

CHAPTER 259

NATURAL RESOURCES

HOUSE BILL 92-1129.

BY REPRESENTATIVES Acquafresca, DeHerrera, Foster, Neale, S. Williams, and Young;
also SENATORS Cassidy, Gallagher, Groff, Leeds, Martinez, McCormick, Mendez, Mutzebaugh, Norton, Pascoe, Peterson,
Tebedo, and Trujillo.

AN ACT

CONCERNING THE REGULATION OF WEATHER MODIFICATION BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES, AND, IN CONNECTION THEREWITH, CHANGING THE REQUIREMENTS OF SUCH REGULATION FOR GROUND-BASED WINTER CLOUD SEEDING OPERATIONS.

Be it enacted by the General Assembly of the State of Colorado:

Section 1. 36-20-104, Colorado Revised Statutes, 1990 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

36-20-104. Definitions. As used in this article, unless the context otherwise requires:

(2.5) "GROUND-BASED WINTER CLOUD SEEDING" MEANS THE SEEDING OF CLOUDS BETWEEN THE MONTHS OF NOVEMBER THROUGH MAY OF EACH YEAR BY THE USE OF GROUND GENERATION EQUIPMENT.

Section 2. 36-20-107 (2) (b), Colorado Revised Statutes, 1990 Repl. Vol., is amended to read:

36-20-107. Duties of the director. (2) (b) (I) The qualifications so established shall ~~insure~~ ENSURE that the licensee demonstrates knowledge, skill, and experience reasonably necessary to accomplish weather modification without actionable injury to person or property, but the licensee shall be limited in the exercise of such license to the method of weather modification within his area of expertise. At a minimum each such applicant, EXCEPT FOR APPLICANTS FOR LICENSES FOR GROUND-BASED WINTER CLOUD SEEDING, shall meet requirements at least as stringent as one or more of the following:

(H) (A) Demonstrates that he SUCH PERSON has at least eight years' experience at the professional level in weather modification field research or operations, at least three of those years as a project director; or

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(H) (B) Has obtained a baccalaureate degree in engineering, mathematics, or the physical sciences plus three years' experience in weather modification field research or operations; or

(H) (C) Has obtained a baccalaureate degree in meteorology or a degree in engineering or the physical sciences which includes, or is in addition to, the equivalent of at least twenty-five semester hours of meteorological course work and two years' practical experience in weather modification operations or research.

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), THE QUALIFICATIONS ESTABLISHED BY THE DIRECTOR FOR GROUND-BASED WINTER CLOUD SEEDING SHALL ENSURE THAT THE LICENSEE DEMONSTRATES KNOWLEDGE, SKILL, AND EXPERIENCE REASONABLY NECESSARY TO ACCOMPLISH WEATHER MODIFICATION WITHOUT ACTIONABLE INJURY TO PERSON OR PROPERTY, BUT THE LICENSEE SHALL BE LIMITED IN THE EXERCISE OF SUCH LICENSE TO THE METHOD OF WEATHER MODIFICATION WITHIN SUCH LICENSEE'S AREA OF EXPERIENCE. NOTWITHSTANDING THE PROVISIONS OF SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), FOR GROUND-BASED WINTER CLOUD SEEDING A PERSON SHALL HAVE AT LEAST EIGHT YEARS' EXPERIENCE AT THE PROFESSIONAL LEVEL IN WEATHER MODIFICATION FIELD RESEARCH OR OPERATIONS, AT LEAST TWO OF THOSE YEARS AS A PROJECT DIRECTOR.

Section 3. 36-20-108 (1), (2), and (3) (a), Colorado Revised Statutes, 1990 Repl. Vol., as amended by House Bill 92-1018, enacted at the Second Regular Session of the Fifty-eighth General Assembly, are amended to read:

36-20-108. Powers of the director. (1) The director may issue permits applicable to specific weather modification operations. For each operation, said permit shall describe the specific geographic area authorized to be affected and shall provide a specific time period during which the operation may continue, which period may be discontinuous but FOR OPERATIONS OTHER THAN GROUND-BASED WINTER CLOUD SEEDING may not have a total duration exceeding one calendar year from the day of its issuance. A separate permit shall be required for each operation. PERMITS FOR GROUND-BASED WINTER CLOUD SEEDING SHALL HAVE A DURATION OF FIVE YEARS. The director shall issue a permit only after it is established that the project is conceived to provide economic benefits or that it will advance or enhance scientific knowledge. The director shall issue only one active permit for activities in any geographic area if two or more projects therein might adversely interfere with each other.

(2) The director shall, by regulation or order, establish standards and instructions to govern the carrying out of research and development or commercial operations in weather modification that he THE DIRECTOR considers necessary or desirable to minimize danger to land, health, safety, people, property, or the environment.

(3) (a) The director may make any studies or investigations, obtain any information, and hold any hearings he THE DIRECTOR considers necessary

or proper to assist ~~him~~ THE DIRECTOR in exercising ~~his~~ THE DIRECTOR'S power or administering or enforcing this article or any regulations or orders issued under this article.

Section 4. 36-20-112 (1) (a) and (1) (c), Colorado Revised Statutes, 1990 Repl. Vol., are amended to read:

36-20-112. Permit required - when issued. (1) The director, in accordance with ~~his~~ regulations, shall issue a weather modification permit to each applicant who:

(a) Holds, or if the applicant is a corporation, the corporation demonstrates that the person in control of the project holds, a valid weather modification license; EXCEPT THAT, FOR GROUND-BASED WINTER CLOUD SEEDING, A POLITICAL SUBDIVISION OF THE STATE MAY BE ISSUED A PERMIT PURSUANT TO THIS SECTION WITHOUT HOLDING A WEATHER MODIFICATION LICENSE IF THE OTHER REQUIREMENTS OF THIS SECTION ARE MET;

(c) Furnishes proof of financial responsibility adequate to meet obligations reasonably likely to be attached to or result from the proposed weather modification operation. Such proof of financial responsibility may, but at the discretion of the director shall not be required to, be shown by presentation of proof of a prepaid insurance policy with an insurance company licensed to do business in Colorado, which insurance policy shall insure liabilities in an amount set by the director and provide a cancellation clause with a thirty-day notice to the director, or by filing with the director an individual, schedule, blanket, or other corporate surety bond in an amount approved by the director. THE DIRECTOR SHALL NOT REQUIRE PROOF OF FINANCIAL RESPONSIBILITY IN EXCESS OF THE LIMITATIONS IMPOSED BY SECTION 24-10-114, C.R.S., FROM ANY POLITICAL SUBDIVISION OF THE STATE AUTHORIZED TO CONDUCT GROUND-BASED WINTER CLOUD SEEDING WEATHER MODIFICATION ACTIVITIES PURSUANT TO THIS ARTICLE.

Section 5. 36-20-114, Colorado Revised Statutes, 1990 Repl. Vol., as amended by House Bill 92-1018, enacted at the Second Regular Session of the Fifty-eighth General Assembly, is amended to read:

36-20-114. Limits of permit. (1) EXCEPT FOR GROUND-BASED WINTER CLOUD SEEDING, a separate permit is required annually for each operation. If an operation is to be conducted under contract, a permit is required for each separate contract. Subject to the provisions of subsection (2) of this section, a permit may be granted for more than one year's duration. A PERMIT FOR GROUND-BASED WINTER CLOUD SEEDING SHALL BE ISSUED FOR A PERIOD OF FIVE YEARS.

(2) The director may conditionally approve a project OTHER THAN GROUND-BASED WINTER CLOUD SEEDING for a continuous time period in excess of one year's duration. Permits for such operations must be renewed annually. In approving the renewal of a permit for a continuous program, the director may waive the procedures for initial issuance of a permit in section 36-20-112 and, upon review and approval of the project's operational record, the director may issue a renewed permit for the operation

to continue. In such instances, the fees, based upon the value of the contract pursuant to section 36-20-113 may be prorated and paid on an annual basis.

(3) A project permit may be granted by the director without prior publication of notice by the licensee in cases of fire, frost, hail, sleet, smog, fog, drought, or other emergency. In such cases, publication of notice shall be performed as soon as possible and shall not be subject to the time limits specified in this article or in article 4 of title 24, C.R.S.

Section 6. 36-20-117, Colorado Revised Statutes, 1990 Repl. Vol., as amended by House Bill 92-1018, enacted at the Second Regular Session of the Fifty-eighth General Assembly, is amended to read:

36-20-117. Reports of licensee. (1) In order to aid in research and development in weather modification and to aid in the protection of life and property or the environment, any person conducting any weather modification operation in Colorado or elsewhere by undertaking operations within Colorado shall file such reports at such time and in the manner and form as shall be required by regulation of the director; EXCEPT THAT, FOR GROUND-BASED WINTER CLOUD SEEDING PROJECTS, OPERATORS SHALL BE REQUIRED TO KEEP A RECORD OF ALL OPERATIONS CONDUCTED, SHOWING THE EQUIPMENT, THE METHODS, THE TYPES, AMOUNTS, TIMES, AND PLACES OF SEEDING AGENTS EMPLOYED, A STATEMENT AS TO THE ESTIMATED EFFECT OF THE OPERATION IN RELATION TO ITS INTENDED PURPOSE, AND THE NAME AND ADDRESS OF EACH PERSON PARTICIPATING OR ASSISTING IN THE OPERATION. A REPORT ON THE EVALUATION OF PROJECT RESULTS FOR GROUND-BASED WINTER CLOUD SEEDING SHALL BE FILED WITH THE DIRECTOR WITHIN ONE YEAR OF THE TERMINATION OF A PROJECT OR, IN THE CASE OF AN ONGOING PROJECT, AT LEAST ONCE EVERY TWO YEARS. THE DIRECTOR MAY REQUIRE SUCH ADDITIONAL REPORTS AS THE DIRECTOR DEEMS NECESSARY. GROUND-BASED WINTER CLOUD SEEDING PROJECTS SHALL NOT BE SUBJECT TO ANY OTHER REPORTING REQUIREMENTS CONTAINED IN THIS ARTICLE OR RULES AND REGULATIONS OF THE DIRECTOR.

(2) Report forms may be developed by the director and shall include basic records showing: The method employed, the type of equipment used, the kind and amount of each material used, the times and places the equipment is operated, the name and address of each individual, other than the licensee, who participates or assists in the operation, any environmental effects realized or suspected to have occurred, and any other necessary data the director may require.

(3) EXCEPT FOR GROUND-BASED WINTER CLOUD SEEDING PROJECTS, the director shall require written biweekly reports summarizing the project's activities and intended results while the project is actually in operation, and ~~he~~ EXCEPT FOR GROUND-BASED WINTER CLOUD SEEDING PROJECTS, THE DIRECTOR shall require a written final operational report and a written final report evaluating the project, or an annual operational report and an annual project evaluation, as the case may be. EXCEPT FOR GROUND-BASED WINTER CLOUD SEEDING

PROJECTS, a final operational report along with a preliminary scientific evaluation of the project shall be filed no later than thirty days after the completion of the project. EXCEPT FOR GROUND-BASED WINTER CLOUD SEEDING PROJECTS, a final complete scientific evaluation of the project shall be filed no later than one hundred eighty days after the completion of the project. EXCEPT FOR GROUND-BASED WINTER CLOUD SEEDING PROJECTS, an annual summary report shall be filed sixty days prior to the renewal of a permit under the provisions of section 36-20-114 (2). All such reports are declared to be public records subject to the provisions and limitations of part 2 of article 72 of title 24, C.R.S.

Section 7. **Effective date - applicability.** This act shall take effect July 1, 1992, and shall apply to licenses and permits for weather modification issued or renewed pursuant to article 20 of title 36, Colorado Revised Statutes, on or after said date.

Section 8. **Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 29, 1992