



States eye basin-wide approach to control aquatic invaders

by Mike Murphy
for Stateline Midwest

Frustrated by federal inaction and concerned about current regulatory loopholes, some lawmakers are pushing for a new state-level, basin-wide plan to protect the Great Lakes ecosystem from nonnative species.

The first step toward forming some kind of multi-state regulatory program was taken in Michigan earlier this year.

Under legislation sponsored by Sen. Patricia Birkholz, the state's Department of Environmental Quality has been charged with facilitating the formation of a new Great Lakes Aquatic Nuisance Species Coalition.

The plan calls for Great Lakes states to modify their existing water pollution laws and forge a common, coordinated regulatory program that stops the influx of nonnative species. The coalition would focus on ballast water discharges from oceangoing vessels.

"We've waited four years for the federal government, and they've been unable to do anything," says Birkholz, a Republican from Saugatuck Township.

Her legislation was signed into law this June by Democratic Gov. Jennifer Granholm.

"We're going to form a coalition, work together and really sock it to [violators of the regulations] with heavy fines so they will clean up ballast water," Birkholz adds. "This is pollution that reproduces. We can't wait. We're losing astronomical amounts of dollars, and our ecosystem is at risk."

About 162 nonnative species are estimated to be in the Great Lakes. Perhaps the most notorious of them all has been the zebra mussel. According to the U.S. General

Accounting Office, between 1989 and 1995, zebra mussels cost electric utilities and other industries in the Midwest and Northeast almost \$70 million by clogging water pipes.

The result of this and other problems caused by nonnative species is an indirect tax on the region's residents, Birkholz says. Utility companies, for example, pass on the cost of unclogging their pipes to consumers. Some estimates of the total damage caused by zebra mussels over the last 10 years exceed \$3 billion.

Aquatic invaders also threaten the ecosystem. With no natural predators, they can spread quickly and deprive native species of their food sources.

Much attention has been paid recently to an aquatic invader knocking on the Great Lakes' door, the Asian carp. It can grow to over 100 pounds and consume 40 percent of its body weight in plankton, depriving other fish of necessary nutrients in the process.

Efforts to keep the Asian carp out of the Great Lakes reflect not only environmental concerns, but economic ones as well. In particular, the region's tourism and sport fishing industries can be adversely affected by changes in the ecosystem.

Action in Michigan, Wisconsin

In taking the lead on the proposed Great Lakes Aquatic Nuisance Species Coalition, Michigan lawmakers this year strengthened their own rules. They did so by amending the Water Resources Protection Act, adding nonnative species as a pollutant and placing ballast discharges within the state's regulatory purview.

Operators of oceangoing vessels must now apply for a state permit before being allowed to use Michigan ports. To qualify for the permit, they have to prove that their ship will not discharge ballast water or that it is equipped to prevent a release of aquatic nuisance species. Failure to comply with the requirements could result in a fine of up to \$25,000 per day.

"Seventy-seven percent of the new organisms are attributed to [releases from] ballast water," says Erin McDonough, who helped policymakers with the legislation as part of her work for Michigan United Conservation Clubs.

"Michigan has stepped out as a leader, but we can't stop invasive species in Michigan if we're not going to stop it basin-wide."

Some Wisconsin lawmakers agree. In June, Republican Sen. Neil Kedzie of Elkhorn and Rep. Scott

Gunderson of Waterford introduced plans to make their state more aggressive in the fight against nonnative aquatic species.

"We're still in the drafting stage, but we want to be as uniform as possible with what Michigan has done," Gunderson says.

Like the new Michigan law, the Wisconsin proposal would create a new permit process for oceangoing vessels intending to discharge ballast water in the Great Lakes. The state's Department of Natural Resources would oversee the new regulations.

By adopting stiff, punitive fines and requiring that ships carry necessary ballast water technology, Gunderson believes, Great Lakes states can

create a uniform system that maintains the quality of the basin.

He is hopeful that the success of the nonnative species legislation in Michigan will spark similar efforts in other states.

Joel Brammeier of the Alliance for the Great Lakes says policymakers in Illinois, Minnesota and New York all have shown varying levels of interest in passing new regulations.

"There are windows of opportunity opening around the region," adds Brammeier, whose advocacy organization works to conserve and restore the Great Lakes.

Filling void in federal policy

That opportunity has come about largely because of what states see as holes in the current federal regulatory framework.

"There's a lack of understanding among our folks in Washington to recognize how important this issue is," Gunderson says.


The U.S. Environmental Protection Agency exempts ships' ballast water from permit requirements under the federal Clean Water Act — a practice that conservation groups say has allowed nonnative species to enter U.S. waters, including the Great Lakes.

Earlier this year, a district court judge ruled that the EPA must repeal this exemption. However, this court decision does not mean federal action is imminent. An appeal of the ruling and a lengthy rule-promulgation process could prevent or delay implementation of tougher federal regulations.

Meanwhile, efforts continue in the U.S. Congress to reauthorize and strengthen the National Invasive Species Act of 1996. Attempts in previous years, though, have failed.

"Part of the hang-up is these invasive species have many sources and affect different areas of the country in different ways," Brammeier says. "They can come in through the pet trade, aquaculture and the bait trade. For the Great Lakes, ballast water is crucial. The states can't afford to wait."

Three key legislative steps in the Great Lakes states would need to be taken in order to implement the Aquatic Nuisance Species Coalition:

- Amend current water protection laws to clarify that biological pollutants are a prohibited substance;
- Authorize the appropriate state agency to enter into agreement with other states, paving the way for a basin-wide approach that regulates the discharge of any substance that contains biological pollutants; and
- Establish a common standard for allowable discharge levels as well as a permit and fee system for oceangoing vessels. 



Midwestern states are considering new ways to regulate the discharge of oceangoing ships' ballast water, which has been blamed for the spread of nonnative species in the Great Lakes.