

AGRICULTURE CODE

TITLE 9. WEATHER AND CLIMATE

CHAPTER 301. WEATHER MODIFICATION AND CONTROL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 301.001. DEFINITIONS. In this chapter:

(1) "Executive director" means the executive director of the Texas Department of Licensing and Regulation.

(2) "Operation" means the performance of weather modification and control activities entered into for the purpose of producing or attempting to produce a certain modifying effect within one geographical area over one continuing time interval not exceeding four years.

(3) "Research and development" means theoretical analysis, exploration, experimentation, and the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(4) "Weather modification and control" means changing or controlling, or attempting to change or control, by artificial methods the natural development of atmospheric cloud forms or precipitation forms that occur in the troposphere.

(5) "Weather modification and control program" means the research, development, licensing, and permitting and other associated activities to be administered by the Texas Department of Licensing and Regulation.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

SUBCHAPTER B. POWERS AND DUTIES OF TEXAS DEPARTMENT OF LICENSING  
AND REGULATION

Sec. 301.051. RULES. The Texas Department of Licensing and Regulation may adopt rules necessary to:

(1) exercise the powers and perform the duties under

this chapter;

(2) establish procedures and conditions for the issuance of licenses and permits under this chapter; and

(3) establish standards and instructions to govern the carrying out of research or projects in weather modification and control that the Texas Department of Licensing and Regulation considers necessary or desirable to minimize danger to health or property.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.052. STUDIES; INVESTIGATIONS; HEARINGS. The Texas Department of Licensing and Regulation may make any studies or investigations, obtain any information, and hold any hearings necessary or proper to administer or enforce this chapter or any rules or orders issued under this chapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.053. ADVISORY COMMITTEES. The Texas Department of Licensing and Regulation may establish advisory committees to advise the Texas Department of Licensing and Regulation and to make recommendations to the Texas Department of Licensing and Regulation concerning legislation, policies, administration, research, and other matters related to the duties, powers, or functions of the Texas Department of Licensing and Regulation under this chapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.054. PERSONNEL. The executive director may, as provided by the General Appropriations Act, appoint and fix the compensation of any personnel, including specialists and consultants, necessary to perform duties and functions under this chapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.055. MATERIALS AND EQUIPMENT. The Texas Department of Licensing and Regulation may acquire in the manner provided by law any materials, equipment, and facilities necessary to the performance of its duties and functions under this chapter. Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.056. INTERSTATE COMPACTS. The executive director may represent the state in matters pertaining to plans, procedures, or negotiations for interstate compacts relating to weather modification and control.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.057. CONTRACTS AND COOPERATIVE AGREEMENTS. (a) The Texas Department of Licensing and Regulation may cooperate with public or private agencies to promote the purposes of this chapter.

(b) The Texas Department of Licensing and Regulation may enter into cooperative agreements with the United States or any of its agencies, with counties and municipalities of this state, or with any private or public agencies for conducting weather modification or cloud-seeding operations.

(c) The Texas Department of Licensing and Regulation may represent the state, counties, municipalities, and public and private agencies in contracting with private concerns for the performance of weather modification or cloud-seeding operations.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.058. PROMOTION OF RESEARCH AND DEVELOPMENT. (a) In order to assist in expanding the theoretical and practical knowledge of weather modification and control, the Texas Department of Licensing and Regulation shall promote continuous research and development in:

(1) the theory and development of methods of weather modification and control, including processes, materials, and devices related to these methods;

(2) the use of weather modification and control for agricultural, industrial, commercial, and other purposes; and

(3) the protection of life and property during research and operational activities.

(b) The Texas Department of Licensing and Regulation with approval of the executive director may conduct and may contract for research and development activities relating to the purposes of this section.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.059. GRANTS AND GIFTS. Subject to any limitations imposed by law, the Texas Department of Licensing and Regulation may accept federal grants, private gifts, and donations from any other source. Unless the use of the money is restricted or subject to any limitations provided by law, the Texas Department of Licensing and Regulation may spend the money for the administration of this chapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.060. DISPOSITION OF LICENSE AND PERMIT FEES. The Texas Department of Licensing and Regulation shall deposit all license and permit fees in the state treasury.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

#### SUBCHAPTER C. LICENSES AND PERMITS

Sec. 301.101. LICENSE AND PERMIT REQUIRED. Except as provided by rule of the Texas Department of Licensing and Regulation under Section 301.102, a person may not engage in activities for weather modification and control:

(1) without a weather modification license and weather modification permit issued by the department; or

(2) in violation of any term or condition of the license or permit.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.102. EXEMPTIONS. (a) The Texas Department of Licensing and Regulation by rule, to the extent it considers exemptions practical, shall provide for exempting the following activities from the license and permit requirements of this chapter:

(1) research, development, and experiments conducted by state and federal agencies, institutions of higher learning, and bona fide nonprofit research organizations;

(2) laboratory research and experiments;

(3) activities of an emergent nature for protection against fire, frost, sleet, or fog; and

(4) activities normally conducted for purposes other than inducing, increasing, decreasing, or preventing precipitation or hail.

(b) The Texas Department of Licensing and Regulation by rule may modify or revoke an exemption.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.103. ISSUANCE OF LICENSE. (a) The Texas Department of Licensing and Regulation, in accordance with the rules adopted under this chapter, shall issue a weather modification license to each applicant who:

(1) pays the license fee; and

(2) demonstrates, to the satisfaction of the Texas Department of Licensing and Regulation, competence in the field of meteorology that is reasonably necessary to engage in weather modification and control activities.

(b) If the applicant is an organization, the competence must be demonstrated by the individual or individuals who are to be in control and in charge of the operation for the applicant.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.105. EXPIRATION DATE. Each original or renewal license expires at the end of the state fiscal year for which it was issued.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.106. RENEWAL LICENSE. At the expiration of the license period, the Texas Department of Licensing and Regulation shall issue a renewal license to each applicant who pays the license fee and who has the qualifications necessary for issuance of an original license.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.107. ISSUANCE OF PERMIT. (a) The Texas Department of Licensing and Regulation, in accordance with the rules adopted under this chapter and on a finding that the weather modification and control operation as proposed in the permit application will not significantly dissipate the clouds and prevent their natural course of developing rain in the area in which the operation is to be conducted to the material detriment of persons or property in that area, and after approval at an election if governed by Subchapter D, may issue a weather modification permit to each applicant who:

- (1) holds a valid weather modification license;
- (2) pays the permit fee;
- (3) publishes a notice of intention and submits proof of publication as required by this chapter; and
- (4) furnishes proof of financial responsibility.

(b) The Texas Department of Licensing and Regulation shall, if requested by at least 25 persons, hold at least one public hearing in the area where the operation is to be conducted prior to the issuance of a permit.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.109. SCOPE OF PERMIT. A separate permit is

required for each operation. If an operation is to be conducted under contract, a permit is required for each separate contract. The Texas Department of Licensing and Regulation may not issue a permit for a contracted operation unless it covers a continuous period not to exceed four years.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.110. APPLICATION AND NOTICE OF INTENTION. Before undertaking any operation, a license holder must file an application for a permit and have a notice of intention published as required by this chapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.111. CONTENT OF NOTICE. In the notice of intention, the applicant must include:

- (1) the name and address of the license holder;
- (2) the nature and object of the intended operation and the person or organization on whose behalf it is to be conducted;
- (3) the area in which and the approximate time during which the operation is to be conducted;
- (4) the area that is intended to be affected by the operation; and
- (5) the materials and methods to be used in conducting the operation.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.112. PUBLICATION OF NOTICE. The notice of intention required under Section 301.110 must be published at least once a week for three consecutive weeks in a newspaper of general circulation in each county in which the operation is to be conducted.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.113. PROOF OF PUBLICATION; AFFIDAVIT. The applicant shall file proof of the publication, together with the publishers' affidavits, with the Texas Department of Licensing and Regulation during the 15-day period immediately after the date of the last publication.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.114. PROOF OF FINANCIAL RESPONSIBILITY. Proof of financial responsibility is made by showing to the satisfaction of the Texas Department of Licensing and Regulation that the license holder has the ability to respond in damages for liability that might reasonably result from the operation for which the permit is sought.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.115. MODIFICATION OF PERMIT. The Texas Department of Licensing and Regulation may modify the terms and conditions of a permit if:

(1) the license holder is first given notice and a reasonable opportunity for a hearing on the need for a modification; and

(2) it appears to the Texas Department of Licensing and Regulation that a modification is necessary to protect the health or property of any person.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.116. SCOPE OF ACTIVITY. Once a permit is issued, the license holder shall confine the license holder's activities substantially within the limits of time and area specified in the notice of intention, except to the extent that the limits are modified by the Texas Department of Licensing and Regulation. The license holder shall comply with any terms and conditions of the permit as originally issued or as subsequently modified by the



Texas Department of Licensing and Regulation.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.117. RECORDS AND REPORTS. (a) A license holder shall keep a record of each operation conducted under a permit, showing:

- (1) the method employed;
- (2) the type of equipment used;
- (3) the kind and amount of each material used;
- (4) the times and places the equipment is operated;
- (5) the name and mailing address of each individual, other than the license holder, who participates or assists in the operation; and

- (6) other information required by the Texas Department of Licensing and Regulation.

(b) The Texas Department of Licensing and Regulation shall require written reports for each operation, whether the operation is exempt or conducted under a permit. A license holder shall submit a written report at the time and in the manner required by the Texas Department of Licensing and Regulation.

(c) All information on an operation shall be submitted to the Texas Department of Licensing and Regulation before it is released to the public.

(d) The reports and records in the custody of the Texas Department of Licensing and Regulation shall be kept open for public inspection.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

SUBCHAPTER D. ELECTION FOR APPROVAL OF PERMIT THAT INCLUDES  
AUTHORIZATION FOR HAIL SUPPRESSION

Sec. 301.151. DEFINITIONS. (a) In this subchapter:

- (1) "Operational area" means that area that joins the target area and is reasonably necessary to use in order to effectuate the purposes over the target area without affecting the

land or landowners in the operational area.

(2) "Target area" means that area described by metes and bounds or other specific bounded description set out in the application for a permit.

(b) The Texas Department of Licensing and Regulation by rule shall define hail suppression as used in this subchapter, using the most current scientifically accepted technological concepts.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.152. OPERATIONAL AREA. (a) No part of an operational area may be more than eight miles from the limits of the target area.

(b) The operational area must be described by metes and bounds or other specific bounded description and set out in the application for a permit.

(c) If the application for a permit does not describe the operational area, the Texas Department of Licensing and Regulation may designate an area located inside and up to eight miles from the limits of the target area described in the application as the operational area of the permit for the purposes of this chapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.153. DATE OF PERMIT ISSUANCE; PERMIT AREA. A permit may not be issued by the Texas Department of Licensing and Regulation before the end of the 30-day period immediately following the first publication of notice and then only in:

(1) those counties or parts of counties in the target area or operational area in which the majority of the qualified voters voting have approved or have not disapproved the issuance of a permit if an election has been held; or

(2) any county or part of a county in the target area or operational area if no petition for an election has been filed.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.154. ELIGIBLE VOTERS. (a) Persons eligible to vote in elections held under this subchapter include qualified voters in counties or parts of counties included in the target area or operational area.

(b) If the target area or operational area for a permit including authorization for hail suppression includes only part of a county, an election held under this subchapter may be held only in the election precincts that are included entirely within or are partially included in those areas, and only those qualified voters residing in an election precinct or precincts of the county included in the target area or operational area are eligible to sign a petition and to vote at an election under this subchapter. In computing the vote, only a majority of qualified voters residing in those areas and voting in the election is necessary to carry the proposition in that county.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.155. APPLICATION FOR PETITION SEEKING ELECTION.

(a) On written request of at least 25 qualified voters residing in the target area or operational area mentioned in the notice requesting an election accompanied by unsigned petitions, the county clerk of each county within the target area or operational area shall certify and mark for identification petitions for circulation.

(b) An application for a petition seeking an election to disapprove the issuance of a permit must:

(1) be headed "Application for Election to Disapprove a Weather Modification Permit"; and

(2) contain the following statement just ahead of the signatures of the applicants: "It is the hope, purpose, and intent of the applicants whose signatures appear on this application to see disapproved the issuance of a permit for weather modification, including hail suppression."

(c) An application for a petition seeking an election to approve the issuance of a permit must:

(1) be headed "Application for Election to Approve a

Weather Modification Permit"; and

(2) contain the following statement just ahead of the signatures of the applicants: "It is the hope, purpose, and intent of the applicants whose signatures appear on this application to see approved the issuance of a permit for weather modification, including hail suppression."

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.156. ELECTION ON PETITION. (a) On the return to the county clerks of petitions signed by at least 10 percent of the qualified voters residing in each county within the target area or operational area in the notice requesting an election, the commissioners court of each county shall call and hold an election. Notice under Chapter 111, Local Government Code, of the commissioners court meeting to call and hold the election is not required. The date of the election shall be determined by the commissioners court in accordance with this subchapter, notwithstanding Sections 41.004 and 41.0041, Election Code.

(b) A petition under this subchapter must be filed with the clerk of each county within 30 days immediately following the date of the first publication of notice.

(c) An election under this subchapter must be held within 45 days after the date the petition is received to determine whether or not the qualified voters in the target area or operational area approve the issuance of the permit.

(d) Immediately on calling the election, the clerk of each county within the target area or operational area shall notify the executive director of the date of the election.

(e) Except as otherwise provided by this chapter, elections must be held in accordance with the Election Code.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.157. PETITION REQUIREMENTS. (a) The petition for an election under this subchapter must read substantially as follows:

"The following qualified voters of \_\_\_\_\_ County request the Commissioners Court of \_\_\_\_\_ County to call an election at which the qualified voters shall be asked to vote on the proposition of whether or not they approve of the issuance of a weather modification permit that includes authorization for hail suppression (description of area)."

(b) Each qualified voter signing the petition must give the voter's full name and address and voter registration number. Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.158. CERTIFICATION OF PETITION. (a) Within five days after the date of receiving a petition under this subchapter, the commissioners court shall have the county clerk of the county check the names on the petition against the voter registration lists of the county and certify to the commissioners court the number of qualified voters signing the petition as reflected by checking the county's voter registration lists. If only a part of a county is included in the target area or operational area, the county clerk shall also certify that those signing the petition reside in an election precinct in the county totally or partially included in the target area or operational area.

(b) On certification by the county clerk, the petition must be filed with the official records of the county and be made available for public inspection. Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.159. DEPOSIT REQUIRED. (a) A person filing a petition with the county clerk shall deposit with the county clerk an amount of money estimated by the county clerk to be sufficient to cover the costs of the election, to be held by the county clerk until the result of the election to approve or disapprove the issuance of the permit is officially announced.

(b) If the result of the election favors the party petitioning for the election, the county clerk shall return the deposit to the person filing the petition or to the person's agent

or attorney.

(c) If the result of the election does not favor the party petitioning for the election, the county clerk shall pay the cost and expenses of the election from the deposit and return the balance of the deposit to the person filing the petition or to the person's agent or attorney.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.160. FORM OF BALLOT. The ballots for an election under this subchapter must be printed to provide for voting for or against the proposition:

"The issuance of a permit providing for weather modification, including authorization for hail suppression and control in (description of area)."

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.161. ELECTION ORDER. (a) The order calling the election shall provide for:

(1) the time and place or places for holding the election;

(2) the form of the ballots; and

(3) the presiding judge for each voting place.

(b) The commissioners court shall publish a copy of the election order in a newspaper of general circulation in the county or in the part of the county within the target area or operational area at least 30 days preceding the day of the election.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.162. RESULTS OF ELECTION. (a) The presiding judge of each voting place shall supervise the counting of all votes cast and shall certify the results to the commissioners court not later than the fifth day after the date of the election.

(b) A copy of the results must be filed with the county clerk and is a public record.

(c) Not later than the fifth day after the results are filed, the commissioners court shall declare the results.

(d) The commissioners court of each county holding an election shall send certified copies of the results of the election to the executive director not later than 24 hours after the results are declared under Subsection (a).

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.163. ISSUANCE OR DENIAL OF PERMIT FOLLOWING ELECTION. (a) If a majority of the qualified voters voting in the election precincts any part of which are located in the target area vote against issuance of the permit, a permit may not be issued.

(b) If a majority of the qualified voters voting in the election precincts any part of which are located within the target area vote in favor of issuance of the permit, the Texas Department of Licensing and Regulation may issue the permit as provided in this subchapter, except that if a majority of the qualified voters voting in any of the following areas vote against issuance of the permit, that area is excluded from the coverage of the permit:

(1) an election precinct any part of which is located in the operational area; or

(2) an election precinct located wholly within the target area and contiguous with its outer boundary.

(c) If the Texas Department of Licensing and Regulation finds that a weather modification and control operation is still feasible, a permit may be issued covering areas in which no election is requested or areas in which the voters give their approval as provided by this subchapter.

(d) If a permit is denied under Subsection (a), an application for a permit covering all or part of the same target area or operational area that was denied may not be considered, and for a period of two years following the date of the election, a permit under that application may not be issued by the Texas Department of Licensing and Regulation and an election may not be held under this chapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept.

1, 2003.

Sec. 301.164. PERMIT FOR HAIL SUPPRESSION PROHIBITED OUTSIDE TARGET AREA OR IN AREA EXCLUDED BY ELECTION. (a) A permit may not be issued that provides for or allows the seeding of clouds for hail suppression outside the target area or within those counties or parts of counties located in any operational or target areas that were excluded from the coverage of the permit by an election under Section 301.163(a) or (b). Seeding may be done in those counties or parts of counties located in the operational or target area that were not excluded from the coverage of the permit by an election under Section 301.163(a) or (b), provided the seeding is reasonably calculated to take effect only within the target area.

(b) This section does not prohibit the observation of cloud and cloud formations.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.165. MONITOR OF PROGRAM. The Texas Department of Licensing and Regulation may monitor any program under conditions the Texas Department of Licensing and Regulation determines advisable.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.166. PETITION IN ADJACENT COUNTY. (a) On petition as provided in this subchapter, the commissioners court of any county outside but adjacent to a county included in the operational area of an existing or proposed permit shall call and hold an election on the proposition of whether or not the qualified voters of the county approve of the issuance of any permit authorizing hail suppression in the county.

(b) If the county voters voting in the election disapprove the issuance of permits authorizing hail suppression, the Texas Department of Licensing and Regulation may not issue a permit covering the county until the proposition has been approved at a



subsequent election.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.167. INCLUSION OF CERTAIN COUNTIES AND PARTS OF COUNTIES. (a) If any county or part of a county has disapproved the issuance of a permit at a previous election held under this subchapter, that county or part of a county may not be included in any permit issued by the Texas Department of Licensing and Regulation until the voters of that county or part of a county have participated in a subsequent election at which a permit is approved.

(b) The applicant for a permit that includes that county or part of a county has the burden of petitioning for an election and depositing costs in the manner provided by this subchapter for the original election to approve or disapprove a permit.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

#### SUBCHAPTER E. SANCTIONS

Sec. 301.201. PENALTIES. A person who violates this chapter is subject to Subchapters F and G, Chapter 51, Occupations Code, in the same manner as a person regulated by the Texas Department of Licensing and Regulation under other law is subject to those subchapters.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.202. ACT OF GOD. If a person can establish that an event that would otherwise be a violation of this chapter or a rule adopted or order or permit issued under this chapter was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of this chapter or a rule, order, or permit issued under this chapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.203. DEFENSE EXCLUDED. Unless otherwise provided by this chapter, the fact that a person holds a permit issued by the Texas Department of Licensing and Regulation does not relieve that person from liability for the violation of this chapter or a rule adopted or order or permit issued under this chapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

#### SUBCHAPTER F. REVOCATION AND SUSPENSION OF PERMIT

Sec. 301.251. DEFINITION. In this subchapter, "permit holder" includes each member of a partnership or association that is a permit holder and, with respect to a corporation that is a permit holder, each officer and the owner or owners of a majority of the corporate stock, provided that the member or owner controls at least 20 percent of the permit holder.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.252. GROUNDS FOR REVOCATION OR SUSPENSION OF PERMIT. After notice and hearing, the Texas Department of Licensing and Regulation may revoke or suspend a permit issued under this chapter on any of the following grounds:

(1) violating any term or condition of the permit, and revocation or suspension is necessary to maintain the quality of water or the quality of air in the state, or to otherwise protect human health and the environment consistent with the objectives of the law within the jurisdiction of the Texas Department of Licensing and Regulation;

(2) having a record of environmental violations in the preceding five years at the permitted site;

(3) causing a discharge, release, or emission contravening a pollution control standard set by the Texas Department of Licensing and Regulation or contravening the intent of a law within the jurisdiction of the Texas Department of Licensing and Regulation;

(4) misrepresenting or failing to disclose fully all relevant facts in obtaining the permit or misrepresenting to the Texas Department of Licensing and Regulation any relevant fact at any time;

(5) being indebted to the state for fees, payment of penalties, or taxes imposed by the law within the department's jurisdiction;

(6) failing to ensure that the management of the permitted facility conforms or will conform to the law within the jurisdiction of the Texas Department of Licensing and Regulation;

(7) abandoning the permit or operations under the permit;

(8) the finding by the Texas Department of Licensing and Regulation that a change in conditions requires elimination of the discharge authorized by the permit; or

(9) failing to continue to possess qualifications necessary for the issuance of the permit.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.253. GROUNDS FOR REVOCATION OR SUSPENSION OF LICENSE. (a) This section applies to a license issued under this chapter or under a rule adopted under this chapter.

(b) After notice and hearing, the Texas Department of Licensing and Regulation may suspend or revoke a license, place on probation a person whose license has been suspended, reprimand a license holder, or refuse to renew or reissue a license on any of the following grounds:

(1) having a record of environmental violations in the preceding five years at a permit site;

(2) committing fraud or deceit in obtaining the license;

(3) demonstrating gross negligence, incompetency, or misconduct while acting as license holder;

(4) making an intentional misstatement or misrepresentation of fact in information required to be maintained or submitted to the Texas Department of Licensing and Regulation by

the license holder;

(5) failing to keep and transmit records as required by a law within the jurisdiction of the Texas Department of Licensing and Regulation;

(6) being indebted to the state for a fee, payment of a penalty, or a tax imposed by a law within the jurisdiction of the Texas Department of Licensing and Regulation; or

(7) failing to continue to possess qualifications necessary for the issuance of the license.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.254. PROCEDURES FOR NOTICE AND HEARINGS. The Texas Department of Licensing and Regulation by rule shall establish procedures for public notice and any public hearing under this subchapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.255. HEARINGS. A hearing under this subchapter shall be conducted in accordance with the hearing rules adopted by the Texas Department of Licensing and Regulation and the applicable provisions of Chapter [2001](#), Government Code.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.256. REVOCATION OR SUSPENSION BY CONSENT. If a permit holder or license holder requests or consents to the revocation or suspension of the permit or license, the executive director may revoke or suspend the permit or license without a hearing.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.257. OTHER RELIEF. A proceeding brought by the Texas Department of Licensing and Regulation under this subchapter does not affect the authority of the Texas Department of Licensing

and Regulation to bring suit for injunctive relief or a penalty, or both, under this chapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

#### SUBCHAPTER G. IMMUNITY; CERTAIN LEGAL RELATIONSHIPS

Sec. 301.301. IMMUNITY OF STATE. The state and its officers and employees are immune from liability for all weather modification and control activities conducted by private persons or groups.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.

Sec. 301.302. PRIVATE LEGAL RELATIONSHIPS. (a) This chapter does not affect private legal relationships, except that an operation conducted under the license and permit requirements of this chapter is not an ultrahazardous activity that makes the participants subject to liability without fault.

(b) The fact that a person holds a license or permit under this chapter or that the person has complied with this chapter or the rules issued under this chapter is not admissible as evidence in any legal proceeding brought against the person.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 2.001(a), eff. Sept. 1, 2003.