

# How to Manage Environmental Audits Per the Texas EHS Audit Privilege Act

Austin Regional Manufacturers Association

**Laura LaValle**, Beveridge & Diamond PC, Austin

# Firm Overview

Beveridge  
& Diamond 



International practice  
and network of counsel  
in **40+** countries



**ACC** Association of  
Corporate Counsel  
Sponsor: **Environmental &  
Sustainability Network**



**115+** lawyers



**38** lawyers with  
scientific or technical  
degrees



**80** litigators



**35** lawyers from federal  
& state resource &  
environmental agencies

## Focused on Environmental & Natural Resources Law for 45 Years

**Practice resources:** Alerts,  
tip sheets, webinars & in-person  
events, customizable CLE



Flexible alternative  
fee arrangements

## Diversity & Inclusion Leadership

**44%** women or minority attorneys

**45%** women associates

**Recent awards  
& recognition**



**Mansfield Rule™**  
Certified *Plus* 2019

**M C C A**  
MINORITY CORPORATE COUNSEL ASSOCIATION



LEADERSHIP  
COUNCIL  
ON LEGAL  
DIVERSITY



## National Recognition

Band 1 Nationwide, Environment  
*Chambers USA, 2016-2019*

Environmental Firm of the Year  
*U.S. News – Best Lawyers, 2018-20*

Environmental Practice Group  
of the Year  
*Law360, 2017-2018*

Environmental Law Firm of the Year  
*Chambers USA, 2016*



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# Texas EHS Audit Privilege Act

- Why conduct an audit per the Texas program?
- How would my company conduct an audit?
- What are key considerations in planning and executing an audit?



# Why Conduct a Texas Audit?

- Find and Fix What's Wrong
- Demonstrate Proactive, Compliance-Driven Approach
- Take Advantage of Audit Program Incentives



# How to Conduct a Texas Audit?



- Very Carefully
- Review TCEQ's Guidance Document: *A Guide to the Texas Environmental, Health, and Safety Audit Privilege Act*



# Texas Audit Act Process

- Advance Notice of Audit (unless you are a new owner)
- Audit Duration
- Corrective Action
  - Deadline to Complete
  - Quarterly Updates Possible



# Texas Requirements for Audit Immunity



- Violation discovered per audit (not separately detected/revealed to TCEQ)
- Violation voluntarily disclosed per audit (disclosure can't be otherwise required; *e.g.*, by order or decree)
- Violation can't involve injury or imminent/substantial risk of injury
- Disclosed "promptly" after discovery
- Disclose in writing by certified mail



# Audits—Key Considerations



- Texas or EPA Audit Procedure?
- Notice of Audit?
- Internal or Third Party Auditors?



# Audits—Key Considerations



- Scope?
  - Facilities
  - Subject Matter
- Depth of Inquiry?
- Timing?



# Discussion and Q&A



Thank you!



Beveridge  
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