

## CHAPTER 42

### WEATHER MODIFICATION

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#### 42.01 POLICY.

The legislature finds that it is necessary for the state to regulate weather modification to protect its citizens, but nothing in sections 42.01 to 42.14 shall be construed to encourage or promote weather modification.

**History:** 1977 c 426 s 1

#### 42.02 DEFINITIONS.

Subdivision 1. For the purposes of sections 42.01 to 42.14, the terms defined in this section have the meanings given them.

Subd. 2. "Weather modification" means any activity performed in connection with placing or attempting to place any substance in the atmosphere or clouds within the atmosphere, including fog, with the intention of and for the purpose of producing artificial changes in the composition, motions, and resulting behavior of the atmosphere or clouds within the atmosphere, including fog.

Subd. 3. "Person" means any person, firm, association, organization, partnership, company, corporation, private or public, county, city, trust or other public agency.

Subd. 4. "Operation" means the performance of weather modification 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 one year.

Subd. 5. "Commissioner" means the commissioner of agriculture.

**History:** 1977 c 426 s 2

#### 42.03 SOVEREIGN RIGHT CLAIMED BY STATE.

It is declared that the state of Minnesota claims its sovereign right to use for the best interest of its residents the moisture contained in the clouds and atmosphere within its sovereign state boundaries.

**History:** 1977 c 426 s 3

#### 42.04 COMMISSIONER; POWERS AND DUTIES.

Subdivision 1. **Powers.** The commissioner of agriculture may:

(a) pursuant to chapter 14, adopt rules necessary to implement the license and permit program established pursuant to sections 42.01 to 42.14;

(b) enter into contracts or memoranda of agreement and do all things necessary to cooperate with the United States government, and to qualify for, accept and disburse any private grant intended for the administration of sections 42.01 to 42.14;

(c) cooperate with other states to jointly carry out research and planning in weather modification;

(d) advise persons, groups, and local units of government on weather modification and distribute informational material relating to weather modification and review and comment on all county programs of weather modification; and

(e) carry on research related to weather modification including evaluation of the effects of weather modification activities within the state by staff members, or by contract. Evaluation of weather modification programs shall, if practical and within limits of available funding, include components of economic and environmental analysis which delineate the economic and environmental implications of the programs.

Subd. 2. **Duties.** The commissioner of agriculture shall:

(a) utilize to the extent possible the facilities and technical resources of public and private institutions in the state;

(b) by rule adopted pursuant to chapter 14, require persons engaged in weather modification to submit reports of their activities and operations and any other information deemed necessary;

(c) on or before January 15 of each year, submit a report to the legislature and governor describing the weather modification operations within the state during the preceding year and the social, economic and environmental impact of the operations. The report shall also include recommendations for legislative action and any other information useful to the legislature.

**History:** 1977 c 426 s 4; 1982 c 424 s 130

#### 42.05 COUNTY PROGRAMS OF WEATHER MODIFICATION.

Counties may, only after approval of the commissioner and subject to the requirements of sections 42.01 to 42.14, conduct programs of weather modification and expend money therefor. At least two weeks published notice in a newspaper of general circulation within the county must be given before the program of weather modification may begin. If, within 30 days of a decision by a county to expend funds for weather modification, a petition signed by voters in the county equal in number to ten percent of the votes cast in the county in the last general election or 2,000 voters, whichever is less, requesting a referendum on the proposed expenditure is filed with the county auditor, the funds shall not be expended until it has been submitted to the voters at a general or special election and a majority of votes cast on the question of the expenditure of the funds are affirmative. No program may be conducted within the county without prior approval by the county board.

**History:** 1977 c 426 s 5

#### 42.06 LICENSES.

Subdivision 1. No person shall engage in weather modification without a license issued by the commissioner. Applications for weather modification licenses shall be on forms prescribed and furnished by the commissioner. The applicant shall pay a fee of \$100. The license shall be valid for one year. The commissioner may waive the license fee in situations he deems appropriate.

Subd. 2. The commissioner shall issue licenses only to applicants who demonstrate good character, adequate education and sufficient competence in the field of meteorology and cloud physics to engage in weather modification. At a minimum, each applicant shall meet at least one of the following:

(1) demonstrate that he has at least eight years of experience at the professional level in weather modification field research or operations, at least three of these years as a professional director; or

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

(3) 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 25 semester hours of meteorological course work and two years practical experience in weather modification operations or research.

If the applicant is an organization, the competence must be demonstrated by the individuals who are to supervise and conduct the weather modification.

Subd. 3. The commissioner may renew a license annually if the applicant has the qualifications necessary for issuance of an original license and pays a fee of \$100.

Subd. 4. The moneys collected as fees shall be deposited with the state treasurer in the general fund.

**History:** 1977 c 426 s 6

#### **42.07 SUSPENSION; REVOCATION; REFUSAL TO RENEW LICENSE.**

The commissioner shall, subject to the provisions of chapter 14, suspend, revoke or refuse to renew a license for any one or any combination of the following causes:

- (1) Incompetency;
- (2) Dishonest practice;
- (3) False or fraudulent representation in obtaining a license or permit under sections 42.01 to 42.14 or rules promulgated thereunder;
- (4) Failure to comply with any of the provisions of sections 42.01 to 42.14 or of rules promulgated thereunder; or
- (5) Aiding other persons who fail to comply with any of the provisions of sections 42.01 to 42.14 or rules promulgated thereunder.

**History:** 1977 c 426 s 7; 1982 c 424 s 130

#### **42.08 INVESTIGATION.**

The commissioner may investigate any operation or research and development activities of any person applying for a license and of any person holding or claiming to hold a license or permit.

**History:** 1977 c 426 s 8

#### **42.09 PERMITS.**

Subdivision 1. No person shall conduct an operation without a permit issued by the commissioner. Applications for permits shall be on forms prescribed and furnished by the commissioner. Permits shall be issued only to applicants who hold a valid weather modification license, pay a fee of \$100 and furnish proof of financial responsibility pursuant to subdivision 2. Prior to conducting an operation, the permittee shall publish notice of the operation as the commissioner shall require and shall give written notice to the county boards of the counties over which the operation is to be conducted and counties contiguous thereto. The permit shall be valid for one year or until the operation terminates, whichever first occurs.

Subd. 2. The applicant shall demonstrate to the satisfaction of the commissioner that he has the ability to respond to damages for liability which might reasonably result from the operation for which the permit is sought.

Subd. 3. The fees collected for permits shall be deposited with the state treasurer in the general fund.

Subd. 4. To the extent the commissioner deems necessary, emergency weather modification operations for the purpose of controlling fire, frost, sleet, hail, fog, or wind shall be exempt from the permit requirements.

Subd. 5. The commissioner may renew a permit annually if the applicant has the qualifications necessary for issuance of an original permit and pays a fee of \$100.

Subd. 6. No permit shall be issued to use a cloud seeding apparatus which emits cloud seeding material into the air when located on or in contact with the ground.

Subd. 7. Before a permit is issued, the commissioner may hold an informal hearing on the permit, at a location within the same geographic area as the proposed operation will be conducted.

Subd. 8. No more than one weather modification permit shall be issued for a given geographic area.

Subd. 9. The applicant must submit a complete operational plan for each proposed project prepared by the licensee who shall conduct the operation, which shall include, but not be limited to:

- (a) a specific statement of the nature and objectives of the intended operation,
- (b) a map of the proposed operating area which specifies the primary target area and shows the area reasonably expected to be affected and a rain gauge system for both seeded and downwind areas,
- (c) an estimate of the amount of cloud seeding material expected to be placed in the clouds,
- (d) a statement of the types of clouds to be seeded and identification of a procedure for random selection of at least a portion of the clouds to be seeded during the operation,
- (f) the name and address of the licensee,
- (g) the person or organization on whose behalf it is to be conducted,
- (h) a statement showing any expected effect upon the environment and results of weather modification operations, and methods of determining and properly evaluating that operation, and any other detailed information as may be required to describe the operation and its proposed method of evaluation.

**History:** 1977 c 426 s 9

#### **42.10 SUSPENSION; REVOCATION AND REFUSAL TO RENEW PERMIT.**

Subdivision 1. The commissioner shall, subject to chapter 14, suspend or revoke a permit if it appears that the permittee no longer has the qualifications necessary for the issuance of an original permit or has violated any provision of sections 42.01 to 42.14 or of any rules promulgated thereunder.

Subd. 2. The commissioner shall, subject to chapter 14, refuse to renew a permit if it appears from the operational records and reports of the permittee that an original permit would not be issuable for the operation, or if the permittee has violated any provision of sections 42.01 to 42.14 or of any rules promulgated thereunder.

**History:** 1977 c 426 s 10; 1982 c 424 s 130

#### **42.11 MODIFICATION OF PERMIT.**

Subdivision 1. The commissioner may revise the conditions and limits of a permit if:

(a) The permittee is given notice and a hearing, pursuant to chapter 14, on whether there is a need for the revision and the commissioner finds that a modification of the conditions and limits of a permit is necessary to protect the public health, safety or welfare, or the environment.

(b) If it appears to the commissioner that an emergency situation exists or is impending which could endanger the public safety, health or welfare, or the environment, the commissioner may, without prior notice or a hearing, immediately modify the conditions and limits of a permit, or order temporary suspension of the permit. The order shall include notice of a hearing to be held pursuant to chapter 14 within ten days thereafter on the question of permanently modifying the conditions and limits, continuing the suspension of the permit, removing the changes or lifting the suspension.

Subd. 2. Failure to comply with an order temporarily suspending an operation or modifying the conditions and limits of a permit shall be grounds for immediate revocation of the permit and of the license of the person controlling the operation.

Subd. 3. The permittee shall notify the commissioner of any emergency which can reasonably be foreseen, or of any existing emergency situations which might be caused or affected by the operation. Failure by the permittee to so notify the commissioner may be grounds, at the discretion of the commissioner, for revocation of the permit and of the license of the person controlling the operation.

**History:** 1977 c 426 s 11; 1982 c 424 s 130

#### 42.12 PENALTY.

Any person violating any of the provisions of sections 42.01 to 42.14 or of any rule promulgated thereunder is guilty of a misdemeanor, and each day such violation continues constitutes a separate offense.

**History:** 1977 c 426 s 12

#### 42.13 LEGAL ACTION.

Other than in legal actions charging failure to obtain a license and permit, the fact that a person holds a license or was issued a permit under sections 42.01 to 42.14, or that a person has complied with the rules made by the commissioner pursuant to sections 42.01 to 42.14, is not admissible as a defense in any legal action which may be brought under this section against such person.

**History:** 1977 c 426 s 13

#### 42.14 INJUNCTION.

The commissioner may, in addition to the other remedies provided in sections 42.01 to 42.14, apply to a district court having venue and jurisdiction, for an injunction to restrain repetitious violations of the provisions of sections 42.01 to 42.14 and of any rule promulgated thereunder.

**History:** 1977 c 426 s 14