



# Texas Geoscience Today

## Texas Board of Professional Geoscientists

VOLUME VIII ISSUE II

SUMMER 2013

### SPECIAL POINTS OF INTEREST:

- Upcoming ASBOG® Exam
- Geophysics Exam—Update
- Education/ Training Seminars
- Enforcement Activities

### INSIDE THIS ISSUE:

Chairman's Column	1
Welcome New Board Members	2
Farewell to Outgoing Members	2
Notes from the Executive Director	2
Geophysics Exam Update	3
Licensing Numbers	4
TBPG Training Seminars	4

## The Chairman's Column

I need your help. Between now and year-end 2014, the agency has a statutory duty to review all of its rules, resulting in re-adoption, amendment, or repeal. This is an important time for citizen input -- an opportunity to be heard and a real opportunity to participate in shaping better government. Later in this article are instructions for you to find out more and how your voice can be heard.

Since beginning on the Board in February 2009, I have served the TBPG through work on Committees and as Vice-Chairman for the Board, helping to guide the policy decisions in a direction that minimizes the regulatory burdens placed on Professional Geoscientists, yet continuing to protect the public health, safety, and welfare of the citizens of Texas and the state's natural resources.

At the beginning of this year, the Board elected me as its new Chairman, a role I respect because of the opportunity it presents to be of further service to the citizens of Texas. While this Board is very small compared to other State Agencies, it is my desire for this Board to become an example for other Agencies: to emulate in the role of leaner, smarter governance. Please help me make this happen.

So far this year, the Board enjoyed a successful legislative session in that it received the appropriation it requested (continued funding with no new money or increased fees) and

Senate Bill (SB) 138 (which strengthened the Board's enforcement coordination with other state agencies) passed and was signed by Governor Perry.

There are many new priorities on the Board's agenda, including the implementation of SB 138, updating the Texas Geophysics Examination, revamping the agency's efforts to enter into reciprocity agreements (and otherwise increasing the portability of licenses from state to state), and conducting a four year review of the Board's Rules, as required by the Texas Government Code.

This is all in addition to the usual day-to-day business of the TBPG Board and agency staff of reviewing new and renewal license applications, conducting/reviewing/adjudicating compliance and complaint investigations, and providing information to the public regarding the licensure of Professional Geoscientists, the registration of Geoscience Firms, and the certification of Geoscientists-in-Training.

In the Spring, the Board will also begin the biennial cycle of updating the Strategic Plan, reviewing performance measures, and developing the agency Legislative Appropriations Request (LAR) in preparation for the 84th Texas Legislative Session, beginning in January 2015.

**Rule Re-adoption.** As mentioned earlier, the coming months are important to Texas licensed Professional Geoscientists and members of the public. By

statute, state agencies are required to periodically review and consider for re-adoption each of its rules. The review must include an assessment of whether the reasons for each rule continue to exist. Starting now and continuing through fourth quarter 2014, we will be embarking on this review as a joint effort of the Board, agency staff, licensees, and other stakeholders. A portion of the TBPG website has been devoted to this initiative. A resource center has been prepared for you to provide you with more details and resource materials; please see [www.tbpg.state.tx.us/rulereview.html](http://www.tbpg.state.tx.us/rulereview.html). There, you will see a summary timeline and important information on how you can provide your input and your participation into this process.

Many of you know my personal desire for a smaller, smarter government; one that acts as an enabler for prosperity. Initially, I asked for a goal of reducing agency rules by some percentage. But reduction for reduction's sake must be tempered with rational review. We must hone what is good and valuable to the public and to the geosciences profession. In that regard, the review will be guided by a set of principles. These principles include the following:

- Rules must have clarity;
- Rules must have ability to be consistently applied and be enforceable;
- Rules must add value to our state and its people;

(Continued on page 3)



# Notes from the Executive Director

## ANNOUNCEMENTS

The Fall ASBOG® examinations will be held **October 4, 2013**. The application deadline for this exam has passed.

**Congratulations** to the **20** who passed the ASBOG® Fundamentals of Geology examination and the **10** who passed the ASBOG® Practice of Geology examination on March 1, 2013!

## Upcoming Meetings

General Issues  
Committee Meeting  
**October 11, 2013**

Compliance and  
Enforcement Committee  
Meeting  
**October 11, 2013**

Application Review and  
Continuing Education  
Committee  
**November 21, 2013**

Financial Review /  
Strategic Planning  
Committee  
**November 22, 2013**

TBPG Board Meeting  
**November 22, 2013**

TBPG employees are listed by function on the last page of this newsletter. Feel free to give any of us a call or send us an e-mail if we can provide information about requirements of licensure, or be of assistance with your TBPG Online account or with a new or renewal application. If you are unsure who can best assist you, please call our main number. We are here to help.

## Senate Bill 138 signed by Governor Perry – takes effect September 1, 2013

In the last newsletter I reported on the Legislative Budget Board Performance Review Team's review of the TBPG and its reported findings regarding the TBPG in the Government Efficiency and Effectiveness Report (GEER Report), which led to the filing of Senate Bill 138 (SB 138).

Senate Bill 138 passed through the 83<sup>rd</sup> Regular Texas Legislative Session (Author Judith Zaffirini; House Sponsor Ryan Guillen) and was signed by Governor Rick Perry on June 14, 2013. SB 138 becomes effective September 1, 2013 and includes a provision that the TBPG shall adopt rules necessary to implement certain Sections of the Texas Geoscience Practice Act (Texas Occupations Code 1002) amended or added by SB 138 by December 1, 2013.

At its meeting on July 26, 2013, the TBPG's Compliance and Enforcement Committee approved a plan to recommend to the full Board for the implementation of SB 138. The Committee's plan addresses provisions in the Act that require the TBPG to:

- Adopt rules necessary to implement the Act;
- Maintain information on its website regarding the procedures for filing a complaint with the Board and a means by which a person may electronically file a complaint with the Board;
- Accept a complaint regardless of whether the complaint is notarized; and
- Work with certain state agencies to educate their employees regarding the procedures by which complaints are filed with and resolved by the Board (complaint education).

SB 138 also provides that:

- A state agency that becomes aware of a potential violation of this chapter or a rule adopted under this chapter shall forward any information relating to the potential violation to the board;
- Information that is privileged or confidential remains so following receipt by the TBPG;
- The forwarding of privileged or confidential information by a state agency to the TBPG does not waive a privilege or create an exception to the confidentiality of the information; and
- A state agency's provision of information or failure to provide information does not give rise to a cause of action against the agency.

The Committee's recommended plan was considered by the full Board at its August 9, 2013 meeting and was unanimously approved.

*Chad Horton*

## Welcome New Board Members!

TBPG would like to welcome our newly appointed members to the Board. Mr. Joseph P. DeWoody, of Fort Worth, is president of Clear Fork Royalty. Mr. W. David Prescott, II, P.G., of Amarillo, is president of Talon/LPE LTD. Re-appointed Board Member Dr. Charles Thomas Hallmark, P.G., of College Station, is a retired professor in the Texas A&M University Soil and Crop Sciences Department.

Congratulations to the new members on their appointments! Their terms on the Board will expire on February 1, 2019.

## Farewell to Outgoing Board Members

TBPG would like to sincerely thank former Board Member and previous Board Chair Ron Kitchens and former Board Member and previous Board Chair Barbara Roeling, P.G. for their valuable service to the Board and to the geoscience industry.

We have enjoyed working with them during their tenure, and we sincerely appreciate their time and contributions to TBPG and its mission. *Thank you!*

## TBPG Enforcement Activities

This has been a busy year for Enforcement so far, with 44 cases opened, as opposed to 24 cases the previous year. All PGs and GITs should be aware that the continuing education required for license renewal applies to all license holders. When a PG or GITs renews, the PG/GIT is required to attest to having completed the continuing education required for renewal. Continuing education requirements are set by the Board in its rules §851.32.

Enforcement staff conduct regular monthly audits of licenses and certifications that have been renewed. If audited, the PG/GIT must submit a completed copy of their Continuing Education activity log, along with copies of supplementary records (completion certificates, receipts, attendance rosters, or other supporting documents demonstrating attendance of activities). Rule §851.32(l) requires that licensees maintain continuing education program documentation for three years. Failure to respond to Board requests for demonstration of compliance with the Continuing Education Program is a violation of Board Rules.

Staff has now standardized the review process for expired licenses and firm registrations. While life circumstances may dictate that one allow a license or firm registration to expire, former licensees and registered firms must realize that it is a violation of the Texas Geoscience Practice Act and Board Rules to offer or engage in the public practice of geoscience if a license is expired.

I would encourage individuals and firms who have allowed their licenses or registrations to expire to perform due diligence and edit their social media sites, personal websites and biographies to remove any indication that their license or registration is still current and that they are available to engage in the public practice of geoscience in Texas.

When a licensee renews an expired license, a PG must attest to whether he or she engaged in the non-exempt public practice of geoscience. There seems to be some confusion among licensees who are exempt under Sec. §1002.252 of the Act regarding this attestation. If you are renewing your license after it has expired, you should truthfully answer the question, "At this time, is your P.G. license expired (past its expiration date)?" with the answer, "yes." If the geoscience work you performed while the license was expired is exempt from the requirement of licensure per §1002.252 (i.e., teaching geoscience or work performed exclusively in exploring for and developing oil, gas, or other energy resources..., etc.), then the correct answer to the question, "If your license is expired, have you offered or performed non-exempt geoscience services for the public in Texas during the time that your license was expired?" is "no," (because the activity offered or performed is exempt from licensure).

Enforcement staff welcomes any questions regarding the requirements of the Act or Board Rules.

We hope you have a safe and enjoyable summer.

*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 and enforcing the Professional Code of Conduct the Board has established for its licensees.*

### The Chairman's Column, *continued*

- Reasons for the rule must still exist;
- A net reduction, not increase, in rules should be sought;
- Participation in the process from all stakeholders (board, agency staff, licensees, public) and all resources used to elicit participation;
- TBPG rules include statutory obligations and duties of the Board or the agency, to the extent it is necessary; and
- TBPG rules clearly distinguish activities that may be performed by the agency versus activities that must be performed by the Board (in an open meeting).

As a benchmark, there are 28,223 words in the current TBPG rules. I call upon all to help to eliminate rules that no longer have a reason, clarify those rules that are hard to understand, and readopt those rules that add value to our society and that can be consistently applied and are enforceable. Comments and/or proposed red-line changes to any of the rules may be sent to the Board in care of Executive Director Charles Horton: [chorton@tbpg.state.tx.us](mailto:chorton@tbpg.state.tx.us), to be forwarded to the Board Chair for assignment to a Committee for review. As a matter of right under Rule §850.65, any interested party may request adoption of a rule at any time by following the procedure set forth in Rule §850.65.

*Charles Knobloch*

### Texas Geophysics Examination—Update

The Texas Geophysics Examination (TGE) is the qualifying examination for licensure as a P.G. in the geophysics discipline in Texas. The TGE is designed to assess the examinee's knowledge in the fundamentals and the practice of geophysics. Scoring identifies whether the examinee possesses the minimum knowledge required to safely engage in the public practice of geoscience in Texas.

The TGE was initially constructed in 2003-2004 by a group of volunteer geophysicist subject matter experts at the request and authorization of the Texas Board of Professional Geoscientists and Jay Bowermeister, owner of Gainesville Independent Testing Service (GITS). TBPG Board Secretary-Treasurer Kelly Krenz-Doe, P.G. worked on the initial effort and has provided guidance and oversight to the issues surrounding the examination over the past several years.

In 2013, the examination has been in existence and use for 8 years. Recently, the TBPG determined that it is prudent and necessary to update the examination because although basic principles have not changed, technology and methodology have. Member Krenz-Doe and staff are working on a process to update the examination.



**Texas Board of Professional Geoscientists**  
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## Licensing Numbers

Current numbers:

- 4,727 Professional Geoscientists
- 360 Geoscience Firms
- 41 Geoscientists-in-Training

## Training Seminars

TBPG is now offering one-hour onsite training seminars for Continuing Education credit. These seminars may be conducted on either of the following subjects:

- TBPG statute and rules relating to general requirements of PGs, GITs, and Geoscience Firms, and the Code of Professional Conduct; or
- Code of Professional Conduct and Professional Ethics for the geoscience industry.

Please note that scheduling for these seminars may be limited. TBPG will schedule these on a first come, first served basis, as scheduling and budget permits. Please contact Mr. Wes McCoy, P.G. for more information or to schedule a seminar.

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