

# MPCA Environmental Audit Program

In 1999, the Minnesota Legislature passed legislation that ensured the continuation, with a few changes, of the Minnesota Pollution Control Agency's (MPCA) Environmental Audit Program (EAP), which had been known as the Environmental Improvement Pilot Project during its four-year-long pilot phase.

## What is environmental auditing and what are the benefits of the EAP?

Environmental auditing is a process of examining a facility to determine how well its operations comply with local, state, and federal environmental regulations.

The central benefit of environmental audits is protection of the environment and public health. The EAP encourages businesses and governments to conduct environmental audits of their facilities and take corrective actions where necessary. Facilities that conduct environmental audits are more likely to take the necessary actions to correct problems they find before the problems can develop into more significant environmental or public health issues. Another benefit is that the EAP allows a company or governmental unit to discover and correct minor violations before they can become monetary liabilities due to an enforcement action or a cleanup.

In addition, the EAP is a more efficient way for the MPCA to help regulated parties comply with environmental requirements.

## Who can do an environmental audit?

Any business or governmental unit that is regulated by an environmental law or rule in Minnesota can conduct an environmental audit or it may hire an outside firm to conduct it.

However, the 1995 Minnesota Environmental Improvement Act requires that a major facility must prepare a plan for pollution-prevention activities at that facility even if it submits an audit report. The act defines a "major facility" as one of the following:

- The largest type of industrial or municipal wastewater-discharge facility
- A feedlot with 1,000 or more animal units
- A large-quantity hazardous waste generator
- A hazardous waste-treatment, -storage or -disposal facility
- A large, stationary air emission source
- An air emission source that emits 50 or more tons per year of a specific air pollutant
- Or an air emission source that emits 75 or more tons per year of all air pollutants that are regulated by the MPCA

Minor facilities do not need to submit a pollution-prevention plan to the MPCA, but they do need to "examine" pollution-prevention opportunities. (If you are unsure about which category your facility is in, contact the MPCA at 651-296-6300 or 800-657-3864.)

## How do I participate in the EAP?

A facility must submit a report to the MPCA, summarizing the results of the audit or the findings from the facility's environmental management system (EMS). A report from a smaller facility must state that the owner or operator has examined pollution-prevention opportunities, while larger facilities must also submit the summary of the required pollution prevention plan. A facility must correct problems within 90 days or submit a performance schedule to the MPCA for approval and describe the steps it will take to prevent a recurrence of the problem. In addition, if an audit or an EMS reveals a violation of local environmental ordinances, a copy of the report must be submitted to local offices.

## Will I be penalized if I find a minor violation?

Generally, no. Under the 1995 Environmental Improvement Act, organizations that successfully participate in the audit program can receive protection from enforcement, fines, and other penalties from the MPCA. However, the amnesty provisions do not apply to organizations that have committed the same violation(s) within the past year (if there was an enforcement action that did not result in a monetary penalty) or the past three years (if there was an enforcement action that resulted in a monetary penalty), or are involved with criminal activities, or activities that seriously harm the environment or endanger public health.

## Will the results of my audit or EMS findings be confidential?

Generally, audits and EMS forms do not have to be submitted to the MPCA. If you retain an audit or an EMS form that was completed in good faith, the MPCA may only obtain the document if it believes there is probable cause a crime has occurred. Persons other than MPCA employees cannot use audits or EMS findings in legal proceedings if you properly participate in the program and comply with your cleanup or corrective action schedule.

The summary report that must be submitted to the MPCA to participate in this program is a public document that will be placed in the agency's files and will be subject to review under Minnesota's Data Practices Act.

## What requirements must a facility or governmental unit meet to be eligible to participate in the Environmental Audit Program?

- Since many facilities are not inspected annually, the time that a participating facility must be penalty free to participate in the EAP is two years.
- A major facility can participate in the EAP by submitting findings from its environmental management system, provided that the facility certifies that the system meets the criteria established by the EPA.
- A major facility must prepare a pollution-prevention plan based on the regulated materials that it has on site.

## **Under what conditions can the MPCA take an enforcement action as a result of violations disclosed in an audit report?**

The conditions under which the MPCA can take an enforcement action as a result of violations disclosed in an audit report include:

1. If a facility has been involved in enforcement action resulting in the imposition of a penalty in the previous three years, or the previous year for an enforcement action not resulting in the imposition of a penalty.
2. If the violation provides “a substantial economic benefit which gives the violator a clear advantage over its competitors.”

### **For more information**

For more information about the Environmental Audit Program please call 651-296-6300 or 800-657-3864 and ask for EAP program staff or check the MPCA EAP webpage at:

<https://www.pca.state.mn.us/regulations/environmental-audit-program>