

**From:** [Sunset Advisory Commission](#)  
**To:** [Brittany Calame](#)  
**Subject:** FW: Public Input Form for Agencies Under Review (Public/After Publication)  
**Date:** Monday, August 13, 2018 7:37:09 AM

---

-----Original Message-----

From: sunset@sunset.texas.gov <sunset@sunset.texas.gov> On Behalf Of Texas Sunset Commission  
Sent: Saturday, August 11, 2018 3:03 PM  
To: Sunset Advisory Commission <Sunset@sunset.texas.gov>  
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: TEXAS BOARD PROFESSIONAL GEOSCIENTISTS TBPG

First Name: James

Last Name: Gooding

Title: Managing Director

Organization you are affiliated with: Geoclimate, LLC

Email:

City: Seabrook

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or Opposed:

As explained in the following paragraphs, I respectfully request that the Commission reconsider the arguments behind their provisional recommendation that “State Regulation of Geoscientists Provides No Measurable Public Benefit and Should Be Discontinued.”

I endorse free enterprise, with reasonable limits to regulations, and I currently work as a geoscience consultant after decades of employment in private industry. For a licensed Professional Geoscientist (“PG”), compliance with the Texas Geoscience Practice Act and Code of Professional Ethics, as administered by the TBPG, does require an investment of time and money each year. But it also sets an operating standard that serves to filter unqualified or negligent participants from delivering incompetent or dangerous geoscience advice to clients. PG licensing, with no adverse actions, is a screening criterion used by most of my clients.

“Half of the Practicing Geoscientists are Unregulated” is a Lost Opportunity for Improvement. The Commission stated that “The need for this regulation is even further diminished by the fact that effectively half of the practicing geoscientists in Texas are exempt from regulation, essentially making the professional geoscientist license optional for many current licensees and practitioners.”

This probably is the most significant yet actionable lost opportunity in the Commission’s entire review. Rather than justification for abolishment of the TBPG, this point should be a call to action to strengthen the TBPG licensing requirements to close the ample loopholes for PG compliance.

The compilation by the National Association of State Boards of Geology (ASBOG) shows that, among the 32 states (including Puerto Rico) that require geoscience licensing, no state offers more generous licensing exemptions than does Texas.

A more constructive direction for the public interest would be for the Commission to recommend significant reduction in the categories of PG licensing exemption, along with clarification by TBPG regarding the types of geoscience work products that require sealing by a licensed PG. Geoscience aspects of surface water and flood control are two conspicuous omissions.

“Lack of Measurable Impact” Overlooks PG Licensing as a Malpractice Deterrent and Overestimates TRRC and TCEQ as Critical Paths for Policing Actions. The Commission cited “ ... a historical lack of meaningful enforcement action, no measurable impact on public protection, and more direct oversight of geoscientists’ work provided by other state agencies’ render ongoing state regulation of geoscientists unnecessary to protect the public.”

Why is not that observation interpreted as evidence that regulation is working? By HSE standards, if an enterprise has zero safety incidents over a reporting period, no reasonable person would conclude that the need for a safety program was no longer justified. Rather, it is more likely that the safety program is effective and should be continued. What not so with the TBPG regulatory enforcements?

The Commission’s finding that TBPG self-initiates most complaints seems to validate that the TBPG is doing its job.

It seems less obvious why one would expect complaints against geoscientists from either the Railroad Commission of Texas (“TRRC”) or the Texas Commission on Environmental Quality (“TCEQ”). Lack of complaint referrals from the TRRC and the TCEQ should not be surprising; indeed, few, if any referrals would be expected in view of the respective charters of those agencies and the abundant, current exemptions from PG licensing.

TRRC typically reviews filings that can include work by petroleum-industry geoscientists who are exempt from PG licensing. Although TRRC has accepted a role in monitoring investigations of earthquakes associated with oil and gas activities, most of the associated earthquake research has been done by federal government or academic geoscientists who also are exempt from PG licensing. So any prospective complaints by TRRC would be moot from a licensing perspective and therefore not a constructive use of TRRC resources.

Similarly, TCEQ deals with a selected sub-population of geoscientists — mainly hydrologists involved in groundwater studies and, in some cases, with assessments of underground storage tanks where groundwater contamination is a concern. However, many surface water reports adopted by TCEQ are prepared by federal government or academic geoscientists who are exempt from PG licensing. Indeed, surface water is a recognized element of geoscience that has not received sufficient attention by TBPG. Similar to the situation with TRRC, prospective TCEQ complaints about license-exempt geoscience practitioners would be moot.

Any Alternative or New Recommendations on This Agency: In summary, for the reasons explained above, the TBPG has numerous opportunities for improvement that could be propelled by a revised set of findings from the Commission.

Those improvements would include addition of the geoscience of surface water and flood management to licensing purview and retraction of licensing exemptions through focus on project implications rather than job titles or employment sectors. Driving the TBPG to higher performance goals would serve the public interest more than abolishing the TBPG altogether.

My Comment Will Be Made Public: I agree