the provisions of T.C.A. §§ 62-2-601 and 62-2-602.
- (2) An individual registrant practicing in his or her own name as a sole proprietorship shall not be required to submit a disclosure form.

Authority: T.C.A. § 62-2-203(c).

#### 0120-06-.04 Responsible Charge Requirements.

- (1) Only officers and principals who are employed full-time for a minimum of thirty (30) hours per week and who hold active Tennessee registration can be in responsible charge of a firm's practice. A registrant who renders occasional, part-time, or consulting services to or for a firm may not be designated as an officer or principal in responsible charge.
- (2) The officer or principal in responsible charge must be registered in the profession in which services are being offered.
- (3) An officer or principal may be in responsible charge of more than one firm only if the firms are at the same physical location.
- (4) Corporations, partnerships and firms maintaining any place of business in this state for the purpose of providing or offering to provide architectural, engineering or landscape architectural services to the public shall have, in responsible charge of such service at any and each place of business, a resident registered architect, engineer or landscape architect.
- (5) In the event of a change in the officer or principal in responsible charge, a firm cannot provide or offer design services to the public until such time as a new officer or principal in responsible charge is identified.

Authority: T.C.A. § 62-2-203(c).

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.



Date: May 28, 2010

Signature: [Handwritten Signature]

Name of Officer: ROBERT HERNDON

Title of Officer: ATTORNEY

Subscribed and sworn to before me on: 5/28/2010

Notary Public Signature: [Handwritten Signature]

My commission expires on: 5/6/2012

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Filed with the Department of State on: 5/28/10

[Handwritten Signature]  
Tre Hargett  
Secretary of State

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