



Texas Geoscience Today

Texas Board of Professional Geoscientists

VOLUME VI ISSUE I

DECEMBER 2010

SPECIAL POINTS OF INTEREST:

- Upcoming ASBOG® exam
- GIT Program now underway!
- Licensing and Enforcement news
- TBPG issuing Advisory Opinions

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The Chairman's Column

First things first. Welcome back Executive Director, Colonel Michael Hess! Colonel Hess was called back from military retirement to serve his country on active duty in the army over four years ago. The Board is very proud of his service, and thankful that he has returned safely to resume his position.

Colonel Hess' extended absence created a major challenge for the Board but, as they say in showbiz, "the show must go on." In January 2009, Charles Horton was brought on as TBPG Interim Executive Director. Thanks to Mr. Horton's extensive experience in managing state agencies, the Board was able to successfully navigate the 81st Legislative Session, implement the changes to our statute and further the mission of the agency, for which the Board and staff are deeply grateful. With both Colonel Hess and Mr. Horton on the job, the TBPG is truly poised to accomplish great things.

What, exactly, has the Board done lately? Board Members and staff have rolled up our sleeves and gotten to work on implementing the new and expanded requirements born from the 81st Legislative Session. To this end, the agency has reorganized to more efficiently handle the increased work. Two staff



members are now assigned to handle a new, advanced licensing software upgrade and the increase in applicant activity related to the new Geoscientist-in-Training program. The Agency continues to embrace advanced technology as the primary means for the limited staff to deliver maximum productivity and quality of service to licensees and the public.

As part of the agency reorganization, the number of staff exclusively devoted to enforcement has increased from one to three. Recent procedural changes also allow for a more consistent and streamlined method of addressing consumer complaints - and none too soon. The number of complaints filed with the TBPG in the last year is greater than the combined total for the agency for all prior years. In addition to handling the increased number of complaints, enforcement staff has increased outreach to private industry, other state agencies and local governments and municipalities to reinforce the importance of qualified professionals carrying out the public practice of geoscience. The increased complaint and outreach activity will likely result in more enforcement findings, but also in an increase in voluntary compliance with that board's rules, directly benefiting the citizens of Texas.

Another part of the Board's expanded outreach program is to the colleges and universities

that are turning out the state's future geoscience professionals. With the continuing influx of people wishing to enjoy the relative prosperity that Texas offers, natural resources will become increasingly harder to find and produce. It is anticipated that there will be increased demand for licensed Professional Geoscientists in the areas of land development, water resources, mining, oil and gas exploration and environmental fields in coming years. But experienced professional geoscientific practitioners aren't created overnight. The recent addition of the Geoscientist-in-Training (GIT) program is designed to ensure the public has access to a large, qualified pool of such practitioners. The GIT guidelines are fleshed out and the program is now accepting applications.

Through the Board's new Advisory Opinion process, the agency is providing increasing guidance concerning the interpretation of the statute and Board rules. The Board is receiving more requests for rule clarification and requests for Advisory Opinions than in the past. This is yet another challenge for the Board Members and staff to do more work with current resources. Individual subject matter experts, small industry advisory groups, and state and local professional associations will be utilized to provide input to the Board as it develops Advisory Opinions and evaluates complaints for potential enforcement actions. Advisory Opinion request forms and final Advisory Opinions are posted on the agency web site.

ANNOUNCEMENTS

The next ASBOG® examination will be
March 4, 2011.

It will be held in Austin, Texas. The deadline for submission of completed applications is
January 4, 2011.

Congratulations to those who passed the October 1, 2010 ASBOG® examination!

The next Board Meeting of the TBPG is scheduled on
January 14, 2011

Congratulations to our seven (7) new Geoscientists-in-Training!

Please contact TBPG if you would like more information on:

- P.G. licensure
- Firm Registration
- GIT certification

Please check our website for more details on upcoming events.

TBPG Rule Revisions

TBPG recently reviewed its entire set of rules. Proposed revisions were posted in the July 9 and July 16, 2010 issues of the Texas Register for public comment, and the adoptions are pending. The revisions include updates to the Code of Professional Conduct for P.G.s, Registered Geoscience Firms, and Geoscientists-in-Training.

Here are some highlights:

- License holders are required to know the TBPG statute and rules;
- License holders must cooperate with Board investigations;
- License holders must not make false statements in

- advertising, announcements or other written or oral communications;
- P.G.s, GITs, and Geoscience Firms shall use their license, registration, or certification title or initials (P.G. or GIT) in professional settings;
- License holders shall maintain professional records for a minimum of 5 years following the completion or final delivery of a service;
- License holders should strive to address the environmental impact of their work (including the use and conservation of natural resources);
- License holders cannot use the title "P.G." or practice geoscience when their P.G. license is expired;

- License holders must exercise reasonable care to maintain client confidentiality;
- License holders must report changes in name or contact information to TBPG within 30 days of the change;
- Complaints must be filed within two years of the event giving rise to the complaint (the event from which a concern with geoscience work becomes apparent);
- P.G. license numbers must be used in public advertising;
- Complaints are confidential by law until the Board gives notice of intent to impose disciplinary action;
- Complaints recognized as frivolous or without merit are not subject to release to the public.

The Chairman's Column

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Given the current economic climate, the upcoming legislative session will likely be focused on cutting expenses. Every agency is already being scrutinized for what can be eliminated. We are not immune to this exercise, and an agency of TBPG's relatively small size is often disproportionately impacted by budget cuts. I can, however, proudly report to the legislature, and to

you, that this agency has always been conservative with its spending, makes the most of the limited appropriations allocated by the State, and has made tremendous strides furthering the mission of protecting the public from poorly practiced geoscience.

In closing, the efforts of this hard working Board and staff have increased public awareness and gained recognition

of the need for licensed Professional Geoscientists in our community. This need will only increase as the economy strengthens. The TBPG is anticipating the future and will be well positioned for it.

Warm regards,



Geoscientist-in-Training Program

TBPG has adopted rules that govern the administration of the Geoscientist-in-Training (GIT) program. The Board and agency staff continue to refine the program. Requirements to be a GIT in Texas include:

- 1) Meeting the academic requirements needed for P.G. licensure;
- 2) Passing scores on the Board approved fundamentals examination;
- 3) Providing a letter of reference supporting the applicant's ethical character; and
- 4) Submission of the GIT application and \$25 certification fee.

The initial certification is for one year, with an annual renewal. GITs receive copies of the TBPG newsletter, they may participate in a PG mentoring program, and may use the title "Geoscientist-in-Training" or "GIT". Renewals of GIT certification require eight hours per year of continuing education activities, one hour of which should be in the area of professional ethics.

TBPG's Annual Report to ASBOG®

Since the 2009 ASBOG annual meeting, TBPG has moved forward with a number of initiatives made possible by the passage of SB 940 by the 81st Texas Legislature that amended the Texas Geoscience Practice Act. The next legislative session convenes in January 2011, and all state agencies are facing heavy scrutiny as the state faces a multi-billion dollar funding shortfall.

New and ongoing developments in Texas include:

Establishing a new Geoscientist-in-Training (GIT) program.

Legislative authority to issue advisory opinions.

Legislative authority to self initiate complaints and to act on information submitted anonymously; the Board has opened 11 self-initiated complaint cases and has resolved 10 so far. The Board is working with other state regulatory agencies to identify problems with geoscientific work submitted to those agencies.

TBPG and the Texas Board of Professional Engineers have adopted an

updated Memorandum of Understanding to address overlapping areas of practice and respective jurisdictions of the two boards.

The Board continues to identify firms offering geoscientific services to the public, including listings found in public directories, professional association and society listings, and lists established and maintained by other state agencies. Firms offering geoscience services to the public that do not meet an exemption by law must be registered with TBPG.

The Board recently adopted the first comprehensive update to its rules. The revisions were designed to clarify regulatory requirements, refine agency controls and ensure the Board can identify and act against sub-standard or unregistered professional geoscience practice in Texas, whether by a P.G., GIT, or Geoscience Firm.

TBPG is working closely with the oil and gas industry in Texas, and is taking a close look at the oil/gas exemption to determine how and when the statute requires the

Board to protect the public when geoscientific work is part of oil and gas investment programs offered to the public.

The Board continues pursuing reciprocity agreements with other state boards. Under a formal Texas reciprocity agreement, TBPG may now license an applicant who is currently licensed in another state who has not passed the ASBOG examination or another equivalent examination if the applicant can prove at least 5 years of "responsible professional work experience since the date of their initial licensure, that licensure was continuously maintained during those five years and that no substantiated complaints or disciplinary action(s) have ever been taken against the license." Texas currently has reciprocity or comity agreements with Alabama, Arkansas, and Mississippi.

If any other State Boards are interested in reciprocity with TBPG and/or reviewing TBPG's current agreements, please contact Charles Horton, Deputy Executive Director (512) 936-4428 or Molly Roman, Operations Manager (512) 936-4405.

The mission of the Texas Board of Professional Geoscientists is to protect health, safety, and welfare by ensuring that only qualified persons carry out the public practice of geoscience.



Updated Memorandum of Understanding

The Texas Board of Professional Geoscientists and the Texas Board of Professional Engineers have adopted an updated Memorandum of Understanding (MOU), effective September 14, 2010. The agreement outlines the joint cooperation of both boards in areas of overlapping jurisdiction, and it was updated to include individual owned sole proprietorships, unincorporated partnerships, and incorporated firms.

For a copy of the current MOU, please visit the TBPG website.

Advisory Opinions



Since receiving legislative authority to issue advisory opinions, the Board has received four requests for advisory opinions. Three did not require an advisory opinion and were addressed by referring to the enabling statute or existing Rules. The Board has posted a draft advisory opinion on responsible charge for public comment, has received none, and will consider final approval at the January 2011 meeting.

Advisory opinions provide interpretations of the Texas Geoscience Practice Act and Board rules and/or applications to specified existing or hypothetical situations. Advisory opinions create a defense to prosecution and/or imposition of civil penalties if a person reasonably relies on a written Board opinion.

TBPG Staff - 2010



From left to right: Charles, Elsa, Molly, Jeanne, Mike, Leticia, George, and Albert.



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Licensing and Enforcement

Licensing. TBPG currently has 5012 Professional Geoscientists, 356 Registered Geoscience Firms, and 7 Geoscientists-in-Training. TBPG has adopted reciprocity and comity agreements with Alabama, Arkansas and Mississippi.

Enforcement. TBPG reminds each licensee that it is his/her responsibility to read, understand, and follow the Code of Professional Conduct, including recent updates that define the current standards-of-care for P.G. services offered to the public. The current TBPG rules are found at <http://www.tbpg.state.tx.us/rules.html> and were adopted by the TBPG on September 24, 2010. The featured Rule section for Fall 2010 is Texas Administrative Code (TAC) §851.106. For more information about TBPG Rules, the complaint process, or other technical assistance, please contact the TBPG compliance staff at (512) 936-4410.

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