



CO L O R A D O

**Department of
Regulatory Agencies**

**2015 Sunset Review:
Vessel Registration Program**

*Office of Policy, Research and Regulatory Reform
October 15, 2015*



COLORADO

Department of
Regulatory Agencies

Executive Director's Office

October 15, 2015

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.

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.

DORA has completed the evaluation of the vessel registration program. I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2016 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 Division of Parks and Wildlife 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,

Joe Neguse
Executive Director





COLORADO

Department of Regulatory Agencies

2015 Sunset Review Vessel Registration Program

SUMMARY

What Is Regulated?

Unless exempt, any vessel operated on the waters of Colorado or at a vessel staging area must be registered with the Division of Parks and Wildlife (CPW) and display that registration number on the vessel's bow.

Why Is It Regulated?

Funds raised through the vessel registration program (Program) support CPW's boating safety activities (including on-water inspections and in-person educational programs), maintain recreational boating facilities such as boat ramps and affiliated parking lots, and are used in the U.S. Coast Guard's calculations for federal matching funds under the Federal Recreational Boating Safety Grant Program. Those grant dollars are used, in turn, to further fund CPW's boating safety activities.

Who Is Regulated?

In 2014, a total of 84,325 vessels were registered with CPW.

How Is It Regulated?

To register a vessel, the owner of the vessel must complete the required application, pay the required fee and present proof of ownership. CPW then provides the owner with a vessel registration number that must be displayed on both sides of the vessel's bow, along with an expiration decal.

What Does It Cost?

In fiscal year 13-14, CPW spent \$57,620 to administer the Program with 4.0 FTE that were partially funded by the Program, but not dedicated solely to the Program. In contrast, the Program generated \$1.13 million in registration fees and served to secure \$1.25 million in federal matching funds.

What Disciplinary Activity Is There?

In fiscal year 13-14, CPW personnel issued 37 citations for registration violations and seized four vessels. All of the seized vessels were eventually returned to their rightful owners.

KEY RECOMMENDATIONS

Continue the Program indefinitely.

Funds raised through the Program fund a variety of CPW activities, including boating safety inspections, boating safety educational courses and physical infrastructure such as boat ramps and affiliated parking lots at state parks. In 2014, there were 57 accidents on Colorado's waters, resulting in 12 deaths. Thus, recreational boating can be dangerous and efforts to reduce that danger clearly increase the public's health and safety. Additionally, the Program ensures that the state continues to receive Federal Recreational Boating Safety Grant Program dollars through a federal match provided by the U.S. Coast Guard. Thus, continuation of the Program will serve to protect the public health, safety and welfare. However, this is the third sunset review of the Program and the third such review to make no substantive recommendations to the General Assembly. If, in the future, statutory changes are needed, CPW can seek to have those changes made independent of any sunset review. Therefore, the General Assembly should remove the Program from the sunset schedule and continue the Program indefinitely.

METHODOLOGY

As part of this review, staff of the Department of Regulatory Agencies interviewed CPW staff, officials of the U.S. Coast Guard, members of the U.S. Coast Guard Auxiliary and representatives of state trade associations and reviewed federal and Colorado statutes and rules.

MAJOR CONTACTS MADE DURING THIS REVIEW

Colorado Marine Dealers Association
Division of Parks and Wildlife
U.S. Coast Guard
U.S. Coast Guard Auxiliary

What is a Sunset Review?

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether 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:
Colorado Department of Regulatory Agencies
Office of Policy, Research and Regulatory Reform
1560 Broadway, Suite 1550, Denver, CO 80202
www.dora.state.co.us/opr



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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 functions of the Division of Parks and Wildlife (CPW) as enumerated in Sections 103, 104, 105 and 107 of Article 13 of Title 33, Colorado Revised Statutes (C.R.S.), shall terminate on September 1, 2016, 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 CPW's administration of the select statutes pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the currently prescribed program to register vessels should be continued and to evaluate the performance of CPW staff. During this review, CPW must demonstrate that the program serves the public interest. 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 CPW staff, officials of the U.S. Coast Guard, members of the U.S. Coast Guard Auxiliary and representatives of state trade associations and reviewed federal and Colorado statutes and rules.

Profile of the Industry

In 2013, recreational boating represented a \$37 billion industry in the United States. Approximately 89 million Americans went boating on approximately 12 million registered vessels that same year.²

Although all 50 states require vessels to be registered, the types of vessels that must be registered vary from state to state. Some states exempt certain types of watercraft, such as sailboats, from the registration requirement. Other states, such as Colorado, require sailboats to be registered.³

In 2014, 84,235 vessels were registered in Colorado, representing 0.7 percent of the national total.⁴

² National Marine Manufacturers Association. *#Boating - An American Pastime & Big Business for U.S. Economy in 2013*. Retrieved on June 17, 2015, from www.nmma.org/assets/cabinets/Cabinet451NMMA%20Infographic.pdf

³ *2014 Recreational Boating Statistics*, U.S. Department of Homeland Security, U.S. Coast Guard, Office of Auxiliary and Boating Safety (2015), p. 70.

⁴ *2014 Recreational Boating Statistics*, U.S. Department of Homeland Security, U.S. Coast Guard, Office of Auxiliary and Boating Safety (2015), p. 71.

Legal Framework

History of Regulation

The Federal Boating Act of 1958 required the secretary of the department in which the U.S. Coast Guard is housed to develop a system for numbering vessels using the navigable waterways of the United States, and authorized the secretary to approve state numbering systems.

The Federal Boat Safety Act of 1971 was enacted to encourage states to join in boating safety efforts and assume a larger role in boating safety education, assistance and enforcement activities.⁵ Although the Recreational Boating Safety (RBS) Grant Program created in that act expired in 1979, it was reestablished in the Recreational Boating Safety and Facilities Improvement Act of 1980.⁶

The purpose of Colorado's vessel registration program is to comply with the RBS Grant Program guidelines, which enables Colorado to receive federal funds under that program, and to promote the safety of people and property in connection with the use, operation and equipment of vessels.⁷

Historically, a vessel was any type of

watercraft used or capable of being used as a means of transportation of persons and property on the water, other than single-chambered air-inflated devices or seaplanes.⁸

Unless specifically exempted, all vessels were required to be registered in Colorado.⁹ Examples of such exempted vessels included:¹⁰

- Canoes,
- Kayaks,
- Inner tubes,
- Non-motorized or hand-propelled craft, and
- Vessels registered in another jurisdiction.

⁵ U.S. Coast Guard. *State Grants: History*. Retrieved June 17, 2015, from www.uscgboating.org/grants/state-grants-history.php

⁶ U.S. Coast Guard. *State Grants: History*. Retrieved June 17, 2015, from www.uscgboating.org/grants/state-grants-history.php

⁷ § 33-13-101, C.R.S.

⁸ Senate Bill 84-078

⁹ Senate Bill 84-078

¹⁰ Senate Bill 84-078

House Bill 88-1088 clarified that any vessel that is neither a motorboat nor a sailboat, including sailboards, is exempt from the registration requirement.

Senate Bill 95-196 lowered the criminal penalty for failure to register a vessel from a Class 1 misdemeanor to a Class 2 petty offense.

That same year, the Department of Regulatory Agencies (DORA) conducted the first sunset review of the vessel registration program, recommending that the program be continued.

The program's organic statute was amended again in House Bill 96-1077, by clarifying that law enforcement personnel may seize a vessel if the officer has probable cause to believe that the vessel does not lawfully belong to the person in possession of it.

In 2010, DORA conducted another sunset review, which recommended continuation of the program and discontinuance of further sunset reviews. In Senate Bill 11-092, the General Assembly continued the program, but rejected the notion of removing it from the sunset schedule.

Legal Summary

Federal Law

The Secretary of Homeland Security (Secretary) is required to develop a standard numbering system for all vessels equipped with propulsion machinery of any type that is used on the waters of the United States.¹¹ Specifically exempt from this requirement are:¹²

- Foreign vessels temporarily using waters subject to United States jurisdiction;
- Military or public vessels of the United States, except recreational-type public vessels;
- A vessel, the owner of which is a state or a subdivision thereof, which is used principally for governmental purposes, and which is clearly identifiable as such;
- Ships' lifeboats; and
- A vessel which has or is required to have a valid marine document as a vessel of the United States.

¹¹ 46 U.S.C. § 12302(a); 33 C.F.R. § 173.11

¹² 33 C.F.R. § 173.11

Each such number must:¹³

- Be painted on or permanently attached to each side of the forward half of the vessel,
- Be in plain vertical block characters of not less than three inches in height,
- Contrast with the color of the background and be distinctly visible and legible,
- Have spaces or hyphens that are equal to the width of a letter other than “l” or a number other than “1” between the letter and number groupings, and
- Read from left to right.

The Secretary is further directed to approve state numbering systems that are consistent with the Secretary’s standard numbering system.¹⁴

Colorado Law

To ensure that Colorado’s registration and numbering of vessels complies with federal laws and to promote the safety of people and property in connection with the use of vessels,¹⁵ the General Assembly enacted Article 13 of Title 33, Colorado Revised Statutes (C.R.S.).

While this statute addresses a variety of issues such as vessel numbering; vessel seizures; equipment requirements; vessel liveries; the minimum age to operate a vessel; prohibited vessel operations; operating a vessel while under the influence of alcohol or a controlled substance and several others, only four specific provisions are the subject of this sunset review:¹⁶

- Requiring vessels to be numbered,¹⁷
- The display of registration numbers on vessels,¹⁸
- Seizures of vessels by law enforcement personnel,¹⁹ and
- Recordkeeping requirements for vessel liveries.²⁰

A vessel is

Every description of watercraft used or capable of being used as a means of transportation of persons and property on the water, other than single-chambered air-inflated devices or seaplanes.²¹

¹³ 33 C.F.R. § 173.27

¹⁴ 46 U.S.C. § 12302(a)

¹⁵ § 33-13-101, C.R.S.

¹⁶ § 33-13-116, C.R.S.

¹⁷ § 33-13-103, C.R.S.

¹⁸ § 33-13-104, C.R.S.

¹⁹ § 33-13-105, C.R.S.

²⁰ § 33-13-107, C.R.S.

²¹ § 33-13-102(5), C.R.S.

It is unlawful for a person to operate a vessel on the waters of Colorado or to possess a vessel at a vessel staging area unless the vessel is numbered and a certificate of the number has been issued to the vessel by the Division of Parks and Wildlife (CPW).²² Specifically exempt from this registration requirement are:²³

- Vessels that are neither motorboats nor sailboats,
- Vessels holding a valid marine document issued by the federal government,
- Vessels that are in Colorado for less than 60 consecutive days and that are numbered in accordance with applicable federal law or in accordance with the numbering system of another state,
- Vessels from a foreign country that are temporarily using the waters of Colorado,
- Vessels that have been exempted after CPW has found that the numbering of vessels of such a class will not materially aid their identification, and
- Sailboards.

A motorboat is any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion.²⁴ This includes personal watercraft,²⁵ which are designed to be operated by a person sitting, standing or kneeling on the vessel, rather than the conventional manner of sitting or standing inside the vessel.²⁶

A sailboat is any vessel propelled by the effect of wind on a sail. However, any vessel propelled by both sail and machinery is deemed to be a motorboat.²⁷

A person may operate a newly purchased vessel for up to 30 days from the date of purchase before registering the vessel, provided a dated bill of sale is available.²⁸ A non-resident racing boat is exempt from the numbering and registration requirements on the day before and the day of, and at the site of a CPW-authorized race.²⁹

To register a vessel, the owner must file an application with CPW and pay the applicable fee.³⁰ The application solicits a variety of information about the owner and the vessel itself (such as hull material, length, type of fuel used and the primary purpose of the vessel) and proof of ownership.³¹

²² § 33-13-103(1), C.R.S.

²³ § 33-13-103(1), C.R.S.

²⁴ § 33-13-102(1), C.R.S.

²⁵ § 33-13-102(1), C.R.S.

²⁶ § 33-13-102(3.3), C.R.S.

²⁷ § 33-13-102(4), C.R.S.

²⁸ 2 CCR § 405-2-203, Boating Rules.

²⁹ 2 CCR 405-2-204, Boating Rules.

³⁰ § 33-13-104(1), C.R.S.

³¹ 2 CCR § 405-2-200(1), Boating Rules.

Once approved, CPW must issue a registration to the owner stating the number issued to the vessel.³² All vessel registrations expire on December 31 of the year of issuance.³³ All fees are credited to the Parks and Outdoor Recreation Cash Fund for the administration of Article 13 of Title 33, C.R.S.³⁴ Failure to register a vessel constitutes a Class 2 petty offense and is punishable by a fine of \$50.³⁵

The registration certificate must be of pocket size and must be on board the vessel at all times that the vessel is in operation.³⁶

Like the Secretary's numbering standards, numbers on Colorado-registered vessels must be painted or attached to each side of the bow on the forward half of the vessel, consist of block characters that are at least three inches in height, be of a color that contrasts with the color of the background and read from left to right.³⁷

When any of the following occur, the vessel owner must notify CPW of such within 15 days of the occurrence:

- A registration is lost or destroyed;³⁸
- A numbered vessel is lost, destroyed or abandoned;³⁹ or
- The owner changes his or her address.⁴⁰

Although they need not be registered, all canoes, kayaks, sailboards and non-motorized rafts must be marked with the owner's name and current address in a legible, clearly visible and durable fashion. Failure to properly mark such craft constitutes a petty offense punishable by a fine of \$15.⁴¹

Vessel livery operators must keep a record of the name and address of each person who hires a vessel, the hull identification number⁴² of the vessel, the departure date and time and the expected date and time of return.⁴³ Such records must be kept for 30 days and failure to comply constitutes a Class 2 petty offense, punishable by a fine of \$100.⁴⁴

If there is probable cause to believe that a vessel is not in the lawful possession of the operator, every CPW officer and other peace officer may seize and hold such vessel.⁴⁵

³² § 33-13-104(1), C.R.S.

³³ § 33-13-103(2), C.R.S.

³⁴ § 33-13-104(4), C.R.S.

³⁵ § 33-13-103(4), C.R.S.

³⁶ § 33-13-104(2), C.R.S.

³⁷ § 33-13-104(1), C.R.S.

³⁸ § 33-13-104(2), C.R.S.

³⁹ § 33-13-104(3), C.R.S.

⁴⁰ § 33-13-104(3), C.R.S.

⁴¹ § 33-13-103(5), C.R.S.

⁴² A hull identification number is to a vessel, what a vehicle identification number is to an automobile. It is attached by the vessel's manufacturer and does not change with ownership.

⁴³ § 33-13-107(1), C.R.S.

⁴⁴ § 33-13-107(1), C.R.S.

⁴⁵ § 33-13-105(1), C.R.S.

If the seizing agency determines that the vessel was lawfully possessed, the agency may return the vessel and require that a hull identification number be obtained.⁴⁶ If the agency determines that the vessel was not lawfully possessed, the agency may commence a court action to determine whether the vessel should be destroyed, sold, converted to the use of the seizing agency or otherwise disposed of.⁴⁷ If the court orders the vessel sold, the proceeds are credited to the state's General Fund.⁴⁸

⁴⁶ § 33-13-105(4), C.R.S.

⁴⁷ § 33-13-105(3), C.R.S.

⁴⁸ § 33-13-105(7), C.R.S.

Program Description and Administration

Colorado's vessel registration program (Program) is administered by the Division of Parks and Wildlife (CPW), which is housed in the Colorado Department of Natural Resources.

Table 1 illustrates, for the fiscal years indicated, the Program's total expenditures and the number of full-time equivalent (FTE) employees working with the Program. Importantly, these FTE are partially funded by the Program but are not solely dedicated to it.

Table 1
Program Expenditures and FTE

Fiscal Year	FTE	Expenditures
09-10	5.0	\$56,391
10-11	4.0	\$51,080
11-12	4.0	\$52,243
12-13	4.0	\$56,470
13-14	4.0	\$57,620

Both Program expenditures and FTE have remained relatively constant over the reporting period. The FTE in Table 1 can be characterized as:

- 1.0 FTE Office Manager I - This person manages the boating safety program's day-to-day operations. This position manages office staff, scheduling, inventory and consignment control, reconciles revenue and serves as the primary liaison for dealers.
- 1.0 FTE Program Assistant I - This position is in charge of revenue reconciliation from internet renewals, system and database development, testing and troubleshooting and serves as a secondary liaison for dealers.
- 2.0 FTE Administrative Assistant II - These positions act as the Program's customer service representatives, providing face-to-face and telephone-based customer service at the Program's headquarters in Littleton.

CPW's boating safety program is funded through two primary sources: the fees CPW collects for registering vessels and a grant awarded by the U.S. Coast Guard under the Federal Recreational Boating Safety (RBS) Grant Program. Because these revenue sources are tracked by state fiscal year, in the case of fees, and the federal fiscal year, in the case of the grant, it is not possible to illustrate total program revenues in a single table. Therefore, Table 2 illustrates, for the state fiscal years indicated, Program revenue from fees.

Table 2
Program Revenue from Fees, by State Fiscal Year

State Fiscal Year	Revenue from Fees
09-10	\$3,409,972
10-11	\$3,386,991
11-12	\$3,424,896
12-13	\$3,186,376
13-14	\$3,125,516

The downward trend in revenue realized through fees is consistent with the downward trend in vessel registrations, as illustrated in Table 5 below.

Vessel registrations fall within six classifications, four of which are based on U.S. Coast Guard reporting requirements. Table 3 illustrates, for federal fiscal year 2014 (October 1, 2013 through September 30, 2014), the classification titles, criteria and number of registrations for each.

Table 3
Number of Registrations by Classification for Federal Fiscal Year 13-14

Classification Title	Length of Vessel	Number of Vessels
Class A	Less than 16 feet	29,078
Class 1	16 feet to less than 26 feet	47,726
Class 2	26 feet to less than 40 feet	1,961
Class 3	40 feet to 65 feet	150
Unclassified	Greater than 65 feet	11
Other	Not Applicable	2,173

Class A vessels include personal watercraft, such as jet skis. None of the figures in Table 3 include vessels that are sailboats without motors. But there were 3,226 of them that year.

The U.S. Coast Guard vessel classification system ends at vessels that are 65 feet in length. The vessels identified as "Unclassified" in Table 3 exceed this length, but are nevertheless registered by CPW.

Vessels in the "Other" category include those that need not be registered, but the owner has decided to register anyway, or they are vessels that ordinarily would not need to be registered because they are traditionally operated manually, but the owner has attached a motor, which triggers the need to register. Such vessels might include belly boats, canoes, rafts and kayaks.

Although the Program’s vessel registration classifications are based on U.S. Coast Guard reporting requirements, they do not reflect the manner in which registration fees are assessed. To register a vessel, the applicant pays the following annual fee, based on the length of the vessel:

- Less than 20 feet = \$35.35
- 20 feet to 29 feet, 11 inches = \$45.25
- 30 feet and longer = \$75.25

Program revenues not dedicated to the actual administration of the Program itself, along with RBS Grant Program dollars, fund CPW’s boating safety program. The boating safety program is discussed more thoroughly on page 18 below. RBS Grant Program funds are dependent upon the state having an approved vessel numbering system.

The amount of the grant is calculated based on three factors:

- The number of registered vessels,
- How much the state spent on boating safety during the previous year, and
- An equal amount awarded to each state with a registration program.

Table 4 illustrates, for the federal fiscal years indicated, the grant dollars awarded to Colorado under the RBS Grant Program.

Table 4
Program Revenue from RBS Grant Program Funds, by Federal Fiscal Year

Federal Fiscal Year	U.S. Coast Guard Grants
09-10	\$1,466,237
10-11	\$652,846
11-12	\$1,250,000
12-13	\$1,250,000
13-14	\$1,250,000

With the exception of federal fiscal year 10-11, the grants have, in general, remained relatively constant. Grant funds are tied to the federal government’s transportation spending bills. Since the federal government has recently passed a series of continuing resolutions, as opposed to longer term spending authority, the decrease in grant funding in federal fiscal year 10-11 was a product of a gap in continuing resolutions when the funds were to have been awarded. As a result, fewer grant funds were disbursed that year.

Vessel Registrations

All motorboats and sailboats used or operated on the waters of Colorado or possessed at a vessel staging area must be registered. Non-motorized vessels, such as rafts, canoes, kayaks, stand-up paddle boards and sailboards, need not be registered, but must be marked with the owner's name and address.

Also exempt from the registration requirement are:

- Foreign vessels temporarily using waters subject to United States jurisdiction;
- Military or public vessels of the United States, except recreational-type public vessels;
- Vessels that are owned by a state or a subdivision thereof, which are used principally for governmental purposes, and which are clearly identifiable as such;
- Ships' lifeboats; and
- Vessels that have or are required to have valid marine documents as vessels of the United States.

To register a vessel, the owner of such must submit a registration application, along with proof of ownership and the appropriate fee, to CPW. New registration applications must be submitted in person or by mail. In-person applications can be made at any of the state's 31 state parks, 13 area wildlife offices and 6 CPW regional offices.

Table 5 illustrates the total number of vessels registered for each of the indicated calendar years.

**Table 5
Vessel Registrations**

Calendar Year	Vessel Registrations
2010	94,354
2011	90,087
2012	88,007
2013	84,210
2014	84,325

CPW was unable to provide a reliable detailed breakdown of new versus renewal registrations. However, staff estimates that in 2014, approximately 81 percent of all registrations were renewals (previously registered vessels with the same owners), 12 percent were transfers (previously registered vessels with new owners) and 7 percent were new registrations.

Over the five-year span examined in Table 5, total vessel registrations declined by almost 10,000 (approximately nine percent). This decline is consistent with vessel registrations nationally, which peaked at 12.9 million in 2005, and declined to 11.8 million by 2014.⁴⁹

All vessel registrations are valid until December 31 of the year of issuance.

A crucial aspect of the registration process is the assignment of a registration number, which in turn must be displayed on the vessel. This number must:⁵⁰

- Be painted on or attached to each side of the bow on the forward half of the vessel,
- Read from left to right in block characters that are at least three inches tall, and
- Be of a color that contrasts with the color of the background.

At the time of issuance and upon renewal, expiration decals are issued indicating the year during which the registration is valid. These decals must be attached to each side of the vessel's bow, two inches to the left of the letter "C" in the vessel's registration number.

Complaints/Disciplinary Actions

CPW has received no formal complaints of vessels failing to be registered. Rather, enforcement is primarily achieved through boat safety inspections. While the focus of such inspections is to ensure that a vessel is equipped in accordance with the law (i.e., floatation devices, engine cutoff switches and proper lighting), a component includes verification of registration.

As a result, the data in Table 6 illustrate, for the fiscal years indicated, the number of safety inspections performed by CPW officers. Note that local law enforcement agencies can also conduct similar inspections, but those are not reflected here.

Table 6
Boat Safety Inspections

Fiscal Year	Number of Inspections
09-10	9,580
10-11	11,435
11-12	10,553
12-13	12,204
13-14	14,120

No explanation is readily apparent for the steady increase in the number of boat safety inspections.

⁴⁹ 2014 *Recreational Boating Statistics*, U.S. Department of Homeland Security, U.S. Coast Guard, Office of Auxiliary and Boating Safety (2015), p. 68.

⁵⁰ § 33-13-104(1), C.R.S.

If a vessel is not registered, and is not exempt, a citation can be issued. Table 7 illustrates, for the fiscal years indicated, the number of registration violations issued by CPW officers. Note that local law enforcement agencies can also issue citations for failure to register, but those are not reflected here.

**Table 7
Registration Violations**

Fiscal Year	Number of Violations
09-10	27
10-11	64
11-12	42
12-13	32
13-14	37

No explanation is readily apparent for the increase in registration violations between fiscal years 09-10 and 10-11, and the subsequent decrease in fiscal year 11-12.

Importantly, the data in Table 7 do not paint a complete picture. Oftentimes, CPW officers may simply issue a warning if a vessel is not registered. This is particularly true if there are both safety and registration violations. Since the registration violation is viewed as administrative in nature, greater emphasis is placed on the safety issues.

Regardless, citations for registration violations entail a fine of \$50.

Additionally, if CPW officers or law enforcement have probable cause to believe that a vessel is not in the lawful possession of the rightful owner, the vessel may be seized pending further investigation. Table 8 illustrates, for the fiscal years indicated, the number of vessels that were seized by CPW officers.

**Table 8
Vessel Seizures**

Fiscal Year	Number of Vessels Seized
09-10	1
10-11	1
11-12	1
12-13	2
13-14	4

Although no explanation for the increase in seizures is readily apparent, CPW staff reports that in all instances, the seized vessels were returned to their rightful owners.

Livery Inspections

Vessel liveries are not required to register as such with CPW, but they are required to maintain records pertaining to each rental. These records must include:⁵¹

- The name and address of each person who hires a vessel,
- The identification number of the vessel,
- The departure date and time, and
- The expected date and time of return.

The livery must retain these records for at least 30 days after the vessel is returned, and they are subject to inspection by CPW officers.⁵²

Between fiscal years 09-10 and 13-14, CPW officers inspected one livery each year. Although no explanation is readily apparent for the low number of livery inspections, no violations were noted during any of them.

Boating Safety Courses

Although not part of the Program, CPW's boating safety courses are a beneficiary of it. Vessel registration fees, along with RBS Grant Program funds and course participant fees (\$15 per person), fund those boating safety courses offered by CPW personnel. Private entities can also offer boating safety courses, but they do not receive funding from CPW and they establish their own fees.

Although anyone can take a boating safety course, Colorado requires all 14- and 15-year-old individuals to successfully complete a CPW boating safety course before operating a vessel in the state.

Table 9 illustrates, for the five fiscal years indicated, the number of CPW- and privately-offered boating safety courses attended.

Table 9
Boating Safety Courses

Fiscal Year	CPW Classes	Private Online Classes	Total Classes Completed
09-10	400	249	649
10-11	419	271	690
11-12	477	374	851
12-13	405	338	743
13-14	362	460	822

⁵¹ § 33-13-107(1), C.R.S.

⁵² § 33-13-107(1), C.R.S.

Although the total number of classes completed increased during the review period, all of this increase came in the private, online course area. The number of students completing a CPW course actually decreased from a high in fiscal year 11-12. No explanation is readily apparent for this.

Collateral Consequences – Criminal Convictions

Section 24-34-104(9)(b)(VIII.5), Colorado Revised Statutes, requires the Department of Regulatory Agencies to determine whether the agency under review, through its licensing processes, imposes any disqualifications on applicants or licensees based on past criminal history, and if so, whether the disqualifications serve public safety or commercial or consumer protection interests.

Since a vessel owner's criminal history plays no role in the vessel registration process, the CPW has not denied, revoked or suspended a vessel registration for this reason.

Analysis and Recommendations

Recommendation 1 – Continue the vessel registration program indefinitely.

The first sunset criterion asks whether regulation is necessary to protect the health, welfare and safety of the public.

Colorado's vessel registration program (Program) is administered by the Division of Parks and Wildlife (CPW), which is housed in the Colorado Department of Natural Resources. The funds raised through the Program, in turn, fund a variety of CPW activities, including boating safety inspections, boating safety educational courses and physical infrastructure such as boat ramps and affiliated parking lots at state parks.

Boat ramps and parking lots contribute to state's welfare by enabling Coloradans and tourists to utilize the bodies of water at which such facilities are located.

More persuasive are the boating safety activities that the Program's registration fees at least partially fund. These activities include boating safety inspections and boating safety courses. In 2014, there were 57 accidents on Colorado's waters, resulting in 12 deaths.⁵³ Thus, recreational boating can be dangerous and efforts to reduce that danger clearly increase the public's health and safety.

Additionally, the Program ensures that the state continues to receive Federal Recreational Boating Safety (RBS) Grant Program dollars. This is a federal matching program that brings approximately \$1.2 million to the state each year. A fundamental criterion to receive these grant funds is that the state maintain a vessel registration system that complies with federal requirements. The Program satisfies this requirement.

For all of these reasons, the General Assembly should continue the Program and the statutory provisions subject to this sunset review. In doing so, the General Assembly should refrain from imposing a new sunset date, and instead continue the program indefinitely.

This is the third sunset review that the Department of Regulatory Agencies (DORA) has conducted of the Program since 1995. In neither of the previous two sunset reports did DORA make any substantive recommendations to change the Program or its statutes. Indeed, as long as RBS Grant Program dollars are tied to maintaining a compliant vessel registration program, it appears likely that such a program will continue. In the event the federal program changes, CPW can seek legislation independent of a sunset review to ensure continued state compliance.

⁵³ 2014 *Recreational Boating Statistics*, U.S. Department of Homeland Security, U.S. Coast Guard, Office of Auxiliary and Boating Safety (2015), p. 62.

In fact, such a change may occur as early as 2017. Many anticipate that the U.S. Coast Guard will amend its rules surrounding the registration of vessels that may necessitate a change in Colorado law. Colorado need not wait for yet another sunset review to effect these changes.

Therefore, the General Assembly should remove the Program from the sunset schedule by continuing the Program indefinitely.

Recommendation 2 – Make technical changes to the statute.

The Program’s organic statute contains at least one instance of confusing language and one incorrect reference. These should be revised to reflect current terminology and administrative practices. These changes are technical in nature, meaning that they have no substantive impact.

The General Assembly should make the following technical changes:

- **Section 33-13-105(1), C.R.S.** Change “Parks and Recreation officer” to “Parks and Wildlife Officer” to reflect the actual name of CPW.
- **Section 33-13-107(1), C.R.S.** Clarify that “identification number” refers to the hull identification number.