



GAO

Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

B-323298

April 4, 2012

The Honorable John D. Rockefeller
Chairman
The Honorable Kay Bailey Hutchison
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable John L. Mica
Chairman
The Honorable Nick J. Rahall II
Ranking Member
Committee on Transportation and Infrastructure
House of Representatives

Subject: *Department of Homeland Security, Coast Guard; Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Homeland Security, Coast Guard, entitled "Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters" (RIN: 1625-AA32). We received the rule on March 14, 2012. It was published in the *Federal Register* as a final rule on March 23, 2012, with a stated effective date of June 21, 2012. 77 Fed. Reg. 17,254.

The final rule establishes a standard for the allowable concentration of living organisms in ships' ballast water discharged in waters of the United States. The rule also amends the Coast Guard's regulations for engineering equipment by establishing an approval process for ballast water management systems. The Coast Guard is promulgating this final rule to aid in controlling the introduction and spread of nonindigenous species from ships' ballast water in waters of the United States.

Enclosed is our assessment of the Coast Guard's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that the Coast Guard complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Jennifer Mehaffey
Attorney
Department of Homeland Security

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF HOMELAND SECURITY,
COAST GUARD
ENTITLED
"STANDARDS FOR LIVING ORGANISMS IN SHIPS' BALLAST WATER
DISCHARGED IN U.S. WATERS"
(RIN: 1625-AA32)

(i) Cost-benefit analysis

The Coast Guard discussed the costs and benefits of this final rule. The Coast Guard determined that the primary cost drivers of the rule are installation related costs. Over a 10-year present value period of analysis and at a 7 percent discount rate, the Coast Guard estimates that the total discounted present value cost for U.S. vessels is approximately \$649 million and that the annualized cost is approximately \$92 million per year. The primary benefits of the rule identified by the Coast Guard come from a reduction in the concentration of all organisms, leading to lower number of these organisms being introduced per discharge. This further reduces the number of new invasions because the likelihood of establishment decreases with reduced number of organisms introduced per discharge. The Coast Guard included estimates for the costs associated with introduced species: \$5.7 billion for fish, \$1.06 billion for zebra and quagga mussels, \$1.06 billion for Asiatic clams, \$117 million for aquatic weeds, and \$47 million for green crab. Over a 10-year period of analysis, the Coast Guard estimates that the total discounted present value benefits of the rule are \$989 million to \$1.684 billion and annualized benefits are \$141 million to \$240 million per year.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Coast Guard determined that this final rule will significantly impact a substantial number of small entities. The agency estimates that 29 percent of the entities affected by this rule are small entities under the Act. The Coast Guard prepared a Final Regulatory Flexibility Analysis.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The Coast Guard determined that under this final rule, the private sector will incur costs exceeding the \$100 million (\$140.8 million adjusted for inflation) threshold during the third and fourth years of implementation.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On August 28, 2009, the Coast Guard published a notice of proposed rulemaking. 74 Fed. Reg. 44,632. In response, the Coast Guard received 662 letters including 2,214 individual comments. The Coast Guard also held six public meetings on the proposed rule. The Coast Guard addressed the comments from the letters and meetings in the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The Coast Guard determined that this final rule contains an information collection requirement under the Act. In light of comments received on the proposed rule, the Coast Guard will allow vessel owners and operators to request an extension of their compliance date if they cannot practicably comply with the compliance date otherwise applicable. The title of the information collection requirement is “Ballast Water Management for Vessels with Ballast Tanks Entering U.S. Waters” and has been submitted to the Office of Management and Budget (OMB) under OMB Control Number 1625-0069 for review. The Coast Guard estimates that the total burden of this requirement will be \$141,328 and the annual cost will be \$14,132.

Statutory authorization for the rule

The Coast Guard promulgated this rule under the authority of section 4711 of title 16, United States Code.

Executive Order Nos. 12,866 and 13,563 (Regulatory Planning and Review)

The Coast Guard determined that this final rule is an economically significant rule under the Orders.

Executive Order No. 13,132 (Federalism)

The Coast Guard determined that this final rule will not have federalism implications under the Order.