



Fire Marshal Program Performs Well; Boiler Safety Function, Measures Need Improvement

at a glance

The State Fire Marshal Program investigates arson, promotes fire prevention, and trains firefighters to prevent loss of life and property. Our review found that

- the program provides beneficial public safety services;
- there is no compelling reason to change its organizational placement;
- performance measures, which were legislatively mandated, and supplemental data show that the program is performing reasonably well; but
- the program could improve the accuracy and usefulness of some performance measures and increase the efficiency and effectiveness of its boiler safety function.

Purpose

State law directs the Office of Program Policy Analysis and Government Accountability to complete a justification review of each state agency program that is operating under a performance-based program budget. This report reviews the performance and identifies policy alternatives for the Department of Insurance's State Fire Marshal Program. Appendix A summarizes our conclusions regarding each of nine issue areas the law directs OPPAGA to

consider in a program evaluation and justification review.

Background

The purpose of the State Fire Marshal Program is to minimize loss of life and property due to fire and to provide the public with maximum protection from threats of fire, arson, and other natural or man-made hazards. The program's primary services are

- investigating fire scenes to determine cause and origin;
- inspecting state-owned and state-leased buildings and reviewing building construction plans to determine compliance with fire safety codes;
- assisting local governments in providing fire prevention services including code development and interpretation;
- inspecting boiler systems to determine compliance with the state boiler safety code;
- investigating complaints against contractors providing suppression equipment, explosives manufacturers and dealers, and sparkler manufacturers and sellers;
- developing curricula, delivering educational programs, and providing statutorily mandated certification for several fire-related professions; and
- maintaining an arson laboratory complex.

Justification Review

The Legislature appropriated \$18,310,430 and 270 full-time equivalent employee positions (FTE) for Fiscal Year 2000-01.¹ The program is self-supporting through fees and fines deposited into the Insurance Commissioner's Regulatory Trust Fund.²

The program is organized into three bureaus—Fire and Arson Investigations, Fire Prevention, and Fire Standards and Training.

The Bureau of Fire and Arson Investigations is the law enforcement branch that investigates fire scenes to determine cause and origin. The bureau conducts over 7,000 investigations each year involving fires, explosions, fireworks, and other fire- and arson-related incidents. The bureau was allotted \$9,258,065 and 148 FTEs in Fiscal Year 2000-01.

In accordance with its responsibilities, the bureau

- examines fire scenes;
- collects, stores, tracks, analyzes, and evaluates evidence;
- conducts interviews and interrogations;
- makes arrests and assists with the prosecution of alleged perpetrators;
- consults with other investigators; and
- maintains state fire incident statistics.

The Bureau of Fire Prevention is the program's regulation and code enforcement section. In Fiscal Year 2000-01, the bureau was allotted \$3,584,534 and 69 FTEs.

The bureau consists of four sections—Inspection, Plans Review, Boiler Safety, and Regulatory Licensing.

- **The Inspection Section** enforces the state's fire codes by inspecting all state-owned facilities. Inspection activities include testing fire protection systems such as sprinklers

and smoke evacuation systems. Section staff also provide technical assistance and onsite educational support to local fire departments and governments responsible for fire safety inspections. During Fiscal Year 1999-2000, bureau staff conducted 18,821 inspections, which identified 3,138 major fire code violations.

- **The Plans Review Section** performs statutorily mandated reviews of construction documents for new construction, modifications, and renovations of state-owned and leased properties. The section also conducts field inspections at various phases of construction projects to ensure that fire safety issues conform to approved design. The section reviewed 831 plans in Fiscal Year 1999-2000.
- **The Boiler Safety Program** administers and enforces Florida's Boiler Safety Act, which regulates the construction, installation, operation, maintenance, repair, and inspection of boilers located at public assembly locations, such as schools, child care centers, hospitals, and civic centers.³ Boilers are inspected by state deputy boiler inspectors and special inspectors employed by insurance companies.⁴ State inspectors are responsible for examining uninsured boilers. The program issues certificates of compliance to those boilers passing inspection. In Fiscal Year 1999-2000, the program's deputy inspectors performed 3,610 boiler inspections and special inspectors performed 6,784 inspections. These inspections identified 284 major boiler code violations.
- **The Regulatory Licensing Section** licenses and regulates the fire equipment, fire protection system, explosives, and sparkler industries. For example, the section issues licenses and certificates to fire equipment

¹ Appropriations include funding and FTEs for administration and support services.

² Fees are assessed for initial licensure and license renewal; reissuance of licenses and certificates; examinations; and inspections. Fines may be collected from licensees for several reasons, including violations of licensing standards and being found guilty of fraud or arson.

³ Chapter 554, *F.S.*

⁴ The program issues certificates of competency to special inspectors who have either passed a certification examination or hold a commission from the National Board of Boiler and Pressure Vessel Inspectors. Inspectors are prohibited from inspecting a boiler regulated by the program unless they have a valid certificate of competency.

dealers and service technicians, fire protection systems contractors, and explosives manufacturers, dealers, and users. The section also registers those firms and individuals who manufacture, distribute, and sell state-approved wholesale and retail sparklers. Section staff inspect fire equipment dealer facilities and explosives storage facilities and investigate alleged illegal activity by licensees.⁵ The section issued 8,154 licenses and conducted 1,014 inspections in Fiscal Year 1999-2000.

The Bureau of Fire Standards and Training develops and delivers educational programs leading to certification or competency in several fire-related professions (e.g., firefighters and emergency service personnel). Training is provided at the Florida State Fire College in Ocala and at 35 regulated training centers throughout the state. The fire college conducts more than 200 regularly scheduled classes each year, reaching approximately 4,000 students.

The bureau is statutorily mandated to develop and administer certification and compliance examinations for emergency service and private sector personnel.⁶ Activities include determining and approving acceptable continuing education units for re-certification, certifying training centers around the state, and processing applications for the program that awards incentive pay to firefighters who obtain job-related college degrees.

The bureau was allotted \$2,736,395 and 34 FTEs in Fiscal Year 2000-01.

Program Need —————

While not an essential state function, the State Fire Marshal Program provides fire prevention and safety services that are beneficial to Florida's citizens. The program serves the public by

⁵ Inspections include an operational evaluation of all statutorily mandated equipment such as portable fire extinguishers and pre-engineered fire suppression systems and a review of facilities' service and certification documentation systems.

⁶ Section 633.35, *F.S.*

ensuring their safety at home and in the community through

- investigation activities aimed at apprehending arsonists and decreasing the incidence of arson;
- citizen awareness campaigns that teach fire prevention strategies;
- enforcement of fire codes and safety standards that reduce fire hazards in state-owned and leased buildings and other areas of public assembly; and
- training and certification programs that increase the expertise of members of the fire-fighting profession.

The program's services also help to protect the public's financial interests. Specifically, in addition to serious bodily injury and death, fires result in negative economic consequences such as prohibitive costs incurred by home and business owners due to property losses, loss of tax revenue due to loss of business property, and increases in insurance premiums.

Thus, if the program were eliminated, public safety would likely diminish and the potential for fire-related injuries and deaths would increase. Moreover, in the absence of the program's services, Florida's citizens would suffer economic consequences such as property loss and increased insurance premiums.

Program Organization —————

Currently, the State Fire Marshal Program is placed within the Department of Insurance. By statute, the head of the department performs the duties of three offices—Insurance Commissioner, Treasurer, and Fire Marshal.⁷ Placing responsibility for fire investigation and prevention activities with the agency that regulates the insurance industry is appropriate given the relationship between fire-related deaths, injuries, and property loss and increased insurance premiums. Both consumers and insurance providers benefit when fire loss is minimized; consumers' safety and financial

⁷ Sections 20.13 and 633.01, *F.S.*

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interests are protected, and insurance companies incur fewer claim-related expenses.

Florida voters approved Constitutional Revision 8 in 1998, which merges the Cabinet offices of the Treasurer and the Comptroller into one Chief Financial Officer. Thus, the functional responsibilities of the Department of Insurance will be merged with the Department of Banking and Finance. At this time, it is unclear what organizational structure the Legislature will implement to address this reform.

The placement of the program has been evaluated several times in the past and consideration has been given to moving the program in part or as a whole to the Department of Law Enforcement (FDLE). For example, in 1995, the Senate considered shifting the program’s Bureau of Fire and Arson Investigations to FDLE because the bureau’s investigators are sworn law enforcement officers who perform criminal investigations, which is consistent with the function of FDLE investigators. A Senate Committee on Criminal Justice review of the issue advised against moving the bureau to FDLE because the bureau’s activities are significantly related to the activities of the entire State Fire Marshal Program.⁸

Moreover, while several states have independent state fire marshal agencies, most place this function within a larger agency, such as the department of public safety, department of insurance, or state police office.⁹ As shown in Exhibit 1, the organizational location of Florida’s fire marshal function is consistent with seven other states’ placement of this function.

Based upon these considerations, we determined that the State Fire Marshal Program is appropriately placed within the Department of Insurance, and there is no compelling reason to change its organizational placement at this time.

⁸ Senate Committee on Criminal Justice, *A Review of State Arson Investigations*, January 1995.

⁹ Because arson is a crime, some states place the fire marshal function with the department of public safety or another law enforcement agency (e.g., state police office).

Exhibit 1
The Department of Insurance Houses the State Fire Marshal Program in Eight Other States

State Agency	States With Fire Marshal Program Placed in Agency
Department of Public Safety	Alaska, Colorado, Connecticut, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, Nevada, Utah, West Virginia (15)
Department of Insurance	Alabama, Florida, Georgia, Idaho, Illinois, Mississippi, North Carolina, Tennessee (8)
State Fire Marshal Agency/Fire Commission	Delaware, Hawaii, Kansas, Nebraska, Oklahoma, Rhode Island, Texas, Wyoming (8)
State Police	Arkansas, Oregon, Pennsylvania, Washington (4)
Department of Building and Fire Safety	Arizona and Indiana (2)
Department of Commerce	Ohio and South Dakota (2)
Department of Justice	Montana and Wisconsin (2)
Department of Labor	South Carolina and Vermont (2)
Department of State	Michigan and New York (2)
Other	California, New Jersey, New Mexico, North Dakota, Virginia (5)

Source: United States Environmental Protection Agency.

Privatization

The State Fire Marshal Program offers limited opportunities for privatization. Some regulatory functions, like fire and arson investigations, are not good candidates for privatization because they involve the state's police power and require the exercise of discretion in applying the state’s authority.¹⁰ The program’s fire investigators are sworn law enforcement officers whose authority to make searches and seizures, gather evidence, carry firearms, and make arrests is vital to achieving the program’s mission. While local law enforcement agencies have the same authority, many local jurisdictions rely upon the State Fire Marshal Program to perform fire investigations and would be unlikely candidates for taking over this function. For example, 11 counties rely upon the program to conduct all

¹⁰ *Assessing Privatization In State Agency Programs*, Report No. 98-64, February 1999.

fire scene investigations and 30 others rely upon the program to conduct all cause, origin, and latent follow-up investigations.

Moreover, few (if any) local government or private entities are capable of providing program functions such as fire and boiler safety inspections. The feasibility of privatization, and subsequent cost savings, is dependent upon the existence of private entities willing and capable of providing similar services at lower cost.¹¹ The enforcement of fire safety standards is accomplished with limited police power and another government unit, such as a county or municipality, would be best suited to perform fire safety inspections. However, many local governments lack the resources needed to take on these inspections. For example, while local fire authorities are required to conduct fire safety inspections of public schools, a recent State Fire Marshal Program survey revealed that in 27 counties, no local entity is performing such inspections. Similarly, the only providers of boiler inspection services are the State Fire Marshal Program and insurance companies. According to program officials, insurance companies would be unwilling to inspect boilers that they do not insure because of liability issues.

However, we determined that the efficiency of the program's boiler safety function could be improved by ensuring that private insurance companies complete the inspections they are required by law to conduct. See the "Findings" section for a detailed discussion of this issue.

Performance Measures —

The State Fire Marshal's performance measures appropriately relate to the program's activities and functions and generally provide information needed to evaluate its performance. The program has worked extensively with OPPAGA, the Governor's Office, legislative staff, and the department's inspector general to develop and improve its performance measures. However, as described below, the program could improve the accuracy and usefulness of some of its measures.

¹¹ *Ibid.*

The department's inspector general has identified concerns with the Bureau of Fire and Arson Investigations' data classification and collection methods.¹² The inspector general has conducted numerous reviews of the program's legislatively mandated performance measures. Although the reviews generally found that the program's measures are valid and performance data are accurate, the inspector general has identified problems with several measures. For example, the inspector general suggested that data collection methods for the total number of arson cases should be improved by recording whether an investigation actually resulted in an arson case. In addition, the inspector general found inaccuracies in the number of closed cases reported for Fiscal Year 1997-98; bureau staff attributed the inaccuracies to cases being assigned erroneous closing dates.

In response to the inspector general's findings, bureau staff said that improvements would be made to the data gathering system and that supervisors would be reminded to follow proper case closing procedures. The inspector general has not conducted a follow-up review to determine if data collection procedures have improved.

Moreover, during our review, program staff expressed continued concern about the methodology used to classify fire investigations as "opened" and "closed." Specifically, investigations that have been closed can be re-opened if there is new evidence associated with the case. Thus, the same investigation could be counted as an "opened" or "closed" case more than once. Because of these concerns, we recommend that the inspector general conduct a follow-up review of the bureau's efforts to ensure that its performance-based program budgeting data is accurate.

The Bureau of Fire Prevention's legislatively mandated performance measures could also be improved. Currently, the bureau reports the

¹² Department of Insurance Inspector General, *Performance Audit: BBPB Measures—Fire and Arson Investigations*, Report No. 98-01, April 7, 1998, and *Special Project: Verification of BBPB Data for Fiscal Year 1997-98*, Report No. 98-24.

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number and percentage of regulatory, boiler, and fire safety inspections completed within statutory timeframes. However, the bureau does not report the number of violations identified during inspections.¹³ Although the bureau uses an automated computer system to track fire safety code violations and an Excel spreadsheet to maintain boiler code violation data, it does not have a comparable system for violations identified via regulatory inspections. According to program officials, bureau staff manually record regulatory violation data in inspection reports. However, program officials expressed concern about the accuracy of this information. To address these concerns, the bureau is considering the development of a computer database to track regulatory inspection data.

Developing more accurate data regarding the number of violations identified during inspections, as well as the number of violations corrected after bureau intervention, would help the bureau accomplish its primary mission of ensuring compliance with fire safety codes and standards. Thus, we recommend that the program continue pursuing the development of a computer system that would track regulatory inspection violation and compliance information and that it report regulatory, boiler, and fire safety violation information to the Legislature.

Program Performance——

The program's performance-based program budgeting measures and other available data show that the program is reasonably effective at accomplishing its mission of protecting Floridians and their property from fire. The program generally met legislative expectations in Fiscal Year 1999-2000 and showed improvement in several areas. The program's measurement system, along with supplemental national- and state-level information, provides

data on overall program performance and performance in two of the program's three functional areas.

Overall performance

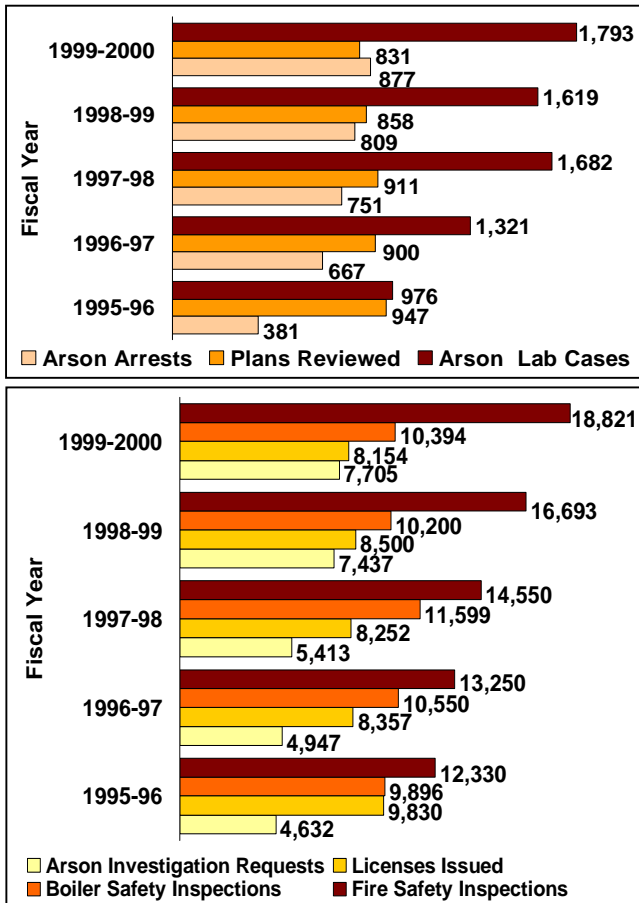
The program does not have a performance-based program budgeting measure designed to evaluate its overall performance. However, program service data and state and national fire statistics can be used to draw general conclusions about the program's success at meeting its primary mission. Based upon this information, we found that

- the program has maintained or increased the level of service it provides in most functional areas;
- the number of fire-related civilian injuries and deaths in Florida has declined significantly; and
- compared to many other states, Florida's citizens suffer fewer injuries, deaths, and property losses due to fire.

In general, the program's service levels (outputs) either have remained relatively stable or have significantly increased over the past five years. The greatest increase in service outputs occurred in the Bureau of Fire and Arson Investigations. As shown in Exhibit 2, arson investigation requests, lab cases, and arrests have all increased significantly since 1995. Between 1995-96 and 1999-2000, the bureau experienced a 66.3% increase in arson investigation requests from local governments (increasing from 4,632 to 7,705), an 83.7% increase in arson lab cases (which grew from 976 to 1,793), and a 130.2% increase in the number of arrests made as a result of investigative efforts (from 381 to 877).

¹³ The bureau's original legislatively mandated performance measures (Fiscal Year 1996-97) included "number and percentage of licensed entities requiring discipline," which was changed in Fiscal Year 1998-99 to "number and percentage of licensed entities found in violation of statutes." However, the measure has been deleted because of inspector general concerns about the validity of the measure and accuracy of the data.

Exhibit 2
Program Service Levels Have Either Increased or Remained Stable



Source: Department of Insurance, State Fire Marshal Program.

Program officials attributed these workload increases to local government actions to shift responsibility for investigations to the State Fire Marshal Program and to growth in program resources. Over the past few years, 11 county fire departments have shifted responsibility for all fire scene investigations to the bureau.¹⁴

Thirty other counties rely upon the bureau to conduct all cause, origin, and latent follow-up investigations.¹⁵ According to representatives from the Florida Fire Chiefs Association and the

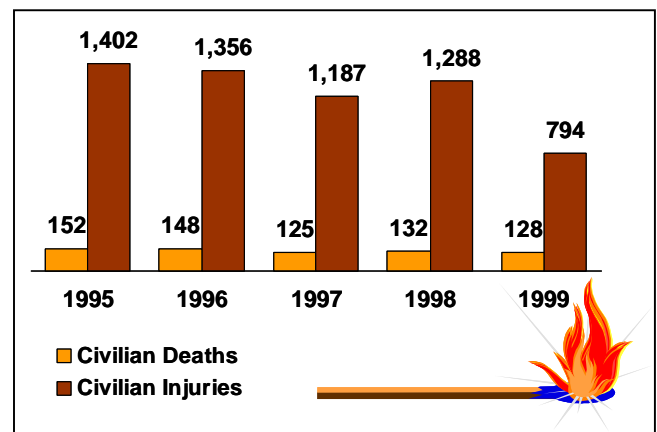
¹⁴ Charlotte, DeSoto, Flagler, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Polk, and Seminole counties.

¹⁵ Baker, Bay, Bradford, Calhoun, Clay, Columbia, Dixie, Escambia, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jefferson, Lafayette, Lake, Levy, Liberty, Madison, Nassau, Okaloosa, Santa Rosa, Suwannee, Sumter, Taylor, Union, Wakulla, Walton, and Washington counties.

Florida Fire Marshals and Inspectors Association, local governments have shifted responsibility to the bureau because it provides quality investigative services in an efficient and cooperative manner. Because many investigations require laboratory analyses to determine fire causes, this shift has also resulted in laboratory caseload increases. In part due to this shift, the Legislature increased staffing allocated to arson investigations by 58.8%, from 68 to 108 between Fiscal Years 1995-96 and 1999-2000.

An indirect indicator of the program's success in achieving its mission of protecting Florida's citizens from fire is the annual number of fire-related injuries and deaths. As shown in Exhibit 3, fire-related civilian deaths and injuries have decreased significantly since 1995. In 1999, 794 civilians were injured because of fire, a 43.4% decrease from 1995. During the same period, there were 128 fire-related civilian deaths, a 15.8% decrease. These decreases may be related to program efforts such as arson investigations and prevention activities, fire safety inspections, and consumer education and outreach initiatives.

Exhibit 3
Civilian Fire-Related Deaths and Injuries Have Declined



Source: Department of Insurance, State Fire Marshal Program, *Florida Fires, 1995 to 1999*.

Furthermore, compared to many other states, Florida has fewer fire-related civilian injuries and deaths and a lower average property loss per fire. In 1998, Florida ranked eleventh out of 39 states for the number of civilian deaths per

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1,000 fires (1.38 per 1,000) and twenty-third for the number of civilian injuries per 1,000 fires (15.47 per 1,000).¹⁶

With regard to property loss, Florida also ranks better when compared to other states. In 1998, Florida ranked eighth out of 39 states for the average property loss per fire, with \$4,112. The average property loss has increased by 21.5% compared with 1995; this increase is lower than that of several other southern states. For example compared with 1995, 1998 average property loss per fire increased by 55.5% in Georgia, 46.4% in Tennessee, and 29.1% in Arkansas.

Bureau of Fire and Arson Investigations

While the Bureau of Fire and Arson Investigations has good output measures, its statutorily mandated measures provide limited information about the quality of its services. Also, as discussed on page 5, there are concerns about the accuracy of some of its performance data. The current measurement set includes the total number of fire investigations opened and closed; the percentage of closed fire investigations successfully concluded and the percentage in which an arrest was made in Florida compared to the national percentage; and the number of evidence sample analysis/examinations processed and photographic services provided.

These measures are good indicators of the bureau's workload, but do not demonstrate whether the bureau's services are beneficial. While stakeholders we contacted asserted that the bureau was providing quality investigative services in an efficient and cooperative manner, the bureau could better monitor its service quality by obtaining feedback from its primary customers—local fire and law enforcement offices. Accordingly, we recommend that the bureau obtain regular feedback, through a customer satisfaction survey, from local jurisdictions that have requested fire investigations and the law enforcement and

court officers (such as state attorneys) that use the bureau's investigation and lab services. The bureau should annually administer such a survey, by mail or telephone, to a random sample of bureau customers. The bureau should use survey results to develop performance measures that are reported to the Legislature. Examples of performance measures include

- percentage of local fire departments reporting satisfaction with fire investigation and arson lab services;
- percentage of local law enforcement officers reporting satisfaction with fire investigation and arson lab services; and
- percentage of court officers reporting satisfaction with fire investigation and arson lab services.

The bureau should consider developing and pilot testing the customer satisfaction survey during Fiscal Year 2001-02 and reporting baseline results to the Legislature in Fiscal Year 2002-03.

Bureau of Fire Prevention

The Bureau of Fire Prevention's four sections enforce the state's fire and boiler safety codes, review construction plans for state-owned and leased properties, and license and regulate the fire equipment, fire protection system, explosives, and sparkler industries. These important functions are evaluated and reported through four measures, as shown in Exhibit 5.

According to Section 633.085, *Florida Statutes*, and Rule 4A-3.011, *Florida Administrative Code*, the bureau must conduct fire safety inspections of state-owned properties annually, if resources are available, but at least once every two years. High-hazard occupancies must be inspected at least one time per year.¹⁷ As indicated in Exhibit 5, the bureau performed well above its performance standard in Fiscal Year 1999-2000 with regard to the percentage of fire code

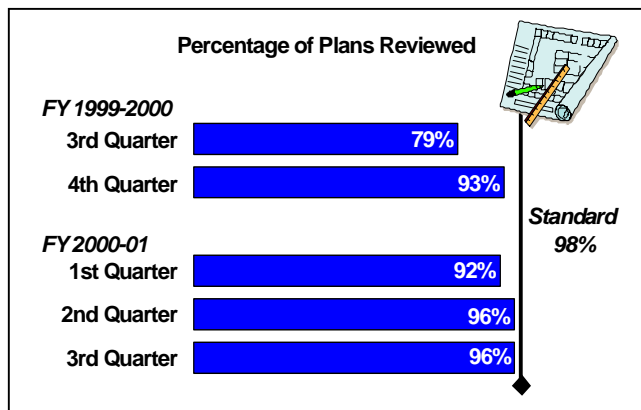
¹⁶ These represent the most recent data available. United States Fire Administration, National Fire Data Center, *States' Civilian Injury, Death, and Property Loss Reports*.

¹⁷ High-hazard occupancy means any building or structure (1) that contains combustible, explosive, or flammable material; (2) where people receive educational instruction; (3) where people live, excluding private dwellings; and (4) containing three or more floor levels.

inspections completed within these timeframes. Over 98% of fire code inspections were completed within mandated timeframes, 7.3% above the standard of 91%. Moreover, the bureau's 1999-2000 performance represented a significant improvement over 1998-99, when 91% of fire code inspections were completed within mandated timeframes.

However, the bureau's performance with regard to reviewing fire code plans was significantly below standard. State law mandates that fire code plans for new construction be reviewed within 30 calendar days after receipt of the plans and that plans for alterations to existing structures be reviewed within 10 working days.¹⁸ In Fiscal Year 1999-2000, only 85.3% of fire code plan reviews were completed within these statutorily defined timeframes, 12.7% below the standard of 98%. Program staff attributed the bureau's performance to staffing shortages, and noted that the bureau had two vacant positions during the first three quarters of Fiscal Year 1999-2000. Performance data from the last two quarters of Fiscal Year 1999-2000 and the first three quarters of Fiscal Year 2000-01 indicate that the percentage of plans reviewed within statutory timeframes improved (but still did not meet the standard) once the vacant positions were filled (see Exhibit 4).

Exhibit 4
More Plans Were Reviewed According to Statutory Timeframes Once Vacant Positions Were Filled



Source: Department of Insurance, State Fire Marshal Program.

Similarly, the bureau did not meet its standard for completing mandated regulatory inspections in Fiscal Year 1999-2000. State law mandates that the bureau inspect fire equipment and explosives dealers on a regular basis. For example, companies licensed to service or install fire extinguishers and pre-engineered fire suppression systems must be inspected before being issued a license and at every two-year renewal.¹⁹ In addition to conducting these mandated inspections, bureau staff investigate consumer complaints and reports of alleged illegal activity. While the standard is that 100% of mandated regulatory inspections be completed, actual performance was only 95.4%. Program officials indicated that bureau staff were unable to meet the legislative standard because a significant amount of staff time was used to conduct investigations of alleged illegal activity. Specifically, during Fiscal Year 1999-2000, in addition to performing 1,014 mandated inspections, the bureau's seven regulatory inspectors conducted 320 investigations (which amounted to approximately 4,400 hours of staff time).

The final measure we used to evaluate the bureau's performance was the *number of fire-related deaths occurring in state-owned and leased properties required to be inspected*. The bureau met its standard for this measure in Fiscal Year 1999-2000 and reported that there were no fire-related deaths in state-owned or leased buildings.

Bureau of Fire Standards and Training

The Bureau of Fire Standards and Training develops and delivers educational programs leading to certification or competency in several fire-related professions. Students attend training programs at the Florida State Fire College and at training centers throughout the state.

The bureau's performance is evaluated primarily through two customer satisfaction surveys, which are distributed to State Fire College students and to the supervisors of former students. The student survey was designed to

¹⁸ Section 633.085, *F.S.*; the law applies to plans for all state-owned and state-leased buildings.

¹⁹ Section 633.061, *F.S.*

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elicit feedback regarding the quality and usefulness of courses, course delivery, and State Fire College facilities. The supervisor survey was designed to assess improvements in employee job performance after fire college training. The specific measures associated with these surveys are shown in Exhibit 5.

As shown in the exhibit, these measures indicate that the bureau is performing its primary functions well. For example, in Fiscal Year 1999-2000, 95% of students rated the training they received at the State Fire College as improving their ability to perform assigned job duties. While this result is a slight decrease from 1998-99's performance of 98%, it is in line with the legislatively mandated standard of 95%.

Exhibit 5

The Program's Performance Based Program Budgeting Measures Show that the Department Met Most Legislative Standards¹

Measure	Fiscal Years				
	1998-99 Performance Standard	1998-99 Actual Performance	1999-2000 Performance Standard	1999-2000 Actual Performance	
Bureau of Fire Prevention					
Outputs	Percent of fire code inspections completed within statutorily defined timeframes	91%	91%	91%	98.3%
	Percent of fire code plans reviews completed within statutorily defined timeframes	98%	99%	98%	85.3%
Outcomes	Number of fire-related deaths occurring in state owned and leased properties required to be inspected	NM ²	NM	0 ³	0
	Percent of mandated regulatory inspections completed	NM	NM	100% ³	95.4%
Bureau of Fire Standards and Training					
Outcomes	Number/percent of students who rate training they received at the Florida State Fire College as improving their ability to perform assigned duties	5,363 89%	3,170 98%	5,901 95%	3,227 95.0%
	Percent of above satisfactory ratings by supervisors of students' job performance from post-class evaluations of skills gained through training at the Florida State Fire College	NM	NM	85%	97.6%

¹ This table includes only those performance-based program budgeting measures that were used by OPPAGA to assess performance and does not represent the program's comprehensive set of legislatively mandated measures.

² NM means new measure effective Fiscal Year 1999-2000.

³ No official standard for Fiscal Year 1999-2000 was included in the 1999 General Appropriations Act because the measure was new; amount shown is the Fiscal Year 2000-01 standard (from the 2001-2002 Department of Insurance Long-Range Program Plan).

Source: Department of Insurance, Legislative Budget Request for Fiscal Year 2000-01, and Long-Range Program Plan for Fiscal Years 2001-02 Through 2005-06.

Similarly, supervisors provided predominantly "above satisfactory" ratings of their employees' job performance after training at the State Fire College. Nearly 97.6% of the employee ratings provided by supervisors were "above satisfactory," which is 12.6% above the mandated performance standard of 85%.

Findings

Our review identified several issues that affect the efficiency and effectiveness of the State Fire Marshal Program's boiler safety function.

- Program inspectors conduct inspections that should be completed by insurance company inspectors.

- The program has no statutory authority to apply administrative fines to boiler owners and insurance companies for non-compliance with the state boiler code.
- The program has no system in place to identify new and existing boilers that should be inspected and certified.

Program inspectors conduct inspections that insurance companies are required by law to complete

The program's boiler safety section is responsible for ensuring the inspection and certification of boilers located at public assembly locations. Boilers are inspected by state deputy boiler inspectors and special inspectors employed by insurance companies. State inspectors are responsible for examining uninsured boilers, while special inspectors are required to examine insured boilers.²⁰ However, according to the chief boiler inspector, the program regularly inspects insured boilers that have not been inspected in a timely manner by insurance companies. Specifically, it is the program's policy that "a deputy inspector will inspect a boiler if the insurance company responsible will not inspect the boiler within 60 days from the due date of inspection."

According to the chief boiler inspector, the program lacks the authority to require insurance companies to perform overdue inspections. In some cases, often at the boiler owner's request, the chief boiler inspector will call the insurance company and advise them to conduct the required inspection within seven days. However, if the insurance company takes no action, the program will complete the inspection.

While the program does not gather data on the number of inspections deputy inspectors complete because insurance companies have not fulfilled their statutory responsibility, the chief boiler inspector estimated that approximately 20% of the boilers the section inspects are insured. In Fiscal Year 1999-2000, deputy inspectors examined 3,610 boilers; using the chief boiler inspector's estimate, 722 of those

boilers should have been inspected by insurance companies. It cost the program approximately \$78,770 to perform the inspections.²¹ Although the program charges boiler owners a fee for inspecting and certifying boilers, the fee only covers a portion of the program's total cost of providing the service.

The program cannot issue administrative fines to boiler owners and insurance companies for noncompliance with boiler codes

Program officials cited the program's inability to issue administrative fines to boiler owners and insurance companies as the primary reason why they are unable to enforce the timely inspection of boilers. Currently, boiler owners who operate a boiler with an invalid or suspended certificate of compliance are guilty of a second degree misdemeanor punishable by a \$500 fine. Although the chief boiler inspector stated his belief that the operation of uncertified boilers is a common practice, in the past three years no boiler owners have been prosecuted for such violations. There are no criminal or administrative sanctions for insurance companies that do not inspect insured boilers as required by statute.

To support the program's authority to enforce the state boiler code and to save program resources, the Legislature should consider giving the program the ability to issue administrative fines to insurance companies and boiler owners for code violations. If the program were able to issue monetary sanctions to insurance companies for not completing inspections in a timely manner, companies would become more motivated to complete the inspections on time. In turn, the program could abandon its policy of inspecting insured boilers and reduce the section's workload by approximately 20%.

²⁰ According to s. 554.109, *F.S.*, "any insurance company insuring a boiler located in a public assembly location in this state shall inspect such boiler so insured."

²¹ Calculation based upon unit cost estimates from the Department of Insurance's *Long-Range Program Plan for Fiscal Years 2001-2002 through 2005-2006* (LRPP). According to the LRPP, the unit cost for boiler inspections is \$109.10, therefore the total for 722 inspections is \$78,770.20.

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The program has no system in place to identify new and existing boilers that should be inspected and certified

According to program documents, the number of boilers increases every year at a rate of 8% to 10% due to the rapid growth of Florida's construction industry. However, according to the chief boiler inspector, the program has no formal process for identifying new boilers. For example, the program is not notified when a property owner applies for a permit to place a boiler in a newly constructed or renovated public building.²²

Similarly, the program has no procedure for identifying existing boilers that should be certified, but are not. The program's own fire safety inspectors do not consistently notify the boiler safety section when fire safety inspections reveal uncertified boilers. In addition, while other agencies conduct inspections of public buildings, they do not regularly notify the program when uncertified boilers are discovered. For example, when sanitation and safety specialists for the Department of Business and Professional Regulation (DBPR) inspect hotels and restaurants, they determine if business' boilers are certified. However, the DBPR inspectors are not required to notify the State Fire Marshal's boiler inspection section of their findings.

To ensure that the program fulfills its mission of protecting the public from unsafe and unsound boilers, the program should establish a method for identifying new and existing boilers in need of certification. The program should establish a formal process for fire safety inspectors to report uncertified boilers to the boiler safety section. The program should also work with the entities that issue permits for the installation of new boilers to establish a notification process. For example, on a monthly basis, permitting agencies could send the chief boiler inspector a list of property owners who were issued boiler permits. Subsequently, the chief boiler inspector could send an informational packet to building

owners notifying them of their statutory obligation to have their boilers inspected and certified. If building owners do not respond to the informational mailing by seeking certification of their boilers, a deputy inspector should be sent to the property. The program should establish a similar process with DBPR's Division of Hotels and Restaurants, Bureau of Sanitation and Safety Inspections.

Recommendations

Overall, the program is performing reasonably well across most of its major functions and is accomplishing its primary mission of keeping Florida's citizens safe from fire-related hazards. However, we have five recommendations aimed at improving the accuracy of the data that the program reports to the Legislature, increasing the usefulness of performance measures, ensuring continued public safety, and increasing the efficiency and effectiveness of the program's boiler safety function.

To ensure the accuracy and reliability of data used to evaluate Bureau of Fire and Arson Investigations' performance, the department's inspector general should conduct a follow-up review of the bureau's efforts to improve its system for classifying and collecting performance-based program budgeting data.

To ensure that performance measures demonstrate the quality of program services, the Bureau of Fire and Arson Investigations should obtain regular feedback, through a customer satisfaction survey, from local jurisdictions and law enforcement and court officers that use the bureau's investigation and lab services. The bureau should administer such a survey annually, by mail or telephone, to a random sample of bureau customers and should use survey results to develop performance measures that are reported to the Legislature. The bureau should consider developing and pilot testing the survey during Fiscal Year 2001-02 and reporting baseline results to the Legislature in Fiscal Year 2002-03.

²² According to s. 713.135, *F.S.*, an individual applying for a building permit must secure a separate permit for boilers.

To help the Bureau of Fire Prevention accomplish its primary mission of ensuring compliance with fire safety codes and standards, we recommend that the program continue pursuing the development of a computer system that would track regulatory inspection-related violation and compliance information and that it report regulatory, boiler, and fire safety violation information to the Legislature.

To support the program's authority to enforce the state boiler code and to save program resources, the Legislature should consider giving the program the ability to issue administrative fines to boiler owners and insurance companies for code violations. If the program were able to sanction insurance companies for not completing inspections in a timely manner, companies would become more motivated to complete the inspections on time and the program could abandon its policy of completing inspections of insured boilers.

To ensure that the program fulfills its mission of protecting the public from unsafe and unsound boilers, the program should establish a method for identifying new and existing boilers in need of certification. The program should establish a formal process for fire safety inspectors to report uncertified boilers to the boiler safety section. The program should also work with the entities that issue permits for the installation of new boilers, as well as with the Department of Business and Professional Regulation, to establish an interagency process whereby the chief boiler inspector would be notified monthly of boilers in need of certification.

Agency Response ———

The State Fire Marshal's written response to our preliminary report has been reproduced herein in Appendix B, beginning on page 16.

Appendix A

Statutory Requirements for Program Evaluation and Justification Review

Section 11.513(3), *Florida Statutes*, provides that OPPAGA Program Evaluation and Justification Reviews shall address nine issue areas. Our conclusions on these issues as they relate to the Department of Insurance's State Fire Marshal Program are summarized in Table A-1.

Table A-1
Summary of the Program Evaluation and Justification Review of the State Fire Marshal Program

Issue	OPPAGA Conclusions
The identifiable cost of the program	The program was appropriated \$18,310,430 and 270 FTEs for Fiscal Year 2000-01. The program is self-supporting through fees and fines that are deposited into the Insurance Commissioner's Regulatory Trust Fund.
The specific purpose of the program, as well as the specific public benefit derived therefrom	The purpose of the State Fire Marshal Program is to minimize loss of life and property due to fire and to provide the public with maximum protection from threats of fire, arson, and other natural or man-made disasters and hazards.
The consequences of discontinuing the program	The State Fire Marshal Program provides fire prevention and safety services that are beneficial to Florida's citizens. The program serves the public by ensuring their safety at home and in the community and protecting their financial interests. If the program were eliminated, public safety would likely diminish and the potential for fire-related injuries and deaths would increase. Moreover, in the absence of the program's services, Florida's citizens would suffer economic consequences such as property loss and increased insurance premiums.
Determination as to public policy, which may include recommendations as to whether it would be sound public policy to continue or discontinue funding the program, either in whole or in part	The public benefit derived from the fire prevention and fire safety services provided by the program indicate that it is sound public policy to continue funding the program.
Progress towards achieving the outputs and outcomes associated with the program	The program's performance-based program budgeting measures and other available data indicate that the program is accomplishing its mission in a reasonably effective manner. The program's measurement system provides input on performance in the program's three primary functional areas.
An explanation of circumstances contributing to the state agency's ability to achieve, not achieve, or exceed its projected outputs and outcomes, as defined in s. 216.011, <i>F.S.</i> , associated with the program	<p>The Bureau of Fire Prevention's performance with regard to reviewing fire code plans was significantly below standard. Program staff attributed the bureau's performance to staffing shortages. Data from the last two quarters of Fiscal Year 1999-2000 and the first three quarters of Fiscal Year 2000-01 indicate that the percentage of plans reviewed within statutory timeframes improved once the vacant positions were filled.</p> <p>Similarly, the bureau did not meet its standard for completion of mandated regulatory inspections. According to program officials, bureau staff were unable to meet the legislative standard because a significant amount of staff time was used to conduct investigations of alleged illegal activity.</p>

Issue	OPPAGA Conclusions
<p>Whether the information reported pursuant to s. 216.03(5), <i>F.S.</i>, has relevance and utility for the evaluation of the program</p>	<p>The State Fire Marshal Program has worked extensively with OPPAGA, the Governor’s Office, legislative staff, and the department’s inspector general to develop and improve its performance measures. These efforts have resulted in a set of measures that appropriately relate to the program’s activities and functions and generally provide information needed to evaluate performance. However, the program could improve the accuracy and usefulness of some of its measures (see alternative courses of action below).</p>
<p>Whether state agency management has established control systems sufficient to ensure that performance data are maintained and supported by state agency records and accurately presented in state agency performance reports</p>	<p>The department’s inspector general has conducted numerous reviews of the program’s legislatively mandated performance measures. The reviews generally found that the program’s measures are valid and the data is accurate, but identified problems with the Bureau of Fire and Arson Investigations’ data classification and collection methods. The inspector general has not conducted a review of the program’s measures since Fiscal Year 1998-99.</p>
<p>Alternative courses of action that would result in administering the program more efficiently and effectively</p>	<p>To ensure the accuracy and reliability of data used to evaluate Bureau of Fire and Arson Investigations’ performance, the department’s inspector general should conduct a follow-up review of the bureau’s efforts to improve its system for classifying and collecting performance-based program budgeting data.</p> <p>To ensure that performance measures demonstrate the quality of program services, the Bureau of Fire and Arson Investigations should administer a customer satisfaction survey to the local jurisdictions that use its services and should report its findings to the Legislature.</p> <p>To help the Bureau of Fire Prevention accomplish its primary mission of ensuring compliance with fire safety codes and standards, we recommend that the program continue pursuing the development of a computer system that would track regulatory inspection-related violation and compliance information and that it report regulatory, boiler, and fire safety violation information to the Legislature.</p> <p>To support the program’s authority to enforce the state boiler code and to save program resources, the Legislature should consider giving the program the ability to issue administrative fines to boiler owners and insurance companies for code violations. If the program were able to sanction insurance companies for not completing inspections in a timely manner, companies would become more motivated to complete the inspections on time and the program could abandon its policy of completing inspections of insured boilers.</p> <p>To ensure that the program fulfills its mission of protecting the public from unsafe and unsound boilers, the program should establish a method for identifying new and existing boilers in need of certification. The program should establish a formal process for fire safety inspectors to report uncertified boilers to the boiler safety section. The program should also work with the entities that issue permits for the installation of new boilers, as well as with the Department of Business and Professional Regulation, to establish an interagency process whereby the chief boiler inspector would be notified monthly of boilers in need of certification.</p>

Source: OPPAGA analysis.

Appendix B

Agency Response

In accordance with the provisions of s. 11.45(7)(d), *Florida Statutes*, a draft of our report was submitted to the State Fire Marshal for his review and response.

The State Fire Marshal's written response has been reproduced herein beginning on page 17.



**TREASURER
STATE OF FLORIDA**

TOM GALLAGHER

June 6, 2001

Mr. John W. Turcotte, Director
Office of Program Policy Analysis
And Government Accountability
Claude Pepper Building, Room 312
111 West Madison Street
Tallahassee, Florida 32399-1475

Re: Response to Justification Review of the State Fire Marshal Program

Dear Director Turcotte:

We appreciate the opportunity provided by OPPAGA to respond to the Justification Review for the State Fire Marshal Program.

In general, we disagree with the portion of the report's headline stating "measures need improvement". While problems may exist with some data collection methodology, the measures themselves "appropriately relate to the program's activities and functions and generally provide information needed to evaluate its performance" as stated in the Justification Review. We further disagree with the characterization of the Division as not an essential State function. Division activities, such as arson investigations, establishment and training of professional firefighter standards, and regulation of the fire prevention industry are clearly essential to the State in preventing loss of life and property destruction. Our response to each report recommendation is presented below.

Recommendation: To ensure the accuracy and reliability of data used to evaluate Bureau of Fire and Arson Investigation performance, the Department's Inspector General should conduct a follow-up review of the bureau's efforts to improve its system for classifying and collecting performance-based program budgeting data.

Response: The DOI Inspector General's Office is required by Section 20.055, F.S., to assess the reliability and validity of performance measures and standards prior to submission of those measures and standards to the Executive Office of the Governor. The Inspector General's Office timely completed such assessments and the results were used by the Bureau to implement improvements to the measures. When planning audit and review work, the Inspector General's Office conducts an analysis of risks to the Department, and considers management requests, Statutory obligations, staff availability,

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and many other factors. The Inspector General's Office will consider whether to conduct another review of Bureau of Fire and Arson Investigation measures during planning for the 2001-2002 fiscal year.

Recommendation: To ensure that performance measures demonstrate the quality of program services, the Bureau of Fire and Arson Investigations should administer a customer satisfaction survey to the local jurisdictions that use its services and should report its findings to the Legislature.

Response: We agree with the recommendation. The Bureau of Fire and Arson has already initiated discussions to develop a customer survey.

Recommendation: To help the Bureau of Fire Prevention accomplish its primary mission of ensuring compliance with fire safety codes and standards, we recommend that the program continue pursuing the development of a computer system that would track regulatory inspection-related violation and compliance information and that it report regulatory, boiler, and fire safety violation information to the Legislature.

Response: We agree with the recommendation. The Bureau of Fire Prevention has hired a contractor to develop a Regulatory Licensing System for use in the accepting, reviewing and processing of applications for licensure from several fire protection industries. The Bureau is seeking to purchase commercially available software to track building inspections and building plan reviews with an implementation goal set at the end of the second quarter of FY 2001/2002. Additionally, the Bureau is in the early stages of reviewing perspective boiler management systems and expects to purchase an existing system and modify it to accommodate boiler inspections.

Recommendation: To support the program's authority to enforce the State boiler code and to save program resources, the Legislature should consider giving the program the ability to issue administrative fines to boiler owners and insurance companies for code violations. If the program were able to sanction insurance companies for not completing inspections in a timely manner, companies would become more motivated to complete the inspections on time and the program could abandon its policy of completing inspections of insured boilers.

Response: We agree with the recommendation. The Division will evaluate the feasibility of Legislation allowing sanctions on boiler owners and insurance companies.

Recommendation: To ensure that the program fulfills its mission of protecting the public from unsafe and unsound boilers, the program should establish a method for identifying new and existing boilers in need of certification. The program should establish a formal process for fire safety inspectors to report uncertified boilers to the boiler safety section. The program should also work with the entities that issue permits for the installation a new boilers, as well as with the Department of Business and Professionals Regulation, to establish an interagency process whereby the Chief Boiler Inspector would be notified monthly of boilers in need of certification.

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Response: SFM staff will initiate research to find the best way to identify new and existing boilers. Staff in the Bureau of Fire Prevention has already been working with other entities, such as training staff at the Department of Business and Professional Regulation to recognize and report unregistered boilers. However, such efforts are not as easy as the recommendation implies. It can be difficult for staff not experienced with boilers to determine whether a particular piece of equipment is a boiler or not. The Bureau is currently attempting to assess the efficacy of such efforts.

Again, we appreciate the opportunity to participate in the OPPAGA review process. If we may be of additional assistance, please feel free to contact my office.

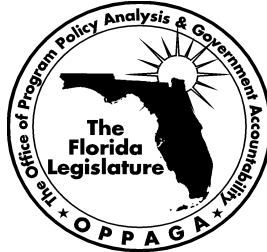
Sincerely,

/s/
Tom Gallagher
Treasurer

cc: Greg Gay
Charles Clark
Dave Harlan

The Florida Legislature

Office of Program Policy Analysis and Government Accountability



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- [Best Financial Management Practices Reviews of Florida school districts](#). In accordance with the *Sharpening the Pencil Act*, OPPAGA and the Auditor General jointly conduct reviews to determine if a school district is using best financial management practices to help school districts meet the challenge of educating their students in a cost-efficient manner.

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