



**Dora**  
Department of Regulatory Agencies

**Office of Policy, Research and Regulatory Reform**

# **2010 Sunset Review: Regulation of Vessels**

October 15, 2010





**Executive Director's Office**

Barbara J. Kelley  
Executive Director

Bill Ritter, Jr.  
Governor

October 15, 2010

Members of the Colorado General Assembly  
c/o the Office of Legislative Legal Services  
State Capitol Building  
Denver, Colorado 80203

Dear Members of the General Assembly:

The mission of the Department of Regulatory Agencies (DORA) is consumer protection. As a part of the Executive Director's Office within DORA, the Office of Policy, Research and Regulatory Reform seeks to fulfill its statutorily mandated responsibility to conduct sunset reviews with a focus on protecting the health, safety and welfare of all Coloradans.

DORA has completed the evaluation of the regulation of vessels. I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2011 legislative committee of reference. The report is submitted pursuant to section 24-34-104(8)(a), of the Colorado Revised Statutes (C.R.S.), which states in part:

The department of regulatory agencies shall conduct an analysis of the performance of each division, board or agency or each function scheduled for termination under this section...

The department of regulatory agencies shall submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination....

The report discusses the question of whether there is a need for the regulation provided under Sections 103, 104, 105, and 107 of Article 13 of Title 33, C.R.S. The report also discusses the effectiveness of the Colorado Division of Parks and Outdoor Recreation staff in carrying out the intent of the statutes and makes recommendations for statutory changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

Barbara J. Kelley  
Executive Director





Bill Ritter, Jr.  
Governor

Barbara J. Kelley  
Executive Director

## **2010 Sunset Review: Regulation of Vessels**

### **Summary**

#### ***What Is Regulated?***

There are roughly 100,000 recreational vessels registered annually in Colorado.

#### ***Why Is It Regulated?***

Registering vessels accomplishes two major goals: It allows law enforcement to track stolen vessels and it fulfills a requirement needed to participate in the U.S. Coast Guard Recreational Boating and Safety Federal Financial Assistance Program (RBS).

#### ***Who Is Regulated?***

All motorboats and sailboats, unless they are registered with the federal government, from a foreign country and in Colorado temporarily, or registered in another state and in Colorado temporarily, must be registered.

#### ***How Is It Regulated?***

A person who wishes to register a vessel completes a registration application, pays a fee to the Colorado Division of Parks and Outdoor Recreation (Division), and if there are no ownership/title-related issues, he or she is given a registration number to put on the hull of the vessel.

#### ***What Does It Cost?***

As of January 1, 2010, registration fees were:

- \$35.25 for boats fewer than 20 feet in length;
- \$45.25 for boats between 20 feet and 29 feet 11 inches; and
- \$75.25 for boats 30 feet and longer.

#### ***What Disciplinary Activity Is There?***

Though the Division issues more than 800 citations per year, just over 30 are for having an unregistered vessel. When a vessel theft occurs, local law enforcement, where the theft occurred, takes the information and makes the report to be included in the state and national theft databases.

#### ***Where Do I Get the Full Report?***

The full sunset review can be found on the internet at: [www.dora.state.co.us/opr/oprpublications.htm](http://www.dora.state.co.us/opr/oprpublications.htm).

## Key Recommendations

### **Continue the Colorado Vessel Registration Program.**

The Vessel Registration Program (Program) in Colorado fulfills one of the requirements necessary for acceptance into the RBS. The revenue and data generated by the Program also assists law enforcement in protecting the public in the areas of both property theft and personal safety.

The Coast Guard/state cooperative effort in recreational boating safety is an example of government working at multiple levels for the benefit of the public. The Colorado Flat Water Boating Safety Program (FWP) is possible because of RBS funds. The RBS grant also allows the Division to purchase educational items that convey the boating safety message and to provide boating safety training for law enforcement.

The RBS has directly resulted in safer boating for millions of Americans nationwide.

### **Discontinue sunset reviews of the Program and require the Division to report to the General Assembly if RBS grant funding terminates.**

The last time the Department of Regulatory Agencies conducted a sunset review of the Program was 1995. That sunset review contained one recommendation - continue the Program. Because neither that review nor this one revealed any substantive statutory or administrative problems to report and resolve and because most changes in the Program occur as a result of RBS programmatic changes, no further sunset reviews should be required by the General Assembly.

## Major Contacts Made During This Review

American Boating Association  
Colorado Division of Parks and Outdoor Recreation  
U.S. Coast Guard

### **What is a Sunset Review?**

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether or not they should be continued by the legislature. Sunset reviews focus on creating the least restrictive form of regulation consistent with protecting the public. In formulating recommendations, sunset reviews consider the public's right to consistent, high quality professional or occupational services and the ability of businesses to exist and thrive in a competitive market, free from unnecessary regulation.

Sunset Reviews are Prepared by:  
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## Background

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### *Introduction*

Enacted in 1976, Colorado's sunset law was the first of its kind in the United States. A sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it. During the sunset review process, the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria<sup>1</sup> and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are based on the following statutory criteria:

- Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;
- Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

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<sup>1</sup> Criteria may be found at § 24-34-104, C.R.S.

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## *Types of Regulation*

Consistent, flexible, and fair regulatory oversight assures consumers, professionals and businesses an equitable playing field. All Coloradans share a long-term, common interest in a fair marketplace where consumers are protected. Regulation, if done appropriately, should protect consumers. If consumers are not better protected and competition is hindered, then regulation may not be the answer.

As regulatory programs relate to individual professionals, such programs typically entail the establishment of minimum standards for initial entry and continued participation in a given profession or occupation. This serves to protect the public from incompetent practitioners. Similarly, such programs provide a vehicle for limiting or removing from practice those practitioners deemed to have harmed the public.

From a practitioner perspective, regulation can lead to increased prestige and higher income. Accordingly, regulatory programs are often championed by those who will be the subject of regulation.

On the other hand, by erecting barriers to entry into a given profession or occupation, even when justified, regulation can serve to restrict the supply of practitioners. This not only limits consumer choice, but can also lead to an increase in the cost of services.

There are also several levels of regulation.

### Licensure

Licensure is the most restrictive form of regulation, yet it provides the greatest level of public protection. Licensing programs typically involve the completion of a prescribed educational program (usually college level or higher) and the passage of an examination that is designed to measure a minimal level of competency. These types of programs usually entail title protection – only those individuals who are properly licensed may use a particular title(s) – and practice exclusivity – only those individuals who are properly licensed may engage in the particular practice. While these requirements can be viewed as barriers to entry, they also afford the highest level of consumer protection in that they ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

### Certification

Certification programs offer a level of consumer protection similar to licensing programs, but the barriers to entry are generally lower. The required educational program may be more vocational in nature, but the required examination should still measure a minimal level of competency. Additionally, certification programs typically involve a non-governmental entity that establishes the training requirements and owns and administers the examination. State certification is made conditional upon the individual practitioner obtaining and maintaining the relevant private credential. These types of programs also usually entail title protection and practice exclusivity.

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While the aforementioned requirements can still be viewed as barriers to entry, they afford a level of consumer protection that is lower than a licensing program. They ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

### Registration

Registration programs can serve to protect the public with minimal barriers to entry. A typical registration program involves an individual satisfying certain prescribed requirements – typically non-practice related items, such as insurance or the use of a disclosure form – and the state, in turn, placing that individual on the pertinent registry. These types of programs can entail title protection and practice exclusivity. Since the barriers to entry in registration programs are relatively low, registration programs are generally best suited to those professions and occupations where the risk of public harm is relatively low, but nevertheless present. In short, registration programs serve to notify the state of which individuals are engaging in the relevant practice and to notify the public of those who may practice by the title(s) used.

### Title Protection

Finally, title protection programs represent one of the lowest levels of regulation. Only those who satisfy certain prescribed requirements may use the relevant prescribed title(s). Practitioners need not register or otherwise notify the state that they are engaging in the relevant practice, and practice exclusivity does not attach. In other words, anyone may engage in the particular practice, but only those who satisfy the prescribed requirements may use the enumerated title(s). This serves to indirectly ensure a minimal level of competency – depending upon the prescribed preconditions for use of the protected title(s) – and the public is alerted to the qualifications of those who may use the particular title(s).

Licensing, certification and registration programs also typically involve some kind of mechanism for removing individuals from practice when such individuals engage in enumerated proscribed activities. This is generally not the case with title protection programs.

### Regulation of Businesses

Regulatory programs involving businesses are typically in place to enhance public safety, as with a salon or pharmacy. These programs also help to ensure financial solvency and reliability of continued service for consumers, such as with a public utility, a bank or an insurance company.

Activities can involve auditing of certain capital, bookkeeping and other recordkeeping requirements, such as filing quarterly financial statements with the regulator. Other programs may require onsite examinations of financial records, safety features or service records.



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Although these programs are intended to enhance public protection and reliability of service for consumers, costs of compliance are a factor. These administrative costs, if too burdensome, may be passed on to consumers.

### ***Sunset Process***

Regulatory programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review via DORA's website at: [www.dora.state.co.us/pls/real/OPR\\_Review\\_Comments.Main](http://www.dora.state.co.us/pls/real/OPR_Review_Comments.Main).

The regulatory functions of the Colorado Division of Parks and Outdoor Recreation (Division) relating to Sections 103, 104, 105 and 107 of Article 13 of Title 33, Colorado Revised Statutes (C.R.S.), shall terminate on July 1, 2011, unless continued by the General Assembly. During the year prior to this date, it is the duty of DORA to conduct an analysis and evaluation of the Colorado Vessel Registration Program (Program) pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the currently prescribed regulation of vessels should be continued for the protection of the public and to evaluate the performance of the staff of the Division. During this review, the Division must demonstrate that the regulation serves to protect the public health, safety or welfare, and that the regulation is the least restrictive regulation consistent with protecting the public. DORA's findings and recommendations are submitted via this report to the legislative committee of reference of the Colorado General Assembly.

### ***Methodology***

As part of this review, DORA staff interviewed U.S. Coast Guard (USCG) and Division staff, reviewed Division records including complaint and disciplinary actions, reviewed Colorado statutes and rules, and reviewed USCG rules and policies.

### ***Profile***

Though the annual number fluctuates with the economy, there were more than 16 million recreational boats used in the United States during 2009. Recreational boating contributed \$30.8 billion dollars to the nation's economy during that time.<sup>2</sup>

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<sup>2</sup> National Marine Manufacturers Association, *2009 Recreational Boating Statistical Abstract*. P.iv. Retrieved June 16, 2010, from <http://www.nmma.org/facts/boatingstats/2009/>

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The Division has operated the Program since the early 1970s; it is responsible for the numbering of approximately 100,000 boats in Colorado. The revenue and data generated by the program assists law enforcement in protecting the public in the areas of property theft and personal safety.

Though Colorado is perceived as mainly a whitewater boating state, the number of registered vessels illustrates that flatwater lakes and reservoirs are also enjoyed by recreational boaters. Additionally, bodies of water for boating exist in all parts of the state. Some have observed that Colorado's state park system is a water-based system because the majority of Colorado state parks exist because of the water in the park.

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## Legal Framework

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### *History*

The federal government, through the U.S. Coast Guard (USCG), operates the Recreational Boating and Safety Federal Financial Assistance Program (RBS).

The RBS was first established by the Federal Boat Safety Act of 1971 to encourage states to join in boating safety efforts and assume a larger role in boating safety education, assistance, and enforcement activities.<sup>3</sup> The Colorado Division of Parks and Outdoor Recreation (Division) has operated the Colorado Vessel Registration Program since that time.

In 1980, the federal Recreation Boating Safety and Facilities Improvement Fund was created. States which receive grants under the RBS are required to match the federal grant.

The purpose of vessel regulation in Colorado is to comply with RBS guidelines. Its efforts achieve two goals: 1) register and number vessels in accordance with federal standards; and 2) promote safety in the use of watercraft.<sup>4</sup>

Participation in the RBS necessitates that states adopt certain standards and procedures. Once a state is compliant, implementation is facilitated through a cooperative agreement between the USCG District Commander and the state.<sup>5</sup>

In addition to the cooperative agreement, state program approval requires that a participating state has:<sup>6</sup>

- A vessel numbering identification system approved by the Secretary of Homeland Security;
- Sufficient patrol and other enforcement activity to ensure adequate implementation of state boating safety laws and regulations; and
- A satisfactory boating safety education program.

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<sup>3</sup> 46 U.S.C. § 13102.

<sup>4</sup> § 33-13-101, C.R.S.

<sup>5</sup> U.S. Department of Transportation, U.S. Coast Guard, *Commandant Publication P16755.3A: State Recreational Boating Programs*. p. 1-1.

<sup>6</sup> U.S. Department of Transportation, U.S. Coast Guard, *Commandant Publication P16755.3A: State Recreational Boating Programs*. pp. 2-1 – 2-3.

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## *Colorado Statutes*

Article 13 of Title 33, Sections 103, 104, 105, and 107, Colorado Revised Statutes (C.R.S.) (Act), are the Colorado statutes that allow Colorado to comply with the federal identification requirement. The vessel numbering and registration system provides the dollars needed to put in place the remaining RBS requirements and access to federal dollars.

All non-exempt vessels on Colorado water or in a vessel staging area must be registered.<sup>7</sup> The registration numbering system is determined by Colorado Board of Parks and Outdoor Recreation (Board) rule and must comply with the federal vessel numbering system.<sup>8</sup> Whenever a person operates a vessel, the registration must be on board.<sup>9</sup> The owner or operator must comply with an order to produce the registration by any Colorado peace officer or Division officer.

Once the Division approves a registration application, and a registration fee is paid, the Division issues a registration number. However, vessels owned and operated by the state or a political subdivision do not require the registration fee payment.<sup>10</sup> All fees are credited to the Parks and Outdoor Recreation Cash Fund and are used for program costs.<sup>11</sup>

The registration number issued to a vessel must be painted or attached to each side of the vessel's bow or foredeck, where no other numbers are allowed. The number must be read from left to right, be in a contrasting color from its background, and be clearly visible and legible.<sup>12</sup> In addition, an expiration date decal is issued to be attached two inches to the left of the letter "C" in the registration number.<sup>13</sup>

If a registration is lost or destroyed, the owner has 15 days to notify the Division in writing and explain the circumstances.<sup>14</sup> A registration is reissued after the owner pays a fee of up to 50 percent of the original registration fee or \$5, whichever is less. If the Division determines a registration was lost in the mail, no charge is assessed for reissuance.<sup>15</sup>

A vessel owner has 15 days to surrender a registration after a vessel is lost, destroyed, or abandoned. Likewise, an owner has 15 days to notify the Division of an address change.<sup>16</sup> Vessel registrations expire on December 31 of each year. However, if a registration is renewed within 30 days prior to expiration, the same registration number is issued.<sup>17</sup>

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<sup>7</sup> § 33-13-103(1), C.R.S.

<sup>8</sup> § 33-13-103(3), C.R.S.

<sup>9</sup> § 33-13-104(2), C.R.S.

<sup>10</sup> § 33-13-104(1), C.R.S.

<sup>11</sup> § 33-13-104(4), C.R.S.

<sup>12</sup> § 33-13-104(1), C.R.S.

<sup>13</sup> 2010 Colorado Boating Regulations, 202.

<sup>14</sup> § 33-13-104(2), C.R.S.

<sup>15</sup> § 33-12-101(3), C.R.S.

<sup>16</sup> § 33-13-104(3), C.R.S.

<sup>17</sup> § 33-13-103(2), C.R.S.

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If a Division or other peace officer has cause to believe a vessel is stolen, it may be seized.<sup>18</sup> The seizing officer must notify the vessel's registered owner and the appropriate law enforcement agencies with all the facts pertinent to seizing.<sup>19</sup> An agency seizing a vessel may return the vessel to its owner, possibly require the owner to obtain a hull number,<sup>20</sup> or it may ask a court to determine whether a vessel should be destroyed, sold, converted and used by the seizing agency, or otherwise disposed of by the court.<sup>21</sup> If the court orders the vessel be sold by the agency, proceeds are credited to the State's General Fund.<sup>22</sup> All forfeitures proceed according to section 505 of the "Colorado Contraband Forfeiture Act."<sup>23</sup>

Exemptions to the registration requirement include:

- Vessels that are not motorboats or sailboats;<sup>24</sup>
  - Canoes, kayaks, nonmotorized rafts, and sailboards must be marked with the owner's name and current address "in a clearly visible, and durable fashion."<sup>25</sup>
- Vessels registered with the federal government;<sup>26</sup>
- Vessels from a foreign country that are in Colorado temporarily;<sup>27</sup> and
- Vessels registered in another state, where the registration program conforms with Colorado and federal regulations, if the vessel is not used within Colorado for more than 60 consecutive days.<sup>28</sup>

The owner or operator of a vessel livery must keep a record of every vessel rental, for Division inspection, for 30 days after the vessel is returned.<sup>29</sup> The owner or operator may only allow properly registered and equipped vessels to depart from the facility.<sup>30</sup> The transaction record must include:<sup>31</sup>

- Lessee's name and address;
- Vessel identification number;
- Departure date and time; and
- Expected return date and time.

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<sup>18</sup> § 33-13-105(1)(a), C.R.S.

<sup>19</sup> § 33-13-105(1)(b), C.R.S.

<sup>20</sup> § 33-13-105(4), C.R.S.

<sup>21</sup> § 33-13-105(3)(a), C.R.S.

<sup>22</sup> § 33-13-105(7), C.R.S.

<sup>23</sup> §§ 33-13-105(3)(b)(l), and 16-13-501, *et seq.*, C.R.S.

<sup>24</sup> § 33-13-103(1) (a), C.R.S.

<sup>25</sup> § 33-13-103(5), C.R.S.

<sup>26</sup> §§ 33-13-103(1) (b), (e), C.R.S.

<sup>27</sup> § 33-13-103(1)(d), C.R.S.

<sup>28</sup> § 33-13-103(1)(c), C.R.S.

<sup>29</sup> § 33-13-107(1), C.R.S.

<sup>30</sup> § 33-13-107(2), C.R.S.

<sup>31</sup> § 33-13-107(1), C.R.S.

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Violations of these statutes are petty offenses and convictions carry fines as follows:

- \$50 for operating a vessel while not having a valid registration and registration number;<sup>32</sup>
- \$50 for operating a vessel while not having a registration on board;<sup>33</sup>
- \$15 for not having a properly marked, registration-exempt canoe, kayak, sailboard, or nonmotorized craft;<sup>34</sup>
- \$25 for not properly displaying the registration number on the vessel;<sup>35</sup>
- \$100 for not having a proper transaction record on a vessel for hire;<sup>36</sup> and
- \$100 for allowing an improperly registered or equipped vessel to depart from a vessel livery.

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<sup>32</sup> § 33-13-103(4), C.R.S.

<sup>33</sup> § 33-13-104(2), C.R.S.

<sup>34</sup> § 33-13-103(5), C.R.S.

<sup>35</sup> § 33-13-104(1), C.R.S.

<sup>36</sup> § 33-13-107(1), C.R.S.

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## Program Description and Administration

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The Colorado Division of Parks and Outdoor Recreation (Division) Registration Unit, within the Department of Natural Resources, manages the Colorado Vessel Registration Program (Program), including the watercraft registration database. The database is required to operate in compliance with the U.S. Coast Guard (USCG)-operated Vessel Identification System.<sup>37</sup>

The State Boating Law Administrator oversees the Program, and while that position's time is funded by USCG Recreational Boating and Safety Federal Financial Assistance Program (RBS) grant dollars, the remaining full-time equivalent (FTE) employees are financed through Program funds. Table 1 depicts Program fiscal information during the period under review, fiscal years 04-05 through 08-09. Program FTE were static during the review period; however, due to Division technology system upgrades, the monetary expenditures increased after fiscal year 05-06.

**Table 1**  
**Program Fiscal Information**  
**Fiscal Year 04-05 through 08-09**

Fiscal Year	Total Program Expenditure	FTE
04-05	\$64,124	2.25
05-06	\$66,373	2.25
06-07	\$316,987	2.25
07-08	\$129,824	2.25
08-09	\$92,659	2.25

Registration fees are set by the Colorado Board of Parks and Outdoor Recreation (Board). The Board increased fees beginning January 1, 2010, the last previous increase was during 2003. The fees are currently:<sup>38</sup>

- \$35.25 for boats fewer than 20 feet in length;
- \$45.25 for boats between 20 feet and 29 feet 11 inches; and
- \$75.25 for boats 30 feet and longer.

To register a vessel, a person completes a registration application and submits it to the Division with the proper fee. Registrations expire on December 31 of each year and the Division sends out renewal cards to registered boat owners during November and December. If there has been no ownership change and there are no questions about vessel title, renewal may be completed online, through the mail, by fax, at a state park, or with an authorized agent.

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<sup>37</sup> 46 U.S.C. § 12501, *et seq.*

<sup>38</sup> Colorado State Parks, *Registration Application*.

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Occasionally, Division staff will require that a boat be physically inspected by a State Park Officer if there is a discrepancy in the registration information submitted or if a vessel is handmade or was manufactured prior to the issuing of manufacturer serial numbers. Those vessels that have no serial number are assigned a hull identification number that must be affixed to the vessel.

Once the Division issues a registration number, that number stays with the vessel as long as it maintains a valid Colorado registration. The number must be displayed on the bow of the vessel in accordance with state and federal laws.<sup>39</sup> Table 2 outlines that Colorado registers nearly 100,000 boats annually. The number remains quite constant, varying no more than three percent during the period under review.

**Table 2**  
**Vessels Registered**  
**Fiscal Year 04-05 through 08-09**

<b>Fiscal Year</b>	<b>Total</b>
04-05	98,572
05-06	98,063
06-07	98,976
07-08	96,222
08-09	95,824

Colorado's recreational fleet is comprised of several classifications of vessel, all of which are reportable to the USCG. The USCG requires, and therefore the report lists, more classifications than the three Colorado license categories. The hull material, the method of propulsion, as well as the length of vessels are all categorized and reportable.

The Division is the primary agency for boating safety, enforcement, and education. As a state agency, it does not take reports of stolen boats. The jurisdiction where a theft occurs takes the report, enters the data into the Colorado Crime Information Center database, and the information is checked against the National Crime Information Center database using registration information. Once information is entered, it is accessible to most every law enforcement jurisdiction nationwide. The databases are the main source for identifying reported stolen vessels.

The Division conducts some boat theft investigations and provides assistance and training to other agencies on boat theft investigation.

The Division issues more than 800 boating-related citations per year. Table 3 lists registration-related citations issued by the Division during the 2007 through 2009 boating seasons. No data from local law enforcement are reported. The overwhelming majority of the citations issued are for boats not being registered. The information listed is by calendar year rather than fiscal year and only for 2007 through 2009 because the Division switched citation-reporting databases during 2007 and no longer has the records from previous years.

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<sup>39</sup> 46 U.S.C. § 12305 and § 33-13-104(1), C.R.S.



**Table 3**  
**Division Issued**  
**Boat Registration Citations**  
**Calendar Years 2007-2009**

Citation	2007	2008	2009
Unregistered vessels	40	25	29
Canoe/kayak/raft without owners name marked on it	1	0	1
Failure to produce registration	1	2	1
Failure to display registration number as required	4	0	2
Failure to properly attach expiration decal	0	0	0
No bill of sale on newly purchased boat	1	0	0
Operation without registration on board	12	5	6
Total Citations	59	32	39

Though there are no figures pertaining to local law enforcement activity in this sunset review, it appears, based on these figures, the Colorado boating community generally conforms with the legal registration requirements. During the years reported, the number of citations issued is less than one percent of the total number of registered vessels.

The Division also inspects boat liveries. Table 4 summarizes the inspections of boat liveries by the Flat Water Boating Safety Program (FWP) team and results. The cultural mindset of the Program is to bring violators into compliance and promote safety rather than to issue citations for every offense. The majority of violations earned a warning while only one citation was issued during the sunset review period. That citation was in 2004 and was issued for renting a vessel without a Type IV personal floatation device, which is a device that can be thrown to a drowning person.<sup>40</sup>

**Table 4**  
**Boat Livery Inspections**  
**Calendar Years 2005-2009**

Year	Inspections	Violations	Citations
2005	7	3	1
2006	1	0	0
2007	11	3	0
2008	4	3	0
2009	7	4	0

<sup>40</sup> About.com: Paddling, *Definition of Type IV PFD*. Retrieved July 28, 2010, from [http://paddling.about.com/od/paddlingdefinitions/g/Type\\_IV\\_PFD.htm](http://paddling.about.com/od/paddlingdefinitions/g/Type_IV_PFD.htm)

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## Analysis and Recommendations

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### *Recommendation 1 – Continue the Colorado Vessel Registration Program.*

The Colorado Vessel Registration Program (Program) fulfills one of the requirements necessary for acceptance into the U.S. Coast Guard (USCG) Recreational Boating and Safety Federal Financial Assistance Program (RBS).

The RBS, a federal grant program, was first established by the Federal Boat Safety Act of 1971 to:

Encourage greater State participation and uniformity in boating safety efforts, and particularly to permit the States to assume the greater share of boating safety education, assistance, and enforcement activities.<sup>41</sup>

Funding for the grants was provided from federal revenue through the USCG's Operating Expenses appropriations.<sup>42</sup>

The Colorado Division of Parks and Outdoor Recreation (Division) operates the Program and it is responsible for the numbering of approximately 100,000 boats in Colorado each year. The existence of the Program and revenue generated from the Program enables Colorado's participation, in part, in the RBS. The revenue and data generated by the Program also assist law enforcement in protecting the public in the areas of both property theft and personal safety.

The USCG/state cooperative effort in recreational boating safety is an example of government working at multiple levels for the benefit of the public. The RBS has directly resulted in safer boating for millions of Americans nationwide. This is demonstrated by the fact that the number of reported recreational boating fatalities has been reduced from a high of 1,754 in 1973 to about 800 per year currently. This statistic is more noteworthy considering that during the same period, the number of boats owned by Americans more than doubled.<sup>43</sup>

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<sup>41</sup> 46 U.S.C. § 13102.

<sup>42</sup> U.S. Coast Guard, Boating Safety Resource Center; Grants/History. Retrieved July 8, 2010, from [http://www.uscgboating.org/grants/state\\_grant\\_history.aspx](http://www.uscgboating.org/grants/state_grant_history.aspx)

<sup>43</sup> U.S. Coast Guard, Boating Safety Resource Center; Grants/History. Retrieved July 8, 2010, from [http://www.uscgboating.org/grants/state\\_grant\\_history.aspx](http://www.uscgboating.org/grants/state_grant_history.aspx)

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Colorado accounted for only one percent of the nation's boating deaths<sup>44</sup> and 0.2 percent of the property damage<sup>45</sup> resulting from boating accidents during 2008. The 2008 national average for state deaths was 5.6 deaths per 100,000 vessels registered;<sup>46</sup> the Colorado rate was slightly higher at 7.3 deaths per 100,000 vessels registered. Still, that number represents a decrease from the 2005 rate, at 11.2 deaths per 100,000 vessels registered.<sup>47</sup>

The RBS grant funds two full-time equivalent (FTE) employee positions in the Division: the State Boating Law Administrator and the State Boating Safety Coordinator. It also funds three temporary positions: two temporary Division officers for the flat water patrol team and one temporary administrative position.

The Colorado Flat Water Boating Safety Program (FWP) is also made possible because of RBS funds. The FWP team travels across the state providing boating safety patrols on lakes and reservoirs. The FWP team provides a boating safety presence where there is little available or where extra assistance is needed.

Public education is another major component of boating safety. The RBS grant allows the Division to purchase educational items that convey the boating safety message.

In addition to the public education efforts, the grant allows the Division to provide boating safety training for law enforcement. Training such as the National Association of State Boating Law Administrators boat accident investigation training, boat theft investigation training, and the basic marine officer training program are available because of grant dollars.

The mission of the USCG's Boating Safety Division is:

To minimize the loss of life, personal injury, property damage, and environmental impact associated with the use of recreational boats, through preventive means, in order to maximize safe use and enjoyment of U.S. Waterways by the public.<sup>48</sup>

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<sup>44</sup> U.S. Department of Homeland Security, U.S. Coast Guard, Office of Auxiliary and Boating Safety, *Recreational Boating Statistics 2008*. p.52. Retrieved July 8, 2010, from [http://www.uscgboating.org/assets/1/Publications/Boating\\_Statistics\\_2008.pdf](http://www.uscgboating.org/assets/1/Publications/Boating_Statistics_2008.pdf)

<sup>45</sup> U.S. Department of Homeland Security, U.S. Coast Guard, Office of Auxiliary and Boating Safety, *Recreational Boating Statistics 2008*. p.52. Retrieved July 8, 2010, from [http://www.uscgboating.org/assets/1/Publications/Boating\\_Statistics\\_2008.pdf](http://www.uscgboating.org/assets/1/Publications/Boating_Statistics_2008.pdf) p.51

<sup>46</sup> U.S. Department of Homeland Security, U.S. Coast Guard, Office of Auxiliary and Boating Safety, *Recreational Boating Statistics 2008*. p.53. Retrieved July 8, 2010, from [http://www.uscgboating.org/assets/1/Publications/Boating\\_Statistics\\_2008.pdf](http://www.uscgboating.org/assets/1/Publications/Boating_Statistics_2008.pdf).

<sup>47</sup> Ratio is derived from total number of registered vessels supplied by the division divided by total number of fatalities supplied by the U.S. Department of Homeland Security, U.S. Coast Guard, Office of Auxiliary and Boating Safety, *Recreational Boating Statistics 2008*. p.55. Retrieved July 8, 2010, from [http://www.uscgboating.org/assets/1/Publications/Boating\\_Statistics\\_2008.pdf](http://www.uscgboating.org/assets/1/Publications/Boating_Statistics_2008.pdf)

<sup>48</sup> U.S. Coast Guard, Boating Safety Resource Center; Vision/Mission. Retrieved July 8, 2010, from [http://www.uscgboating.org/about/vision\\_and\\_mission.aspx](http://www.uscgboating.org/about/vision_and_mission.aspx)

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The Program established in Colorado helps advance the mission by enabling the Division to participate in RBS-authorized safety activities. The existence of the Colorado Boating Safety Program is dependent, in part, on the existence of the Program. Therefore, the Program is necessary to protect the boating public's health, safety, and welfare. Registration of vessels also aids law enforcement in investigating and recording crimes. Based on these premises, the Program is necessary to protect the health, safety, and welfare of the public and should continue.

Therefore, the General Assembly should continue the Program.

***Recommendation 2 – Discontinue sunset reviews of the Program and require the Division to report to the General Assembly if RBS grant funding terminates.***

The last time the Department of Regulatory Agencies conducted a sunset review of the Program was 1995. That sunset review contained one recommendation - continue the Program. Because neither that review nor this one revealed any substantive statutory or administrative problems to report and resolve and because most changes in the Program occur as a result of RBS programmatic changes, no further sunset reviews should be required by the General Assembly.

History suggests that future sunset reviews will yield the same results as this and the previous review. Notwithstanding, the Program is necessary to fulfill RBS grant requirements and to protect the boating public. However, if the RBS and the associated federal grant program were to end, the General Assembly should revisit the Program to determine if any structural and statutory changes are necessary.

The General Assembly should discontinue sunset reviews of the Program and require the Division to report to the General Assembly if RBS grant funding terminates.