

TABLE 1.—EFFECT OF BWM ON AVERAGE ANNUAL REVENUE FOR SMALL BUSINESS ENTITIES OWNING U.S.-FLAGGED VESSELS

Percent of annual revenue that is BWM rule cost	Total small entities per impact category
0–3	8
3–5	2
> 5	0
Total	10

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Bivan Patnaik, G–MSO–4, Coast Guard, telephone 202–267–1744, email: Bpatnaik@comdt.uscg.mil.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed rule would call for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

This proposed rule affects an existing OMB approved Collection of Information (Ballast Water Management for Vessels with Ballast Tanks Entering

U.S. Waters). The revised Collection of Information is as follows:

Title: Ballast Water Management for Vessels with Ballast Tanks Entering U.S. Waters.

OMB Control Number: 1625–0069 [Formerly 2115–0598.]

Summary of the Collection of Information: This rule contains collection of information requirements for 33 CFR 151 subpart D.

Need for Information: For the Coast Guard to protect U.S. waters against the introduction of nonindigenous species.

Proposed Use of Information: For the Coast Guard to verify increased ability to protect against introductions of new nonindigenous species.

Description of the Respondents: All vessels equipped with ballast water tanks entering U.S. waters.

Number of Respondents: The existing OMB-approved collection number of responses is 50,000 arrivals made by 7,420 vessels (respondents). This rule will increase the information to include a ballast water management plan for each vessel, but does not increase the number of respondents. Thus, the total number of respondents is 7,420.

Frequency of Response: The existing OMB-approved collection annual number of responses is 50,000 (responses are arrivals at U.S. ports). The ongoing Penalties for Non-Submission of Ballast Water Management Reports rulemaking [USCG–2002–13147] would increase the number by 20,000 responses. This rule will increase the number by 7,420 responses in the first year of the rule to account for every vessel developing a ballast water management plan. In subsequent years, this rule will not change the number of responses. Thus, in the first year of this rule there will be a total of 77,420 (50,000 + 20,000 + 7,420) responses, and in subsequent years the total will be 70,000 (50,000 + 20,000) responses.

Burden of Response: The existing OMB-approved collection burden of response is 40 minutes (0.666 hours) for each arrival. For each vessel, this rule will have a first-year (one-time) burden of response of 8 hours to write the BWM plan.

Estimate of Total Annual Burden: The existing OMB-approved burden is 33,500 hours. The ongoing Penalties for Non-Submission of Ballast Water Management Reports rulemaking will increase the annual burden by 13,333 hours. This rule will increase the total first year burden by 8 hours per vessel, or 59,360 hours, to a total of 106,193 hours. This rule does not affect the annual burden for subsequent years, and

the total annual burden will be 46,833 hours.

Federalism

We have analyzed this proposed rulemaking under Executive Order 13132. The Aquatic Nuisance Prevention and Control Act contains a “savings provision” that saves to the states their authority to “adopt or enforce control measures for aquatic nuisance species, [and nothing in the Act would] diminish or affect the jurisdiction of any States over species of fish and wildlife.” 16 U.S.C. 4725. It also requires that “all actions taken by Federal agencies in implementing the provisions of [the Act] be consistent with all applicable Federal, State and local environmental laws.” Thus, the congressional mandate is clearly for a Federal-State cooperative regime in combating the introduction of aquatic nuisance species into U.S. waters from ships' ballast tanks. This makes it unlikely that preemption, which would necessitate consultation with the States under Executive Order 13132, would occur. If, at some later point in the rulemaking process we determine that preemption may become an issue, we will develop a plan for consultation with affected states/localities.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rulemaking would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rulemaking meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rulemaking under Executive Order