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Dayton vetoes bill repealing wild rice water quality standard

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Minnesota Gov. Mark Dayton on Wednesday vetoed legislation that would have overturned current law regulating sulfate pollution in lakes and rivers that hold wild rice.

The law protecting wild rice has been in place since 1973 but has been mostly unenforced. Tribal governments and environmental groups in recent years have pushed the state to enforce the law, spurring lawmakers to try to repeal it.

Critics say enforcing the existing sulfate limit could damage the state's taconite iron ore mining industry, threatening jobs, and could cost millions of dollars for municipal sewage plant to upgrade treatment to prevent sulfate pollution.

The Republican-controlled House and Senate approved the repeal earlier this month. DFLer Dayton said he agrees there needs to be more clarity for industry that the current law allows, but said the bill went too far, leaving wild rice unprotected and violating the federal Clean Water Act.

"I have urged Legislators to find a workable solution to Minnesota's wild rice sulfate standards that would bring communities and businesses throughout Minnesota the regulatory certainty they need," Dayton said. "Unfortunately, the bill sent to me, which would abolish any sulfate standard, is an extreme overreach. It would violate the federal Clean Water Act and ensure continued uncertainty from inevitable litigation."

Dayton recalled that the Legislature directed the Minnesota Pollution Control Agency in 2011 to develop a new sulfate standard. Using results from all-new research in the field and in labs, PCA attempted to do just that. But the agency was unable to please either side in the debate with a plan to control sulfate levels on a lake-by-lake basis based on each waterway's chemistry. Last month the new PCA plan was flatly rejected by an administrative law judge, and the PCA has since entirely withdrawn the new plan, leaving the 1973 law still in effect.

The governor said he hopes lawmakers will use the last 10 days of the 2018 session "to develop a new sulfate standard, one that would both protect wild rice and also support jobs and economic development."

Paula Maccabee, attorney for the group WaterLegacy, said the the "veto is a huge victory for clean water! Preserving and implementing Minnesota's law limiting sulfate pollution in wild rice waters is critical to protect wild rice and clean water and to protect the developing brains of Minnesota fetuses, infants and children."

Maccabee said the state should focus on developing affordable ways to treat sulfate rather than relaxing laws for polluters saying the state is "counting on Minnesota leaders to make a commitment to require and support modern technology to control sulfate pollution."

The United Steelworkers of America, which represents most of the state's taconite workers, also called for the Legislature to hammer out a compromise acceptable to all sides.

"Gov. Dayton recognized that it is not technically feasible for the mining industry or municipalities to comply with the existing standard," the union said in a statement. "We must now urge legislators, state and federal regulatory agencies and other parties to unravel these complex problems and move forward with a solution that allows everyone to prosper."

State Rep. Dale Lueck, an author of the bill, said the Dayton administration was "unwilling" to get serious about resolving the issue.

"We have a 45-year-old, defunct sulfate standard that is impossible to implement and has not protected a single kernel of wild rice," the Aitkin Republican said. "We put a bill before the governor that provided a fresh start on protecting wild rice."

State Reps. Jason Metsa, DFL-Virginia, and Rob Ecklund, DFL-International Falls, blamed Republicans for making the bill too onerous for Dayton to support, saying a compromise is critical for Iron Range workers.

“We are very disappointed that Republicans forced a veto on this important issue by prioritizing politics over the people whose livelihoods depend on a responsible solution,” they said.

Scientists have found that sulfate — which can come from sewage effluent, mine discharges and other industrial processes — is converted to sulfides in the sediment of many wild rice lakes and rivers. The rate of that conversion changes depending on the amount of carbon and iron in the water (generally, more sulfides with high carbon, fewer sulfides with high iron). It’s those sulfides that prevent wild rice from thriving in some areas.

Research also appears to show that higher sulfate and sulfide levels increase toxic methylmercury, a pollutant already targeted because of its potential impact on human health.

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