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Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Tennessee State Board of Architectural and Engineering Examiners
Division:	Division of Regulatory Boards, Department of Commerce and Insurance
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only ONE Rule Number/RuleTitle per row)

Chapter Number	Chapter Title
0120-01	Registration Requirements and Procedures
Rule Number	Rule Title
0120-01-.10	Education and Experience Requirements – Engineer
0120-01-.12	Education and Experience Requirements – Landscape Architect

Chapter Number	Chapter Title
0120-02	Rules of Professional Conduct
Rule Number	Rule Title
0120-02-.02	Proper Conduct of Practice
0120-02-.08	Seals

Chapter Number	Chapter Title
0120-04	Interior Designers
Rule Number	Rule Title
0120-04-.04	Education Requirements
0120-04-.10	Professional Conduct

Chapter Number	Chapter Title
0120-05	Continuing Education
Rule Number	Rule Title
0120-05-.02	Definitions
0120-05-.06	Types of Acceptable Continuing Education
0120-05-.07	Credits
0120-05-.08	Exemptions

Chapter 0120-01
Registration Requirements and Procedures

Amendments

Rule 0120-01-.10 Education and Experience Requirements – Engineer is amended by deleting the text of the rule in its entirety and substituting instead the following so that, as amended, the rule shall read:

0120-01-.10 Education and Experience Requirements – Engineer

- (1) (a) Accredited engineering programs. An engineering curriculum of four (4) years or more which was accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET) (or its predecessor) at the time of graduation, or graduation was not more than two (2) academic years prior to accreditation, may be approved by the Board as being satisfactory.
- (b) Nonaccredited engineering programs. An engineering curriculum of four (4) years or more which is a non-ABET accredited program shall be referred at the applicant's expense to a person or entity approved by the Board and qualified to evaluate equivalency to an ABET accredited engineering program for evaluation and recommendation. If the curriculum for the degree at the time of the applicant's graduation is substantially equivalent to ABET accreditation requirements, the application shall be reviewed in accordance with the requirements for applicants holding engineering degrees from institutions which do not have ABET accredited engineering programs in consideration of the factors outlined below.
- (c) In reviewing applicants holding degrees from nonaccredited engineering programs, whether obtained in the United States or otherwise, which are substantially equivalent to degrees from ABET accredited programs, the Board may consider the following factors:
1. Evidence of having obtained the statutory minimum acceptable progressive professional experience of a grade and character which indicates to the Board that the applicant may be competent to practice engineering; and
 2. At least five (5) references from individuals having knowledge of the applicant's technical competence as an engineer on projects of a grade and character which indicates to the Board that the applicant may be competent to practice engineering.
- (d) Applicants meeting the above requirements shall be reviewed by the Board for determination of eligibility for either the Fundamentals of Engineering examination or the Principles and Practice of Engineering examination or for registration by comity.
- (e) An engineering technology program, whether four (4) or two (2) years in length, is not considered by the Board to be an acceptable curriculum.
- (f) Master's degree programs. A master's degree program in engineering which was either accredited by the EAC of the ABET (or its predecessor) at the time of graduation, or graduation was not more than two (2) academic years prior to accreditation, or which was offered by an institution with an undergraduate engineering program in the same discipline which was either accredited by the EAC of the ABET (or its predecessor) at the time of graduation, or graduation was not more than two (2) academic years prior to accreditation, may be approved by the Board as being satisfactory. Applicants meeting this requirement shall be reviewed by the Board for determination of eligibility for the Principles and Practice of Engineering examination or for registration by comity.
- (g) Programs taught strictly by distance education or correspondence, or that allow credit for work experience and experiential learning (with the exception of cooperative education programs), or which are not part of an institution that is accredited or recognized as a degree-granting institution of higher learning within a national territory or in the United States, are not considered by the Board to be acceptable curricula.

- (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 and prior to the date of application.

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

Rule 0120-01-.12 Education and Experience Requirements – Landscape Architect is amended by deleting the text of the rule in its entirety and substituting instead the following so that, as amended, the rule shall read:

0120-01-.12 Education and Experience Requirements – Landscape Architect

The education and experience requirements for applicants for registration as a landscape architect shall be those prescribed in T.C.A. §§ 62-2-801, 62-2-802 and 62-2-803. All practical experience requirements must be completed prior to registration.

Authority: T.C.A. §§ 62-2-203(c), 62-2-801, 62-2-802, and 62-2-803.

Chapter 0120-02
Rules of Professional Conduct

Amendments

Rule 0120-02-.02 Proper Conduct of Practice is amended by adding the following as a new paragraph (5):

- (5) A registrant possessing knowledge of an applicant's qualifications for registration shall respond in writing to the Board regarding those qualifications when requested to do so by the Board.

Authority: T.C.A. § 62-2-203(c).

Paragraph (2) of rule 0120-02-.08 Seals is amended by deleting the text of the paragraph in its entirety and substituting instead the following so that, as amended, the paragraph shall read:

- (2) The registrant shall stamp with his seal the following documents:
- (a) All original sheets of any bound or unbound set of working drawings or plans;
 - (b) The original cover or index page(s) identifying all specification pages covered; and
 - (c) Design calculations that are submitted for review.

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

Chapter 0120-04
Interior Designers

Amendments

Rule 0120-04-.04 Education Requirements is amended by adding the following as a new paragraph (3):

- (3) A nonaccredited interior design curriculum shall be referred at the applicant's expense to a person or entity approved by the Board and qualified to evaluate substantial equivalency to a Council for Interior Design Accreditation (formerly the Foundation for Interior Design Education Research) accredited program for evaluation and recommendation. Nonaccredited interior design degrees that were awarded within two (2) academic years prior to accreditation may be approved by the Board as being satisfactory.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-904(a).

Rule 0120-04-.10 Professional Conduct is amended by adding the following as a new paragraph (17):

- (17) A registrant possessing knowledge of an applicant's qualifications for registration shall respond in writing to the Board regarding those qualifications when requested to do so by the Board.

Authority: T.C.A. § 62-2-203(c).

Chapter 0120-05
Continuing Education

Amendments

Paragraph (4) of rule 0120-05-.02 Definitions is amended by deleting the text of the paragraph in its entirety and substituting instead the following so that, as amended, the paragraph shall read:

- (2) "Professional Development Hour (PDH)" means a contact (clock) hour consisting of not less than fifty (50) minutes of instruction or presentation acceptable to the Board. Registrants will not receive credit for activities less than one (1) PDH in duration.

Authority: T.C.A. § 62-2-203(d).

Paragraph (2) of rule 0120-05-.06 Types of Acceptable Continuing Education is amended by adding the following as a new subparagraph (i) and by amending the following subparagraph accordingly:

- (2) (i) Active participation in a technical/professional society or organization, or a technical or professional public board, as an officer or committee member.
- (j) All such activities as described in (a) through (i) 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 as a new subparagraph (e):

- (1) (e) A maximum of eight (8) PDH's per biennium may be claimed for active participation in technical/professional societies or organizations, or technical or professional public boards, as an officer or committee member.

Authority: T.C.A. § 62-2-203(d).

Subparagraph (d) of paragraph (1) of rule 0120-05-.08 Exemptions is amended by deleting the text of the subparagraph in its entirety and substituting instead the following so that, as amended, the subparagraph shall read:

- (1) (d) A registrant who lists his or her occupation as "Retired" or "inactive" on the Board-approved renewal form and who further certifies that he or she is no longer practicing shall be exempt from the Professional Development Hours required. In the event such a person elects to return to active practice, PDH's must be earned for each year exempt, not to exceed the annual requirement for two (2) years before the person returns to active practice. Inactive or retired registrants returning to active practice must report PDH's earned within no more than two (2) years of the request to reactivate.

Authority: T.C.A. § 62-2-203(d).

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
James O. Hastings, Jr., AIA <i>Chairman</i>	X				
Robert Campbell, P.E. <i>Vice-Chairman</i>	X				
Philip K. S. Lim, P.E. <i>Secretary</i>	X				
Hal Balthrop, P.E.	X				
William Lockwood, L.A.	X				
Leslie Shankman-Cohn, RID	X				
David M. Schuermann, AIA	X				
Richard D. Thompson, AIA	X				
Brenda T. Wood <i>Public Member</i>	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the State Board of Architectural and Engineering Examiners on 02/19/2009, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 12/12/2008

Notice published in the Tennessee Administrative Register on: 01/15/2009

Rulemaking Hearing(s) Conducted on: (add more dates). 02/19/2009

Date: July 15, 2009

Signature: *[Handwritten Signature]*

Name of Officer: ROBERT E. HERNDON

Title of Officer: ATTORNEY



Subscribed and sworn to before me on: July 15, 2009

Notary Public Signature: *John A. Cothron*

My commission expires on: July 25, 2009

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[Handwritten Signature]
Robert E. Cooper, Jr.
Attorney General and Reporter

8-20-09

Date

Department of State Use Only

Filed with the Department of State on: 9/11/09

Effective on: 12/10/09

Tre Hargett
Tre Hargett
Secretary of State

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PUBLICATIONS

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105th General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

1. Types of small businesses directly affected:

These amendments would not impact small businesses because the Board licenses individuals, not entities.
2. Projected reporting, record-keeping and other administrative costs:

There are no projected administrative costs as a result of these amendments.
3. Probable effect on small businesses;

There is no expected adverse impact on small businesses as a result of these amendments.
4. Less burdensome, intrusive or costly alternative methods:

There are no alternative means available to accomplish these objectives.
5. Comparison with federal and state counterparts;

There are no federal counterparts to the Board's purpose and functions, and the amendment concerning architectural education and experience requirements is being made to make the Board's rules consistent with the National Council of Architectural Registration Boards (NCARB) Model Law.
6. Effect of possible exemption of small businesses:

Because the Board licenses and regulates individuals, not entities, there is no possible exemption or effect thereof.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rule 0120-1-.10 Education and Experience Requirements – Engineer is amended by adding the requirement that a candidate for registration as an engineer must have graduated from an institution with certain accredited status either at the time of graduation or no more than two years prior. This rule was also amended to add the same requirement to candidates applying under the master's degree option. Lastly, this rule was amended by adding a new subparagraph establishing that programs taught strictly by long-distance, allow work experience other than cooperative education to count as credit or are not part of an accredited or recognized institution of higher learning within the United States or its territories is not considered acceptable by the Board.

Rule 0120-1-.12 Education and Experience Requirements – Landscape Architects is amended by requiring that an applicant must complete all practice experience requirements prior to registration rather than prior to taking the examination.

Rule 0120-2-.02 Proper Conduct of Practice is amended by adding a paragraph that requires a registrant to respond in writing to the Board when queried about an applicant's qualifications for registration.

Rule 0120-2-.08 Seals is amended by adding the requirement that any design calculations submitted for review by an authority having jurisdiction must be stamped by the design professional who prepared them.

Rule 0120-4-.04 Education Requirements (Interior Designers) is amended by adding a provision that allows review of non-accredited curricula to be reviewed at the applicant's expense for substantial equivalency to a Council for Interior Design Accreditation program; this new paragraph allows holders on non-accredited degrees that were awarded within two years of accreditation to be considered satisfactory.

Rule 0120-4-.10 Professional Conduct (Interior Designers) is amended by adding a new paragraph that requires a registrant to respond in writing to the Board when queried about an applicant's qualifications for registration.

Rule 0120-5-.02 Definitions (Continuing Education) is amended to include the statement that registrants will not receive Professional Development Hour credit for activities that are less than one hour in duration.

Rule 0120-5-.06 Types of Acceptable Continuing Education is amended by adding a new subparagraph that allows credit for active participation in a technical/professional society or organization or service as an officer or committee member on a technical or professional public board.

Rule 0120-5-.07 Credits is amended by adding a new provision that a maximum of eight hours of continuing education for every two years may be claimed active participation in a technical/professional society or organization or service as an officer or committee member on a technical or professional public board.

Rule 0120-5-.08 Exemptions is amended by adding a requirement that inactive or retired registrants returning to active practice must report continuing credit hours within no more than two years of the request in order to qualify for reactivation.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The proposed amendments to the rules of the Tennessee State Board of Architectural and Engineering Examiners are made pursuant to Tenn. Code Ann. §§ 62-2-203(c), 62-2-203(d), 62-2-306, 62-2-306(d), 62-2-401, 62-2-802, 62-2-803 and 62-2-904(a)

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These amendments to the rules of the Tennessee State Board of Architectural and Engineering Examiners will affect holders in good standing of registration certificates in architecture, engineering, landscape architecture and interior design and also to applicants for registration as architects, engineers and landscape architects. There was one written comment by a registrant that encouraged adoption of the rules.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

I am unaware of any opinion of the attorney general or any judicial ruling which directly relates to these rules.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rule amendments are not expected to have any fiscal impact on the Department.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

John A. Cothron, Executive Director of the Tennessee State Board of Architectural and Engineering Examiners, and I as attorney for the Board have substantial knowledge and understanding of these rules.

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

John Cothron or I will explain the rule amendments at any scheduled meeting of the Government Operations Committee.

- (H)** Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

I may be contacted at the Department of Commerce and Insurance, Office of Legal Counsel, 500 James Robertson Parkway, Davy Crockett Tower, Nashville, Tennessee 37243, (615) 741-3072.

- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

There is no additional information relevant to these rule amendments that has been requested at this time.