



Dora
Department of Regulatory Agencies

Office of Policy, Research and Regulatory Reform

**2013 Sunset Review:
Colorado Fire Suppression
Registration and Inspection
Program**

October 15, 2013





Executive Director's Office

Barbara J. Kelley
Executive Director

John W. Hickenlooper
Governor

October 15, 2013

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 Colorado Fire Suppression Registration and Inspection Program, housed in the Department of Public Safety. I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2014 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 portions of Part 12, of Article 33.5, of Title 24, C.R.S. The report also discusses the effectiveness of the Colorado Division of Fire Prevention and Control and 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





John W. Hickenlooper
Governor

Barbara J. Kelley
Executive Director

2013 Sunset Review: Colorado Fire Suppression Registration and Inspection Program

Summary

What Is Regulated?

The Colorado Fire Suppression Registration and Inspection Program (Program) has two main regulatory components: a registration component which registers fire suppression contractors and a fire suppression inspection component which qualifies inspectors, records fire suppression system installations, and inspects fire suppression systems in those areas of the state that do not have a local authorized authority to do so.

The Program also inspects all public schools and hospitals throughout the state.

Why Is It Regulated?

The purpose of the Program is to ensure that the life safety systems installed in buildings are installed and maintained properly, according to nationally recognized standards.

Who Is Regulated?

There are three types of contractor registrations:

- *Fire Suppression System Contractor – Underground.* During fiscal year 11-12, there were 130 registrations issued.
- *Fire Suppression System Contractor – Backflow.* During fiscal year 11-12, there were 126 registrations issued.
- *Fire Suppression System Contractor.* During fiscal year 11-12, there were 176 registrations issued.

During fiscal year 11-12, the Program also certified 247 inspectors, performed 74 plan reviews, and made 184 installation inspections.

How Is It Regulated?

Registration is required of any individual or company who physically works on or employs individuals who physically work on fire protection systems.

Any installation, modification, alteration, or repair of a fire suppression system is required to be approved by a certified fire suppression systems inspector.

What Does It Cost?

The Division of Fire Prevention and Control (DFP) allots 1.0 full-time equivalent (FTE) employee to plan review and splits 2.5 FTE between the Program and other DFP activities.

What Disciplinary Activity Is There?

There was only one disciplinary case recorded during the period under review. A letter of admonition was issued and the contractor was placed on probation for one year.

Key Recommendations

2013 Sunset Review: Colorado Fire Suppression Registration and Inspection Program

Continue the Program for five years, until 2019.

Installing a fire suppression system is of major importance in constructing a new building and retrofitting existing buildings. A registered contractor or a responsible managing employee, designs, lays out, fabricates, and installs fire suppression systems including all the equipment associated with the potentially life-saving systems. Given those responsibilities, the General Assembly requires them to carry certain qualifications.

Inspectors are certified to work for other governmental or quasi-governmental agencies such as a local building department or a fire district. Inspectors have the responsibility for reviewing and endorsing all plans, and inspecting the installations.

The General Assembly requires the Program, "To maintain records of all applications, complaints, investigations, disciplinary or other actions, and registrants" in statute. However, those records are incomplete.

This sunset review recommends the continuation of the Program for only five years. Putting a short window for a sunset review allows the General Assembly the opportunity to assess improvements in the Program's performance.

Create a new registration category for residential fire suppression system contractors.

Currently, all contractors need to be fully qualified to perform installations regardless of the setting in which they work. Residential installation systems are not as complicated to design or install as those used in commercial applications.

Therefore, a new residential contractor's registration specific to residential installations should be created.

Major Contacts Made During This Review

Colorado Chapter of the International Code Council
Colorado Division of Fire Prevention and Control
Colorado Fire Protection Association
Fire Marshals' Association of Colorado
Home Fire Sprinkler Coalition
National Fire Sprinkler Association
North Metro Fire Rescue
South Metro Fire Authority

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

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 criteria¹ 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;

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

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- Whether the agency through its licensing or certification process imposes any disqualifications on applicants based on past criminal history and, if so, whether the disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subparagraph (i) of paragraph (a) of subsection (8) of this section shall include data on the number of licenses or certifications that were denied, revoked, or suspended based on a disqualification and the basis for the disqualification; and
 - Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

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.

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.

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, representatives of the regulated profession and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review via DORA's website at: www.dora.colorado.gov/opr.

The regulatory functions of the Colorado Division of Fire Prevention and Control (DFP), in the Department of Public Safety as enumerated in sections 24-33.5-1204.5, 24-33.5-1206.1 through 24-33.5-1206.6, and 24-33.5-1207.6, of Article 33.5, of Title 24, Colorado Revised Statutes (C.R.S.), shall terminate on July 1, 2014, 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 administration of the Fire Suppression Registration and Inspection 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 fire suppression systems should be continued for the protection of the public and to evaluate the performance of the DFP. During this review, the DFP 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 Office of Legislative Legal Services.

Methodology

As part of this review, DORA staff interviewed Program staff, reviewed Program records including complaint and disciplinary actions, interviewed officials with state and national professional associations, interviewed fire suppression contractors, interviewed local building officials, and reviewed Program rules.

Profile of the Profession

Automatic fire sprinklers, also referred to as fire suppression systems, have been in use in the U.S. since 1874. They are an effective method for fighting the spread of early-stage fires before they can severely injure people and property.

Installation of fire sprinklers can provide discounts on insurance premiums for the building owner. The installation of a system in new residential construction is estimated to make up around one percent of the total building cost. This cost is similar to the cost of installing new carpet.²

Fire sprinklers are heat, not smoke, activated, one sprinkler head at a time, and most fires usually require only one or two sprinklers to be extinguished. Properly installed systems have reduced death and loss of property by more than 65 percent. Moreover, because they use about six times less water than a fire hose, they can cause less additional damage to property than a fire department.³

A sprinkler head is attached to a system of pipes. The pipes wind throughout a building and connect with a reliable water source. When a sprinkler head is triggered, a valve to the pipe system is opened and releases water that is kept under pressure in the pipes. The water sprays downward and out through the sprinkler head to the sides. The spray of water extinguishes the fire and prevents it from spreading.⁴

Because systems are used in a multitude of different settings, different types have developed. These include wet, dry, deluge, pre-action and foam. Each type has its own unique set of characteristics that protect the specific building and property where it is installed.⁵

² American Fire Sprinkler Association. *Fire Sprinkler Fact, Figures & General Info*. Retrieved July 29, 2013, from <http://www.firesprinkler.org/pressarea/fact2.html>

³ How Stuff Works. *How Fire Sprinkler Systems Work*. Retrieved October 1, 2013, from <http://home.howstuffworks.com/home-improvement/household-safety/fire/fire-sprinkler-system.htm>

⁴ How Stuff Works. *How Fire Sprinkler Systems Work; Fire Sprinklers as Fire Prevention Systems*. Retrieved October 1, 2013, from <http://home.howstuffworks.com/home-improvement/household-safety/fire/fire-sprinkler-system1.htm>

⁵ How Stuff Works. *How Fire Sprinkler Systems Work; Types of Fire Sprinkler Systems*. Retrieved October 1, 2013, from <http://home.howstuffworks.com/home-improvement/household-safety/fire/fire-sprinkler-system2.htm>

Installations in Colorado must be made by a registered contractor and inspected by a certified inspector. The DFP is responsible for the registration of qualified contractors and the certification of qualified inspectors.

Though the systems are very similar to plumbing, they are not considered plumbing. They are exempt from plumbing regulation with one exception, a multipurpose system attached directly to a building's plumbing system without a backflow device. Such a system is part of the building's plumbing system and is therefore considered plumbing. These systems must be installed by a licensed plumber and inspected by a local or state plumbing inspector.

Legal Framework

History of Regulation

The Colorado Fire Suppression Registration and Inspection Program (Program) began on January 1, 1991. The purpose of the Program is to ensure that the life safety systems installed in buildings are installed and maintained properly, according to nationally recognized standards.⁶

Since that time there have been few major changes to the Program. Following recommendations in the 2005 sunset review, the Director of the Division of Fire Prevention and Control (DFP) was required by the General Assembly to maintain records of applications, complaints, investigations, and disciplinary actions and maintain a system to track complaints. The Director was also given the power to issue letters of admonition, when necessary, as a form of discipline.

The Program

Statutes in Part 12 of Article 33.5, Title 24 (Part 12) of the Colorado Revised Statutes (C.R.S.) govern the operation of the DFP. Part 12 authorizes the entire DFP, sections of which are the subject of this sunset review.

The Program has two main regulatory components: a registration component which registers fire suppression contractors and a fire suppression inspection component which qualifies inspectors, records fire suppression system installations, and inspects fire suppression systems. The Director of the DFP, or a designee of the Director,⁷ is instructed by statute to establish and to adopt rules necessary to implement the program.⁸

⁶ Fire Suppression Rules, 2006 Revision, § 1.

⁷ § 24-33.5-1202(1), C.R.S.

⁸ § 24-33.5-1204.5(1)(a), C.R.S.

The Director is also instructed to:

- Establish fees and charges to defray the costs of administration;⁹
- Maintain records of all applications, complaints, investigations, disciplinary or other actions, and registrants;¹⁰
- Receive, investigate, and act upon complaints against people who violate the laws or rules associated with the Program;¹¹
- Conduct disciplinary hearings, issue subpoenas, compel attendance of witnesses, compel the production of books, records, papers, and documents, administer oaths to persons giving testimony at hearings, and recommend prosecution of persons in violation of Program laws and rules;¹²
- Implement a tracking system, separate from the individual records of fire suppression contractors and inspectors, regarding the disposition of complaints;¹³ and
- Provide an online complaint form and internet access to the tracking system.¹⁴

Contractor Registration

Colorado has a mandatory practice provision which states that, “No person shall act, assume to act, or advertise as a fire suppression contractor who is not registered as a fire suppression contractor with the Director.”¹⁵ This means that any individual or company who physically works on or installs, or employs someone who physically works on or installs, any part of a fire protection system must be registered.¹⁶ In fact, statute prohibits an unregistered person from bringing legal action to collect for any services for which registration is required.¹⁷

There are limited registration exemptions for building owners and for individuals or companies that install pre-engineered range hoods and duct extinguishing systems.¹⁸ State registration does not, however, exempt a contractor from any locally required licenses or permits.¹⁹

⁹ § 24-33.5-1204.5(1)(b), C.R.S.

¹⁰ § 24-33.5-1204.5(1)(d), C.R.S.

¹¹ § 24-33.5-1204.5(1)(c), C.R.S.

¹² § 24-33.5-1204.5(1)(e), C.R.S.

¹³ § 24-33.5-1204.5(2)(a), C.R.S.

¹⁴ § 24-33.5-1204.5(2)(b), C.R.S.

¹⁵ § 24-33.5-1206.1(1), C.R.S.

¹⁶ Fire Suppression Rules, 2006 Revision, §§ 3.1.1 and 3.1.2.

¹⁷ § 24-33.5-1206.6(4), C.R.S.

¹⁸ Fire Suppression Rules, 2006 Revision, § 3.1.3.

¹⁹ § 24-33.5-1206.1(2), C.R.S.

A violation of the contractor registration provisions warrants criminal, class 3 misdemeanor, sanctions.²⁰ If the violator is an individual, he or she may be fined between \$50 and \$750, sentenced to six months in jail, or both.²¹ If the violator is a corporation, conviction means a fine of no more than \$5,000. Any subsequent violation is a class 2 misdemeanor,²² conviction of which carries a sentence of three to 12 months in jail, a \$250 to \$1,000 fine, or both.²³

Moreover, a person commits a class 1 misdemeanor when he or she, knowingly and willfully makes any false statement or conceals a material fact in any application, form, claim, advertisement, contract, warranty, guarantee, or statement, with the intent to influence the actions or decisions of any owner or contractor negotiating or contracting for the installation, alteration, or repair of any fire suppression system, or to any bonding agent.²⁴

If convicted, the person can be fined between \$500 and \$5,000, sentenced up to 18 months in prison, or both.²⁵

A registered contractor is responsible for all actions of his or her agents and employees.²⁶ That responsibility includes making sure that all installations are executed by qualified individuals, designed and installed to appropriate standards, and ensuring all inspections and tests are completed.²⁷ The contractor must also furnish the user with operating instructions for the equipment installed and diagrams of the final installation.²⁸

Inspector Certification

The Director sets training requirements for and certifies qualified system inspectors. Beyond completing the required training to become a certified inspector, an individual must:²⁹

- Be at least 18 years old;
- Not have committed any of the unlawful acts enumerated in the Program statutes; and
- Have satisfactorily completed the fire suppression systems inspector certification examination, or have a current and valid certification from an organization with equivalent qualifications.³⁰

²⁰ § 24-33.5-1206.5(1), C.R.S.

²¹ § 18-1.3-501, C.R.S.

²² § 24-33.5-1206.5(1), C.R.S.

²³ § 18-1.3-501, C.R.S.

²⁴ § 24-33.5-1206.5(2), C.R.S.

²⁵ § 18-1.3-501, C.R.S.

²⁶ § 24-33.5-1206.1(3), C.R.S.

²⁷ §§ 24-33.5-1206.1(4) and 1206.3, C.R.S.

²⁸ § 24-33.5-1206.3(2), C.R.S.

²⁹ § 24-33.5-1206.4(3), C.R.S.

³⁰ Fire Suppression Rules, 2006 Revision, § 4.2.2.

An inspector certification is valid for three years. Renewal entails submitting a renewal application and any other renewal requirements prescribed by the Director, including passing an examination.³¹

Discipline

The Director may withhold, deny, suspend, or revoke the registration or certification of any applicant, registered fire suppression contractor, or certified fire safety inspector if he or she finds that any contractor or inspector did any of the following:³²

- Committed fraud or made material deception in obtaining or renewing a registration or certification;
- Committed professional incompetence as manifested by poor, faulty, or dangerous workmanship;
- Engaged in conduct that is likely to deceive, defraud, or harm the public in the course of providing professional services;
- Performed any services in a negligent manner or permitted any of his agents or employees to perform services in a grossly negligent manner, regardless of whether actual damage or damages to the public is established;
- Received, directly, indirectly, or willfully, any compensation for professional services not actually rendered;
- Failed to comply with any provision of the laws governing the DFP or the standards or rules promulgated by the Director; or
- Contracted with or assisted unregistered persons to perform services for which registration is required under the laws governing the DFP.

An individual may be fined for violating any of the registration, inspection, review, and installation and maintenance provisions of the statutes. A first offense carries a fine of \$100 to \$1,000. Any subsequent offense incurs a fine of \$1,000 to \$10,000.³³

When a complaint or investigation discloses an instance of misconduct that, in the opinion of the Director, does not warrant formal action but that should not be dismissed, the Director may issue a letter of admonition to the contractor or inspector. The letter of admonition must notify the fire suppression contractor or inspector of the right to request in writing, within 20 days after receipt of the letter, that formal disciplinary proceedings can be initiated to settle the matter. If the request for a proceeding is made within the 20 days, the letter of admonition is vacated and formal disciplinary proceedings begin.³⁴

A person who lodges a complaint or provides testimony in a disciplinary matter is immune from liability in any civil action arising from him or her being a witness or complainant. Immunity applies only if the person made a reasonable effort to obtain the facts and action was warranted by the facts.³⁵

³¹ § 24-33.5-1206.4(4), C.R.S.

³² § 25-33.5-1206.6(2), C.R.S.

³³ § 24-33.5-1206.6(1), C.R.S.

³⁴ § 24-33.5-1206.6(6), C.R.S.

³⁵ § 24-33.5-1206.6(5), C.R.S.

Job Registration and Inspection

Every job that affects the integrity of a suppression system must be registered with and approved by the Director or a local fire safety agency. The registration must include the name, address, and registration number of the contractor, the address and description of the job, and the name and address of the general contractor or of the building owner if there is no general contractor.³⁶

Working plans and hydraulic calculations must have the signature and certification number of either a licensed professional engineer or a level three or higher fire suppression engineering technician certified by the National Institute for the Certification in Engineering Technologies. The signature certifies that the plan and design meet the necessary standards and system requirements.³⁷

In conjunction with the inspection component of the Program, the Director is specifically tasked with establishing a public school and junior college construction and inspection program, and a health facility construction and inspection program.³⁸ The programs are administered by the Director who may receive advice from an advisory committee.

Every installation, modification, alteration, or repair of a fire suppression system must be inspected and approved by a certified fire suppression systems inspector.³⁹ It is the responsibility of each county, municipality, or special district that has a fire suppression systems enforcement program to arrange for a certified fire suppression systems inspector.⁴⁰

³⁶ § 24-33.5-1206.2(1), C.R.S.

³⁷ § 24-33.5-1206.2(2), C.R.S.

³⁸ §§ 24-33.5-1204.5(1)(f) and (1)(g), C.R.S.

³⁹ § 24-33.5-1206.4(1), C.R.S.

⁴⁰ § 24-33.5-1206.4(2), C.R.S.

Program Description and Administration

The Colorado Fire Suppression Registration and Inspection Program (Program) registers fire suppression system contractors and certifies inspectors. It also reviews fire suppression installation plans and inspects installations where there is no local authority providing those services. The Program is housed in the Department of Public Safety's, Division of Fire Prevention and Control (DFP).

The Program is cash funded. Table 1 illustrates that expenditures to operate the Program varied significantly during the period examined for this sunset review. Expenditures for fiscal year 08-09 were more than five times higher than the expenditures during fiscal year 10-11. DFP could not explain the variation.

Table 1
Program Expenditures
Fiscal Years 07-08 through 11-12

Fiscal Year	Total Program Expenditures
07-08	\$85,245
08-09	\$118,945
09-10	\$66,368
10-11	\$18,836
11-12	\$89,561

DFP employs 2.5 full-time equivalent (FTE) employees as certified inspectors. The fire inspectors each spend a portion of their time working on Program activities and the remainder of their time dedicated to other programs within the DFP. The Program allots 1.0 FTE to plan review.

Contractor Registration

Registration is required of any individual or company who physically works on or employs individuals who physically work on fire protection systems. Every applicant must submit a completed, signed application with the registration fee, currently \$100, to the DFP.⁴¹ The applicant is required to be the principal of the company recorded with the Colorado Secretary of State's Office.⁴² He or she must also submit proof that the company holds general liability insurance that includes products and completed operations coverage related to the installation of sprinkler systems.⁴³

⁴¹ Fire Suppression Rules, 2006 Revision, § 3.3.2.

⁴² Fire Suppression Rules, 2006 Revision, §§ 3.2.2 and 3.3.4.

⁴³ Fire Suppression Rules, 2006 Revision, §§ 3.2.1, 3.3.3, and 3.6.3.

A contractor registration is valid from the time of issue until December 31st, unless revoked or suspended. Registration renewal is required annually on or before January 31st.⁴⁴

There are three types of contractor registrations:

- *Fire Suppression System Contractor – Underground*, for individuals or companies who install underground supply lines from public water lines to system risers;
- *Fire Suppression System Contractor - Backflow*, for individuals or companies who install backflow devices to protect the water supply from suppression system flow reversal; and
- *Fire Suppression System Contractor* – for individuals or companies who install a fire suppression system from the backflow inward to the building.

Every Fire Suppression Contractor must be, or employ, a Responsible Managing Employee (RME). A designated RME must be a professional engineer or a person certified by the National Institute for Certification in Engineering Technologies with a Water Based Layout certification, or be certified by another nationally recognized organization approved by the DFP. A RME may only act in that capacity for one fire suppression contractor at a time.⁴⁵

They are not covered under this sunset review but the individuals that contractors employ to attach sprinklers to a fire suppression system are also required to be registered with the DFP as “sprinkler fitters.”⁴⁶ The number of sprinkler fitters registered annually is included in Table 2, to give readers an idea of how many individuals are employed in the fire suppression industry in Colorado annually.

Table 2 indicates the number of individuals registered with the DFP in each category.

Table 2
Fire Suppression Registrations
Fiscal Years 07-08 through 11-12

Fiscal Year	Fire Suppression Contractor	Backflow Contractor	Underground Contractor	Fire Sprinkler Fitter*
07-08	148	63	147	Not applicable
08-09	127	42	142	Not applicable
09-10	138	55	140	Not applicable
10-11	165	169	135	355
11-12	176	126	130	265

*Sprinkler Fitter registration did not begin until fiscal year 10-11.

⁴⁴ Fire Suppression Rules, 2006 Revision, §§ 3.5.4 and 3.6.4.

⁴⁵ Fire Suppression Rules, 2006 Revision, § 2.11.

⁴⁶ § 12-33.5-1207(1), C.R.S.

Fire suppression contractors have the obligation to comply with all state laws, applicable codes and standards adopted by the Director of the DFP, and any local jurisdiction codes governing fire suppression systems.⁴⁷ A contractor's Colorado registration number is required on all plans and hydraulic calculations.⁴⁸

There is no statewide fire suppression system installation code. Current codes that contain standards for the installation of fire suppression systems include:

- International Building Code, 2006 edition;⁴⁹
- International Fire Code 2006, edition;⁵⁰
- International Residential Code, 2006 edition;⁵¹ and
- More than 20 separate sections of the National Fire Protection Standards promulgated by the National Fire Protection Association.⁵²

Local authorities may adopt codes and standards different from those of the State when they have a qualifying program. Where the local authority does not employ certified fire suppression inspectors and the DFP conducts plan reviews and inspections, the more restrictive requirements prevail.⁵³

Inspectors and Inspections

Any installation, modification, alteration, or repair of a fire suppression system is required to be approved by a certified fire suppression systems inspector. To become a certified inspector an individual must:

- Score at least 80 percent on the DFP examination;⁵⁴
- Possess a current, valid inspector certification from a nationally recognized organization. The certification must include fire protection system plan review and inspection knowledge,⁵⁵ or
- Demonstrate to the Director that he or she has met equivalent qualifications, including education, training and experience by submitting documentation to the DFP.⁵⁶

⁴⁷ Fire Suppression Rules, 2006 Revision, §§ 3.2.5 and 3.2.6.

⁴⁸ Fire Suppression Rules, 2006 Revision, § 3.7.1.

⁴⁹ Fire Suppression Rules, 2006 Revision, § 6.3.1.

⁵⁰ Fire Suppression Rules, 2006 Revision, § 6.3.4.

⁵¹ Fire Suppression Rules, 2006 Revision, § 6.3.5.

⁵² Fire Suppression Rules, 2006 Revision, § 6.3.6.

⁵³ Fire Suppression Rules, 2006 Revision, § 6.5.

⁵⁴ Fire Suppression Rules, 2006 Revision, § 4.2.1.

⁵⁵ Fire Suppression Rules, 2006 Revision, § 4.2.2.

⁵⁶ Fire Suppression Rules, 2006 Revision, § 4.2.3.

Table 3 lists the number of active certified inspectors for each of the fiscal years examined during this sunset review.

Table 3
Certified Fire Suppression System Inspectors
Fiscal Years 07-08 through 11-12

Fiscal Year	Certified Inspectors
07-08	240
08-09	210
09-10	243
10-11	255
11-12	247

Contractors are required to register all plans with the Director or a local fire safety agency before any installation, fabrication, modification, or alteration of any fire suppression system begins. The plans must come with an engineer's signature, product data sheets, and hydraulic calculations.⁵⁷ Contractors are also responsible for ensuring that the inspector conducting a plan review is certified. He or she may do so by:

- Verifying a current valid certification on the DFP's website;
- Requesting the inspector's certification number; or
- Contacting the DFP for confirmation.

Contractors are to complete inspection reports, keep them for at least three years, and make them available to the DFP for review.⁵⁸

The DFP performs plan review and on-site inspection services in those areas of the state that do not have a local authorized authority to do so. DFP also inspects all public schools and hospitals throughout the state.

⁵⁷ Fire Suppression Rules, 2006 Revision, § 5.1.

⁵⁸ Fire Suppression Rules, 2006 Revision, § 5.4.

Table 4 shows the number of plan reviews and inspections performed by Program staff during the period under review. DFP staff did not have data for fiscal years 07-08 and 08-09.

**Table 4
Fire Suppression System
Plan Reviews and Inspections
Fiscal Years 07-08 through 11-12**

Fiscal Year	Number of Plan Reviews	Number of Inspections
07-08	Unknown	Unknown
08-09	Unknown	Unknown
09-10	15	39
10-11	91	207
11-12	74	184
TOTAL	180	430

Fees

The Program is cash funded. Therefore, Program-related activities are financed through license and service fees. The DFP set the following fees for contractor registration and inspections.

**Table 5
Fire Suppression System
Service Fees**

Service	Fee
Annual Registration of Fire Suppression Contractors	\$100
Replacement of lost or damaged registration or certification	\$10/occurrence
Late application fee for suppression contractor or suppression inspector registration	\$25/application
Plan registration form submittal	\$100/hr. (1 hr. minimum)
Plan review and inspections*	\$100/hr. (1 hr. minimum)
Job site inspections and testing, including inspector travel to and from job site*	\$100/hr. (1 hr. minimum)
On-site compliance inspection fee per Federal Emergency Management Administration Hotel or Motel Fire Alarm and Fire Suppression System Program	\$50

*The DFP only performs these services in areas where there is no local authority.

Complaints and Discipline

The DFP can receive complaints from any source concerning contractor registration, job registration and inspection, and standards for installation of fire suppression systems. If the DFP determines that a hearing is necessary, one will proceed under the guidelines of the State Administrative Procedure Act.

In addition to any other criminal or civil penalties that may be assessed for a violation, a fine may be assessed for any conduct that in the opinion of DFP staff or the Director does not constitute an imminent threat to public health, safety, or welfare. Program rules delineate the following penalties and fines:⁵⁹

- First Violation - Warning (Corrective Action);
- Second Violation - Letter of Admonition;
- Third Violation - Letter of Admonition and \$250 fine; and
- Subsequent Violation(s) - Hearing on revocation.

Any violation which constitutes an imminent threat to public health, safety, or welfare demands immediate suspension of the contractor's registration pending a hearing and final agency action.⁶⁰

While the Director has broad enforcement powers, complaints and disciplinary actions rarely occur. The DFP issued no fines during the period under review.

Tables 6 and 7 illustrate that there was only one disciplinary case recorded during the period under review. In that case a certification was not current and active. DFP sent a letter of admonition. Subsequently, the contractor received a certification and was placed on probation for one year. Currently the contractor is in good standing.

Table 6
Complaint Information
Fiscal Years 07-08 through 11-12

Nature of Complaints	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12
Criminal	Unknown	Unknown	0	0	0
Civil/Administrative	Unknown	Unknown	0	0	0
Practicing w/o a License	Unknown	Unknown	0	1	0
Standard of Practice	Unknown	Unknown	0	0	0
Fee Dispute	Unknown	Unknown	0	0	0
TOTAL	Unknown	Unknown	0	1	0

⁵⁹ Fire Suppression Rules, 2006 Revision, § 7.4.3.

⁶⁰ Fire Suppression Rules, 2006 Revision, § 7.4.7.

**Table 7
Disciplinary Actions
Fiscal Years 07-08 through 11-12**

Type of Action	FY 07-08	FY 08-09	FY 09-10	FY10-11	FY 11-12
Criminal Charges	Unknown	Unknown	0	0	0
Revocation / Surrender / Voluntary Relinquishment	Unknown	Unknown	0	0	0
Suspension	Unknown	Unknown	0	0	0
Probation / Practice Limitation	Unknown	Unknown	0	1	0
Letter of Admonition	Unknown	Unknown	0	1	0
License Denied	Unknown	Unknown	0	0	0
Fine	Unknown	Unknown	0	0	0
TOTAL DISCIPLINARY ACTIONS	Unknown	Unknown	0	1	0

Tables 6 and 7 both illustrate a dearth of data. The 1997 and the 2004 sunset reviews of the Program noted deficient recordkeeping concerning complaints and actions on those complaints. As a result, the General Assembly adopted section 24-33.5-1204.5(1)(d), Colorado Revised Statutes. That section requires the Director, "To maintain records of all applications, complaints, investigations, disciplinary or other actions, and registrants." When asked to explain the lack of data for fiscal years 07-08 and 08-09, the DFP staff stated that there is no information available prior to fiscal year 09-10.

Criminal History

During the 2013 legislative session, the General Assembly added a reporting condition to the sunset review criteria.

Whether the agency through its licensing or certification process imposes any disqualifications on applicants based on past criminal history and, if so, whether the disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subparagraph (i) of paragraph (a) of subsection (8) of this section shall include data on the number of licenses or certifications that were denied, revoked, or suspended based on a disqualification and the basis for the disqualification[.]⁶¹

The Program lists no criminal history-specific disqualifications that would prevent an individual from obtaining a contractor registration or inspector certification.

⁶¹ § 24-34-104(9)(b)(VIII.5), C.R.S.

Analysis and Recommendations

Recommendation 1 – Continue the Fire Suppression Registration and Inspection Program for five years, until 2019.

Research indicates that installing a fire suppression system is of major importance in constructing a new building and retrofitting existing buildings. A registered contractor or a Responsible Managing Employee, designs, lays out, fabricates and installs fire suppression systems including all the equipment associated with the potentially life-saving systems. Given those responsibilities, the General Assembly requires them to carry certain qualifications.

Recall from the narrative portions of this review, that in this case, being a qualified contractor means being a professional engineer, a person certified by the National Institute for Certification in Engineering Technologies with a Water Based Layout certification, or being certified by another nationally recognized organization approved by the Division of Fire Prevention and Control (DFP).⁶² A contractor is also required to be the principal of the company recorded with the Colorado Secretary of State's Office⁶³ and prove that the company holds a sprinkler systems installation liability insurance policy.⁶⁴

Because all of the required qualifications are acquired externally from DFP and DFP verifies completion and existence of the completed qualifications, a registration program is the appropriate level of regulation for contractors.

In the case of inspectors, the DFP is tasked with ensuring that all inspectors are qualified to work for other governmental or quasi-governmental agencies such as a local building department or a fire district. Inspectors have the responsibility for reviewing and endorsing all plans, and inspecting the installations.

While in reality the DFP outsources the education and examination of inspectors, the DFP itself is responsible for qualifying the examining organization. Therefore, in this case, requiring inspectors to be certified is the appropriate regulation for inspectors.

This review examines the registration of fire suppression contractors and certification of suppression system inspectors. The data supplied by the DFP for this review are insufficient to answer definitively the central question of a sunset review, which is whether the registration of fire suppression contractors is necessary to protect public health, safety, and welfare. Tables 4, 6, and 7, on pages 16, 17, and 18 of this sunset review, reveal that there is a significant amount of analytical data missing. Analysis of quantitative data supplied by the agency under review is typically a major portion of the sunset review process.

⁶² Fire Suppression Rules, 2006 Revision, § 2.11.

⁶³ Fire Suppression Rules, 2006 Revision, §§ 3.2.2 and 3.3.4.

⁶⁴ Fire Suppression Rules, 2006 Revision, §§ 3.2.1, 3.3.3, and 3.6.3.

Based on the need for highly trained professionals to install and inspect fire suppression systems, the need to continue regulating the professions to protect the public is evident.

Notwithstanding, the fourth sunset criterion directs an inquiry of “Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively.”⁶⁵ In this case, because of the lack of data, qualitative analysis falls short in addressing the notions of regulatory efficiency and effectiveness. Having reliable data concerning agency activities is a good way to measure internal direction, efficacy of specific policies, or change in practices, among other things. However, the data supplied by DFP does not allow such analysis.

Both the 1997 and the 2004 sunset reviews of the Colorado Fire Suppression Registration and Inspection Program (Program) noted deficient recordkeeping concerning complaints and actions on those complaints. As a result, the General Assembly adopted section 24-33.5-1204.5(1)(d), Colorado Revised Statutes. That section requires the DFP, “To maintain records of all applications, complaints, investigations, disciplinary or other actions, and registrants.” When asked to explain the lack of data for fiscal years 07-08 and 08-09, the Program staff stated that there is no information available prior to fiscal year 09-10. Given the continued lack of Program follow-through, it is possible that the problem is institutional.

The lack of necessary recordkeeping by DFP raises questions about how effectively the agency performs its task of regulating professionals. Recordkeeping is not only about exterior accountability of public agencies but it helps all involved personnel discover balance between efficient management practices and inefficient bureaucracy. Accurate recordkeeping was important enough to the General Assembly that it explicitly directed the agency to maintain specific records that it felt are important, to no avail.

Nonetheless, this review recommends the continuation of the fire suppression registration and certification functions in the DFP for five years. There has been staff turnover which may account for some lack of administrative consistency and institutional knowledge. Five years gives the Program staff and the DFP time to finally rectify its recordkeeping deficiencies. While it is essential for any bureaucracy to keep accurate comprehensive records, and doubly so for a government bureaucracy, no concerns were voiced regarding public safety. Putting a shorter window for a sunset review allows the General Assembly the opportunity to assess improvements in the Program’s performance.

Therefore, the General Assembly should continue the Program for five years until 2019.

⁶⁵ §24-34-104(8)(a)(IV), C.R.S.

Recommendation 2 – Create a new registration category for residential fire suppression system contractors.

Fire sprinkler installations in one- and two-family dwellings and townhouses are increasing in number. These systems are not as complicated to design or install as those used for commercial application. They typically have a lighter flow and smaller coverage areas compared to commercial systems. Commercial buildings will vary in many ways, size, usage, building materials, and what may be stored in them. One- and two-family dwellings have some, but very little, variation in each of those categories. Therefore, the fire suppression systems installed in them have very little variation in their design or installation.

Currently, all contractors need to be fully qualified to perform installations regardless of the setting in which they work. However, a new residential contractor's registration specific to residential installation and inspection should be created.

The new registration and standards for registration should be developed by the DFP, explained in rule, and in place by January 1, 2015.

In developing the new registration, the statutes and rules should be clear that the registration does not cover multipurpose system installations. Multipurpose systems are part of a building's plumbing system and are inspected when the plumbing is inspected by plumbing inspectors and under the jurisdiction of the Colorado State Plumbing Board and not the DFP.

The General Assembly should create a new registration category for residential fire suppression system contractors.