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Invasive species bills stuck in Congress

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Tiny foreign mussels assault drinking water sources in California and Nevada. A deadly fish virus spreads swiftly through the Great Lakes and beyond. Japanese shore crabs make a home for themselves in Long Island Sound, more than 6,000 miles away.

These are no exotic seafood delicacies. They're a menace to U.S. drinking water supplies, native plants and animals, and they cost billions to contain.

Yet Congress is moving to address the problem at the pace of a plain old garden snail.

With time for passing laws rapidly diminishing in this election year, two powerful Senate committee chairmen are at loggerheads over legislation to set the first federal clean-up standards for the large oceangoing ships on which aquatic invasive species hitch a ride to U.S. shores.

The dispute is between Sen. Barbara Boxer, D-Calif., who chairs the Environment and Public Works Committee, and Sen. Daniel Inouye, D-Hawaii, chairman of the Commerce, Science and Transportation Committee.

Boxer is blocking a clean-up bill passed by Inouye's committee over concerns it would preempt stronger standards in California and a handful of other states; Inouye believes a single national standard is needed. Boxer also insists the clean-up program be governed in part by the Clean Water Act — which would give environmental groups the right to sue to enforce it — while Inouye's bill keeps the program in the hands of the Coast Guard.

Similar clean-up legislation has already passed the House, but advocates on both sides are pessimistic about breaking the impasse before Congress finishes up work for the year.

Experts say there's no time to waste.

"We are working against the clock, not just politically but out there in the real world, because every year that passes we get more invasions and those invasions stay forever," said Jennifer Nalbone, invasive species campaign director for Great Lakes United.

It's "clearly a national crisis," Nalbone said.

Most aquatic invasive species travel in the ballast water that large ships take on for balance when they're not carrying cargo. Ballast water picked up near Japan and dumped off the coast of California, for example, can bring with it hundreds of foreign species ranging from microscopic bacteria to weeds, fish, crabs and mussels.

Some of these new arrivals establish themselves quickly, and with devastating effect.

Among the best-known cases: Little quagga and zebra mussels from Eastern Europe were discovered in the Great Lakes two decades ago, likely having boarded ships from Europe. In the first six years after their arrival the creatures wreaked as much as \$500 million in damage

on the regional economy, clogging water intake pipes and gobbling algae at the base of the aquatic food chain.

Then the mussels began to spread, making their way to Lake Mead in Nevada, where they were discovered just last year, and to Southern California. The Metropolitan Water District of Southern California anticipates spending upward of \$15 million annually just to quell quagga mussel infestations in its Colorado River aqueducts.

There's agreement that the current method for dealing with aquatic invasive species is inadequate. Under Coast Guard oversight, ships are supposed to dump out their ballast water 200 miles from U.S. shores and take on new water. This is meant to wash out invasive species along for the ride.

But the program is not closely enforced, and not all invasive species are eliminated, since some just sink to the bottom of the tank and don't wash out.

"By the time the ship finally makes it into shore most of what you got rid of will have regrown," said Joel Mandelman, vice president and general counsel of Nutech 03, Inc., a company working on technology to clean ballast water by blasting it with ozone. And "you don't know what new or additional invasive species you'll pick up."

The pending legislation would set standards for how many invasive organisms can be in ballast water when it arrives in port. That's meant to drive development of technology such as Mandelman's that would clean ballast water directly.

"There is no doubt that ballast water legislation that stems the tide of invasive species entering our waters from ships needs to be passed immediately," Inouye said through a spokesman. He declined to comment directly on Boxer's opposition, but said he was "disappointed that we have not yet been able to move this bill out of the Senate."

Under Senate procedures, opposition from a single senator is enough to stop a bill. But Boxer said in an interview that she still hoped for a deal.

"I think we can make this work, and all I care about is the end result," Boxer said. "And I'm here for one reason — I've got to protect the health of the people I represent."

But Inouye doesn't support letting states set their own standards stricter than federal rules, as Boxer insists upon. For the shipping industry and companies working on ballast water technology, that's a nonstarter. They say they need a uniform standard to build to.

Leading environmental groups including the National Wildlife Federation are behind the federal legislation, saying it's important to put strong, national standards in place now. But the Natural Resources Defense Council and others prefer the status quo, especially after environmentalists won a federal appeals court ruling in July that requires the Environmental Protection Agency to regulate ballast water discharge under the Clean Water Act.

The EPA is finalizing a permit that enshrines the Coast Guard procedure already in place — ballast water exchange 200 miles offshore. Supporters of federal legislation say that's much too weak, but opponents view the ruling as a starting point that will allow states to maintain existing programs, and give environmentalists the right to sue for stronger rules going forward.