

U. S. Department of
Homeland Security

United States
Coast Guard



Commandant
United States Coast Guard

2100 Second Street, S.W.
Washington, DC 20593-0001
Staff Symbol: CG-0921
Phone: (202) 372-3500
FAX: (202) 372-2311

**TESTIMONY OF
VICE ADMIRAL BRIAN M. SALERNO
DEPUTY COMMANDANT FOR OPERATIONS**

AND

**MR. JEFFREY G. LANTZ
DIRECTOR OF COMMERCIAL REGULATIONS AND STANDARDS**

**ON THE
COAST GUARD REGULATORY PROGRAM**

**BEFORE THE
HOUSE COMMITTEE ON TRANSPORTATION & INFRASTRUCTURE
SUBCOMMITTEE ON COAST GUARD & MARITIME TRANSPORTATION**

APRIL 26, 2012

Introduction

Good morning Chairman LoBiondo, Ranking Member Larsen, and distinguished members of the subcommittee. It is our pleasure to be here today to discuss the Coast Guard's regulatory program.

This testimony provides an update to the testimony provided to this subcommittee in May 2011 by RADM Kevin Cook and Mr. Cal Lederer, as well as our annual report and update titled "State of Coast Guard Rulemaking Development." In that testimony, the Coast Guard described the revised processes used by the Coast Guard to improve the efficiency and effectiveness of rulemaking development, and provided a status report of progress to date. This testimony will provide an update to that status report, but will not replicate the descriptions of those processes, which are largely unchanged.

Beginning with the establishment of the Steamboat Inspection Service, the Coast Guard has been publishing regulations for more than 150 years, with a proven track record of managing maritime risk in a manner for which benefits justify the cost of regulation. The Coast Guard continues to build upon these successes, investing in the workforce, improving process transparency, streamlining processes, and scrutinizing all regulatory actions to ensure the maritime industry operates in a safe, secure, and environmentally sound manner while promoting maritime commerce. The Coast Guard's Regulatory Development Program has continued its success, earning dividends from program enhancements and a reinvigorated focus on the impacts of regulations allowing for increased emphasis on the requirements set forth in the Coast Guard Authorization Act of 2010 (CGAA 2010).

Coast Guard Regulatory Program

The Coast Guard continues to see positive results from enhanced training, and internal process streamlining and improvements in an effort to meet statutory mandates. Figure 1 shows the increase in rules that have gone into effect and published following Congress' addition of resources and the Coast Guard's initiation of major reforms (numbers throughout this report are as of April 9, 2012). These published rules include all Final Rules (FR), Interim Rules (IR), Direct Final Rules (DFR), and Technical Amendments. As shown, the Coast Guard published 17 Final Rules in FY 2011, of which two were statutorily mandated, and ten so far in FY 2012 (dark blue in the graph), of which two were statutorily mandated, with another eight projected by the end of the fiscal year (light blue), of which one is statutorily mandated. Additionally, the Coast Guard publishes approximately 20 Notice of Proposed Rulemakings (NPRM), Advance NPRM, and Supplemental NPRM per year.

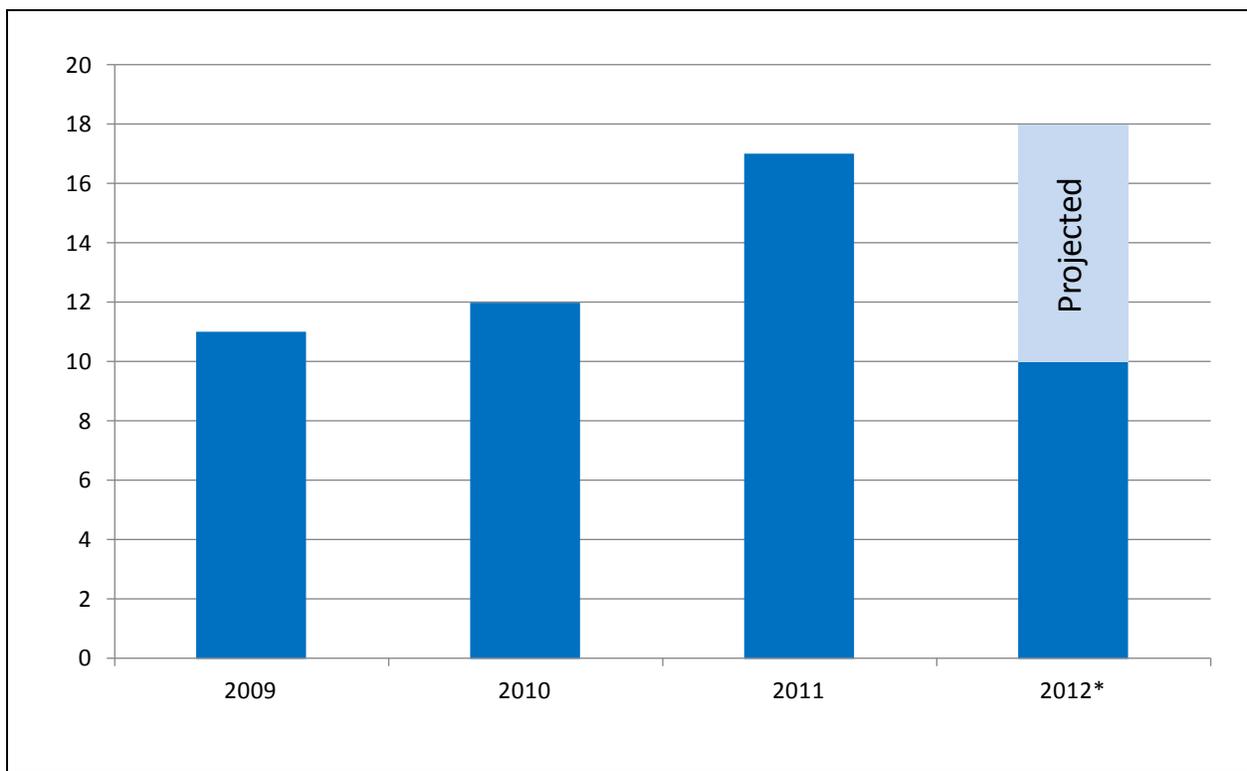


Figure 1: Published Rules That Have Gone Into Effect by Fiscal Year
*Indicates projection for 2012

We are proud to report that we have made progress on all currently active regulatory projects in the past year.

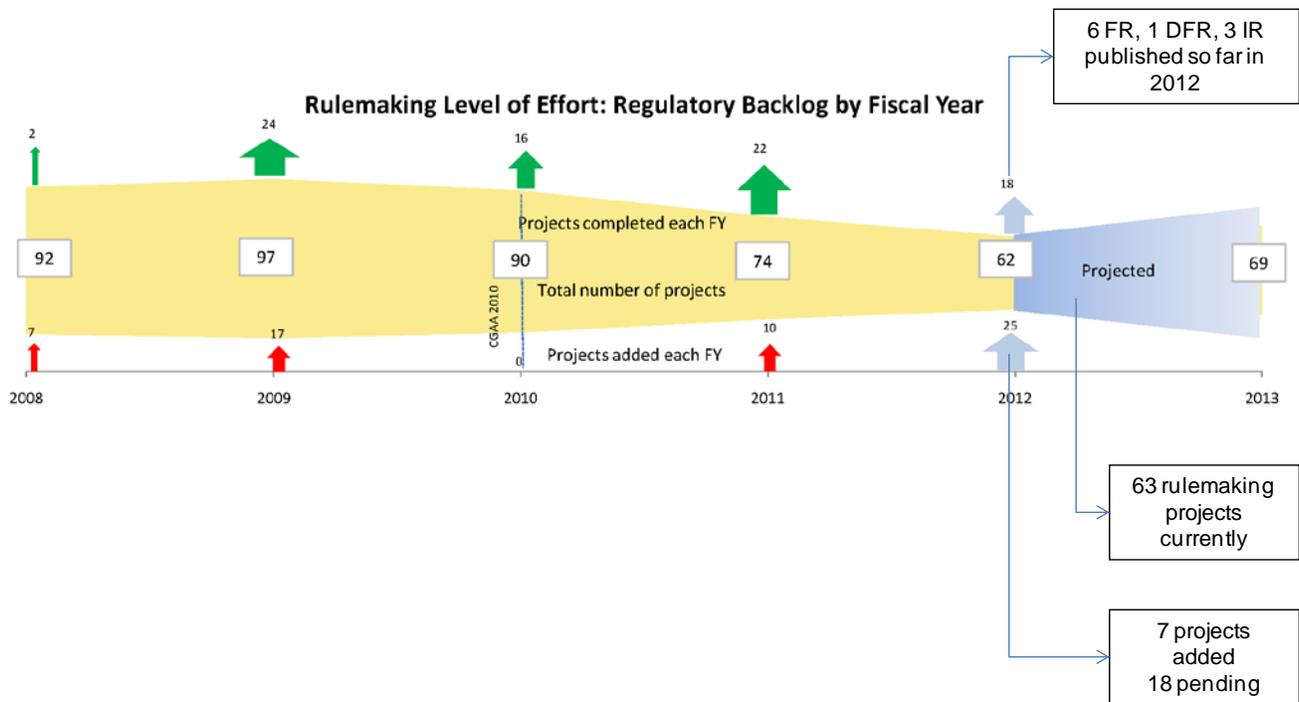


Figure 2: Number of Active Rulemaking Projects

With a significant focus on older rulemakings, the average age of rules under development has been reduced from 6.2 years at the end of FY 2009 to approximately four years at the end of FY 2011. This trend is shown in Figure 3. The Coast Guard anticipates further reductions by prioritizing the completion of older rulemaking projects—this is highlighted in the “Projected” portion of Figure 3, which projects an average age of 3.3 years by the end of FY 2012.

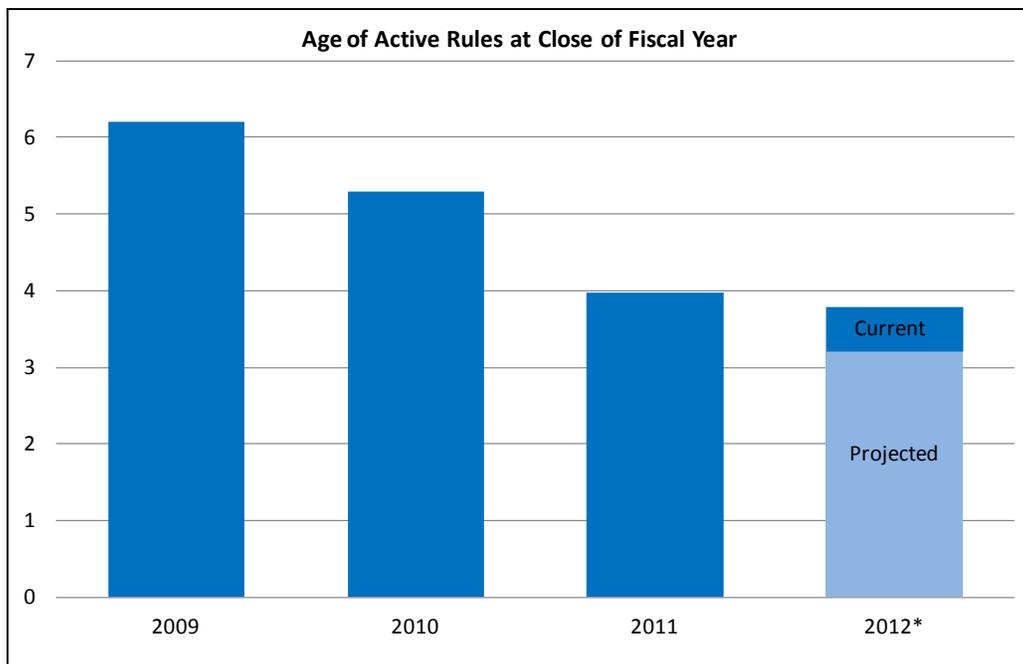


Figure 3: Average Age of Active Rulemaking Projects

In addition to working on traditional rulemaking projects, the Coast Guard is also working with DHS to implement the requirements of Executive Order 13563 (“Improving Regulation and Regulatory Review” January 18, 2011). Specifically, the Coast Guard is incorporating the requirements of the Executive Order into its economic analyses. Furthermore, the Coast Guard assisted in the development of the DHS-wide plan for the retrospective review of existing DHS regulations, and identified the four rules shown in Table 1 for detailed study. Each of these retrospective reviews consume rulemaking resources at approximately the same level as a large, significant rulemaking project.

Table 1: Regulations Undergoing Retrospective Review

Rule	Year Published
Standards of Training, Certification and Watchkeeping (STCW)	1997
Facility Security Plans (Maritime Transportation Security Act of 2002)	2004
Vessel Security Plans (Maritime Transportation Security Act of 2002)	2004
Revisions to TWIC Requirements	2007

Noteworthy Publications

The Coast Guard’s annual “State of Coast Guard Rulemaking Development” and its update provide a complete list of publications and a list of highlighted projects. Of the publications made since the testimony last year, Table 2 below provides an update.

Table 2: Highlighted Publications

Fiscal Year	Rule (Date Published)	Phase
2011	STCW (August 1, 2011) <ul style="list-style-type: none"> Implements revisions to international convention on training and certification of mariners 	Supplemental Notice of Proposed Rulemaking
	Towing Vessel Inspection (August 11, 2011) <ul style="list-style-type: none"> Creates new subchapter for towing vessel inspections to meet statutory mandate 	Notice of Proposed Rulemaking
	International Anti-Fouling System Certificate (September 1, 2011) <ul style="list-style-type: none"> Implements revisions to international convention and meets statutory mandate 	Notice of Proposed Rulemaking
2012	International Anti-Fouling System Certificate (December 9, 2011) <ul style="list-style-type: none"> Implements revisions to international convention and meets statutory mandate 	Final Rule
	Ballast Water Discharge Standard (March 23, 2012) <ul style="list-style-type: none"> Aligns to international ballast water convention and establishes numeric discharge standard for living organisms in ships’ ballast water discharged in U.S. waters. 	Final Rule
	Carbon Dioxide Fire Suppression Systems* <ul style="list-style-type: none"> Allows alternatives to and safety components in carbon dioxide systems increasing ship and crew safety and enhancing competitiveness. 	Final Rule
	STCW* <ul style="list-style-type: none"> Implements revisions to international convention on training and certification of mariners 	Final Rule
	Offshore Supply Vessels > 6,000 GT* <ul style="list-style-type: none"> Creates new regulatory structure for larger offshore supply vessels to meet statutory mandate 	Interim Final Rule
	Transportation Worker Identification Credential (TWIC) Readers* <ul style="list-style-type: none"> Implements TWIC reader requirements and meets statutory mandate 	Notice of Proposed Rulemaking
	Cruise Vessel Security and Safety Act* <ul style="list-style-type: none"> Implements CVSSA and establishes (among other things) cruise ship crime prevention practices 	Notice of Proposed Rulemaking

* Anticipated

These highlighted rules in Table 2 are illustrative of our rulemaking program, and include Congressional mandates (e.g., International Anti-Fouling System Certificate, which was required in the CGAA 2010), compliance with international conventions (e.g., STCW), and discretionary (e.g., Carbon Dioxide Fire Suppression Systems) rulemakings. The International Anti-Fouling System Certificate rule and the STCW rule enable U.S.-flagged vessels to participate in the international marketplace, demonstrating compliance with international conventions. The Carbon Dioxide Fire Suppression Systems rule provides protection for mariners from release of carbon dioxide and subsequent asphyxiation. A current list of

active regulatory projects, for which information is publicly available, is maintained at www.reginfo.gov, and at <http://www.uscg.mil/hq/cg5/cg523/projects.asp>, which contains links to the Unified Agenda, dockets, and other information sources.

Progress on Statutory Mandates

Of the 81 rules under development, 38 are derived from, or incorporate, statutory mandates. This includes 25 projects either added or modified in response to the CGAA 2010. All 38 of these statutorily mandated projects are underway, cognizant of the deadlines specified by Congress in certain provisions. Eight are at either an Interim Rule or Final Rule stage, close to finalization/effective action. Table 3 lists those 23 rules published in the Fall 2011 Regulatory Agenda that have an associated statutory mandate.

Table 3: Rules with Statutory Mandate listed in the Fall 2011 Regulatory Agenda

Title	RIN	Stage
Claims Procedures Under the Oil Pollution Act of 1990 (USCG-2004-17697)	1625-AA03	PreRule
Potable Water Standards for Inspected Vessels	1625-AB51	PreRule
Tonnage Regulations Amendments	1625-AB74	PreRule
Approval of Classification Societies	1625-AB35	Long-term Action
Commercial Fishing Industry Vessels	1625-AA77	Long-term Action
Higher Volume Port Area-State of Washington	1625-AB75	Long-term Action
State Access to the Oil Spill Liability Trust Fund (USCG-2004-19123)	1625-AA06	Long-term Action
Discharge-Removal Equipment for Vessels Carrying Oil	1625-AA02	Proposed Rule
Inspection of Towing Vessels	1625-AB06	Proposed Rule
MARPOL Annex 1 Update	1625-AB57	Proposed Rule
Marine Transportation-Related Facility Response Plans for Hazardous Substances	1625-AA12	Proposed Rule
Numbering of Undocumented Barges	1625-AA14	Proposed Rule
Outer Continental Shelf Activities	1625-AA18	Proposed Rule
Tank Vessel Response Plans for Hazardous Substances	1625-AA13	Proposed Rule
Transportation Worker Identification Credential (TWIC); Card Reader Requirements	1625-AB21	Proposed Rule
Updates to Maritime Security	1625-AB38	Proposed Rule
Vessel Documentation User Fees--Annual Renewal Fee	1625-AB56	Proposed Rule
Great Lakes Pilotage Rates-2012 Annual Review and Adjustment	1625-AB70	Final Rule
Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978	1625-AA16	Final Rule
Nontank Vessel Response Plans and Other Vessel Response Plan Requirements	1625-AB27	Final Rule
Offshore Supply Vessels of at Least 6,000 GT ITC	1625-AB62	Final Rule
Revision to Transportation Worker Identification Credential (TWIC) Requirements for Mariners	1625-AB80	Final Rule
Vessel Requirements for Notices of Arrival and Departure, and Automatic Identification System	1625-AA99	Final Rule

Conclusion

The Coast Guard continues to work to refine processes and invest in other capabilities to enhance rulemaking development. Efforts continue to focus on analyzing regulatory alternatives so that the benefits of the rules put in place justifies the cost consistent with the requirements of E.O. 13563 and E.O. 12866. The Coast Guard's strong partnerships with maritime stakeholders ensures that regulatory actions are in the best possible interest of all affected parties, including leveling the playing field for U.S. flag vessel operators competing in a global industry.

Thank you for your continued support and the opportunity to testify before you today. We will be happy to answer any questions you may have.