Texas Department of Licensing and Regulation

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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 term "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 requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

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.

William H. Kuntz, Jr.
Executive Director
Texas Department of Licensing and Regulation

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