



March 23, 2022

Chair Ingebrigtsen and Members of the Committee:

Minnesota Center for Environmental Advocacy (MCEA) is a nonprofit organization with almost 50 years of experience using law and science to protect Minnesota's environment and the health of its people. MCEA opposes SF 639 because it rolls back protections of Minnesota's water and air. It creates regulatory uncertainty by purporting to grant industrial polluters free passes for actions prohibited by the federal Clean Water Act and Clean Air Act, by limiting the agencies' ability to communicate with regulated parties, and by adding additional unnecessary bureaucratic layers that accomplish nothing.

Sections 1 and 9: Unnecessary and overbroad agency restrictions on "unadopted rules"

These provisions are unnecessary and overbroad. First, the provisions define *all* guidance as unadopted rules, effectively "gagging" agencies by preventing publication of *any* documents that would help regulated parties understand and comply with complicated statutes and rules. Second, these provisions are unnecessary. Under existing section 14.381, agencies can be stopped from enforcing "unpromulgated rules." Similarly, existing section 14.07 prohibits agencies from incorporating documents into rules unless standards are met. Finally, the proposed provisions prevent agencies from referencing any non-rule public information in a *permit or contract*, tying the hands of regulated parties and agencies who want to enter into agreements that reference documents that both parties *have agreed to include*. These provisions do not help regulated parties or the public.

Section 2, 4, 5, 6 & 8: Fee increases require additional approval, or authority to impose fees is eliminated

User fees are a necessary component of funding state permit programs. The MPCA has not increased most water permit fees for more than 28 years. These fees cover the cost of reviewing applications, certifying personnel for wastewater treatment and water supply systems, and certifying laboratories. There is no need for an additional layer of approval.

Section 3: Regulated parties granted illusory authority not to comply with federal laws

Section 3 gives industrial polluters a blanket 16-year exemption from complying with stronger water quality standards, if investments are made in wastewater treatment upgrades. Section 13 would allow existing air pollution sources to elude ambient air quality standards protecting public health. These provisions contravene the federal Clean Water and Clean Air Acts and will only result in regulatory uncertainty.

Section 7: Needless requirements to achieve "permitting efficiency"

There is no evidence that MPCA's permitting is inefficient now, nor that simply adding more reporting burdens on the agency will change outcomes. According to a 2018 MPCA report, 97% of "priority" permits and 93% of all permits were issued within stated goals.

Section 10: Limits citizen petitions for environmental review

Air and water pollution do not respect county boundaries. Projects undertaken in one county can significantly impact downstream or downwind communities across the state. This provision would limit the rights of affected persons to petition for environmental review.

Please vote no on SF 639.

Sincerely,

Andrea Lovoll, Legislative Coordinator, Minnesota Center for Environmental Advocacy