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An Audit Report on

Selected Inspection Activities at the Department of Licensing and Regulation

July 2013

Report No. 13-041



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Overall Conclusion

The State Auditor's Office reviewed processes related to inspection activities for 3 of 11 programs for which the Department of Licensing and Regulation (Department) conducts or oversees inspections. Those three programs—Cosmetology; Boiler Safety; and Elevators, Escalators, and Related Equipment (Elevator Program)—accounted for 78.3 percent of the total number of inspections the Department performed or oversaw in fiscal year 2012.

For all three programs, the Department has designed adequate inspection processes and established criteria to help ensure that it conducts inspection activities in accordance with applicable statutes and administrative rules. However, the Department should improve its monitoring processes.

The Department's inspection processes help ensure that:

- Its policies and procedures for Cosmetology and Boiler Safety inspections include all significant requirements in statute and the Texas Administrative Code, and that inspections are conducted in accordance with those policies and procedures.
- Inspections are reported in a consistent format through the use of report templates.

In addition, the Department ensured that inspectors used the required report templates and that all reports were signed by the inspectors. All Elevator and Boiler Safety inspections audited were conducted by inspectors in good standing with the Department.

However, the Department should significantly improve its processes for monitoring inspection activities. Specifically, the Department should:

- Improve the timeliness of its inspections.

Background Information

The Department of Licensing and Regulation (Department) is the State's umbrella occupational regulatory agency and is responsible for regulating 29 occupations and industries. The regulated industries are diverse. Auditors selected three programs to audit: Cosmetology, Boiler Safety, and Elevator.

The Department performs inspections, provides industry and technical expertise, and monitors third-party inspectors to help ensure public safety and consumer protection.

The Department reported it performed or oversaw the following total numbers of inspections:

- 142,903 inspections in fiscal year 2011.
- 139,566 inspections in fiscal year 2012.
- 64,362 inspections in fiscal year 2013 (through February 2013).

Source: The Department.

- Strengthen criteria for assessing violations for its Boiler Safety and Elevator programs.
- Implement formal processes for following up on identified violations in a timely manner and verifying that violations were corrected.
- Ensure that details of violations are recorded in its tracking systems to help the Department follow up on those violations and verify that they have been corrected.

In addition, the Department should improve its processes for issuing and tracking registration decals for its Boiler Safety Program and Elevator Program to help ensure that all installed boilers and elevators are accounted for in its systems. Auditors identified a significant number of untracked decals that may include unregistered boilers and elevators. Specifically:

- Of the 87,675 boiler registration decals that the Department has issued since 1991, 13,601 (15.5 percent) are not recorded in the Department's Boiler Certification System or otherwise accounted for by the Department.
- Of the 84,105 elevator registration decals the Department has issued since 1993, 26,861 (31.9 percent) are not recorded in the Department's Texas Umbrella Licensing Information Project (TULIP) system or otherwise accounted for by the Department.

If the Department does not adequately track and account for all registration decals, there is a risk that there are elevators and/or boilers with registration decals that the Department does not know about and cannot ensure are inspected on a regular basis.

The Department also should improve its controls over the Boiler Certification System and TULIP. While the Department has made some progress in addressing issues identified in a previous audit report¹, it should continue to improve its management of user access and system changes to help ensure that inspection data is secure and reliable.

Summary of Management's Response

Department management concurred with the recommendations in this report. The Department's detailed management responses are presented immediately following each set of recommendations in the Detailed Results section of this report. The Department's statement of overall response is presented in Appendix 3.

¹ See *An Audit Report on Performance Measures at the Department of Licensing and Regulation* (State Auditor's Report No. 11-041, July 2011).

Summary of Information Technology Review

Auditors reviewed selected general and application controls related to the two information systems supporting the three audited programs. Those systems were TULIP, which the Department uses to track information for the Cosmetology and Elevator programs, and the Boiler Certification System, which the Department uses to track information for the Boiler Safety Program. Auditors determined that the Department should improve its controls related to the monitoring of system changes and user access changes.

Auditors also traced significant information in the systems to supporting documentation. In addition, auditors conducted follow-up procedures on previous recommendations related to the Department's information systems issued in *An Audit Report on Performance Measures at the Department of Licensing and Regulation* (State Auditor's Office Report No. 11-041, July 2011). Of the seven recommendations reviewed, the Department substantially implemented three recommendations. Implementation of two recommendations was ongoing, and the Department had not implemented the other two recommendations.

Summary of Objective, Scope, and Methodology

The audit objective was to determine whether the Department has designed and implemented effective processes and related controls to help ensure that it conducts inspection activities of selected regulated businesses and equipment in accordance with applicable statutes, administrative rules, and Department policies and procedures.

The scope of this audit covered fiscal year 2011 through fiscal year 2013 (as of March 2013).

The audit methodology consisted of selecting three programs regulated by the Department and for which the Department conducts or oversees inspections; performing analytical procedures to determine the Department's compliance with inspection time lines in statute and/or the Texas Administrative Code; and testing compliance with the Department's policies and procedures.

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Detailed Results

Chapter 1

The Department Has Adequate Inspection Procedures and Accurately Tracks Inspection Information for the Cosmetology Program; However, It Should Improve Its Monitoring of the Timeliness of Inspections and Identified Violations

Background Information

The Cosmetology Program is responsible for ensuring that cosmetology services such as haircuts, hair braiding, hair weaving, hair extensions, facials, pedicures, and manicures are provided in a sanitary and safe manner.

The Department is responsible for conducting inspections of cosmetology establishments, including beauty and specialty salons, dual barber and beauty shops (dual shops), mobile shops, cosmetology schools, and booth renters.

The Department assumed responsibility for the Cosmetology Program on September 1, 2005, upon abolition of the Texas Cosmetology Commission.

Sources: The Department's *Strategic Plan for Fiscal Years 2013 - 2017*, submitted in July 2012; and Title 16, Texas Administrative Code, Chapter 83.

The Department of Licensing and Regulation (Department) reported that it performed 36,960 inspections of cosmetology establishments and

cosmetology booth renters in fiscal year 2012 (see Appendix 2 for inspection totals for all programs regulated by the Department). That represented 26.5 percent of all inspections performed or overseen by the Department during fiscal year 2012. Department inspectors perform various cosmetology inspections, including periodic inspections. The Department had adequate inspection procedures and provided necessary guidance to inspectors. However, it did not sufficiently monitor the timeliness of cosmetology inspections and it did not ensure that inspectors consistently referred violations to its Enforcement Division.

The Department's cosmetology inspection procedures include all significant requirements.

The Department has adequate inspection procedures and voluntary checklists for its Cosmetology Program to provide inspectors necessary guidance on how periodic and risk-based

inspections should be conducted in accordance with statutes and rules. Those procedures include all significant requirements in statute and administrative rules.

In addition, to help ensure that inspection information is reported in a consistent format, the Department uses a proof of inspection report template that tracks several elements, including the type of inspection, date of inspection, and a list of specific violations identified. The report template also requires the inspector's signature. The Department was able to provide a hard-copy report for 60 (98.4 percent) of 61 cosmetology inspections tested. For each of those 60 inspections, the inspectors properly used the report template and signed the report. However, 8 (13.3 percent) of the 60 reports were not signed and/or dated by a representative of the cosmetology establishment inspected. The Department stated that the representative's signature is required only when violations are noted; however, five of the eight reports missing signatures contained noted violations. If Department inspectors do not obtain a representative's signature for the establishment

inspected, the Department cannot ensure that the cosmetology establishment was informed about the identified violations as required by Title 16, Texas Administrative Code, Section 83.54.

Department inspectors also perform inspections of booth renters when the cosmetology establishment in which the licensee rents space is inspected. For the 8 applicable reports of the 60 reports that auditors reviewed, the Department sufficiently identified individual booth renters inspected.² For all eight inspections tested with booth renters, the inspector used a report template to document the name and license number of the individual operating under the booth rental license and whether the licensee was inspected. The Department asserts that the template was used beginning in April 2012.

The Department has an informal process for conducting reinspections to monitor the adequacy of performed inspections. Department management stated that region managers in the Compliance Division and other employees for each region periodically reinspect cosmetology establishments to help ensure that inspections are conducted in accordance with applicable statutes, rules, and Department policies, and that violations are identified. However, the Department lacks documented procedures for reinspections and could not provide auditors with a complete list of the reviews completed. Without a formal reinspection process, reinspections may be inconsistent or not performed. This could lead to inadequate inspections going undetected and increase the risk that unsanitary or unsafe conditions may not be identified and corrected.

The Department's Texas Umbrella Licensing Information Project (TULIP) system, which records Cosmetology Program licenses and inspections, captures the necessary information to enable the Department to monitor program requirements. For all 60 inspections tested for which a hard-copy report was available, the significant information in the hard-copy report was consistent with the information in TULIP. While auditors identified minor discrepancies for 7 (11.7 percent) of the 60 reports, those discrepancies did not affect the overall reliability of the data in TULIP. Department management stated that region managers perform regular desk reviews of the inspection data entered into TULIP to verify accuracy and that violations are referred to the Enforcement Division in accordance with Department policy. However, the Department could not provide auditors with a complete list of the reviews completed.

² *An Audit Report on Performance Measures at the Department of Licensing and Regulation* (State Auditor's Report No. 11-041, July 2011) noted that the Department did not capture sufficient information to uniquely identify the booth renters inspected for each inspection performed.

The Department should improve its monitoring of the timeliness of cosmetology inspections.

The Department does not sufficiently monitor the timeliness of cosmetology inspections. The Department asserted that Compliance Division management periodically runs reports to monitor which cosmetology establishments are coming due or are overdue for inspection. However, that monitoring process is not documented and not sufficient to ensure that inspections are performed within the required time frames.

Cosmetology Inspection Requirements

The Department is required to inspect salons and dual shops at least once every two years.

The Department is required to inspect cosmetology schools prior to operation or after a change in ownership or relocation of the school. In addition, it is required to inspect all cosmetology schools twice per year.

Sources: Texas Occupations Code, Section 1603.104; and Title 16, Texas Administrative Code, Sections 83.51 and 83.52.

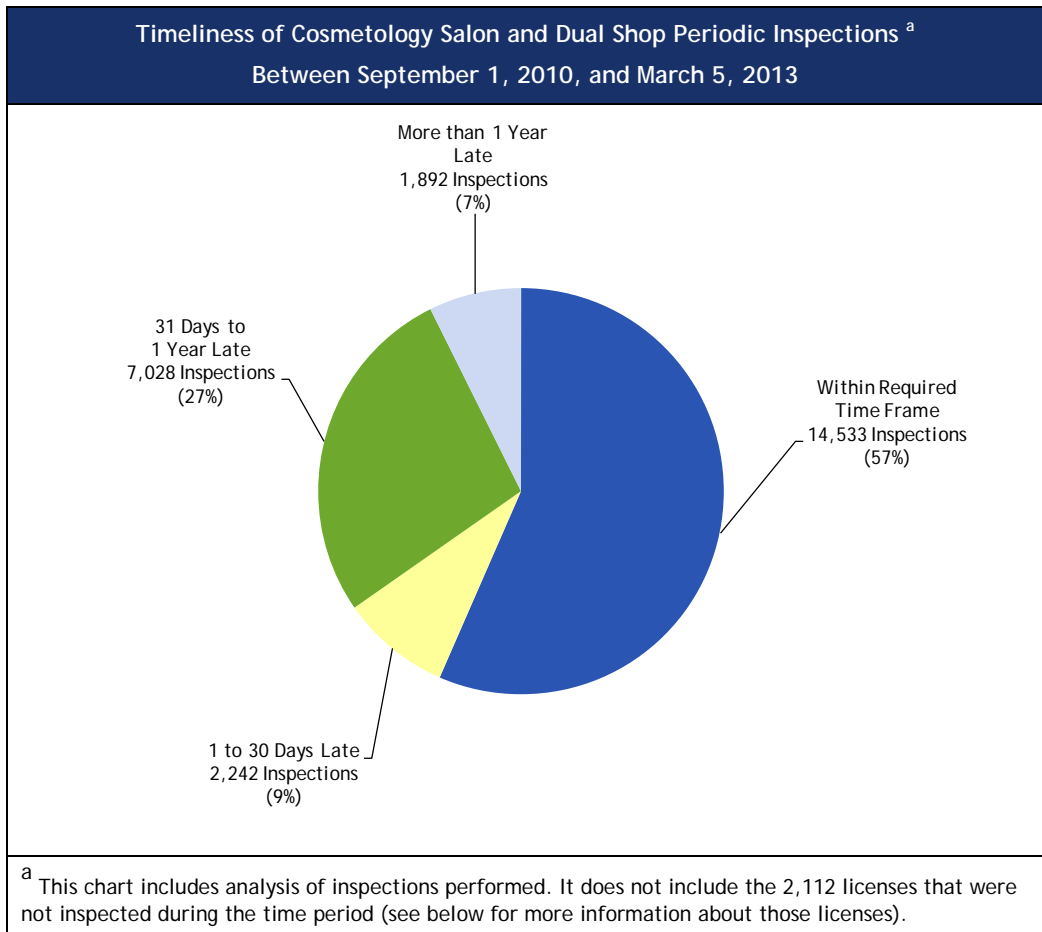
The Department did not consistently perform required periodic inspections within the time frames required by Texas Occupations Code, Section 1603.104(b), and Title 16, Texas Administrative Code, Section 83.52(a) (see text box for information about the required time frames). Specifically:

- Of the 25,695³ periodic inspections of active cosmetology salons and dual shops the Department conducted from September 1, 2010, through March 5, 2013, 11,162 (43.4 percent) inspections were conducted after the required 2-year time period. Of those 11,162 late inspections, 2,242 (20.1 percent) were conducted 1 to 30 days after the inspection due date (see Figure 1 on the next page). Therefore, 16,775 (65.3 percent) of the inspections were conducted by 30 days after the inspection due date.
- Of the 1,703⁴ periodic inspections of cosmetology schools the Department conducted from September 1, 2010, through March 5, 2013, 1,166 (68.5 percent) inspections were conducted after the required 6-month time period. Of those 1,166 late inspections, 567 (48.6 percent) were conducted 1 to 30 days after the inspection due date. Therefore, 1,104 (64.8 percent) of the inspections were conducted by 30 days after the inspection due date.

³ This is the total number of periodic inspections that the Department conducted from September 1, 2010, through March 5, 2013, of cosmetology salons and dual shops that were still active as of February 15, 2013.

⁴ This is the total number of periodic inspections that the Department conducted from September 1, 2010, through March 5, 2013, of cosmetology schools that were still active as of February 15, 2013.

Figure 1



Source: Auditor analysis based on the Department's Cosmetology Program data for active licenses as of February 15, 2013. Cosmetology inspections are conducted by the Department.

In addition, the Department did not conduct any inspections from September 1, 2010, through March 5, 2013, for 2,112 (7.3 percent) of 29,054 cosmetology salon and school licensees active as of February 15, 2013, and that required at least one inspection during that time period.

Failure to inspect or conduct inspections in a timely manner increases the risk that unsanitary or unsafe cosmetology establishments are not identified and those conditions are not addressed.

The Department's Cosmetology license and inspection data in TULIP is accurate but may not be complete.

Auditors determined that the cosmetology license and inspection data in TULIP was sufficiently reliable for the purposes of this audit. In addition, the information recorded in TULIP sufficiently matched the information in the hard-copy inspection reports for all 60 files that auditors reviewed for which a hard-copy report was available. However, auditors could not determine the

completeness of the data for cosmetology licenses issued prior to the Department's assumption of responsibility for the Cosmetology Program in fiscal year 2006 (see Appendix 1 for additional information). In addition, because the Department assigns booth renter license numbers by assigning an additional license type to an existing operator license number, auditors could not determine whether the booth renter license data was complete.

The Department does not have a documented process to follow up on identified violations and verify that they are corrected in a timely manner.

For the applicable reports that auditors tested, the Department did not ensure that inspectors consistently referred violations to its Enforcement Division in compliance with Department guidance. The Department developed guidance that indicates the severity of violations that may be identified during an inspection of a cosmetology establishment, including which violations require referral to the Department's Enforcement Division upon first occurrence or after multiple occurrences of the same violation. However, the Department did not refer 4 (30.8 percent) of the 13 inspection reports tested that, according to Department policy, should have been referred to the Enforcement Division. For one of those reports, the violation identified was severe enough to require referral to the Enforcement Division on the first occurrence.

**Excerpt from Title 16, Texas
Administrative Code, Section 83.54**

When corrective modifications to achieve compliance are required:

- The Department shall provide the owner a list of required corrective modification(s); and
- Within 10 days after receiving the list of required corrective modifications, the owner shall complete all corrective modifications and provide written verification of the corrective modifications to the Department.

In addition, for the applicable reports that auditors tested, the Department did not adequately verify that violations were corrected. Specifically, for 16 inspection reports tested for which violations had been noted in a prior inspection, 3 (18.8 percent) included the same violations noted on the prior inspection report. Title 16, Texas Administrative Code, Section 83.54, requires cosmetology licensees to resolve identified violations within 10 days after receiving an inspection report and provide written verification of the corrective modifications to the Department (see text box). However, the Department requires a representative of the cosmetology establishment to sign the inspection report indicating that all violations will be corrected

within 10 days of the inspection date and it does not require the licensee to provide written verification that the corrective modifications have been completed. In addition, the Department does not independently verify whether corrective modifications had been implemented between periodic inspections for violations that do not require referral to the Enforcement Division.

When the Department fails to refer violations to the Enforcement Division or verify that corrective modifications are made, the public is at an increased risk that services will be provided in an unsanitary or unsafe manner.

Recommendations

The Department should:

- Implement a formal process for reinspecting salons to help verify that inspectors conduct inspections in compliance with all requirements.
- Implement a documented process to monitor and improve the timeliness of inspections. This could include a risk assessment methodology to help ensure that the salons most at risk of violations are inspected on a timely basis.
- Implement a documented process to monitor the disposition of violations (including referrals to the Enforcement Division), follow up on identified violations, and verify that the violations are corrected in a timely manner.

Management's Response

Implement a formal process for re-inspecting salons to help verify that inspectors conduct inspections in compliance with all requirements.

We concur. The Department has two types of auditing processes in place to verify that inspections are in compliance with all requirements. These audits include both a “desk” and a “field” component. Although these procedures were in place at the time of the audit, they were not documented.

The Department's recent reorganization, creating a separate division for Field Operations, includes a new Analytics, Training, and Support section with dedicated staff to implement and document audit procedures. This will ensure consistent oversight and compliance with statutes, program rules, and agency procedures.

Implement a documented process to monitor and improve the timeliness of inspections. This could include a risk assessment methodology to help ensure that the salons most at risk of violations are inspected on a timely basis.

We concur. Budget reductions during the past two biennia have resulted in fewer inspectors, which impacted the timeliness of inspections. To improve inspection productivity, the Department is implementing “e-inspections” and utilizing route optimization software. Additionally, the Department's recent reorganization creates a separate division for Field Operations, and includes an Analytics, Training and Support section with staff dedicated to ensuring implementation of these processes and improving the timeliness of inspections.

Implement a documented process to monitor the disposition of violations (including referrals to the Enforcement Division), follow-up on identified violations and verify that they are corrected in a timely manner.

We concur. The Department has auditing processes in place to verify that inspections are conducted in compliance with all requirements. The Department is modifying these processes in its new “e-inspection” system by adding a component to follow-up on violations so that they are automatically referred to the Enforcement division, and to verify that they are corrected in a timely manner.

The Department’s recent reorganization creates a separate division for Field Operations, and includes an Analytics, Training and Support section with staff dedicated to ensuring implementation of these processes and improving the timeliness of inspections and corrections.

The Department Has Adequate Inspection Procedures and Accurately Tracks Inspection Information for the Boiler Safety Program; However, It Should Improve Its Inventory Controls and Monitoring Processes

Background Information

The Department's Boiler Safety Program helps ensure the proper installation and safe operation of boilers in Texas power plants, including nuclear facilities, and schools, hospitals, nursing homes, laundries, dry cleaners, office buildings, and apartments.

The Department regulates boilers in commercial and public facilities that produce steam; hot water heating for use in comfort air heating systems; and hot water supply for use in domestic water systems, such as showers, pools, and potable hot-water-heater-type boilers.

The Texas Boiler Law (Texas Health and Safety Code, Chapter 755) was enacted on June 3, 1937, by the 45th Legislature following a fatal boiler accident.

Sources: The Department's *Strategic Plan for Fiscal Years 2013 - 2017*, submitted in July 2012; and the Department's Web site at <http://www.tdlr.state.tx.us>.

The Department is responsible for performing inspections and overseeing third-party inspections for its Boiler Safety Program (see text box). The Department has the authority to inspect all boilers; however, third-party inspectors are responsible for inspecting insured boilers, while Department inspectors are responsible for inspecting uninsured boilers. The Department reported that it performed 9,362 boiler inspections and oversaw 17,991 third-party boiler inspections during fiscal year 2012 (see Appendix 2 for inspection totals for all programs regulated by the Department). That represented 19.6 percent of all inspections the Department performed or oversaw during fiscal year 2012.

The Department had adequate inspection procedures and guidance for boiler inspectors. However, it did not sufficiently track registration of new boilers or monitor the timeliness of boiler inspections. In addition, the Department did not provide sufficient guidance for determining the severity of violations identified during inspections or monitoring the timeliness of corrective modifications.

The Department has adequate inspection procedures and guidance for boiler inspectors; however, it should improve its process for tracking registration of new boilers.

The Department has documented policies and procedures and comprehensive guidance in Title 16, Texas Administrative Code, Chapter 65, to help ensure that boiler inspectors conduct inspections in compliance with key requirements in applicable statutes and administrative rules.

In addition, the Department uses an inspection report template, both in hard-copy and electronic format, that tracks several significant elements of the inspection process to help ensure that inspection information is reported in a consistent manner. Information captured on the report template includes boiler data, such as the type, use, and maximum allowed working pressure; date of inspection; and a list of violations identified. Of 122 Department and third-party boiler inspections tested, 121 (99.2 percent) were supported by an inspection report. The Department could not provide an inspection report for one inspection tested.

However, the Department does not adequately track registration of new boilers in its Boiler Certification System. As a result, the Department's boiler data may not be complete. The Department assigns a series of decals (license numbers) to commissioned boiler inspectors. Inspectors affix a decal to the equipment upon initial inspection and include the number on the inspection report submitted to the Department. While the Department tracks the assignment of the decals to the inspectors, it does not adequately monitor the disposition of the decals issued to inspectors. Specifically:

- Of the 87,675 numbered boiler registration decals that the Department issued to inspectors from 1991 through February 20, 2013, 13,601 (15.5 percent) are not recorded in the Department's Boiler Certification System or otherwise accounted for by the Department.
- Auditors judgmentally selected 8 missing boiler numbers and determined that the boiler decals for 7 of those missing boiler numbers were assigned, and likely affixed, to active boilers.

The Department accurately tracks boiler inspection information.

Auditors determined that the inspection data entered into the Department's Boiler Certification System from the inspection reports was sufficiently reliable for the purposes of this audit. The data in the Boiler Certification System accurately matched the significant information in the inspection report for all 121 reports tested. The Department established a formal process for Licensing Division employees to review the inspection reports for reasonableness and completeness prior to the entry of inspection information into the Boiler Certification System. In addition, Licensing Division managers perform periodic secondary reviews of the inspection information data entered in the Boiler Certification System.

The Department should improve its monitoring of the adequacy of inspections.

In accordance with Department policies and procedures, the hard-copy inspection report template requires the inspector's and boiler owner's/operator's or their representative's signature, while the electronic report template does not. Of the 121 inspection reports that auditors tested, 70 were hard-copy inspection reports and 42 (60.0 percent) of those 70 reports were not signed by the boiler owner/operator or a representative. Without obtaining the owner/operator's or representative's signature on the inspection report, the Department has no assurance that the inspection results, including any violations noted and the time frame established for making corrective modifications, were communicated to the boiler owner/operator or a representative.

Inspector Requirements

To qualify to perform boiler inspections, Department and third-party inspectors must obtain a commission as a boiler inspector from the Department. Commission requirements include passing an examination and continued employment with the Department or a third-party inspection agency. In addition, the inspector must annually renew the commission.

Sources: Texas Health and Safety Code, Sections 755.023 and 755.024; and Title 16, Texas Administrative Code, Sections 65.20 and 65.60.

The Department asserted that it does not routinely perform monitoring activities, such as periodic reinspections, to verify that inspectors conduct inspections in accordance with requirements. However, the Department requires inspectors to hold a boiler inspector commission before he or she can conduct inspections (see text box). All of the 121 inspections tested were conducted by inspectors registered and in good standing with the Department as required. While requiring inspectors to hold a boiler inspector commission reduces the risk that inspections may be inadequate, without a formal monitoring process, inadequate inspections may go undetected, which could result in unsafe boilers in operation.

Inspection Requirements

All boilers must be inspected internally and externally at the time of initial installation. Other, subsequent required inspections include:

- **Annual Inspections** - Required for power boilers, unfired steam boilers, steam collection or liberation drums of process steam generators, and portable power boilers.
- **Biennial Inspections** - Required for steam heating boilers and hot water heating boilers.
- **Triennial Inspections** - Required for hot water supply boilers and potable water heaters.

In addition, the Department is responsible for monitoring whether owners/operators of nuclear boilers obtain inspections in accordance with the American Society of Mechanical Engineers' Boiler and Pressure Vessel Code.

Sources: Texas Health and Safety Code, Section 755.025; and Title 16, Texas Administrative Code, Sections 65.20 and 65.100.

The Department should improve its monitoring of the timeliness of boiler inspections.

Neither the Department's inspectors nor third-party inspectors consistently conducted inspections within the required inspection intervals defined by Texas Health and Safety Code, Section 755.025, and Title 16, Texas Administrative Code, Section 65.20 (see text box). Specifically:

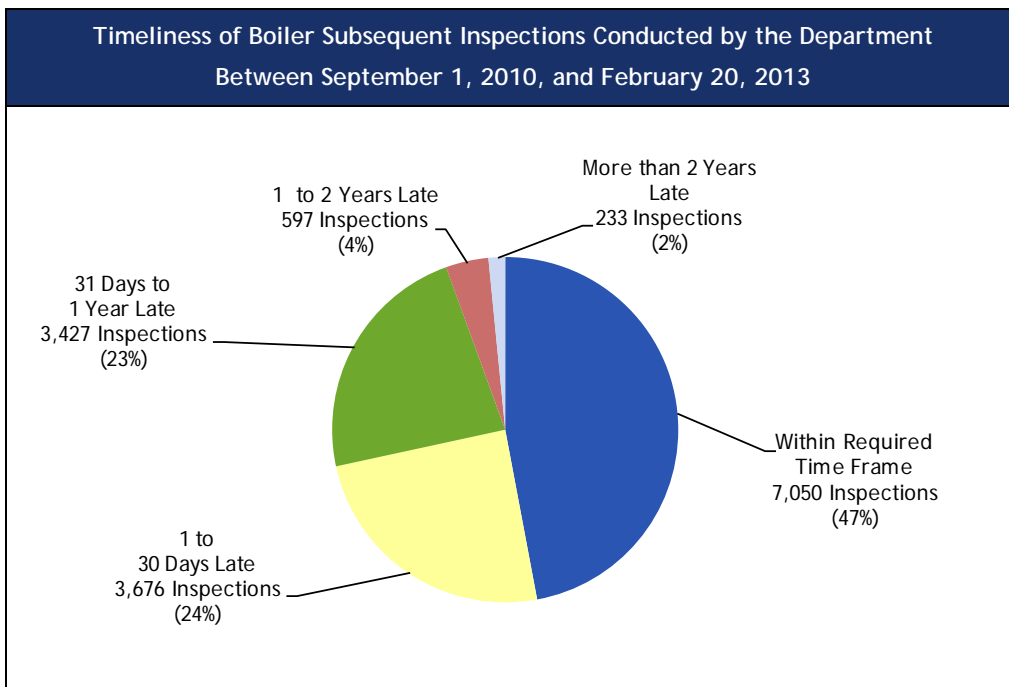
- Of the 14,983⁵ subsequent inspections that Department inspectors conducted from September 1, 2010, through February 20, 2013, 7,933 (53.0 percent) were not conducted within the required time lines (see Figure 2 on the next page). Of those 7,933 inspections, 3,676 (46.3 percent) were conducted 1 to 30 days after the inspection due date. Therefore, 10,726 (71.6 percent) of the inspections were conducted by 30 days after the inspection due date.
- Of the 38,221⁶ subsequent inspections conducted by third-party inspectors from September 1, 2010, through February 20, 2013, 19,817 (51.9 percent) were not conducted within the required time lines (see Figure 3 on the next page). Of

those 19,817 inspections, 8,619 (43.5 percent) were conducted 1 to 30 days after the inspection due date. Therefore, 27,023 (70.7 percent) of the inspections were conducted by 30 days after the inspection due date.

⁵ This is the total number of subsequent inspections that the Department conducted from September 1, 2010, through February 20, 2013, of boilers that were still active as of February 20, 2013.

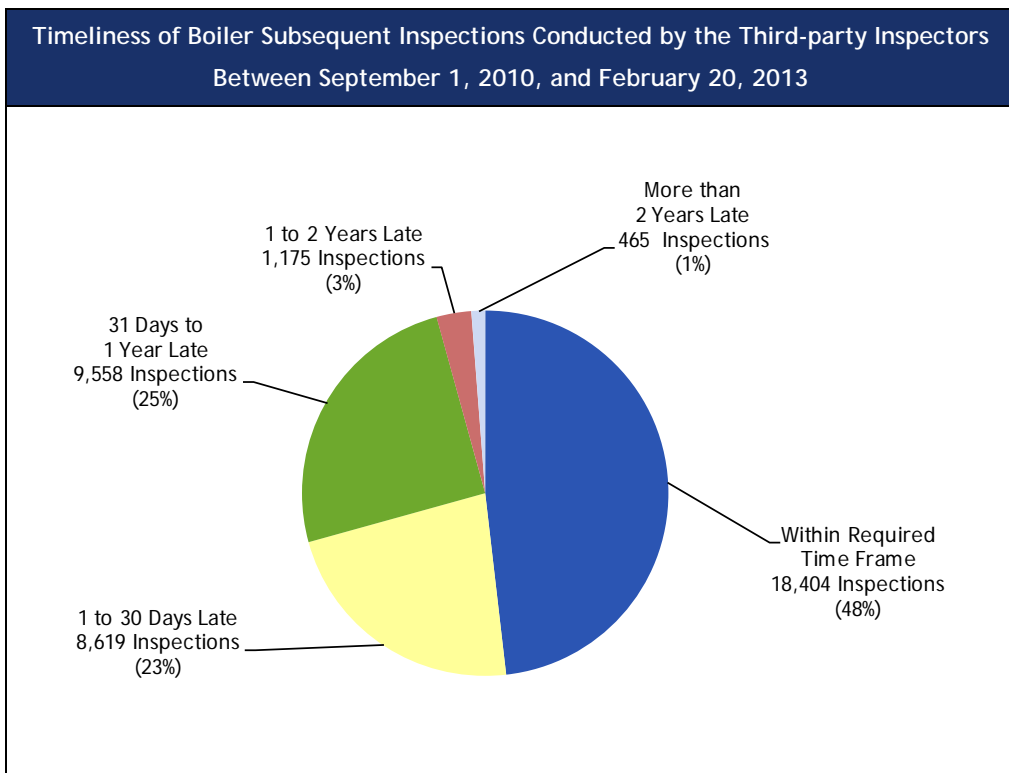
⁶ This is the total number of subsequent inspections that third-party inspectors conducted from September 1, 2010, through February 20, 2013, of boilers that were still active as of February 20, 2013.

Figure 2



Source: Auditor analysis based on the Department's Boiler Safety Program data for active licenses as of February 20, 2013.

Figure 3



Source: Auditor analysis based on the Department's Boiler Safety Program data for active licenses as of February 20, 2013.

The Department asserted it does not routinely perform any documented activities to determine whether inspections of boilers occur on time.

Failure to monitor the timeliness of inspections increases the risk that unsafe boilers are operating in the state undetected.

The Department does not have sufficient guidance for determining the severity of violations or a formal process to monitor the timeliness of corrective modifications.

The Department's guidance for determining the severity of violations, such as which violations require a referral to the Enforcement Division or removal of a boiler from service, is insufficient. Title 16, Texas Administrative Code, Chapter 65, identifies select violations that call for the removal of a boiler from service; however, the Department relies on inspector judgment to determine when a boiler is unsafe to operate. In addition, the Department does not have procedures to provide guidance regarding the time frames inspectors should allow for corrective modifications. Lack of documented procedures or sufficient guidance regarding the severity of violations and time frames established to make corrective modifications could result in inconsistent identification and/or disposition of violations noted during inspections.

The Department asserted that it has an informal process for monitoring the corrective modifications required for violations identified during boiler inspections. During that process, both Department and third-party inspectors establish a time frame for the boiler owner/operator to implement corrective modifications. When corrective modifications are implemented, the inspector must clear the violations by verifying that the violations are addressed. Reports are available in the Boiler Certification System that list outstanding corrective modifications; however, Department personnel assert that those reports were not reviewed regularly from September 1, 2010, through February 28, 2013. In addition, for inspections recorded in the Boiler Certification System, the Department does not record the details of identified violations in that system.

The Department did not adequately verify that identified violations were corrected in a timely manner. Of the 61,239⁷ boiler inspections conducted from September 1, 2010, through February 20, 2013, 4,439 (7.3 percent) identified violations. Of those violations:

- Department inspectors did not verify that repairs were made for 1,210 (58.9 percent) of 2,054 boiler inspections with violations within the time lines set by the inspectors.

⁷ This is the total number of inspections that the Department conducted or oversaw from September 1, 2010, through February 20, 2013, of boilers that were still active as of February 20, 2013.

- Third-party inspectors did not verify that repairs were made for 1,535 (64.4 percent) of 2,385 boiler inspections with violations within the time lines set by the inspectors.

Lack of a formal monitoring process for reported violations could result in corrective modifications not being performed or not performed in a timely manner, which increases the risk that unsafe boilers are in operation.

Recommendations

The Department should:

- Strengthen its controls over the initial inspection and registering of boilers, including monitoring the use of boiler decals.
- Account for all boiler decals and verify that all identified boilers are entered into the Boiler Certification System.
- Implement a documented process to monitor and improve the timeliness of the boiler inspections.
- Implement a documented process to monitor the adequacy of boiler inspections.
- Improve criteria for the disposition of severe violations that result in immediate public safety concerns and ensure that details of violations are recorded in the Boiler Certification System.
- Develop and implement a documented process for monitoring and following up on reported violations to verify that corrective actions were completed in a timely manner.

Management's Response

Strengthen its controls over the initial inspection and registering of boilers, including monitoring the use of boiler decals.

We concur. The Department is implementing a new boiler inspection reporting system. Upon implementation, the new system will include a component to automatically send all first inspection reports to senior boiler program staff for review and approval. Contract negotiations for the new system began in November 2012; implementation of the new system is projected to be completed in the first quarter of FY 14.

Account for all boiler decals and verify that all identified boilers are entered into the Boiler Certification System.

We concur. The new boiler inspection reporting system will have improved mechanisms to verify that all identified boilers are entered into the system and account for all boiler decals issued to inspectors.

Implement a documented process to monitor and improve the timeliness of the boiler inspections.

We concur. The new boiler inspection reporting system will have a documented process to monitor and improve the timeliness of boiler inspections.

Implement a documented process to monitor the adequacy of boiler inspections.

We concur. The new boiler inspection reporting system will automatically send all first inspection reports to senior boiler program staff for review and approval. The Department will also review subsequent inspection reports where technical data has been revised from the previous report.

Improve criteria for the disposition of severe violations that result in immediate public safety concerns and ensure that details of violations are recorded in its tracking system.

We concur. The Department is committed to the safe operation of boilers by ensuring inspections are conducted by highly qualified inspectors trained to identify severe violations and unsafe conditions. The Department has statutory and rule authority to shut down boilers and take action against owners and operators found to be in violation. The new boiler inspection reporting system will improve our current process by identifying and documenting criteria for “severe violations” and ensure that details of violations are recorded.

Develop and implement a documented process for monitoring and following up on reported violations to verify that corrective actions were completed in a timely manner.

We concur. The new boiler inspection reporting system will enhance existing processes to improve monitoring, follow-up on reported violations, and verify that corrective actions are completed in a timely manner.

The Department Has Adequate Inspection Procedures and Accurately Tracks Inspection Information for Its Elevator Program; However, It Should Improve Its Inventory Controls and Monitoring Processes

Background Information

The Department's Elevator, Escalator, and Related Equipment Program (Elevator Program) is responsible for ensuring the safety of everyone who rides elevators and related equipment in Texas, monitoring inspections and certifications, and clarifying safety standards through oversight of inspections and certifications.

The Elevator Program was established at the Department by House Bill 154 (73rd Legislature) beginning September 1, 1993.

The Department does not oversee or inspect elevators in Houston. The City of Houston has operated its own elevator inspection and monitoring program since 1987.

Sources: The Department's *Strategic Plan for Fiscal Years 2013 - 2017*, submitted in July 2012; the Department's Web site at <http://www.tdlr.state.tx.us>; and the City of Houston's Web site at <http://www.houstonpermittingcenter.org>.

For the Department's Elevator, Escalator, and Related Equipment Program (Elevator Program), third-party inspectors conduct all inspections and elevator owners are responsible for obtaining inspections within the required time frames.

During fiscal year 2012, the Department reported that it monitored 44,918 inspections of elevators and escalators (see Appendix 2 for inspection totals for all programs regulated by the Department). That represented 32.2 percent of all inspections performed or monitored by the Department during fiscal year 2012. The Department had adequate guidelines for how inspections should be conducted and accurately tracked elevator inspection information; however, it did not adequately track inventory of registration decals, sufficiently monitor the timeliness of the elevator inspections, or ensure that corrective actions are implemented consistently and in a timely manner.

The Department's elevator inspection guidelines include all significant requirements; however, it should improve its process for tracking the registration of new elevators.

The Department has adequate guidelines and tools to help ensure that elevator inspections are conducted in compliance with the requirements in Texas Health and Safety Code, Chapter 754. Those guidelines and tools include:

- Title 16, Texas Administrative Code, Chapter 74, which incorporates guidance for significant statutory and regulatory requirements, as well as industry regulatory standards.
- The American Society of Mechanical Engineers' Safety Codes and Standards, which Title 16, Texas Administrative Code, Chapter 74, also instructs inspectors to follow.
- An inspection report template to help ensure consistency in the reporting of inspection results and identified violations.

The Department also requires elevator inspectors to register with the Department every year.

All 59 inspection reports that auditors tested were completed according to the Department's requirements and signed by inspectors registered with the Department as required.

However, the Department does not adequately account for all registration decals issued. As a result, the data in TULIP may not be complete. The Department assigns a series of decals (license numbers) to registered elevator inspectors. Inspectors affix a decal to the equipment upon initial inspection and include the number on the inspection report submitted to the Department. While the Department tracks the assignment of the decals, it does not adequately monitor the disposition of the decals issued to inspectors. Specifically:

- Of the 84,105 numbered elevator registration decals that the Department issued to inspectors from 1993 through March 2, 2013, 26,861(31.9 percent) are not recorded in TULIP or otherwise accounted for by the Department.
- Auditors tested 145 missing decals issued to 7 inspectors and not accounted for in the TULIP system. The Department asserted that 1 decal was installed on an active elevator and the other 144 decals were lost, damaged, or not yet installed. Without an adequate tracking process, there is a risk that some decals may have been placed on elevators that are undocumented in the Department's tracking system and, therefore, cannot be adequately monitored.

The Department accurately tracks inspection information.

Auditors determined that the inspection data entered into TULIP from the inspection reports submitted by the elevator owners was sufficiently reliable for the purpose of this audit. The data in TULIP accurately matched the significant information in the inspection reports for all 59 available inspection reports tested. The Department was unable to locate the inspection reports for two other inspections. Licensing Division managers perform periodic secondary reviews of the inspection data entered in TULIP. In addition, upon entry of inspection information into TULIP, the system automatically generates a letter to the owner if the report is not complete.

The Department should improve its monitoring of the adequacy of inspections.

Title 16, Texas Administrative Code, Section 74.74 requires that inspectors ensure the owner of a building hosting an elevator to sign and date the inspection report. However, 4 (6.8 percent) of 59 inspection reports tested did not comply with those requirements. Specifically:

- The elevator owners had not signed or dated two reports.
- The elevator owners signed but did not date two reports.

A signed inspection report provides evidence that the inspection was performed and the owner was made aware of what violations need to be resolved.

The Department asserted that it does not routinely perform monitoring activities, such as periodic reinspections, to verify that inspectors conduct inspections in accordance with requirements. Additionally, the Department asserted that the Elevator Program supervisor verifies whether the elevators have a current certificate of compliance posted while traveling around the state. However, the Department does not maintain documentation of those activities.

The Department should improve the timeliness of elevator inspections.

The Department has an informal process to monitor and notify some elevator owners of inspection time lines to help ensure that inspections are conducted every 12 months as required by Title 16, Texas Administrative Code, Section 74.70. That process includes:

- For elevators for which the most recent inspection was conducted 45 days or more late, the Department asserted that it sends an “inspection due” letter to the elevator owner 60 days prior to the next inspection’s due date.
- The Department sends “inspection overdue” letters to owners of elevators for which inspection reports are more than seven days late and the Department has not been notified by an inspector that an inspection has been conducted.

That process is not effective in ensuring that elevator owners obtain inspections as required. Of 46,843⁸ active elevators licensed before March 1, 2012, 39,351 (84.0 percent) licensees had at least one inspection conducted within the required time frames or no more than 30 days after the inspection due date (see Figure 4 on the next page). Specifically:

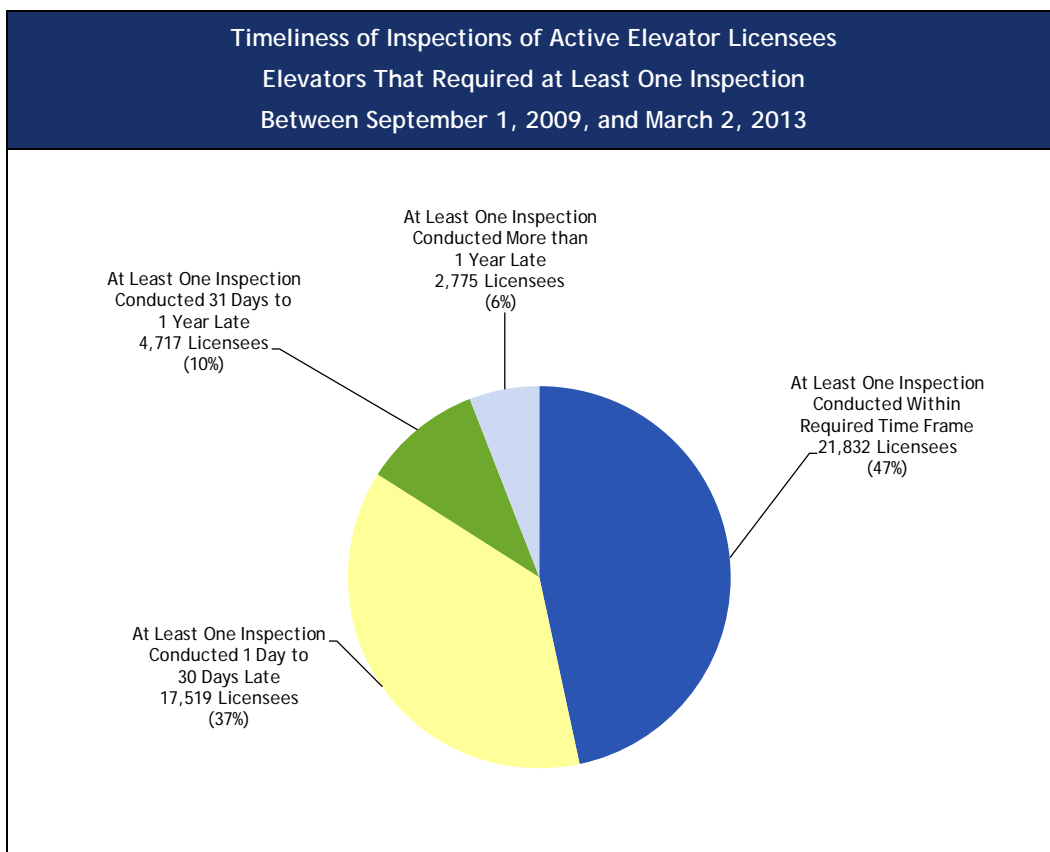
- 21,832 (46.6 percent) licensees had at least one inspection conducted within the required time frames from September 1, 2009, through March 2, 2013.
- 17,519 (37.4 percent) licensees had at least one inspection conducted within 1 to 30 days after the inspection due date.

However, 1,415 (3.0 percent) licensees were not inspected at all from September 1, 2009, through March 2, 2013.

Failure to monitor the timeliness of inspections may result in untimely or a lack of elevator inspections, which increases the risk that unsafe elevators are operating in the state undetected.

⁸ Auditors considered all license statuses except for the following: created in error, replaced, not regulated, and out of service.

Figure 4



Source: Auditor analysis based on the Department's Elevator Program data for active licenses as of March 2, 2013. Elevator inspections are conducted by third-party inspectors.

The Department does not have a documented process to follow up on identified violations and verify that they are corrected in a timely manner.

While the Department recently identified on its Web site one requirement for shutting down an elevator, it does not have documented procedures for determining the severity of violations, such as which violations require a referral to the Department's Enforcement Division, or when an elevator must be shut down. Department management stated it relies on the American Society of Mechanical Engineers' *Guide for Inspection of Elevators, Escalators, and Moving Walks* and inspectors' experience for determining which conditions require shutting down an elevator.

The Department has an informal, inconsistent process for following up on repeat violations. That process relies on staff expertise to decide when follow-up actions are necessary. Those actions may include sending a letter to the owners of noncompliant elevators to instruct them to resolve the violations within 90 days. However, a review of 30 elevator inspection reports containing repeat violations showed that the Department's process lacks

consistency and is not sufficient to ensure that severe violations are resolved. Specifically:

- For 14 (46.7 percent) of 30 elevator inspection reports with repeat violations tested, the Department did not follow up with formal letters to the elevator owners to address the issues. Those violations included minor ones, such as failure to post the inspection certificate, as well as significant ones, such as a defective door restrictor.
- Six (20.0 percent) of 30 inspection reports identifying repeat violations tested were not resolved as of March 2, 2013. Those six elevators were out of compliance, on average, for more than 378 days as of March 2, 2013.

Furthermore, the current process for correcting the repeat violations allows the owner at least 150 days to resolve repeat violations. Elevator owners/operators must submit an inspection report within 60 days after the inspection due date. If the Department sends a follow-up letter, the elevator owner/operator is provided an additional 90 days to resolve the violation.

In addition, the Department does not record details of the identified violations in TULIP. Even when the details are documented in the violation section of the hard-copy inspection reports, those details cannot be captured in TULIP. That decreases the Department's ability to follow up on specific violations.

Recommendations

The Department should:

- Strengthen its controls over the initial inspection and registering of elevators, including monitoring the use of elevator decals.
- Account for all missing elevator decals and verify that all identified elevators are entered into TULIP.
- Implement a documented process to monitor and improve the timeliness of elevator inspections.
- Implement a documented process to monitor the adequacy of elevator inspections.
- Improve criteria for the disposition of severe violations that result in immediate public safety concerns and ensure that details of violations are recorded in TULIP.
- Develop and implement a documented process for monitoring and following up on reported violations to verify that corrective actions have been implemented in a timely manner.

Management's Response

Strengthen its controls over the initial inspection and registering of elevators, including monitoring the use of elevator decals.

We concur. As of July 2012, the Health & Safety Code requires the Department to review and approve plans for new and altered equipment. This plan review process alerts the Department to new equipment installations to better track and register equipment.

The Department also created a new Deputy Chief Elevator Inspector position, which will strengthen controls over the initial inspection and registration of elevators and will assist the Licensing Division in auditing the use of decals by third-party inspectors.

Account for all missing elevator decals and verify that all identified elevators are entered into TULIP.

We concur. The Department created a new Deputy Chief Elevator Inspector position, which will assist the Licensing Division in auditing the use of decals by third-party inspectors.

Implement a documented process to monitor and improve the timeliness of elevator inspections.

We concur. As a result of the Department's work on Senate Bill 673 (effective September 1, 2013) the Department now has additional tools to address the timeliness of elevator inspections. SB 673 requires a registered elevator inspector to issue an inspection report no later than 5 days after the date of inspection, rather than the 10 days previously allowed by law. Additionally, the owner of a property containing elevator equipment must now file the required inspection report and all fees within 30 days of the inspection, rather than 60 days as previously allowed by law.

The Department will continue our notification letter process informing owners of their statutory obligation for annual equipment inspections. The Department will also develop language to further emphasize the range of penalties and sanctions that may be imposed for failure to have equipment inspected on time. In addition, the Department will increase its outreach to building owners, property managers, and consumers, reminding them of the importance of having equipment inspected on time.

Implement a documented process to monitor the adequacy of elevator inspections.

We concur. The Department created a new Deputy Chief Elevator Inspector position, to help develop and document processes for monitoring the adequacy of elevator inspections.

Improve criteria for the disposition of severe violations that result in immediate public safety concerns and ensure that details of violations are recorded in its tracking system.

We concur. During the 83rd Legislature, the Department sought additional safeguards for elevator safety. Senate Bill 673 provides the following tools to address severe violations:

- **One Day Reporting Requirement for Owners** - Owners are now required to report each accident to the Department within one day, rather than within 72 hours as previously allowed by law.
- **Emergency Order Authority and Condition for Removal** - The executive director can issue an emergency order if immediate action to protect the public health and safety is necessary or an annual inspection has not been performed in more than two years. The equipment can only be reconnected after a registered elevator inspector, contractor, or department representative verifies in writing that the equipment is safe to operate.
- **Injunctive Relief** - In addition to administrative penalties, the state attorney general or the executive director can take preemptive action to prevent or restrain a violation by filing for injunctive relief.
- **Civil Penalties** – In addition to administrative penalties, the state attorney general or the executive director may file an action to collect a civil penalty of up to \$5,000 per day for each violation.
- **Authority to Request Product Specific Information** - Enables the Department to request important documentation, including parts manuals and other product-specific information critical to resolve safety-related concerns.

Currently, the inspection and operating status of each piece of equipment is tracked in the Department's database and the details of each violation are contained in an electronic imaging system. Senate Bill 673 provides the Department with the authority to require electronic submission of inspection reports, allowing the Department to automatically record detailed information of violations.

Develop and implement a documented process for monitoring and following up on reported violations to verify that corrective actions have been implemented in a timely manner.

We concur. Currently, the Health & Safety Code allows equipment owners to certify they have corrected or are under contract to correct violations cited on their annual inspection report. If they fail to correct the violations, they are cited for repeat violations and their certificate of operation is withheld until

an inspector verifies the corrections have been made. The Department is streamlining the referral to Enforcement process, which will accelerate enforcement action against unresponsive owners.

The Department recently created a new Deputy Chief Elevator Inspector position to help improve monitoring and follow-up on reported violations and assist in verifying that corrective actions are completed in a timely manner.

The Department Should Continue Efforts to Improve the General Controls Over Its Information Technology Systems

The Department has made some progress in addressing information technology-related issues identified in *An Audit Report on Performance Measures at the Department of Licensing and Regulation* (State Auditor's Report No. 11-041, July 2011). For example, the Department has detailed documentation to assist it in the recovery of the TULIP system, which supports the Department's Cosmetology and Elevator programs, and the Boiler Certification System, which supports its Boiler Safety Program.

However, to help ensure that inspection data is both secure and reliable, the Department should improve its management of system changes, strengthen access controls to information technology resources, and address issues related to the age of its Boiler Certification System.

The Department should develop and implement a change management process.

Change Management

Change management is a process that governs how an entity will handle changes to its information technology systems and helps ensure that changes do not result in a loss of data integrity. Key components to a change management process include:

- Change standards and procedures.
- Impact assessment, prioritization, and authorization.
- Emergency changes.
- Change status tracking and reporting.
- Change closure and documentation.

Source: Control Objectives for Information and Related Technology (COBIT) 4.0, IT Governance Institute.

The Department should continue to work to improve the controls surrounding the development and operation of its systems. Department staff designed both the TULIP and Boiler Certification systems. Using its own staff to design and maintain applications requires the Department to set up a defined process for the development and maintenance of the various applications.

While the Department maintains a comprehensive information security manual that addresses high-risk information security areas, it has not developed change management policies (see text box for more information about change management). That exposes the Department's systems to increased risk that unauthorized changes may be made to the databases and application code.

In addition, the Department allows its programmers to have full access to both databases and application code. That significantly increases the risk that programmers could make erroneous or unauthorized changes to the data or application code. The Department asserted that this level of access, and its related risk, is needed to increase the efficiency and ability of the programmers to remedy database issues. To help mitigate those increased risks, the Department should have a documented and robust change management process to help it track changes made to data or application code. Changes could include the issuance of unauthorized licenses, deletion of licenses from the systems, and deletion of violation information.

In addition, the Department does not track the changes made in TULIP. The Department was unable to provide auditors documentation of what specific changes were made to that system during fiscal year 2012. In addition, the

Department was unable to provide system documentation, such as a data dictionary, describing information that is collected in the system and the business rules implemented in the system.

The Department should improve access controls over the information systems that support its inspection programs.

While the Department made some progress in removing access for employees who no longer have business needs to access the Department's information systems, the Department does not routinely monitor which users have access. Auditors identified 25 active accounts on TULIP and 15 active accounts on the server hosting the Boiler Certification System that belong to users who had terminated their employment with the Department.

In addition, the Department does not limit users' levels of access in TULIP for the Elevator Program. Any of the approximately 370 active accounts on that system have the ability to enter and edit inspection data, regardless of whether a user is charged with those duties. Providing such a high number of users this level of access increases the risk of unauthorized or erroneous changes being made to the elevator inspection data in TULIP.

Due to the age and design of the Boiler Certification System, the Department was unable to provide a standard report that showed which users had access to what functionally within that system. In addition, the Boiler Certification System is running on a platform that is no longer supported by the vendor. As a result, it is possible the Department could experience a security breach or lose operational viability due to software and/or hardware issues. The Department stated that it plans to replace the Boiler Certification System.

The Department should improve its disaster recovery testing for the Boiler Certification System.

While the Department performed a tabletop exercise⁹ of its information resources in July 2011, the test did not include the Boiler Certification System. As mentioned above, that is an obsolete system and the Department does not have the necessary hardware to test and restore that system. If the Department moves forward with implementing a new system for the Boiler Safety Program, it needs to ensure that the new environment allows for testing and recovery functionalities.

The Department should improve the physical security of its information systems.

Auditors identified six former non-Department employees and one former Department employee who had access to the Department's server room after they no longer had a business need for that access. Restricting physical access

⁹ A tabletop exercise validates plans and procedures by having key personnel discuss a hypothetical scenario.

to appropriate personnel helps secure information technology resources from potential harm by an attacker.

Table 1 provides additional details on the Department’s implementation of prior State Auditor’s Office recommendations.

Table 1

Status of Implementation of Prior Audit Recommendations Related to Information Technology				
No.	Recommendation	Implementation Status as Reported by the Agency	Implementation Status as Determined by Auditors	Auditor Comments
1	The Department should limit programmer access to the production database and source code for its information systems.	Not Implemented	Not Implemented	In its management’s responses to the prior audit report, the Department stated that programmers needed that level of access and that it accepted the related risks.
2	The Department should document its change management policies and procedures to help ensure that all system modifications are developed, documented, and tested as required.	Substantially Implemented	Not Implemented	As of February 2013, the Department did not have documented policies and procedures governing change management.
3	The Department should test its disaster recovery plan and the restoration of its databases on a routine basis.	Substantially Implemented	Incomplete/ Ongoing	The Department tested its disaster recovery plan in July 2011. However, the Department had not tested the restoration of its databases as of February 2013.
4	The Department should document its information resources backup and recovery process for each system.	Substantially Implemented	Substantially Implemented	The Department has detailed documents on file with the current contractor that maintains the systems.
5	The Department should monitor user access to its systems and appropriately modify or remove access when users’ employment or job responsibilities within the Department change.	Substantially Implemented	Incomplete/ Ongoing	The Department’s Boiler Certification System does not allow staff to produce a report showing what levels of access staff have within the system. The Department stated that it does not monitor user access accounts on the current system; however, it plans to replace the system.
6	The Department should ensure that each system is programmed to enforce a password policy that meets the Department’s internal policies and procedures.	Fully Implemented	Substantially Implemented	The Boiler Certification System did not meet Department password policies. The Department plans to replace that system.
7	The Department should monitor physical access to mission-critical computer equipment to protect information resources from unauthorized access, use, modification, or destruction.	Fully Implemented	Substantially Implemented	The Department has a report to allow it to determine who has physical access, as well as cameras to monitor access. However, auditors identified some former employees who had access to the Department’s server room.

Recommendations

The Department should:

- Develop and implement change management policies and ensure that staff maintain proper documentation of all system changes.
- Improve access controls over the systems used to support the inspection programs, including conducting periodic reviews of user access and adequately segregating duties.
- Implement processes for adequately recovering data in the case of a disaster.
- Ensure that system problems due to the underlying technology of the Boiler Certification System do not adversely affect the operations of the Department's Boiler Safety Program.

Management's Response

Develop and implement change management policies and ensure that staff maintains proper documentation of all system changes.

We concur. The Department is hiring an additional Systems Analyst in the Information Systems Development Division who will be responsible for documenting existing systems, implementing and managing a formal change management system, and ensuring the Systems Development Life Cycle is used.

Improve access controls over the systems used to support the inspection programs, including conducting periodical reviews of user access and adequately segregating duties.

We concur. The Department developed a report to facilitate periodic review and validation of user access to TULIP for the elevator program. The directors of the Licensing and Human Resources divisions will be responsible for reviewing this report and determining appropriate user access.

Implement processes for adequately recovering data in the case of a disaster.

We concur. The Department is currently moving the Boiler Certification System from legacy hardware to the TULIP system. Once this is accomplished, the testing of disaster recovery by DIR will include the Boiler Certification System.

Ensure that system problems due to the underlying technology of the Boiler Certification System do not adversely impact the operations of the Department's Boiler Inspection Program.

We concur. The Department is currently moving the Boiler Certification System from legacy hardware to the TULIP system. The Department anticipates the rollout of the new system during the first quarter of fiscal year 2014.

Appendices

Appendix 1

Objective, Scope, and Methodology

Objective

The objective of this audit was to determine whether the Department of Licensing and Regulation (Department) has designed and implemented effective processes and related controls to help ensure that it conducts inspection activities of selected regulated businesses and equipment in accordance with applicable statutes, administrative rules, and Department policies and procedures.

Scope

The scope of this audit covered fiscal year 2011 through fiscal year 2013 (as of March 2013).

Methodology

The audit methodology included judgmentally selecting three programs regulated by the Department based on program size (licensees and inspections performed), effect on public health or safety, and involvement of third-party inspectors. Auditors selected the Cosmetology Program, the Boiler Safety Program, and the Elevator, Escalator, and Related Equipment Program (Elevator Program) for audit. For those three programs, auditors conducted interviews with Department management and staff; reviewed Department inspection policies, procedures, guidance, and applicable laws and regulations; analyzed the Department's processes and controls; and tested samples of inspection reports and violation monitoring to assess the effectiveness for inspection activities. Additionally, for all three programs, auditors performed analytical procedures to determine the timeliness of the inspections conducted.

Sampling Methodologies

Cosmetology Program. To test compliance with cosmetology inspection requirements and controls, auditors selected a non-statistical sample primarily through random selection designed to be representative of the population. Specifically, auditors tested a sample of 61 periodic cosmetology inspections conducted from September 1, 2010, through March 5, 2013. The results of those tests may be extrapolated to the population but the accuracy of the extrapolation cannot be measured.

To test compliance with requirements for booth renter inspections, auditors used professional judgment to select and test a sample of 8 inspections with

booth renters that were originally selected as part of the sample of 61 periodic inspections. Those eight sample items generally were not representative of the population and, therefore, it would not be appropriate to extrapolate those results to the population.

To test the Department's processes for following up on violations, auditors selected a non-statistical sample primarily through random selection designed to be representative of the population. Specifically, auditors selected and tested 31 inspection reports with violations. The results of those tests may be extrapolated to the population but the accuracy of the extrapolation cannot be measured. In addition, auditors used professional judgment to select and test a sample of inspection reports that included violations that required referral to the Department's Enforcement Division and inspections that previously noted the same violations. Those sample items generally were not representative of the population and, therefore, it would not be appropriate to extrapolate those results to the population.

Boiler Safety Program. To test compliance with boiler inspection requirements and controls, auditors selected a non-statistical sample primarily through random selection designed to be representative of the population. Specifically, auditors tested a sample of 122 subsequent boiler inspections conducted from September 1, 2010, through February 20, 2013, for boilers active as of February 20, 2013. The results of those tests may be extrapolated to the population but the accuracy of the extrapolation cannot be measured. Auditors also used professional judgment to select a sample of 8 missing license numbers for testing. Those sample items generally were not representative of the population and, therefore, it would not be appropriate to extrapolate those results to the population.

Elevator Program. To test compliance with elevator inspection requirements and controls, auditors selected non-statistical samples primarily through random selection designed to be representative of the population. Specifically, auditors tested (1) a sample of 61 elevator inspections conducted from September 1, 2010, through March 2, 2013, for elevators active as of March 2, 2013, and (2) a sample of 30 inspection reports with repeat violations. The results of those tests may be extrapolated to the population but the accuracy of the extrapolation cannot be measured. Auditors also used professional judgment to select a sample of 145 missing license numbers for testing. Those sample items generally were not representative of the population and, therefore, it would not be appropriate to extrapolate those results to the population.

Data Reliability

For all three programs audited, auditors performed the following procedures to determine the reliability of the data in the Department's systems:

- To determine the accuracy of licensing and inspection data, auditors traced significant information to supporting documentation.
- To verify the completeness of licensing data, auditors analyzed the sequence of the license numbers assigned to inspectors.
- For the data on boiler inspections, auditors selected a targeted sample of eight missing license numbers and conducted further review.
- For the data on elevator inspections, auditors selected a targeted sample of 145 missing license numbers and conducted further review.

As a result of the above testing, auditors determined the following:

- The Department's cosmetology data was considered reliable for purposes of this audit.
- Auditors could not assess the completeness of the data for Cosmetology licenses issued prior to fiscal year 2006. The Department did not know the methodology used to assign license numbers prior to it taking over of the Cosmetology Program. As a result, auditors could not determine whether gaps in the license numbers were correct or whether they were the result of missing license records. In addition, auditors could not determine the completeness of the booth rental license data (see Chapter 1 for additional information); as a result, the booth rental license data was not considered reliable for purposes of this audit and auditors did not perform any testing on that data.
- The Department's boiler inspection data was accurate but auditors could not assess the completeness of its licensing data (see Chapter 2 for additional information). Boiler data was considered reliable for purposes of this audit.
- The Department's elevator inspection data was accurate but auditors could not assess the completeness of its licensing data (see Chapter 3 for additional information). Elevator data was considered reliable for purposes of this audit.

Additionally, for the two systems supporting the selected programs, auditors reviewed general controls, such as change management, physical security, backup, and recovery controls. In addition, auditors reviewed user access controls at the server and application levels.

Information collected and reviewed included the following:

- License and inspection data from Texas Umbrella Licensing Information Project (TULIP) and the Boiler Certification System.
- Inspector data and documentation (including decal logs).

- Inspection procedures, guidance, and checklists.
- Inspection report and booth renter inspection report templates.
- Selected inspection reports, booth renter inspection reports, and corrective action documents.

Procedures and tests conducted included the following:

- Interviewed Department management and personnel.
- Reviewed Department policies and procedures, guidance, inspection checklists, and inspection report templates.
- Reviewed license and inspection data from TULIP and the Boiler Certification System to determine accuracy, completeness, and the timeliness of reported inspections.
- Reviewed selected inspection reports for compliance with requirements in the Texas Occupations Code, the Texas Health and Safety Code, the Texas Administrative Code, and/or Department policies and procedures.
- Reviewed data and supporting documentation for the Department's monitoring of violations.

Criteria used included the following:

- Texas Occupations Code, Chapter 51 (Texas Department of Licensing and Regulation).
- Texas Occupations Code, Chapter 1602 (Cosmetologists).
- Texas Occupations Code, Chapter 1603 (Regulation of Barbering and Cosmetology).
- Texas Health and Safety Code, Chapter 754 (Elevators, Escalators, and Related Equipment).
- Texas Health and Safety Code, Chapter 755 (Boilers).
- Title 16, Texas Administrative Code, Chapter 65 (Boilers).
- Title 16, Texas Administrative Code, Chapter 74 (Elevators, Escalators, and Related Equipment).
- Title 16, Texas Administrative Code, Chapter 83 (Cosmetologists).
- Title 1, Texas Administrative Code, Chapter 202 (Information Security Standards).

- Department policies and procedures and guidance.
- *Carrying Out a State Regulatory Program: A National State Auditors Association Best Practices Document, 2004.*

Project Information

Audit fieldwork was conducted from March 2013 through May 2013. This performance audit was conducted in accordance with generally accepted government auditing standards. Those standards require that the audit team plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on the audit objectives. The evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

The following members of the State Auditor's staff performed the audit:

- Anca Pinchas, CPA, CIDA, CISA (Project Manager)
- Kathryn K. Hawkins, CFE (Assistant Project Manager)
- Amy Cheesman
- George D. Eure, CPA
- Monte C. McComb
- Uvaldo Valdez
- Michael Yokie, CISA
- Michael C. Apperley, CPA (Quality Control Reviewer)
- Ralph McClendon, CISSP, CCP, CISA (Audit Manager)

Department and Third-party Inspections for 11 Programs Regulated by the Department

Table 2 lists inspections for fiscal years 2011 through 2013 as of February 28, 2013, conducted by the Department of Licensing and Regulation (Department) and third-party inspectors for the 11 programs the Department regulates that require inspections.

Table 2

Department and Third-party Inspections for 11 Programs the Department Regulates						
Program Name	Fiscal Year 2011		Fiscal Year 2012		Fiscal Year 2013 ^a	
	Department Inspections	Third-party Inspections	Department Inspections	Third-party Inspections	Department Inspections	Third-party Inspections
Architectural Barriers	943	14,343	728	14,330	266	7,894
Barbers	5,269	0	4,198	0	1,437	0
Boilers	10,745	16,827	9,362	17,991	4,357	10,090
Combative Sports	144	0	133	0	57	0
Cosmetologists	39,689	0	36,960	0	13,385	0
Elevators, Escalators, and Related Equipment	0	43,143	0	44,918	0	21,106
Industrialized Housing and Buildings	34	3,420	25	3,768	23	2,143
Licensed Breeders	0	0	0	0	158	0
Used Automotive Parts Recyclers	0	0	926	0	80	0
Vehicle Storage Facilities	1,620	0	1,202	0	593	0
Vehicle Towing and Booting	6,726	0	5,025	0	2,773	0
Totals	65,170	77,733	58,559	81,007	23,129	41,233
Total Inspections per Fiscal Year	142,903		139,566		64,362	

^a Fiscal year 2013 totals are as of February 28, 2013.

Source: Unaudited, self-reported information from the Department.

Management's Statement of Overall Response



TEXAS DEPARTMENT OF LICENSING AND REGULATION

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July 3, 2013

John Keel
State Auditor
P.O. Box 12067
Austin, Texas 78711-2067

Dear Mr. Keel:

Thank you for the opportunity to work with you and your staff during the audits of the Cosmetology, Elevator, and Boiler inspection activities for the Texas Department of Licensing and Regulation. We appreciate the professionalism and efficiency of your staff throughout the audit.

The audit findings highlighted challenges that the Department is already addressing, and identified new opportunities to strengthen our inspection activities. The Department is taking the following steps to improve efficiency, accountability, and public safety:

1. **Reorganization.** An agency-wide reorganization is taking place, using our functional alignment model to sharpen the focus of our inspection processes. Most notably, we have created a new Field Operations Division with a dedicated Director to oversee operations. We have also created a new Deputy Chief Elevator Inspector position, which will strengthen controls over the initial inspection and registration of elevators and assist in auditing the use of decals by inspectors.
2. **Investments in technology.** We have made major investments in new equipment and technology to give our employees the tools they need to perform better and increase efficiency, and improve the agency's ability to monitor, track, and respond to violations:
 - *E-inspection hand-held devices* – gives inspectors electronic report filing capability and ensures steady and reliable workflow management;
 - *New boiler inspection reporting system* – automates inspection report submission and review process, and allows us to monitor the timeliness of inspections;
 - *Travel optimization software* – assists inspectors with the quickest, most efficient route to travel while conducting inspections, saving valuable inspection time and agency resources.
3. **Legislative initiatives.** During the recent 83rd regular legislative session, we pursued changes to existing statutes to increase public safety, including successful efforts to increase elevator safety. Senate Bill 673 and Senate Bill 540 give our staff better tools to work with when reviewing inspections, and greater ability to help prevent accidents.

Mike Arismendez, Chair – Littlefield, Texas

Tom Butler – Deer Park, Texas

Lilian Norman-Keeney – Taylor Lake Village, Texas

LuAnn Morgan – Midland, Texas

Ravi Shah – Carrollton, Texas

Fred Moses – Plano, Texas

Deborah A. Yurco – Austin, Texas

John Keel
State Auditor
July 3, 2013

Together, the agency reorganization, technology investments, and legislative initiatives are already bringing significant changes and improvements to our processes. Implementation and refinement of these new practices will continue throughout the rest of this year. As always, public safety is first and foremost in our minds as we move forward - we take our responsibilities very seriously.

Our responses to each of your recommendations are enclosed.

Sincerely,



William H. Kuntz, Jr.
Executive Director

Enclosures

Related State Auditor's Office Work

Related State Auditor's Office Work		
Number	Product Name	Release Date
11-041	An Audit Report on Performance Measures at the Department of Licensing and Regulation	July 2011

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The Honorable David Dewhurst, Lieutenant Governor, Joint Chair

The Honorable Joe Straus III, Speaker of the House, Joint Chair

The Honorable Thomas “Tommy” Williams, Senate Finance Committee

The Honorable Jim Pitts, House Appropriations Committee

The Honorable Harvey Hilderbran, House Ways and Means Committee

Office of the Governor

The Honorable Rick Perry, Governor

Department of Licensing and Regulation

Members of the Commission of Licensing and Regulation

Mr. Mike Arismendez, Chair

Ms. LuAnn Roberts Morgan

Mr. Fred N. Moses

Mr. Ravi Shah

Ms. Deborah Yurco

Mr. William H. Kuntz, Jr., Executive Director



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