



TEXAS BOARD OF PROFESSIONAL ENGINEERS

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TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

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Memorandum of Agreement between the Texas Board of Professional Geoscientists (TBPG) And the Texas Board of Professional Engineers (TBPE) regarding Professional Geoscience

(a) Purpose.

The purpose of this Memorandum of Agreement (MOA) is to coordinate the respective responsibilities and duties of TBPG and TBPE in the regulation of professional geoscience in accordance with the Texas Occupations Code, Chapter 1002 (the Texas Geoscience Practice Act or TGPA). Senate Bill (SB) 138, which was passed by the 83rd Texas Legislature and signed by Governor Rick Perry, amended the TGPA. The legislation, which became effective September 1, 2013, requires the TBPG to identify relevant state agencies and educate the identified agencies' staff on how to file a complaint with the TBPG and how the TBPG resolves a complaint. Under the provisions of SB 138, a state agency that becomes aware of a potential violation of the TGPA or rules of the TBPG is required to forward the information to the TBPG.

The intent of this MOA is to implement SB 138 and otherwise to protect the public from adverse environmental impacts that could result from the improper public practice of geoscience associated with activities regulated by the TBPE.

(b) Definitions.

The words and terms used in this MOA shall have the same meaning as defined in the Texas Geoscience Practice Act and associated rules passed by the TBPG at Title 22, Part 39, Chapter 850 and Chapter 851 of the Texas Administrative Code unless the context clearly indicates otherwise.

(c) General Jurisdiction.

- (1) TBPE jurisdiction. The TBPE is the state agency with regulatory jurisdiction over the public practice of professional engineering authorized by the Texas Engineering Practice Act (TPEA). The TBPE licenses Professional Engineers, registers Engineering Firms, and certifies Engineers-in-Training. The TPE's mission is to protect public health, safety, and welfare by ensuring that only qualified persons carry out the public practice of engineering and enforcing the Code of professional Conduct the Board has established for its licensees. TBPE has the authority to adopt and enforce rules consistent with TPEA relating to Professional Engineers, and necessary for the performance of its duties. These TBPE rules are identified in Title 22, Part 6, Chapter 131 et seq of the Texas Administrative Code (TAC).
- (2) TBPG jurisdiction. The TBPG is the state agency with regulatory jurisdiction over the public practice of professional geoscience authorized by the TGPA. The TBPG licenses Professional Geoscientists, registers Geoscience Firms, and certifies Geoscientists-in-Training. The TBPG's mission is to protect public health, safety, welfare and the state's natural resources by ensuring that only qualified persons carry out the public practice of geoscience and enforcing the Code of Professional Conduct the Board

has established for its licensees. TBPG has the authority to adopt and enforce rules consistent with TGPA relating to Geoscientists, and necessary for the performance of its duties. These TBPG rules are identified in Title 22, Part 39, Chapter 850 and Chapter 851 of the Texas Administrative Code (TAC).

- (3) The TBPE is an agency identified by the TBPG under the Texas Geoscience Practice Act, Section 1002.206.

(d) Coordination of Activities.

The TBPG and the TBPE agree to coordinate with each other in the following activities:

- (1) The TBPG agrees to educate TBPE employees regarding the procedures by which complaints are filed with and resolved by the TBPG.
- (2) The TBPE agrees to consult with the TBPG on issues that involve the public practice of professional geoscience in connection with activities under the jurisdiction or review of the TBPE.
- (3) The TBPG agrees to consult with the TBPE on issues that involve the public practice of professional engineering in connection with activities under the jurisdiction or review of the TBPG.
- (4) The TBPG and the TBPE agree to designate a liaison or representative to facilitate communication and coordination between the TBPE and the TBPG.
- (5) The TBPG and the TBPE agree to have agency representatives meet bi-annually, or as needed, to encourage increased communication between the agencies and discuss possible changes to this MOA as needed.

(e) Coordination of Complaints/Coordination of Information.


- (1) Upon the identification by the TBPE of a potential violation of the TGPA or a rule adopted by the TBPG, the TBPE agrees to forward any information related to the potential violation and any subsequently obtained information to the TBPG.
- (2) As provided in Texas Administrative Code §851.157, the TBPE will forward information relating to a potential violation to the TBPG by filing a formal complaint or providing information to TBPG on a prescribed form. The TBPE is responsible for informing the TBPG of any confidentiality provisions that apply to information and documents it forwards to the TBPG.
- (3) The TBPG is responsible for taking appropriate actions, including consulting with TBPE as needed to ensure any applicable confidentiality provisions are maintained.
- (4) Upon the identification by the TBPG of a potential violation of the Texas Engineering Practice Act or a rule adopted by the TBPE, the TBPG agrees to forward any information related to the potential violation and any subsequently obtained information to the TBPE.
- (5) When deemed appropriate by both agencies, the TBPE and the TBPG may cooperate on enforcement actions. Each agency shall retain the authority to undertake separate enforcement or legal actions.

(f) Miscellaneous.

- (1) Nothing in this MOA shall be construed to reduce the statutory jurisdiction of either agency.
- (2) Agency representatives shall meet bi-annually, or as needed, to discuss coordination of complaints under paragraph (e) of this MOA, to discuss possible changes in this MOA, to encourage increased communication between the agencies, and to increase public protection through effective use of the public protection mechanism of professional geoscience licensure and regulation.
- (3) If any provision of this MOA is held to be invalid, the remaining provisions shall not be affected thereby.

(g) Effective Date.

This MOA will take effect upon approval by both agency Executive Directors. This MOA will remain in effect until rescinded by either agency by board or commission action taken in accordance with the terminating agency's procedures.



LANCE KINNEY, P.E.
Executive Director
Texas Board of Professional Engineers

6/9/14
Date





CHARLES HORTON
Executive Director
Texas Board of Professional Geoscientists

6-5-2014
Date

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