

**From:** [Sunset Advisory Commission](#)  
**To:** [Brittany Calame](#)  
**Subject:** FW: Public Input Form for Agencies Under Review (Public/After Publication)  
**Date:** Friday, August 10, 2018 9:49:09 AM

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

From: sunset@sunset.texas.gov <sunset@sunset.texas.gov> On Behalf Of Texas Sunset Commission  
Sent: Friday, August 10, 2018 9:37 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

First Name: Tory

Last Name: Rogers

Title:

Organization you are affiliated with:

Email:

City: Houston

State: Texas

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

Following a review of the Sunset Advisory Commission's (SAC's) Staff Report on the Texas Board of Professional Geoscientists (TBPG), I oppose the SAC's recommendation that the TBPG be abolished.

One of the primary arguments within the review is that "public protection not the primary reason to initiate regulation." The review then goes on to cite two documents supporting this opinion. The first document is referenced as a bulletin published by a professional association in 1993; however, a review of the actual reference indicates this bulletin is a personal opinion within the "commentary" section of the bulletin. The entire commentary the SAC is referencing as an argument to abolish an entire state-regulated agency is six paragraphs long and consists of an editorial written by a clearly upset individual following the failure of the 1993 Texas Registration Act in the Texas legislature. Additionally, the commentary mostly attributes the failure of this act to engineering lobbying efforts, which indicates the commentary was written with a political agenda rather than a professional one.

The second document cited by the SAC is essentially a blurb on the Texas Association of Professional Geoscientists (TAPG) website found in the lower right-hand corner of the "About Us" page. The blurb gives reasons for an individual to become a licensed geoscientist by the TBPG, which include project sign-offs, procurement of employment, and potentially higher average salary compared to non-licensed geoscientists (among other things). It should be noted that the TAPG is operated as a political interest group that wishes for individuals to join their group in exchange for annual dues. Of course they are going to promote personal reasons an individual would want to become a licensed geoscientist rather than promote the mission of the TBPG as a whole. If the SAC had cited the TBPG website instead, they would have been forced to state the mission of the TBPG "is to protect public health, safety, welfare, and the state's natural resources by ensuring only qualified persons carry out the public practice of geoscience and enforcing the Code of Professional Conduct the Board has established for its licensees."

Instead, why not reference the March 2001 document "The Value of Licensing Geologists in Texas"? This

document (which is available for review at

[https://cdn.ymaws.com/www.aegweb.org/resource/resmgr/Licensure\\_Resources/vpls405.pdf](https://cdn.ymaws.com/www.aegweb.org/resource/resmgr/Licensure_Resources/vpls405.pdf))

was a joint collaboration between the Texas Sections of the Association of Engineering Geologists and American Institute of Professional Geologists.

This document states “the justification for licensing any profession is to protect the health, safety, and well-being of the public”, which negates the SAC’s opinion that public protection was not the primary reason to initiate regulation. The document also gives several sound arguments for licensing professional geologists, the most important of which is that prior to the development of the TBPG, any “persons who have no geological education or training are free to engage in the public practice of geology.” A P.G. license implies a legal responsibility for the quality of work performed and also attests that the licensed person performing the work is qualified to complete said work. This qualification includes, but is not limited to, holding a higher educational degree in the geological or environmental sciences and obtaining work experience verified through professional references demonstrating the person is qualified to assume responsible charge of geoscientific work.

Without the TBPG, a person with absolutely no experience or educational background could conduct environmental work in the State of Texas. Could this adversely impact the protection of the public? Absolutely. A licensed geoscientist is responsible for evaluating all exposure pathways from potentially contaminated soil, groundwater, and surface water, which requires a thorough understating of these pathways. If a geoscience firm or individual does not hold a professional license from the P.G., there is no verification that the firm or individual a company may hire is actually qualified to conduct such evaluations. This is of particular import in Houston, where lack of zoning laws has led developers into the common habit of redeveloping formerly industrial properties for residential use.

Another argument of the SAC is that “far-reaching exemptions mean much geoscience remains unregulated, without a negative effect on the public.”

The SAC states that 10 broad areas of geoscience are exempt from regulation under Section 1002.252 of the Texas Occupations Code (TOC), but the SAC fails to also state the reasoning behind the exemptions. For example, geoscientific work performed by an employee or subordinate of a license holder does not require a license in the geosciences; however, the work performed is supervised by a licensed geoscientist who is ultimately responsible for the work. Additionally, there are several exemptions which cover private industries and/or works that do not impact the public, including oil and gas development, teaching, various works that do not include the public practice of geoscience, geoscientific research, archaeological work, and evidence-based work that does not imply the person is a licensed geoscientist. Another exemption is in regards to the determination of the suitability of the site for sewage disposal systems; however, a person performing this work must have successfully completed training approved by the Texas Commission on Environmental Quality (TCEQ), which is separate from the TBPG. The SAC also lists “licensed engineers performing work that is both engineering and geoscientific in nature” as an exempted geoscience practice area. However, this is not even listed as an exempt area of geoscience under Section 1002.252 of the TOC.

The SAC’s review later states that other state agencies, including the TCEQ and Railroad Commission of Texas (RRC), “evaluate much of the regulated geoscience work submitted by licensed geoscientists and registered geoscience firms”. While this is true, the key part of that sentence is that these agencies only evaluate work that has actually been “submitted.” The TCEQ and RRC rely on licensed geoscientists and registered geoscience firms to conduct work at contaminated sites and submit their findings should the need arise. In a majority of cases, the companies hiring licensed geoscientists rely solely on said licensed geoscientists to evaluate the site and determine if regulatory involvement is ultimately required or mandated by Texas laws.

However, a person unqualified to make such decisions could complete work at a contaminated site and decide no such regulatory involvement is needed because it (typically) would require more time and money to complete remediation of the site.

Although the SAC’s review is correct in stating the public is not the primary consumer of most direct geoscience services, they are ultimately directly affected by work conducted by licensed geoscientists. For example, private developers for residential developments typically hire licensed geoscience firms to determine if the land is ultimately safe for residential land use. Licensed geoscientists and firms also conduct work to protect groundwater resources in the State of Texas, which is arguable the most important resource for the general public because it is a main source of drinking water in the state.

Based on the preceding, I believe the SAC’s recommendation to abolish the TBPG is generally unsubstantiated by

its arguments, and that the TBPG is a valuable resource to the State of Texas.

Any Alternative or New Recommendations on This Agency: No comments at this time.

My Comment Will Be Made Public: I agree