

Table of Contents

PART I. THE REGULATORY FRAMEWORK

CHAPTER 1. OVERVIEW

I. INTRODUCTION

- § 1:1 Overview of environmental laws
- § 1:2 Types of environmental laws
- § 1:3 Sources of environmental regulation

II. FEDERAL, STATE, AND LOCAL PROGRAMS

- § 1:4 Federal laws
- § 1:5 State laws
- § 1:6 Local and Municipal laws

III. OTHER LEGAL ISSUES

- § 1:7 Preemption
- § 1:8 Commerce Clause
- § 1:9 State jurisdiction over federal facilities

IV. SUMMARY

- § 1:10 Summary

CHAPTER 2. TEXAS AGENCY STRUCTURE

I. INTRODUCTION

- § 2:1 Introduction

II. FEDERAL AGENCIES

- § 2:2 Environmental Protection Agency
- § 2:3 Army Corps of Engineers
- § 2:4 Fish & Wildlife Service
- § 2:5 Forest Service
- § 2:6 Council on Environmental Quality
- § 2:7 Federal Emergency Management Agency

III. STATE AGENCIES

- § 2:8 Texas Commission on Environmental Quality

- § 2:9 Texas Attorney General
- § 2:10 Texas Parks and Wildlife Department
- § 2:11 Railroad Commission of Texas
- § 2:12 Texas Water Development Board
- § 2:13 Texas Department of Agriculture
- § 2:14 General Land Office
- § 2:15 Texas Department of Transportation
- § 2:16 Coastal Coordination Advisory Committee
- § 2:17 Texas Historical Commission
- § 2:18 Texas Department of State Health Services
- § 2:19 Counties, municipalities, and other political subdivisions

CHAPTER 3. ADMINISTRATIVE PROCEDURES

I. THE TEXAS ADMINISTRATIVE PROCEDURE ACT

- § 3:1 Introduction
- § 3:2 Rulemaking
- § 3:3 Contested cases
- § 3:4 Agency actions other than rulemaking and contested cases
- § 3:5 Judicial review

II. THE TEXAS OPEN MEETINGS ACT

- § 3:6 General requirements of the Open Meetings Act
- § 3:7 Notice of meetings
- § 3:8 Meetings
- § 3:9 Executive sessions
- § 3:10 Enforcement, civil and criminal sanctions

III. THE TEXAS PUBLIC INFORMATION ACT

- § 3:11 General requirements of the Public Information Act
- § 3:12 Requests for records and related procedural matters
- § 3:13 Enforcement, civil and criminal sanctions

IV. OTHER ADMINISTRATIVE LAW ISSUES

- § 3:14 Non-APA administrative procedures
- § 3:15 Alternative dispute resolution
- § 3:16 Res judicata, collateral estoppel, and collateral attack
- § 3:17 Lobbying before the agency and legislature
- § 3:18 Disclosure of certain relationships with local government officers; providing public access to certain information
- § 3:19 *Ex Parte* contacts
- § 3:20 Pandemic 2020—Emergency Orders Impact Open Meetings, Contested Cases and Other Administrative Proceedings

TABLE OF CONTENTS

**CHAPTER 4. ENVIRONMENTAL
ENFORCEMENT**

A. INTRODUCTION

- § 4:1 Goals of enforcement
- § 4:2 Federal-state relationship
- § 4:3 Overview of the state's enforcement options

B. ADMINISTRATIVE CIVIL ENFORCEMENT

- § 4:4 Authority
- § 4:5 The enforcement process
- § 4:6 Supplemental Environmental Projects
- § 4:7 Audit Privilege Act
- § 4:8 Citizen-collected evidence
- § 4:9 Compliance history and ranking system
- § 4:10 Role of Public Interest Counsel
- § 4:11 In general
- § 4:12 Judicial enforcement remedies
- § 4:13 Initiation of judicial enforcement action

**C. CRIMINAL ENFORCEMENT OF ENVIRONMENTAL
LAWS**

- § 4:14 Introduction
- § 4:15 The intent element of environmental crimes
- § 4:16 State statutory authority
- § 4:17 Offenses under the Texas Penal Code
- § 4:18 Defenses to violations
- § 4:19 Use of federal statutes to prosecute environmental crimes
- § 4:20 Criminal enforcement of city ordinances
- § 4:21 Parallel proceedings
- § 4:22 Environmental investigations

PART II. POLLUTION PROGRAMS

CHAPTER 5. AIR QUALITY

A. OVERVIEW

- § 5:1 Federal Clean Air Act
- § 5:2 Texas Clean Air Act
- § 5:3 Related state statutes
- § 5:4 Delegation of federal programs to the states and State
Implementation Plan Approval

- § 5:5 Regulation of criteria pollutants
- § 5:6 Regulation of hazardous air pollutants
- § 5:7 Overview of other federal regulatory issues

B. TEXAS PROGRAMS

- § 5:8 General overview
- § 5:9 New source review permits
- § 5:10 Federal operating permit program
- § 5:11 Regulation of specific pollutants
- § 5:12 Miscellaneous air issues

CHAPTER 6. SURFACE WATER QUALITY

I. INTRODUCTION

- § 6:1 Introduction

II. FEDERAL PROGRAM

- § 6:2 History
- § 6:3 Texas assumption of federal program under the Clean Water Act
- § 6:4 Regulated activities
- § 6:5 Federal oversight
- § 6:6 Clean Water Act Overview
- § 6:7 Construction grants and State Water Pollution Control Revolving Fund
- § 6:8 TPDES program
- § 6:9 Permitting Process
- § 6:10 Nonpoint source pollution
- § 6:11 Wetlands
- § 6:12 Enforcement

III. STATE PROGRAMS

- § 6:13 Regulated activities
- § 6:14 State administration
- § 6:15 Enforcement

CHAPTER 7. DRINKING WATER

- § 7:1 Introduction to the Safe Drinking Water Act
- § 7:2 Texas' Primacy for Implementation
- § 7:3 Primary and Secondary Drinking Water Regulations
- § 7:4 Sole Source Aquifer Program
- § 7:5 Underground Injection Control

TABLE OF CONTENTS

- § 7:6 Source Water Quality Assessment Program
- § 7:7 Financial Assistance
- § 7:8 Public Disclosures
- § 7:9 Variances
- § 7:10 Enforcement
- § 7:11 Recent Legislation and Rules

CHAPTER 8. OIL AND HAZARDOUS SUBSTANCE RELEASES

- § 8:1 Introduction
- § 8:2 Federal release reporting requirements
- § 8:3 Texas release reporting requirements
- § 8:4 Conclusion

CHAPTER 9. UNDERGROUND INJECTION CONTROL

I. OVERVIEW OF UNDERGROUND INJECTION CONTROL

- § 9:1 Introduction to Underground Injection Control (UIC)

II. FEDERAL UNDERGROUND INJECTION CONTROL

- § 9:2 Federal Safe Drinking Water Act (SDWA) and EPA UIC regulations
- § 9:3 Texas UIC program authorization

III. TEXAS UNDERGROUND INJECTION CONTROL

- § 9:4 Texas Injection Well Act and other Texas UIC requirements
- § 9:5 Texas statutory requirements
- § 9:6 TCEQ rules
- § 9:7 RRC rules

CHAPTER 10. SOLID WASTE

I. INTRODUCTION

- § 10:1 Introduction

II. MUNICIPAL SOLID WASTE

- § 10:2 Municipal solid waste

III. INDUSTRIAL NON-HAZARDOUS SOLID WASTE

- § 10:3 Industrial non-hazardous solid waste

IV. HAZARDOUS WASTE

§ 10:4 Hazardous waste

CHAPTER 11. TEXAS SUPERFUND

- § 11:1 Introduction
- § 11:2 Overview of federal program
- § 11:3 Overview of Texas program
- § 11:4 Procedural steps at a Texas Superfund site
- § 11:5 Hazardous and solid waste remediation fee account
- § 11:6 Persons responsible for solid waste; solid waste; and solid waste facilities
- § 11:7 Enforcement
- § 11:8 Appeals
- § 11:9 Liability under Texas Superfund
- § 11:10 Cost recovery
- § 11:11 Brownfields programs

CHAPTER 12. STORAGE TANKS

- § 12:1 Introduction
- § 12:2 Texas program overview
- § 12:3 Regulated USTs
- § 12:4 Regulated ASTs
- § 12:5 Exempt and excluded tanks
- § 12:6 Registration, notification, certification and disclosure requirements
- § 12:7 Lender liability and similar liability protections
- § 12:8 Technical standards for new UST systems
- § 12:9 Release reporting and remediation of storage tank contamination
- § 12:10 Closure of UST systems
- § 12:11 Financial assurance/responsibility
- § 12:12 UST supervisor, contractor and remediation contractor licensing
- § 12:13 Special Rules for Aboveground Storage Vessels

CHAPTER 13. BROWNFIELDS AND TEXAS RISK REDUCTION PROGRAMS

I. IN GENERAL

- § 13:1 Introduction to Brownfields programs
- § 13:2 Federal Brownfields incentives/programs
- § 13:3 Texas brownfield programs.
- § 13:4 Municipal brownfield programs

TABLE OF CONTENTS

§ 13:5 Tax incentives

II. VOLUNTARY CLEANUP PROGRAM

§ 13:6 The TCEQ's Voluntary Cleanup Program (VCP)

§ 13:7 The Railroad Commission of Texas' (RRC's) Voluntary Cleanup Program (VCP)

III. INNOCENT OWNER/OPERATOR PROGRAM

§ 13:8 Introduction to Innocent Owner/Operator Program (IOP)

§ 13:9 IOP application process

§ 13:10 Innocent owner/operator certificates (IOC)

IV. MUNICIPAL SETTING DESIGNATION

§ 13:11 Purpose of municipal setting designation (MSD)

§ 13:12 Eligibility for MSD

§ 13:13 Application and approval process for MSD

§ 13:14 The MSD's impact on groundwater protection and remediation

V. TEXAS RISK REDUCTION PROGRAM

§ 13:15 Overview of Texas Risk Reduction Program (TRRP)

§ 13:16 Affected property assessment

§ 13:17 Response action

§ 13:18 Closure

§ 13:19 Post response action and response action re-openers

§ 13:20 Notification requirements

§ 13:21 Institutional controls

VI. DRY CLEANER REMEDIATION PROGRAM

§ 13:22 Overview of Dry Cleaner Remediation Program

VII. COUNTY PROGRAMS FOR CLEANUP AND ECONOMIC REDEVELOPMENT

§ 13:23 Overview of county programs for cleanup and economic redevelopment

PART III. OTHER ENVIRONMENTAL PROGRAMS

CHAPTER 14. WATER RIGHTS AND WATER DEVELOPMENT

I. INTRODUCTION

§ 14:1 Introduction

II. STATE WATER LAW

§ 14:2 Groundwater

§ 14:3 Surface water

§ 14:4 Obtaining a surface water right under current statutory procedures

III. WATER LAW INSTITUTIONS

§ 14:5 International water and institutions

§ 14:6 Interstate water and institutions

§ 14:7 Federal waters and institutions

§ 14:8 State government institutions

IV. WATER DEVELOPMENT AND STATE ASSISTANCE

§ 14:9 Texas Water Development Board

§ 14:10 Planning and forecasting

§ 14:11 Research and technical assistance

§ 14:12 Financial assistance

§ 14:13 Water banking

CHAPTER 15. FLOODING AND THE LAW

§ 15:1 Introduction

§ 15:2 Theories of liability for flood-related damages

§ 15:3 Legal issues regarding construction of flood control projects

§ 15:4 Legal issues regarding floodplain mapping

§ 15:5 Evolving concepts of reasonable care

§ 15:6 Flood planning and funding

§ 15:7 Conclusion

CHAPTER 16. CONSERVATION AND LAND USE STATUTES

I. INTRODUCTION

§ 16:1 Introduction

TABLE OF CONTENTS

II. COASTAL LAND USE RESTRICTIONS

- § 16:2 Texas Coastal Zone Management Program
- § 16:3 Regulation of beaches and littoral property
- § 16:4 State ownership of submerged lands

III. WATER RELATED PROGRAMS

- § 16:5 Wetlands
- § 16:6 State regulation of levees and flood control structures
- § 16:7 Floodplain and watershed management
- § 16:8 Groundwater / Surface Water Impoundments

IV. HISTORIC AND ARCHEOLOGICAL PRESERVATION

- § 16:9 Texas Historical Commission
- § 16:10 Texas Antiquities Code

V. PROTECTION OF PARKS AND WILDLIFE

- § 16:11 Texas Parks & Wildlife Code
- § 16:12 Restrictions on hunting & fishing
- § 16:13 Endangered species

VI. ACTIVITIES ON STATE-OWNED LANDS

- § 16:14 Authority of the Texas General Land Office
- § 16:15 Authority of other state agencies
- § 16:16 Permits for removal of sand, gravel, or marl
- § 16:17 Zoning

VII. LOCAL CONSERVATION AND LAND USE RESTRICTIONS

- § 16:18 Conservation servitudes

Table of Contents

PART IV. REGULATION OF SPECIFIC SUBSTANCES

CHAPTER 17. ENVIRONMENTAL HAZARD COMMUNICATIONS

- § 17:1 Introduction
- § 17:2 Occupational Health and Safety Act and the hazard communication standard
- § 17:3 Community right-to-know
- § 17:4 Texas Hazard Communication Act
- § 17:5 Texas Agricultural Hazard Communication Act
- § 17:6 Miscellaneous right-to-know provisions
- § 17:7 Practical Tips

CHAPTER 18. INDOOR AIR QUALITY AND VAPOR INTRUSION

- § 18:1 Introduction
- § 18:2 Overview
- § 18:3 Legal framework
- § 18:4 Litigation issues over indoor air quality

CHAPTER 19. RADIOACTIVE MATERIALS AND WASTES AND RADIATION-PRODUCING DEVICES

- § 19:1 Introduction
- § 19:2 Radioactive material use and development
- § 19:3 Potential exposure to radiation
- § 19:4 Naturally occurring radioactive materials and Texas mining
- § 19:5 Overview of regulation of radioactive materials, wastes, and radiation-producing devices
- § 19:6 The Federal Atomic Energy Act
- § 19:7 The Federal Nuclear Waste Policy Act and long-term nuclear waste storage
- § 19:8 The Federal Waste Isolation Pilot Plant
- § 19:9 Regulation under Texas statutes and rules
- § 19:10 Low-level radioactive waste

CHAPTER 20. ASBESTOS

- § 20:1 Introduction
- § 20:2 Background
- § 20:3 Federal regulatory definitions
- § 20:4 State regulatory definitions
- § 20:5 Federal laws and regulations
- § 20:6 Texas law
- § 20:7 Liability and risk management considerations
- § 20:8 Conclusion

CHAPTER 21. MEDICAL WASTE

I. STATE REGULATION OF MEDICAL WASTE

- § 21:1 Overview
- § 21:2 Generator duties
- § 21:3 Transporter duties
- § 21:4 Collection, storage, and transfer facilities
- § 21:5 Medical waste collection stations and transfer by licensed hospitals
- § 21:6 Storage and transfer facilities
- § 21:7 Authorized treatment, destruction, and disposal technologies
- § 21:8 Incineration
- § 21:9 Steam disinfection or autoclaving
- § 21:10 Other authorized treatment methods
- § 21:11 Alternate treatment technologies
- § 21:12 On-Site treatment
- § 21:13 Services using mobile units
- § 21:14 Administrative and civil enforcement
- § 21:15 Criminal offenses and penalties
- § 21:16 County licensing authority

II. REGULATION OF HAZARDOUS AND RADIOACTIVE MEDICAL WASTE

- § 21:17 Hazardous medical waste
- § 21:18 Radioactive medical waste
- § 21:19 COVID-19 Waste Disposal

CHAPTER 22. PCBS

- § 22:1 Introduction

I. PCB REGULATION UNDER FEDERAL LAW

- § 22:2 Toxic Substances Control Act

TABLE OF CONTENTS

- § 22:3 Federal PCB Regulations under TSCA
- § 22:4 Resource Conservation and Recovery Act
- § 22:5 Clean Water Act
- § 22:6 CERCLA
- § 22:7 EPCRA
- § 22:8 Clean Air Act

II. PCB REGULATION UNDER TEXAS LAW

- § 22:9 Overview of Texas PCB regulation
- § 22:10 Industrial Solid Waste that Contains PCBs
- § 22:11 Oil and Gas—Wastes that Contain PCBs

CHAPTER 23. USED OIL REGULATION

I. OVERVIEW OF USED OIL REGULATION

- § 23:1 Introduction to used oil regulation
- § 23:2 Federal regulation of used oil
- § 23:3 Texas regulation of used oil

II. DEVELOPMENT OF TEXAS REGULATION OF USED OIL

- § 23:4 Applicability of the Texas Used Oil Act and implementing regulations
- § 23:5 Retailers must display signs about improper disposal
- § 23:6 Financial assurance for soil remediation
- § 23:7 Standards for used oil generators
- § 23:8 Standards for used oil collection centers and aggregation points
- § 23:9 Standards for transporters of used oil and transfer facilities
- § 23:10 Standards for used oil processors and re-refiners
- § 23:11 Standards for burners of off-specification used oil for energy recovery
- § 23:12 Standards for used oil fuel marketers
- § 23:13 Standards for used oil fuel containing PCBs
- § 23:14 Standards for disposal of used oil
- § 23:15 Corrective measures for spills of used oil
- § 23:16 Suspension or revocation of used oil registration
- § 23:17 Penalties for violations of the Used Oil Act
- § 23:18 Used oil recycling account

III. TEXAS REGULATION OF USED OIL FILTERS

- § 23:19 Authority of TCEQ to regulate used oil filters

CHAPTER 24. PFAS

- § 24:1 Introduction
- § 24:2 Federal Regulation of PFAS Impacting Texas
- § 24:3 Texas Risk Reduction Program
- § 24:4 PFAS Common Law Claims

CHAPTER 25. FUELS

- § 25:1 Introduction
- § 25:2 Federal preemption
- § 25:3 Federal laws and regulations
- § 25:4 Texas laws and regulations
- § 25:5 Emergency fuels waivers
- § 25:6 Conclusion

PART V. REGULATION OF SPECIFIC ACTIVITIES

CHAPTER 26. BORDER ISSUES

- § 26:1 Introduction

I. LEGAL FRAMEWORK AND REGULATION

- § 26:2 Domestic Regulation of the Border Areas
- § 26:3 Mexican Regulation of the Border Areas
- § 26:4 Border Environmental Issues Related to Sovereign Native American Tribes in Texas
- § 26:5 International Regulation of the Border Areas
- § 26:6 Resolution of International Disputes
- § 26:7 State and Local Transboundary Cooperation

II. SPECIFIC BORDER ISSUES

- § 26:8 Surface water
- § 26:9 Groundwater
- § 26:10 Water and Wastewater Infrastructure
- § 26:11 Hazardous Substances and Hazardous Waste
- § 26:12 Air quality
- § 26:13 Protected Areas
- § 26:14 Conclusion

CHAPTER 27. AGRICULTURE

- § 27:1 Introduction
- § 27:2 Water quality issues

TABLE OF CONTENTS

- § 27:3 Water rights and water supply
- § 27:4 Air quality issues
- § 27:5 Handling of waste associated with agricultural operations
- § 27:6 Agricultural chemicals and pesticides
- § 27:7 Land use restrictions
- § 27:8 Nuisance, private actions, and the right-to-farm
- § 27:9 Transactions involving real property
- § 27:10 Practical advice

CHAPTER 28. OIL & GAS

- § 28:1 Introduction
- § 28:2 Jurisdiction of the RRC
- § 28:3 Drilling, completing, and producing oil or gas wells.
- § 28:4 Plugging inactive oil or gas wells
- § 28:5 Water Protection/Oil and Gas Waste Management
- § 28:6 Commercial Oilfield Recycling
- § 28:7 Oil and gas hazardous wastes
- § 28:8 Naturally occurring radioactive materials—16 TAC
Chapter Four, Subchapter F
- § 28:9 Underground injection control
- § 28:10 Responsibility for Remediation
- § 28:11 The Oil Spill Prevention and Response Act
- § 28:12 RRC enforcement
- § 28:13 The Oil and Gas Regulation and Cleanup Fund
- § 28:14 Federal Issues

CHAPTER 29. RENEWABLE ENERGY

I. SOURCES OF RENEWABLE ENERGY

- § 29:1 Introduction
- § 29:2 Overview of renewable energy sources

II. WIND

- § 29:3 Wind power
- § 29:4 Wind in Texas

III. SOLAR

- § 29:5 Solar energy
- § 29:6 Solar in Texas

IV. BATTERY STORAGE

- § 29:7 Battery storage

§ 29:8 Battery storage in Texas

V. GEOTHERMAL

§ 29:9 Geothermal

§ 29:10 Geothermal in Texas

VI. BIOMASS

§ 29:11 Biomass

§ 29:12 Biomass Facilities in Texas

§ 29:13 Landfill Gas-to-Energy

§ 29:14 Landfill Gas-to-Energy in Texas

VII. KEY LEGAL ISSUES ASSOCIATED WITH DEVELOPING RENEWABLE ENERGY PROJECTS

§ 29:15 Financing and economic regulation

§ 29:16 Regulatory requirements and environmental issues

§ 29:17 Resource acquisition

§ 29:18 Conclusion

CHAPTER 30. MINING

I. INTRODUCTION

§ 30:1 Introduction

II. ENVIRONMENTAL REGULATION OF THE MINING INDUSTRY IN TEXAS

§ 30:2 Mining in Texas—Principal products

§ 30:3 Overview of Federal and State Law Pertaining to Mining

III. SURFACE COAL MINING

§ 30:4 Federal Surface Mining Control and Reclamation Act

§ 30:5 Texas Surface Coal Mining and Reclamation Act

§ 30:6 Railroad Commission of Texas

§ 30:7 RRC surface coal mining rules

§ 30:8 Permits for surface coal mining

§ 30:9 Inspection

§ 30:10 Enforcement

IV. SURFACE IRON MINING

§ 30:11 Surface iron mining

TABLE OF CONTENTS

V. SURFACE URANIUM MINING

§ 30:12 Surface uranium mining

VI. INJECTION WELLS AND MINING (INCLUDING IN SITU URANIUM MINING)

§ 30:13 Introduction and regulatory program

§ 30:14 Solution mining wastes

VII. AGGREGATE QUARRY AND PIT SAFETY

§ 30:15 Background and regulatory program

§ 30:16 Violations

§ 30:17 Civil penalties

VIII. MARL, SAND, GRAVEL, SHELL, AND MUDSHELL

§ 30:18 In general

§ 30:19 Marl, sand, and gravel permits

§ 30:20 Price

IX. OVERVIEW OF OTHER ENVIRONMENTAL REGULATIONS AFFECTING MINING

§ 30:21 Solid and Hazardous Waste Regulation

§ 30:22 Protection of Surface Water Quality

§ 30:23 Protection of Groundwater Quality—Drilling permits

§ 30:24 Regulation of water use

§ 30:25 Air Quality

§ 30:26 Spills

§ 30:27 Endangered Species Act

§ 30:28 Cemetery Relocations

§ 30:29 Road Relocations

§ 30:30 The “Public Interest”

X. COMPETING MINERAL ESTATES: CONFLICTS BETWEEN SURFACE MINING AND OIL & GAS OPERATIONS

§ 30:31 Surface Mining in Texas

§ 30:32 Operational Conflicts

§ 30:33 Solutions for Operational Conflicts—The Accommodation Doctrine

CHAPTER 31. RECYCLING

I. INTRODUCTION

§ 31:1 Introduction

II. RECYCLING OF INDUSTRIAL AND HAZARDOUS WASTE

- § 31:2 Recycling
- § 31:3 Resource Conservation and Recovery Act
- § 31:4 Recycling under Texas law

III. MUNICIPAL WASTE

- § 31:5 Overview
- § 31:6 The Texas Solid Waste Disposal Act
- § 31:7 The Texas Comprehensive Municipal Solid Waste Management Resource Recovery, and Conservation Act
- § 31:8 The Solid Waste Resource Recovery Financing Act
- § 31:9 The Development Corporation Act
- § 31:10 Texas Used Oil Collection Management, and Recycling Act
- § 31:11 Government Environmentally Preferable Purchasing
- § 31:12 Labeling Laws
- § 31:13 Consumer Awareness

PART VI. PRIVATE CAUSES OF ACTION

CHAPTER 32. TORTS

I. INTRODUCTION

- § 32:1 Introduction

II. PROCEDURAL ISSUES

- § 32:2 Overview
- § 32:3 Multi-party litigation
- § 32:4 Case management/scheduling orders
- § 32:5 Multi-district litigation
- § 32:6 Standing

III. CLAIMS

- § 32:7 Types of claims
- § 32:8 Property damage claims
- § 32:9 Defenses in property damage claims
- § 32:10 Personal injury claims
- § 32:11 Defenses in personal injury cases
- § 32:12 Experts

TABLE OF CONTENTS

- § 32:13 Settlements
- § 32:14 Additional tort reform considerations

CHAPTER 33. INVERSE CONDEMNATION

- § 33:1 Eminent domain
- § 33:2 Compensation
- § 33:3 Condemnation
- § 33:4 Inverse condemnation
- § 33:5 Elements of an inverse condemnation action
- § 33:6 What constitutes a taking?
- § 33:7 Physical takings
- § 33:8 Regulatory takings
- § 33:9 Final decision as predicate for takings claim
- § 33:10 Legitimate state interest
- § 33:11 Deprivation of all economically beneficial use
- § 33:12 Deprivation of less than all economically beneficial use
- § 33:13 Exactions
- § 33:14 Temporary taking
- § 33:15 Private Real Property Rights Preservation Act

CHAPTER 34. CITIZEN SUITS AND PUBLIC PARTICIPATION

I. INTRODUCTION

- § 34:1 Introduction

II. CITIZEN PARTICIPATION IN ENFORCEMENT OF ENVIRONMENTAL LAWS

- § 34:2 Enforcement of Texas Laws
- § 34:3 Citizen suits under federal environmental laws
- § 34:4 Public comment on proposed Texas permits
- § 34:5 Participation in a contested case hearing
- § 34:6 Judicial review of Texas and EPA permit actions

III. PARTICIPATION IN RULEMAKING

- § 34:7 Participation in the rulemaking process
- § 34:8 Judicial review of a state regulation

PART VII. PRACTICAL APPLICATIONS

CHAPTER 35. ENVIRONMENTAL ASPECTS OF BUSINESS TRANSACTIONS

A. INTRODUCTION

§ 35:1 Introduction

B. ENVIRONMENTAL PROGRAMS

§ 35:2 Environmental programs

C. TYPES OF BUSINESS TRANSACTIONS CREATING POTENTIAL LIABILITY

§ 35:3 Real estate transactions

§ 35:4 Corporate liabilities

§ 35:5 Lease agreements

§ 35:6 Property management contracts

§ 35:7 Loans

§ 35:8 Accepting position as trustee

D. ADDRESSING ENVIRONMENTAL CONCERNS IN BUSINESS TRANSACTIONS

§ 35:9 Environmental due diligence

§ 35:10 Structuring the transaction

§ 35:11 Contract provisions

E. PERMIT TRANSFERS

§ 35:12 Permits Overview

§ 35:13 Types of transactions that give rise to the obligation to transfer permits

§ 35:14 Special issues in permit transfers

§ 35:15 Texas requirements

F. CONCLUSION

§ 35:16 Conclusion

CHAPTER 36. INSURANCE

I. INTRODUCTION

§ 36:1 Brief history

TABLE OF CONTENTS

II. COMPREHENSIVE GENERAL LIABILITY POLICIES

- § 36:2 Overview
- § 36:3 Occurrence requirement
- § 36:4 Trigger of coverage
- § 36:5 Duty to defend
- § 36:6 Duty to pay
- § 36:7 Allocation of risks
- § 36:8 Cleanup costs “As Damages”
- § 36:9 Owned- or leased-property exclusion
- § 36:10 Pollution exclusion and “Sudden and Accidental” exception
- § 36:11 “Absolute” pollution exclusion
- § 36:12 “Personal Injury” coverage
- § 36:13 Policy conditions

III. “MODERN” TYPES OF ENVIRONMENTAL INSURANCE PRODUCTS

- § 36:14 In general
- § 36:15 EIL—Treatment in the courts and coverage considerations

CHAPTER 37. ETHICAL CONSIDERATIONS

- § 37:1 Introduction
- § 37:2 Disclosures and client confidences
- § 37:3 Conflicts of interest
- § 37:4 Limits of zealous advocacy
- § 37:5 Public sector ethical issues
- § 37:6 Artificial Intelligence
- § 37:7 Ethical standards and professional liabilities

CHAPTER 38. ENVIRONMENTAL, SOCIAL, AND GOVERNANCE (ESG)

- § 38:1 The Dynamic Era of ESG: An introduction

Table of Laws and Rules

Table of Cases

Index