

The Texas Board of Professional Geoscientists (TBPG) proposes an amendment to 22 TAC §851.21 concerning the licensure and regulation of Professional Geoscientists.

## BACKGROUND AND PURPOSE

TBPG proposes an amendment to 22 TAC §851.21 to establish guidelines for applicants requesting to sit for a licensing examination. TBPG proposes to add language to provide that an applicant who does not fully meet the education requirement for licensure may sit for a licensing examination as long as the applicant has submitted certain documents and has acknowledged that the applicant does not meet the education requirement. The applicant will then need to resolve the education deficit once the applicant has received passing scores on the licensing examination in order to obtain a Professional Geoscientist license. Resolving the education deficit may include obtaining a waiver of the education requirement, obtaining a substitution of experience for education, or by the Board's determination that the education requirement was met with "equivalent education," as provided by §1002.255(a)(2)(B). An applicant may choose to sit for the examination knowing that the education deficit will not be reviewed by the Board until after the applicant has passed the required examination(s) for licensure, and that the resolution the applicant presents may not be approved.

## SECTION SUMMARY

Proposed amendment to §851.21 adds new subsection (h) that specifies that "an individual who plans to apply for licensure as a Professional Geoscientist in the discipline of geology who does not fully meet the education requirement for licensure may take the ASBOG® Fundamentals of Geology examination as long as the applicant: (1) Submits two acceptable personal references; (2) Has submitted any other necessary forms, documents, and fees; and (3) Has acknowledged that the Appointed Board must approve an education waiver request or approve the substitution of experience for education before the applicant may be licensed as a Professional Geoscientist and that the Appointed Board will not consider an education waiver or a request to substitute experience for education until after both the ASBOG® Fundamentals of Geology and Practice of Geology examinations have been passed." New subsection (i) adds that "an applicant for licensure as a Professional Geoscientist in the discipline of geology who does not fully meet the education requirement for licensure may take the ASBOG® Practice of Geology examination as long as the applicant: (1) Meets or is within six months of meeting the qualifying experience requirement for licensure; (2) Submits the required number/type of acceptable references required for licensure verifying the qualifying work experience claimed (or has verified qualifying work experience claimed through an alternate means, as provided by TBPG rules); (3) Has submitted a request for an education waiver or a substitution of experience for education; (4) Has submitted any other necessary forms, documents, and fees; and, (5) Has acknowledged that the Appointed Board must approve the education waiver request or a request to substitute experience for education before the applicant may be licensed as a Professional Geoscientist and that the Appointed Board will not consider an education waiver or a request for substitution of experience for education until after both the ASBOG® Fundamentals of Geology and Practice of Geology examinations have been passed." New subsection (j) adds that "an applicant for licensure as a Professional Geoscientist in the discipline of geophysics who does not fully meet the education requirement for licensure may take the Texas Geophysics Examination as long as the applicant: (1) Meets or is within six months of meeting the qualifying experience requirement for licensure; (2) Submits the required number/type of acceptable references required for licensure verifying the qualifying work experience claimed (or has verified qualifying work experience claimed through an alternate means, as provided by TBPG rules); (3) Has submitted a request for an education waiver or a substitution of experience for education; (4) has submitted any other necessary forms, documents, and fees; and, (5) Has acknowledged that the Appointed Board must approve the

education waiver request or a request to substitute experience for education before the applicant may be licensed as a Professional Geoscientist and that the Appointed Board will not consider an education waiver or a request for substitution of experience for education until after the Texas Geophysics Examination has been passed.”

#### FISCAL NOTE

Charles Horton, Executive Director of the Texas Board of Professional Geoscientists, has determined that for each fiscal year of the first five years the sections are in effect there is no cost to the state as a result of enforcing or administering the section as proposed.

#### SMALL AND MICRO-BUSINESS ECONOMIC IMPACT ANALYSIS

Mr. Horton has determined that there will be no anticipated economic costs to small businesses or micro-businesses required to comply with proposed amendment to §851.21. Consequently, an economic impact statement or regulatory flexibility analysis is not required. There will be no anticipated economic cost to individuals who are required to comply with the proposed sections. There is no anticipated negative impact on state or local government.

#### PUBLIC BENEFIT

Mr. Horton has also determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the section. The public benefit anticipated as a result of enforcing or administering the sections is that the Texas Board of Professional Geoscientists’ rules are clarified regarding license eligibility, and the Board will be able to more effectively regulate the public practice of geoscience in Texas, which will protect and promote public health, safety, and welfare.

#### REGULATORY ANALYSIS OF MAJOR ENVIRONMENTAL RULES

The Board has determined that these proposals are not a “major environmental rule” as defined by Government Code, §2001.0225. “Major environmental rule” is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. Although Professional Geoscientists and Registered Geoscience Firms play a key role in environmental protection for the state of Texas, this proposal is not specifically intended to protect the environment nor reduce risks to human health from environmental exposure.

#### TAKINGS IMPACT ASSESSMENT

Mr. Horton has determined that the proposal does not restrict or limit an owner’s right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Texas Government Code, §2007.043.

#### PUBLIC COMMENT

Comments on the proposed amendment may be submitted in writing to Charles Horton, Executive Director, Texas Board of Professional Geoscientists, 333 Guadalupe Street, Tower I-530, Austin, Texas 78701 or by mail to P.O. Box 13225, Austin, Texas 78711 or by e-mail to [chorton@tbpg.state.tx.us](mailto:chorton@tbpg.state.tx.us). Please indicate “Comments on Proposed Rules” in the subject line of all e-mails submitted. Please submit comments within 30 days following publication of the proposal in the *Texas Register*.

The proposed amendments are authorized by the Texas Occupations Code §1002.151 which provides that the Board shall adopt and enforce rules consistent with the Texas Geoscience

Practice Act (the Act); by Occupations Code §1002.154 which provides that Board shall enforce the Act; and by Occupations Code §1002.255, which outlines how an applicant may demonstrate eligibility for a license, including equivalent educational requirements.

The proposed amendments implement the Texas Occupations Code, §§1002.151, 1002.154, and 1002.255.

<rule>

#### §851.21. Licensing Requirements-Examinations.

(a) Qualifying examinations:

(1) An applicant for the Geology discipline must pass both parts of the National Association of State Boards of Geology (ASBOG®) examination. Applicants taking the ASBOG® examinations must also abide by the rules and regulations of ASBOG®.

(2) An applicant for the Soil Science discipline must pass both parts of the Council of Soil Science Examiners (CSSE) examination. Applicants taking the CSSE examinations must also abide by the rules and regulations of CSSE.

(3) An applicant for the Geophysics discipline must pass the Texas Geophysics Examination (TGE).

(b) An applicant may request an accommodation in accordance with the Americans with Disabilities Act. Proof of disability may be required.

(c) An applicant who does not timely arrive at and complete a scheduled examination will forfeit the examination fee.

(d) Cheating on an examination is grounds for denial, suspension, or revocation of a license and/or an administrative penalty.

(e) An applicant who has passed an examination may not retake that type of examination.

(f) Applicants requesting a waiver from any examination(s) shall complete a Waiver Request (Form V) and any additional information needed to substantiate the eligibility for the waiver with the application.

(g) Examination requirements and examination procedure: A qualified individual who has not passed qualifying licensing examination(s) may access and abide by all relevant components of one of the following procedures to sit for a qualifying examination(s) in the appropriate discipline:

(1) Licensure in the discipline of geology (part I)/ASBOG® Fundamentals of Geology examination:

(A) Requirements: Completion of the education qualifications for licensure as specified in Texas Occupations Code §1002.255 and §851.25 of this chapter or currently enrolled in a course of study that meets the education requirements for licensure and within two regular semesters of completion of the qualifying course of study.

(B) Procedure:

(i) The applicant shall complete and submit an Exam Request (Form E) and any required documents to the TBPG, along with the appropriate fee by the deadline posted on the TBPG website for the examination date desired by the applicant.

(ii) The Board staff will review the application and inform the applicant of any deficiencies in the application. Upon determination that the requirements have been met, the Board staff will mail an ASBOG® Examination Candidate Request Form to the applicant.

(iii) The applicant shall submit the ASBOG® Examination Candidate Request Form and send the form, along with the examination fee to ASBOG®. A courtesy copy of the ASBOG® Candidate Request Form shall be provided to the TBPG.

(iv) The applicant shall follow all examination administration procedures and take the examination.

(v) The Board staff shall notify the applicant of the results of the examination after receiving the results from ASBOG®.

(2) Licensure in the discipline of geology (part II)/ASBOG® Practice of Geology examination:

(A) Requirements:

(i) Under application for licensure as a Professional Geoscientist with the TBPG.

(ii) Meet all other qualifications for licensure in subsection (a) of this section, and be within six months of meeting the qualifying experience requirement.

(B) Procedure:

(i) The applicant shall complete and submit both the Initial Application for P.G. Licensure (Form A), in accordance with the application procedures specified in subsection (d) of this section, along with the appropriate fee and an Exam Request (Form E) along with the appropriate fee and any required documents to the TBPG, by the deadline posted on the TBPG website for the examination date desired by the applicant.

(ii) The Board staff will review the application and inform the applicant of any deficiencies in the application. Upon determination that the requirements have been met, the Board staff will mail an ASBOG® Examination Candidate Request Form to the applicant.

(iii) The applicant shall submit the ASBOG® Examination Candidate Request Form and send the form, along with the examination fee to ASBOG®. A courtesy copy of the ASBOG® Examination Candidate Request Form shall be provided to the TBPG.

(iv) The applicant shall follow all examination administration procedures and take the examination.

(v) The Board staff shall notify the applicant of the results of the examination after receiving the results from ASBOG®.

(3) Licensure in the discipline of geophysics/TGE:

(A) Requirements:

(i) Under application for licensure as a Professional Geoscientist with the TBPG and meet all qualifications for licensure in subsection (a) of this section, with the exception of the examination requirement; or

(ii) Under application for certification as a Geoscientist-in-Training with the TBPG and meet all qualifications for certification as a Geoscientist-in-Training in §851.41 of this chapter with the exception of having passed the TGE.

(B) Procedure:

(i) The applicant shall complete and submit both Application for Professional Geoscientist (Form A), in accordance with the application procedures specified in subsection (d) of this section, along with the appropriate fee and Examination Request Form (Form E) along with the appropriate fee and any required documents to the TBPG.

(ii) The Board staff will review the application and inform the applicant of any deficiencies in the application. Upon determination that the requirements have been met, the Board staff will provide TGE scheduling and examination payment information to the applicant.

(iii) The applicant shall submit the required information, along with the examination fee to the TBPG.

(iv) The applicant shall follow all examination administration procedures and take the examination.

(v) The Board staff shall notify the applicant of the results of the examination.

(4) Licensure in the discipline of soil science/Council of Soil Science Examiners (CSSE) Fundamentals of Soil Science and Practice of Soil Science Examinations: An applicant must meet the examination requirements of the CSSE; apply to take the required examinations directly with the CSSE and submit the required fees; follow all examination procedures of the CSSE; take and

pass both parts of the examination; and follow CSSE procedures to ensure that the passing scores are forwarded to the TBPG.

(h) An individual who plans to apply for licensure as a Professional Geoscientist in the discipline of geology who does not fully meet the education requirement for licensure may take the ASBOG® Fundamentals of Geology examination as long as the applicant:

(1) Submits two acceptable personal references;

(2) Has submitted any other necessary forms, documents, and fees; and,

(3) Has acknowledged that the Appointed Board must approve an education waiver request or approve the substitution of experience for education before the applicant may be licensed as a Professional Geoscientist and that the Appointed Board will not consider an education waiver or a request to substitute experience for education until after both the ASBOG® Fundamentals of Geology and Practice of Geology examinations have been passed.

(i) An applicant for licensure as a Professional Geoscientist in the discipline of geology who does not fully meet the education requirement for licensure may take the ASBOG® Practice of Geology examination as long as the applicant:

(1) Meets or is within six months of meeting the qualifying experience requirement for licensure;

(2) Submits the required number/type of acceptable references required for licensure verifying the qualifying work experience claimed (or has verified qualifying work experience claimed through an alternate means, as provided by TBPG rules);

(3) Has submitted a request for an education waiver or a substitution of experience for education;

(4) Has submitted any other necessary forms, documents, and fees; and,

(5) Has acknowledged that the Appointed Board must approve the education waiver request or a request to substitute experience for education before the applicant may be licensed as a Professional Geoscientist and that the Appointed Board will not consider an education waiver or a request for substitution of experience for education until after both the ASBOG® Fundamentals of Geology and Practice of Geology examinations have been passed.

(j) An applicant for licensure as a Professional Geoscientist in the discipline of geophysics who does not fully meet the education requirement for licensure may take the Texas Geophysics Examination as long as the applicant:

(1) Meets or is within six months of meeting the qualifying experience requirement for licensure;

(2) Submits the required number/type of acceptable references required for licensure verifying the qualifying work experience claimed (or has verified qualifying work experience claimed through an alternate means, as provided by TBPG rules);

(3) Has submitted a request for an education waiver or a substitution of experience for education;

(4) Has submitted any other necessary forms, documents, and fees; and,

(5) Has acknowledged that the Appointed Board must approve the education waiver request or a request to substitute experience for education before the applicant may be licensed as a Professional Geoscientist and that the Appointed Board will not consider an education waiver or a request for substitution of experience for education until after the Texas Geophysics Examination has been passed.