



DATE: March 1st, 2023

TO: Senate Environment, Climate, and Legacy Committee

FROM: Andrea Lovoll, Legislative Director, Minnesota Center for Environmental Advocacy

RE: SF 68 (McEwen) Fish Kills

Chair Hawj and Members of the Committee:

The Minnesota Center for Environmental Advocacy (MCEA) supports SF 68 (McEwan) because it acknowledges the urgent need to develop a comprehensive interagency protocol for fish kill events that responds to public health and environmental concerns.

Minnesota's current fish kill response guidance is inadequate to the scope, scale, and severity of the problem, and needs to be updated through a comprehensive protocol for several key reasons. First, the current fish kill guidance has not been able to effectively address the sources of contamination. In fact, fish kill events have increased in intensity and frequency: the Rush Creek fish kill in July 2022, where over 2,500 fish were killed, was the fourth major fish kill in the Winona County area since 2015. As outlined in this bill, the development of an interagency protocol will provide the opportunity to identify and recommend relevant laws and rules, such as feedlot rules, that need to be amended to better address the sources of contamination and prevent fish kill events in the future. Second, the current guidance minimizes the public health risk of fish kill events and does not provide a communications plan or health risk assessment for people in the vicinity whose water supply may be contaminated.

This bill has specific provisions to ensure that the protocol that is developed responds to community concerns and strengthens the overall fish kill response in Minnesota. As with toxic spill events, one of the most important issues is to ensure that data collection happens as quickly as possible to increase the likelihood that the source of contamination can be identified. Towards that end, the bill creates a mandatory duty to report fish kill events for state or county officials who work with natural resources or agriculture and requires the protocol to identify a rapid response team of interagency staff and/or an independent contractor that can travel to the site of the fish kill to collect samples within 24-48 hours of the incident. Another key issue is to broaden the type of data that is collected: the current fish kill response guidance is limited to surface water samples and fish samples, but this bill broadens data collection procedures to include samples from tributary streams to the body of water where the fish kill occurred, private wells with landowner consent within a ½ mile radius, and nearby soil and groundwater. This is critical because the contaminants may travel overland or underground to reach the site of the fish kill, especially in areas with karst geology where fish kill events have been concentrated.

Finally, and most importantly, this bill addresses the inadequacy of the current fish kill response guidance from a public health perspective. Fish kill events are a dramatic symptom of the widespread contamination of surface and groundwater resources from sources like agricultural land management practices. Especially in areas like the karst region of southeastern Minnesota, where precipitation and surface water rapidly intermingle with groundwater, a fish kill event in a surface body of water is a strong indicator that groundwater resources may be contaminated as well. Because groundwater resources provide domestic water supplies for municipalities and private well owners across the state, public health must be a part of Minnesota's fish kill response. This bill recognizes that necessity through the mandate that the protocol include a

communications plan with a health risk assessment to notify potentially impacted downstream users of the surface water of the potential hazards, as well as those in the vicinity whose public or private water supply may be impacted. The inclusion of water samples from private wells – with landowner consent – within a ½ mile radius of the fish kill event is another way to ensure that public health concerns are addressed.

The Environmental Quality Board is the appropriate body to review the protocol, which clearly falls within its statutory mandate to “review programs of state agencies that significantly affect the environment and coordinate those it determines are interdepartmental in nature, and ensure agency compliance with state environmental policy” (Minn. Stat. 116C.04, subd. 2(b)). MCEA commends the opportunity for public review and comment on the draft protocol, to ensure that it adequately responds to community concerns.

This bill is a critical step to address the increased frequency and intensity of fish kill events and responds to public health and environmental concerns through the development of a comprehensive interagency protocol. For all these reasons, we strongly urge you to support the proposed bill.

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