Rule Review – Adoption Justification
Chapter 79. Weather Modification

(effective March 1, 2011)

The Texas Department of Licensing and Regulation (Department) filed a notice of intent to review and consider for re-adoption, revision, or repeal 16
Texas Administrative Code (TAC), Chapter 79, Weather Modification. The Notice of Intent to Review was published in the November 12, 2010, issue
of the Texas Register (35 TexReg 10063). A subsequent notice was published in the December 10, 2010, issue of the Texas Register (35 TexReg
11078), which extended the public comment period until January 13, 2011.

Texas Government Code §2001.039 require state agencies to review their rules every four years to determine if the reasons for initially adopting the
rules continue to exist. The rules implementing the Weather Modification program under Agriculture Code, Chapters 301 and 302, were scheduled for
this four-year review.

The Department has reviewed these rules and has determined that the rules are still essential in implementing the provisions of Agriculture Code,
Chapters 301 and 302, Weather Modification. The Department received public comments in response to the Notice of Intent to Review from one
interested party: SciBlue. The commenter objects to the requirement in hail suppression operations that no part of an operational area be more than
eight miles from the limits of the target area. This comment appears to be addressed to a requirement in <*>301.152(a), Agriculture Code and so is
not germane to this rule review. Any comments addressing the statute and not the rules are outside the scope of this rule review.

The commenter suggests that the terms “metes and bounds” in the definitions of “operational area” and “target area” in <*>79.10 is antiquated and
should be replaced with “latitude and longitude.” The commenter also proposes adding “private company research” to the list of entities in <*>79.12(a)
(3) that are exempt from the license and permit requirements. The commenter objects to the reference to “degree” and other references to education,
with respect to the licensing criteria for meteorologists, in <*>79.13. Another comment suggested that <*>79.20 be amended to add the right of the
public to concur with a permit by signing a petition. The commenter complains that <*>79.32 does not take into account other technology or methods
of weather modification and objects to the requirement in hail suppression operations that no part of an operational area be more than eight miles
from the limits of the target area. These public comments will be taken under consideration as part of any possible rules changes in the future.

The Texas Commission of Licensing and Regulation (Commission), the Department’s governing body, readopted the rules at 16 TAC Chapter 79,
Weather Modification at its meeting on January 25, 2011, in their current form. As a result of this review process, the Department may propose
amendments in the future that may further clarify or supplement the existing rules. Any future proposed changes to the rules will be published in the
Proposed Rules section of the Texas Register and will be open for public comment prior to final adoption by the Commission in accordance with the

The rules are re-adopted by the Commission in accordance with Texas Government Code, §2001.039. This concludes the review of 16 TAC, Chapter
79, Weather Modification.

Issued in Austin, Texas on March 1, 2011.

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