

**From:** [Sunset Advisory Commission](#)  
**To:** [Brittany Calame](#)  
**Subject:** FW: Public Input Form for Agencies Under Review (Public/After Publication)  
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-----Original Message-----

From: sunset@sunset.texas.gov <sunset@sunset.texas.gov> On Behalf Of Texas Sunset Commission  
Sent: Wednesday, August 8, 2018 10:09 AM  
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

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Your Comments About the Staff Report, Including Recommendations Supported or

Opposed: According to the Texas Sunset Advisory Commission's (Commission) review of the TBPG, it has been recommended by the commission to abolish the TBPG. A key reason for that recommendation, based on the review, is that the "state regulation of geoscience is unnecessary to protect the public."

Unfortunately, such a recommendation is based on misinformed information. My experience working for the State of Texas in a technical regulatory capacity (TCEQ); educator to the regulated community (Texas A&M); and licensed Professional Geoscientist (Geology), has garnered enough case examples to prove otherwise. The Commission's Executive Summary of the review notes: "a historical lack of meaningful enforcement action, no measurable impact on public protection, and more direct oversight of geoscientist' work provided by other state agencies' render ongoing state regulation of scientists unnecessary to protect the public." It is correct that the direct oversight of geoscientist' work reviewed by state agencies, such as the TCEQ, results in a system of checks and balances that reduces risk to the public from improper or incorrect work performed by a geoscientist serving as a consultant to the private sector. However, one 'check' is not a fail-safe system. In such a scenario, the commission is depending upon the regulatory agencies to capture all mistakes posing a potential or realized risk to the health, safety, and welfare of the public. If that one check fails, the system fails. That is why machines are designed with fail-safe components, so that if one part breaks, a catastrophe does not result. Licensing of P.G.s serves as another check in the system, by requiring continuing education, and examination of new licensees. It is unfortunate that the Commission did not find a "measurable impact on public protection." While employed with the TCEQ as an environmental remediation project manager, my job was to provide technical opinions on a regulated person's response to a release of chemicals in soil, air, and groundwater--an area for which P.G. licensing provides oversight for which a P.E. license lacks. It was not uncommon for me to receive calls and products from unlicensed individuals that failed to meet geoscientific accuracy and, if they had not been corrected, would have posed a risk to human health and the environment. At the time of my TCEQ employment, I was fortunate to have experienced, licensed P.G.s help me to catch such things, preventing them from becoming a safety threat. This brings me to one key reason for the lack of meaningful enforcement and lack of complaint referrals altogether from the TCEQ: management did not want us to submit complaints to the TBPG. Though it is a needed thing for P.G.s to submit a

complaint to the TBPB when a licensed P.G. seals a document that is latent with unethical and/or blatantly inaccurate work, it was not done. The lack of such complaints was due to the managed environment at the TCEQ, not the TBPB. Moreover, the lack of any complaints from the primary regulatory agencies should have been a red flag to this--especially since they are the ones to see the bulk of the work. There are plenty of P.G.s the TCEQ have to keep a 'watchful' eye on, because of the work they perform, unethical behavior they exhibit, and the danger it poses by leaving chemicals of concerns above safe levels in soil and/or groundwater. It is not that a threat to public health and safety has not been prevented by P.G.s--rather it is simply that it has not been reported to the agency being reviewed by the Commission. The need for change in that particular instance is the TCEQ (and potentially Railroad Commission, but I have limited experience with them and thus cannot comment on them). There may be a desire to state that the regulatory agencies would uncover or address concerns with improper work or recommendations by the regulated community. However, if P.G.s are not required in the private sector, they are not required in the public sector.

If they are not required in the public sector, the training requirements to acquire/maintain license is not required; and this results in regulatory staff approving technical opinions they don't know to be wrong, submitted in some instances by people who don't know they are wrong (i.e., people performing regulatory tasks to check the boxes of the states rules and regulations, but are unqualified and unable to understand the technical aspects of the work being reviewed). We need this licensing. In short, I oppose the Commission's review recommendation. The Commission has simply not seen the full extent of the need for PG regulation--largely because of lack of complaint and case example reporting by TCEQ. As for interviews performed among the regulated community of P.G.s, my understanding is that some say they don't need regulation/oversight in the form of licensing and continuing education. Though I am not a person who desires a lot of regulation, I can say that in this instance, any P.G.s saying they don't need regulation oversight would be like an interrogating police officer telling a suspect they don't need a lawyer--wisdom and historical examples prove otherwise, you just need to know where to look.

Any Alternative or New Recommendations on This Agency: Improvements at the TBPB need to be made. The review found many issues I agree with. For example, consistency in regulatory application to P.G.s should be applied (for example, not exempting individuals from licensing requirements is practicing geoscience, etc.). Work needs to be done at the TCEQ to not inhibit or otherwise preclude staff from reporting unethical or dangerous professional work performed by P.G.s. I should not that the TCEQ does serve a great purpose, and I enjoyed my time working for the agency. The comments above are simply in reference to this particular topic, for which the lack of any comments from the agency should have served as red flag to begin with.

The grandfathering of licensees should have a expiration time frame/phase out period and was a mistake to begin with. If the Commission needs further evidence for the need and benefit to the TBPB, simply look to the more than 30 other states/territories (making up the vast majority of the U.S. population given they are the most populous states) requiring licensing. A need for adjustments to be made does not mean the TBPB should be abolished--that would be a misguided move shown to be wrong by not only examples in Texas, but also the U.S.

My Comment Will Be Made Public: I agree