

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1673

02/25/2019 Authored by Fabian, Lueck, Gunther, Kiel, Urdahl and others
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy

1.1 A bill for an act
1.2 relating to environment; prohibiting Pollution Control Agency and Department of
1.3 Natural Resources from enforcing unadopted rules; amending Minnesota Statutes
1.4 2018, sections 84.027, by adding a subdivision; 116.07, by adding a subdivision.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2018, section 84.027, is amended by adding a subdivision
1.7 to read:

1.8 Subd. 14c. Unadopted rules. (a) The commissioner of natural resources must not enforce
1.9 or attempt to enforce an unadopted rule. For purposes of this subdivision, "unadopted rule"
1.10 means a guideline, bulletin, criterion, manual standard, interpretive statement, or similar
1.11 pronouncement if the guideline, bulletin, criterion, manual standard, interpretive statement,
1.12 or similar pronouncement meets the definition of a rule as defined under section 14.02,
1.13 subdivision 4, but has not been adopted according to the rulemaking process provided under
1.14 chapter 14. If an unadopted rule is challenged under section 14.381, the commissioner must
1.15 overcome a presumption against the unadopted rule.

1.16 (b) If the commissioner incorporates by reference an internal guideline, bulletin, criterion,
1.17 manual standard, interpretive statement, or similar pronouncement into a statute, rule, or
1.18 standard, the commissioner must follow the rulemaking process provided under chapter 14
1.19 to amend or revise any such guideline, bulletin, criterion, manual standard, interpretive
1.20 statement, or similar pronouncement.

2.1 Sec. 2. Minnesota Statutes 2018, section 116.07, is amended by adding a subdivision to  
2.2 read:

2.3 Subd. 13. **Unadopted rules.** (a) The commissioner of the Pollution Control Agency  
2.4 must not enforce or attempt to enforce an unadopted rule. For purposes of this subdivision,  
2.5 "unadopted rule" means a guideline, bulletin, criterion, manual standard, interpretive  
2.6 statement, or similar pronouncement if the guideline, bulletin, criterion, manual standard,  
2.7 interpretive statement, or similar pronouncement meets the definition of a rule as defined  
2.8 under section 14.02, subdivision 4, but has not been adopted according to the rulemaking  
2.9 process provided under chapter 14. If an unadopted rule is challenged under section 14.381,  
2.10 the commissioner must overcome a presumption against the unadopted rule.

2.11 (b) If the commissioner incorporates by reference an internal guideline, bulletin, criterion,  
2.12 manual standard, interpretive statement, or similar pronouncement into a statute, rule, or  
2.13 standard, the commissioner must follow the rulemaking process provided under chapter 14  
2.14 to amend or revise any such guideline, bulletin, criterion, manual standard, interpretive  
2.15 statement, or similar pronouncement.