

# THOMSON REUTERS PROVIEW™

**This title is one of many now available on your tablet as an eBook.**

Take your research mobile. Powered by the Thomson Reuters ProView™ app, our eBooks deliver the same trusted content as your print resources, but in a compact, on-the-go format.

ProView eBooks are designed for the way you work. You can add your own notes and highlights to the text, and all of your annotations will transfer electronically to every new edition of your eBook.

You can also instantly verify primary authority with built-in links to Westlaw® and KeyCite®, so you can be confident that you're accessing the most current and accurate information.

**To find out more about ProView eBooks and available discounts, call 1-800-328-9352.**



**GABA'S**

**TEXAS**

**ENVIRONMENTAL**

**LAWS ANNOTATED**

**Volume 1**

**ANNOTATIONS BY**  
**JEFFREY M. GABA**  
**MARY SIMMONS MENDOZA**

**2025 EDITION**



© 2025 Thomson Reuters

ISBN: 978-1-668-71416-4

This publication was created to provide you with accurate and authoritative information concerning the subject matter covered; however, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. The publisher is not engaged in rendering legal or other professional advice and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

West's and Westlaw are registered in the U.S. Patent and Trademark Office.  
Thomson Reuters Westlaw is a trademark of Thomson Reuters and its affiliates.

## ABOUT THE AUTHORS

Mary Simmons Mendoza is the Chair of the Environmental Practice Group at Haynes and Boone, LLP. She obtained her J.D. from the University of Texas School of Law, where she was Order of the Coif, and her Bachelor of Science in Civil Engineer from the University of Texas, where she was a member of Tau Beta Pi. She is a frequent speaker and author in the field of environmental law. She is the author of Chapter 13 - Brownfields and Texas Risk Reduction Programs and a co-author of Chapter 25 - PFAS, Chapter 36 - Environmental Aspects of Business Transactions, and Chapter 12 - Underground Storage Tanks in *Texas Environmental Law* (Thomson Reuters).

This volume was originally written and updated by Professor Jeffrey M. Gaba until his retirement in 2022. Professor Gaba is Emeritus Professor of Health Law at Southern Methodist University Dedman School of Law and was "Of Counsel" to the Foley law firm of Foley and Lardner. Professor Gaba has taught, practiced and written in the field of environmental law since 1977. He obtained his J.D. from Columbia University Law School and a Master's degree in Public Health from Harvard University.

He is the author of *Environmental Law* (West Black Letter Series 5th Ed. 2016), co-author, with Donald Stever, of *The Law of Solid Waste, Pollution Prevention and Recycling* (West), co-editor, with John Applegate, Jan Laitos and Noah Sachs, of the casebook *The Regulation of Toxic Substances and Hazardous Waste* 2nd Ed. (Foundation Press 2015) and co-author, with John Applegate, Jan Laitos and Mary Jane Angelo, of *The Law of Toxic Substances and Hazardous Waste* (Foundation Press 2020).



# PUBLISHER'S PREFACE

## 2025 Edition

Thomson Reuters is pleased to offer the 2025 edition of this valuable title, which was last updated in 2022 by Professor Gaba shortly before his retirement. We thank Professor Gaba for bringing this valuable title to Thomson Reuter's Texas Annotated Code Series. We also thank Mary Simmons Mendoza for lending her expertise in updating it.

## Texas Legislation

The 2025 edition incorporates all legislative enactments through the Regular and Second Called Sessions of the Texas 89th Legislature (2025).

## Cases, Attorney General Opinions and Research References

The Leading Cases and Attorney General Opinions cover decisions published through July 2025. The Integrated Legal Research System References include references to American Law Reports (ALR) 3rd through 6th, ALR Federal, American Jurisprudence (Am Jur) Trials, and Am Jur Proof of Facts.

## Websites

Texas Commission on Environmental Quality: <https://www.tceq.texas.gov>

United States Environmental Protection Agency: <http://www.epa.gov>

—Region 6: <https://www.epa.gov/aboutepa/epa-region-6-south-central>

Texas Administrative Code: <http://www.sos.state.tx.us/tac/index.shtml>

Administrative decisions of the Texas Natural Resources Conservation Commission:  
(TXENV-ADMIN) (Westlaw) ([www.westlaw.com](http://www.westlaw.com))

**To order additional copies of Gaba's Texas Environmental Laws Annotated, please call 1-800-344-5009.**



## AUTHOR'S PREFACE

This volume is intended to provide easy reference to the major Texas environmental statutes that are now scattered throughout the various Texas Codes and civil statutes. It also contains references to cases and Attorney General Opinions interpreting the statutes. As all environmental lawyers know, however, state regulations also provide critical “law” that affects legal obligations. As an aid to your research, this volume also contains extensive cross-references to applicable regulations. It also contains a comprehensive index to help you find relevant statutory provisions.

Finally, in lieu of a dedication, I would like to thank Jeffrey Gaba for all of his work in the creation of the original version of this volume.

Mary Simmons  
Mendoza  
Austin, Texas



# TABLE OF CONTENTS

## CONSTITUTION OF THE STATE OF TEXAS 1876

Article	Page
XVI. General Provisions .....	1

### AGRICULTURE CODE

#### Title 5. Production, Processing, and Sale of Horticultural Products

##### Subtitle B. Horticultural Diseases and Pests

#### Chapter

76. Pesticide and Herbicide Regulation .....	5
77. Fire Ant Control .....	40

##### Subtitle G. Workplace Chemicals

125. Agricultural Hazard Communication Act .....	41
--	----

#### Title 8. Protection and Preservation of Agricultural Operations

251. Effect of Nuisance Actions and Governmental Requirements on Preexisting Agricultural Operations .....	51
--	----

### GOVERNMENT CODE

#### Title 4. Executive Branch

##### Subtitle B. Law Enforcement and Public Protection

418. Emergency Management .....	59
424. Protection of Critical Infrastructure Facilities .....	60

##### Subtitle F. Commerce and Industrial Development

481. Texas Economic Development and Tourism Office .....	65
--	----

#### Title 5. Open Government; Ethics

##### Subtitle A. Open Government

551. Open Meetings .....	66
552. Public Information .....	101
554. Protection for Reporting Violations of Law .....	217

#### Title 9. Public Securities

##### Subtitle J. Specific Authority for Municipalities to Issue Securities

1509. Obligations for Other Municipal Purposes .....	223
--	-----

#### Title 10. General Government

##### Subtitle A. Administrative Procedure and Practice

2001. Administrative Procedure .....	226
2002. Texas Register and Administrative Code .....	273

<b>Chapter</b>	<b>Page</b>
2003. State Office of Administrative Hearings .....	281
2004. Representation Before State Agencies .....	305
2005. Miscellaneous Provisions Relating to State Licenses and Permits .....	307
2006. Agency Actions Affecting Small Businesses and Rural Communities .....	310
2007. Governmental Action Affecting Private Property Rights .....	314
2008. Negotiated Rulemaking .....	323
2009. Alternative Dispute Resolution for Use by Governmental Bodies .....	328

## **HEALTH AND SAFETY CODE**

### **Title 5. Sanitation and Environmental Quality**

#### **Subtitle A. Sanitation**

341. Minimum Standards of Sanitation and Health Protection Measures .....	333
342. Local Regulation of Sanitation .....	368
343. Abatement of Public Nuisances .....	372

#### **Subtitle B. Solid Waste, Toxic Chemicals, Sewage, Litter, and Water**

361. Solid Waste Disposal Act .....	384
362. Solid Waste Resource Recovery Financing Act .....	574
363. Municipal Solid Waste .....	583
364. County Solid Waste .....	608
365. Litter .....	621
366. On–Site Sewage Disposal Systems .....	630
367. On–Site Wastewater Treatment Research .....	645
368. County Regulation of Transportation of Waste .....	647
369. Plastic Containers .....	650
370. Toxic Chemical Release Reporting .....	652
371. Used Oil Collection, Management, and Recycling .....	655
372. Environmental Performance Standards for Plumbing Fixtures .....	669
373. Water Conservation .....	675
374. Dry Cleaner Environmental Response .....	675
376. Renewable Energy Component Recycling Facilities .....	692

#### **Subtitle C. Air Quality**

382. Clean Air Act .....	694
383. Clean Air Financing Act .....	799
384. Area Emission Reduction Credit Organizations .....	808
386. Texas Emissions Reduction Plan .....	812
387. Air Quality Research Support Program .....	842
388. Texas Building Energy Performance Standards .....	844
389. Emissions Reduction Recognition Efforts .....	852
390. Clean School Bus Program .....	853
391. New Technology Implementation for Facilities and Stationary Sources .....	855
392. Texas Clean Fleet Program .....	862
393. Alternative Fueling Facilities Program .....	866
394. Texas Natural Gas Vehicle Grant Program .....	869
395. Governmental Alternative Fuel Fleet Grant Program .....	876

#### **Subtitle D. Nuclear and Radioactive Materials**

401. Radioactive Materials and Other Sources of Radiation .....	881
403. Texas Low–Level Radioactive Waste Disposal Compact .....	958

**Subtitle G. Environmental Health**

<b>Chapter</b>	<b>Page</b>
427. Texas Environmental Health Institute .....	968

**Title 6. Food, Drugs, Alcohol, and Hazardous Substances**

**Subtitle D. Hazardous Substances**

501. Hazardous Substances .....	969
502. Hazard Communication Act .....	983
503. Health Risk Assessment of Toxic Substances and Harmful Physical Agents .....	996
504. Anhydrous Ammonia [Repealed] .....	998
505. Manufacturing Facility Community Right-to-Know Act .....	998
506. Public Employer Community Right-to-Know Act .....	1006
507. Nonmanufacturing Facilities Community Right-to-Know Act .....	1012
508. Area Quarantine for Environmental or Toxic Agent .....	1018

**Title 9. Safety**

**Subtitle A. Public Safety**

753. Flammable Liquids .....	1020
756. Miscellaneous Hazardous Conditions .....	1024

**Title 13. Environmental, Health, and Safety Audit Privilege Act**

1101. Environmental, Health, and Safety Audit Privilege Act .....	1025
---	------

**NATURAL RESOURCES CODE**

**Title 2. Public Domain**

**Subtitle C. Administration**

31. General Land Office .....	1037
33. Management of Coastal Public Land .....	1068
40. Oil Spill Prevention and Response Act of 1991 .....	1112

**Subtitle E. Beaches and Dunes**

61. Use and Maintenance of Public Beaches .....	1142
63. Dunes .....	1179

**Title 3. Oil and Gas**

**Subtitle A. Administration**

81. Railroad Commission of Texas .....	1188
--	------

**Subtitle B. Conservation and Regulation of Oil and Gas**

85. Conservation of Oil and Gas .....	1213
89. Abandoned Wells .....	1214
91. Provisions Generally Applicable .....	1240

**Subtitle D. Regulation of Specific Businesses and Occupations**

119. Ownership of Carbon Dioxide Captured by Clean Coal Project .....	1308
120. Verification, Monitoring, and Certification of Clean Energy Project .....	1310
121. Ownership and Stewardship of Anthropogenic Carbon Dioxide .....	1312
122. Treatment and Recycling for Beneficial Use of Fluid Oil and Gas Waste .....	1314
123. Treatment and Recycling for Beneficial Use of Drill Cuttings .....	1316

## **Title 4. Mines and Mining**

<b>Chapter</b>	<b>Page</b>
131. Uranium Surface Mining and Reclamation Act .....	1318
134. Texas Surface Coal Mining and Reclamation Act .....	1353

## **Title 8. Acquisition of Resources**

183. Conservation Easements .....	1407
-----------------------------------	------

# THOMSON REUTERS PROVIEW™

**This title is one of many now available on your tablet as an eBook.**

Take your research mobile. Powered by the Thomson Reuters ProView™ app, our eBooks deliver the same trusted content as your print resources, but in a compact, on-the-go format.

ProView eBooks are designed for the way you work. You can add your own notes and highlights to the text, and all of your annotations will transfer electronically to every new edition of your eBook.

You can also instantly verify primary authority with built-in links to Westlaw® and KeyCite®, so you can be confident that you're accessing the most current and accurate information.

**To find out more about ProView eBooks and available discounts, call 1-800-328-9352.**



**GABA'S**  
**TEXAS**  
**ENVIRONMENTAL**  
**LAWS ANNOTATED**

**Volume 2**

**ANNOTATIONS BY**  
**JEFFREY M. GABA**  
**MARY SIMMONS MENDOZA**

**2025 EDITION**



© 2025 Thomson Reuters

ISBN: 979-8-350-21480-2

This publication was created to provide you with accurate and authoritative information concerning the subject matter covered; however, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. The publisher is not engaged in rendering legal or other professional advice and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

West's and Westlaw are registered in the U.S. Patent and Trademark Office.  
Thomson Reuters Westlaw is a trademark of Thomson Reuters and its affiliates.

## ABOUT THE AUTHORS

Mary Simmons Mendoza is the Chair of the Environmental Practice Group at Haynes and Boone, LLP. She obtained her J.D. from the University of Texas School of Law, where she was Order of the Coif, and her Bachelor of Science in Civil Engineer from the University of Texas, where she was a member of Tau Beta Pi. She is a frequent speaker and author in the field of environmental law. She is the author of Chapter 13 - Brownfields and Texas Risk Reduction Programs and a co-author of Chapter 25 - PFAS, Chapter 36 - Environmental Aspects of Business Transactions, and Chapter 12 - Underground Storage Tanks in *Texas Environmental Law* (Thomson Reuters).

This volume was originally written and updated by Professor Jeffrey M. Gaba until his retirement in 2022. Professor Gaba is Emeritus Professor of Health Law at Southern Methodist University Dedman School of Law and was "Of Counsel" to the Foley law firm of Foley and Lardner. Professor Gaba has taught, practiced and written in the field of environmental law since 1977. He obtained his J.D. from Columbia University Law School and a Master's degree in Public Health from Harvard University.

He is the author of *Environmental Law* (West Black Letter Series 5th Ed. 2016), co-author, with Donald Stever, of *The Law of Solid Waste, Pollution Prevention and Recycling* (West), co-editor, with John Applegate, Jan Laitos and Noah Sachs, of the casebook *The Regulation of Toxic Substances and Hazardous Waste* 2nd Ed. (Foundation Press 2015) and co-author, with John Applegate, Jan Laitos and Mary Jane Angelo, of *The Law of Toxic Substances and Hazardous Waste* (Foundation Press 2020).



# PUBLISHER'S PREFACE

## 2025 Edition

Thomson Reuters is pleased to offer the 2025 edition of this valuable title, which was last updated in 2022 by Professor Gaba shortly before his retirement. We thank Professor Gaba for bringing this valuable title to Thomson Reuter's Texas Annotated Code Series. We also thank Mary Simmons Mendoza for lending her expertise in updating it.

## Texas Legislation

The 2025 edition incorporates all legislative enactments through the Regular and Second Called Sessions of the Texas 89th Legislature (2025).

## Cases, Attorney General Opinions and Research References

The Leading Cases and Attorney General Opinions cover decisions published through July 2025. The Integrated Legal Research System References include references to American Law Reports (ALR) 3rd through 6th, ALR Federal, American Jurisprudence (Am Jur) Trials, and Am Jur Proof of Facts.

## Websites

Texas Commission on Environmental Quality: <https://www.tceq.texas.gov>

United States Environmental Protection Agency: <http://www.epa.gov>

—Region 6: <https://www.epa.gov/aboutepa/epa-region-6-south-central>

Texas Administrative Code: <http://www.sos.state.tx.us/tac/index.shtml>

Administrative decisions of the Texas Natural Resources Conservation Commission:  
(TXENV-ADMIN) (Westlaw) ([www.westlaw.com](http://www.westlaw.com))

**To order additional copies of Gaba's Texas Environmental Laws Annotated, please call 1-800-344-5009.**



## AUTHOR'S PREFACE

This volume is intended to provide easy reference to the major Texas environmental statutes that are now scattered throughout the various Texas Codes and civil statutes. It also contains references to cases and Attorney General Opinions interpreting the statutes. As all environmental lawyers know, however, state regulations also provide critical “law” that affects legal obligations. As an aid to your research, this volume also contains extensive cross-references to applicable regulations. It also contains a comprehensive index to help you find relevant statutory provisions.

Finally, in lieu of a dedication, I would like to thank Jeffrey Gaba for all of his work in the creation of the original version of this volume.

Mary Simmons  
Mendoza  
Austin, Texas



# TABLE OF CONTENTS

---

## PARKS AND WILDLIFE CODE

### Title 1. General Provisions

Chapter	Page
1. General Provisions .....	1

### Title 2. Parks and Wildlife Department

11. Parks and Wildlife Department .....	4
12. Powers and Duties Concerning Wildlife .....	52
13. Powers and Duties Concerning Parks and Other Recreational Areas .....	88

### Title 5. Wildlife and Plant Conservation

#### Subtitle B. Hunting and Fishing

61. Uniform Wildlife Regulatory Act .....	105
68. Endangered Species .....	117

#### Subtitle E. Wildlife Management Areas, Sanctuaries, and Preserves

81. Management Areas and Preserves: General Authority .....	122
84. Texas Farm and Ranch Lands Conservation Program .....	130

#### Subtitle G. Plants

88. Endangered Plants .....	138
-----------------------------	-----

## TAX CODE

### Title 1. Property Tax Code

#### Subtitle C. Taxable Property and Exemptions

11. Taxable Property and Exemptions .....	143
---	-----

#### Subtitle D. Appraisal and Assessment

23. Appraisal Methods and Procedures .....	146
--	-----

## TRANSPORTATION CODE

### Title 4. Navigation

#### Subtitle A. Waterways and Ports

51. Texas Coastal Waterway Act .....	149
--------------------------------------	-----

**Title 6. Roadways**

**Subtitle A. Texas Department of Transportation**

<b>Chapter</b>	<b>Page</b>
201. General Provisions and Administration .....	153

**Subtitle H. Highway Beautification**

391. Highway Beautification on Interstate and Primary Systems and Certain Roads .....	168
---	-----

**UTILITIES CODE**

**Title 2. Public Utility Regulatory Act**

**Subtitle B. Electric Utilities**

37. Certificates of Convenience and Necessity .....	193
39. Restructuring of Electric Utility Industry .....	196

**WATER CODE**

**Title 1. General Provisions**

1. General Provisions .....	201
-----------------------------	-----

**Title 2. Water Administration**

**Subtitle A. Executive Agencies**

5. Texas Commission on Environmental Quality .....	204
7. Enforcement .....	282

**Subtitle B. Water Rights**

11. Water Rights .....	339
12. Provisions Generally Applicable to Water Rights .....	443

**Subtitle C. Water Development**

20. Texas Water Resources Finance Authority .....	453
---	-----

**Subtitle D. Water Quality Control**

26. Water Quality Control .....	464
27. Injection Wells .....	589
28. Water Wells and Drilled or Mined Shafts .....	628
28A. Registration and Inspection of Certain Aggregate Production Operations .....	636
29. Oil and Gas Waste Haulers .....	640
30. Regional Waste Disposal .....	647

**Subtitle E. Groundwater Management**

35. Groundwater Studies .....	659
36. Groundwater Conservation Districts .....	669

**Subtitle F. Occupational Licensing and Registration**

<b>Chapter</b>	<b>Page</b>
37. Occupational Licensing and Registration .....	758

**CIVIL STATUTES**

**Title 71—Health—Public**

1. Health Boards and Laws [Repealed] .....	763
--	-----

**Article**

4447cc. Environmental, Health, and Safety Audit Privilege Act [Repealed] .....	763
--	-----

**Title 86—Lands—Public**

7. General Provisions .....	763
-----------------------------	-----

**Article**

5415e-4. Dredge Materials Act .....	763
-------------------------------------	-----

<b>Table of Cases</b> .....	T-1
<b>Index</b> .....	I-1