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

Austin Regional Manufacturers Association

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Beveridge & Diamond

October 7, 2019

bdlaw.com

Firm Overview

Beveridge & Diamond

115+ lawyers

38 lawyers with scientific or technical degrees

80 litigators

35 lawyers from federal & state resource & environmental agencies

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

AN ASSOCIATE MEMBER OF American Chemistry Council

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

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

MCCA Minority Corporate Counsel Association

Mansfield Rule Certified Plus 2019

dri The Voice of the Defense Bar

Leadership Council on Legal Diversity

Washington Lawyers' Committee for Civil Rights & Urban Affairs

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

Chambers USA

The Legal 500

Best Lawyers Best Law Firms U.S. News Rankings

Vault Top Ranked

Law360

The National Law Journal

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?

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Why Conduct a Texas Audit?

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

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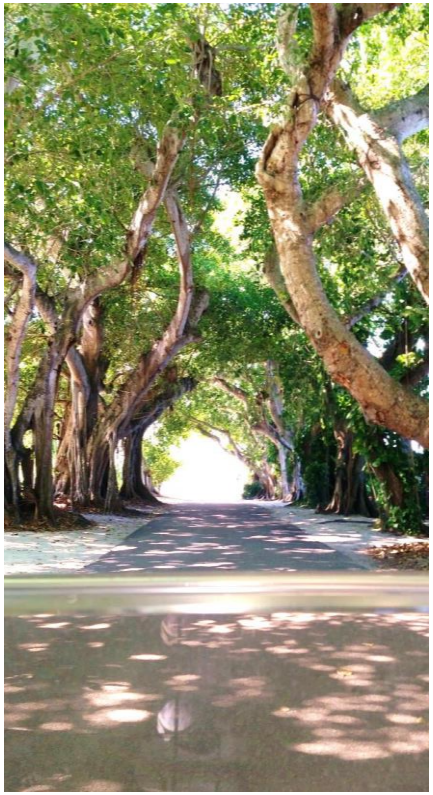
How to Conduct a Texas Audit?



- 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

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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

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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?

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Discussion and Q&A

Thank you!

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