House Environment Committee Discusses MPCA Wild Rice Water Standards

On Tuesday and Wednesday, the House Environment and Natural Resources Committee discussed HF 1000 (Rep. Carly Melin, DFL-Hibbing), related to the state’s water quality standard for sulfate, which is intended to protect wild rice wherever it grows naturally. The bill would prohibit the MPCA from applying the standard to permits (including municipal wastewater permits) until the agency establishes criteria for identifying and designating wild rice waters.

The story behind this bill is long and contentious. Since 1973, as part of the federal Clean Water Act, Minnesota has had a 10 parts per million (ppm) standard for effluent into waters containing wild rice. However, from 1973-2010, this standard was not enforced by MPCA in its permitting. Many Iron Range and GOP legislators contend that the standard is only now being enforced due to outcry from opponents of the recent PolyMet non-ferrous mining water discharge permit application. In 2011, legislation was passed requiring MPCA to conduct updated research on the standard, designate wild rice waters, and propose any changes to the standard if research supports. To date, the wild rice waters have not been designated and the MPCA has not publicly issued any proposals regarding Minnesota’s standard. At the hearing, MPCA staff said that they would have such a report by the end of March. However, rulemaking to designate wild rice waters could take two years.

Rep. Melin argued that industries and municipalities need predictability. Enforcing the 10ppm sulfate standard would be extremely costly for facilities to implement, a point that was reiterated by city officials and mining companies during their testimony. The MN Chamber of Commerce stated that 673 NPDES permits statewide would be affected if this standard was enforced.

Rep. Melin reiterated that her bill does not change the standard, but simply suspends it until the MPCA finishes the work they were charged to do in 2011. She noted this issue is much bigger than mines on the Iron Range, offering a list of wastewater treatment facilities where sulfate levels are now being monitored by the MPCA, including MMUA member cities of Austin, Blue Earth, Madison, Sleepy Eye and Thief River Falls.

The MPCA received significant criticism from DFL Iron Range and GOP committee members for failing to enforce the standard for 47 years, and they questioned the agency’s motives for starting now. The MPCA claimed that the bill would lead to the EPA removing its permitting authority and taking over regulation. Committee members questioned this assertion, since the standard was ignored for so long.

The Committee Chair, Rep. Denny McNamara (R-Hastings) said his concern is for the wastewater treatment facilities and costs that the 10ppm standard will have for municipalities across the state that never knew they had wild rice impacts. The bill was laid
It may move forward independently or as part of the committee’s omnibus bill. There is also another sulfate standard bill (HF 853) that has yet to be heard that may come into play. MMUA Government Relations staff will continue to monitor these discussions, due to the significant impact on wastewater utilities.

**House Energy Committee Hears Bill to Eliminate Certificate of Need Requirement for Certain Natural Gas Plants**

On Wednesday, the House Job Growth and Energy Affordability Committee heard HF 341, which would eliminate the requirement for a certificate of need for a natural gas electric generating facility that does not sell its power output to wholesale or retail customers in Minnesota (other than MISO). This bill is authored by Rep. Chris Swedzinski (R-Marshall) and is supported by the MN Chamber of Commerce. During the hearing, MRES, Xcel Energy, and Otter Tail Power expressed concerns with this bill related to its possible impact on implementation of the EPA’s soon-to-be-final rule limiting CO₂ emissions nationwide (also known as the “Clean Power Plan”). In the Clean Power Plan as proposed, although the energy from such facilities would not be sold to MN customers, the emissions would be attributed to our state. Testifiers also questioned the wisdom of allowing unregulated energy providers into a highly-regulated utility environment. Fresh Energy also testified against the bill, saying a certificate of need helps make sure projects play an effective role in the grid.

Despite the lack of enthusiasm from a variety of stakeholders, the legislation was laid over for possible inclusion in the committee’s omnibus bill.

**House Environment Committee Considers Bills to Provide Peer Review, Cost Analysis to MPCA Water Standards**

On Thursday, the House Environment and Natural Resources Committee began discussing two bills related to the costs of clean water. Both bills are authored by Rep. Dan Fabian (R-Roseau) and supported by the MMUA. HF 616 would require a cost analysis for recently adopted or proposed water quality standards, the suspension of certain newly-adopted nutrient standards until this analysis is undertaken, and legislative approval for water quality rules when cost impacts meet a certain threshold. HF 617 would require independent peer review of proposed water regulations when cost impacts meet certain thresholds.

Many local organizations spoke in favor of these bills. The Coalition of Greater MN Cities (CGMC) noted that cities’ financial resources are not limitless, so regulations should be based in sound science. The coalition of wastewater system operators knows as the MN Environmental Science and Economic Review Board (MESERB) enumerated the large number of changing water standards. The Mankato City Manager highlighted the efforts and investments made by his city to provide clean water. Roger Avelsgard, Breckenridge Public Service Director, explained the cost and implementation challenges presented to MN border cities when neighboring states don’t have the same commitment to clean water. The Greater MN Partnership suggested that if the State of MN was directly making these investments in clean water (rather than local governments), there would be more oversight on the proposed standards.

During the committee, several DFL legislators criticized the motives of the bill and accused rural cities of not wanting to provide clean water. Testifiers continued to express their
commitment to clean water, but emphasized that the state needs to get its arms around the cumulative effect of increased regulations.

The committee ran out of time before the public testimony concluded, so these bills will be on its agenda again on Tuesday. MMUA Government Relations staff will continue to monitor the proceedings and convey our support for these bills while meeting with legislators.

**Defending MMUA’s Positions**

Bill and Amanda continued to meet with several legislators to discuss MMUA’s concerns with making changes to energy policies (RES, CIP) and the fees and assessments proposed in the Governor’s budget. They also met with the other IOU and co-op representatives to discuss legislative positions and strategy.