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DEPARTMENT OF LABOR AND EMPLOYMENT

CONVEYANCE PROGRAM



NOVEMBER 2015

PERFORMANCE AUDIT

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November 24, 2015

DIANNE E. RAY, CPA
—
STATE AUDITOR

Members of the Legislative Audit Committee:

This report contains the results of a performance audit of the Conveyance Program within the Department of Labor and Employment. The audit was conducted pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government. The report presents our findings, conclusions, and recommendations, and the responses of the Department of Labor and Employment.

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REPORT HIGHLIGHTS



CONVEYANCE PROGRAM
PERFORMANCE AUDIT, NOVEMBER 2015

DEPARTMENT OF LABOR
AND EMPLOYMENT

CONCERN

Our audit identified several areas in which the Department could improve its regulatory processes for ensuring that (1) conveyances operating within its territory of responsibility are safe and compliant with statutes, rules, and guidance; (2) occupational licenses are only issued after obtaining evidence that license applicants met qualifications required by statute, rules, and Division policies; and (3) local jurisdictions approved to regulate conveyances in their territories have standards that are “equal to or greater than” those of the Elevator and Escalator Certification Act (Act).

KEY FACTS AND FINDINGS

- Our review of 20 conveyances found that five conveyances operated for periods ranging from 15 to 904 days, even though one or more safety requirements had not been met. This includes one conveyance that was inspected 904 days after its certificate of operation expired, and five conveyances whose most recent safety tests occurred an average of 198 days after the prior safety test expired, in violation of rules. One conveyance had both a safety test that was more than 4 months late and an inspection that was about 2.5 years late.
- Our review of 15 licensing files and analysis of aggregate data for 570 licensees found 17 contractors, mechanics, and inspectors who did not qualify for licensure when the Division issued them a license between March 2009 and April 2015. Of those, 12 licensees were still licensed as of October 2015.
- As of July 2015, the Division had delegated regulatory authority to 30 local jurisdictions without making its own determination that they have standards “equal to or greater than” those of the Elevator and Escalator Certification Act.
- The Division’s system for monitoring does not hold local jurisdictions with approved regulatory authority accountable for complying with Division requirements. In addition, the Division has not clearly defined its expectations of such local jurisdictions.

BACKGROUND

- The Conveyance Program was established in January 2008 and is administered by the Division of Oil and Public Safety (Division).
- As of March 2015, there were about 19,500 regulated conveyances in Colorado.
- Conveyances regulated under the Act [Section 9-5.5-101, et seq., C.R.S.] include elevators, escalators, platform lifts, personnel hoists, dumbwaiters, and moving walks.
- The Division is responsible for registering conveyances; issuing certificates of operation for conveyances that have been deemed safe; enforcing the Act; licensing contractors, mechanics, and inspectors; and delegating authority for local jurisdictions to regulate conveyances.
- From April 1, 2014, through April 13, 2015, there were 570 contractors, inspectors, and mechanics with active licenses.
- As of July 2015, there were 26 local jurisdictions approved to regulate conveyances. These local jurisdictions regulate about 65 percent of the conveyances in Colorado.
- According to the Department, revenue for the Conveyance Program in Fiscal Year 2015 was about \$671,000, and expenses were about \$668,000.

KEY RECOMMENDATIONS

- Align the issuance of notices of violation with the grace period allowed in rule to submit passing inspection reports, as well as with the expiration of temporary certificates of operation.
 - Change rules to align the timing of safety tests so that they occur within a short amount of time (e.g., 30 days) before inspections.
 - Verify that applicants for licensure meet qualifications specified in statute and rule before issuing them licenses.
 - Follow up with 12 current licensees identified through our audit for whom the Division lacked evidence of qualification for licensure.
 - Obtain legal guidance from the Attorney General about whether a local jurisdiction’s attestation is sufficient in place of the Department determining “whether a local jurisdiction’s standards are equal to or greater than those of [the Elevator and Escalator Certification Act]” as a basis for delegating regulatory authority.
 - Describe all expectations for Approved AHJs in rule, written policy, or the MOA.
- The Department agreed with the audit recommendations.



CHAPTER 1

OVERVIEW OF THE CONVEYANCE PROGRAM

In 2007, the General Assembly established statewide regulation of conveyances through passage of the Elevator and Escalator Certification Act (Act) (Senate Bill 07-123), in order to “ensure minimum safety standards throughout Colorado.” The Act arose out of concern for the safety of people working on and riding conveyances, because there was no statewide standard for conveyance inspections and maintenance, or minimum qualifications for individuals who inspect and maintain conveyances. The Act took effect on January 1, 2008.

Conveyances subject to regulation under the Act [Section 9-5.5-101, et seq., C.R.S.] include elevators, escalators, platform lifts, personnel hoists, dumbwaiters, moving walks, and automated people movers (i.e., the train at Denver International Airport). Statute [Section 9-5.5-104(2), C.R.S.] exempts certain conveyances from regulation under the Act, including those located in a single-family residence. As of March 2015, there were about 19,500 regulated conveyances in Colorado.

PROGRAM ADMINISTRATION

Statute [Section 8-20-101(5), C.R.S.] established the Conveyance Program within the Division of Oil and Public Safety (Division) at the Department of Labor and Employment (Department). The Division Director is responsible for administering the Conveyance Program and enforcing requirements of the Act [Section 8-20-101(5), C.R.S.]. In Fiscal Year 2015, the Division reported that 6.3 full-time-equivalent staff were assigned to administer the Conveyance Program.

Statute [Section 9-5.5-116(1), C.R.S.] grants the Division Director authority to adopt rules to enforce and administer the Conveyance Program, and to appoint an advisory board to assist with formulating rules. In accordance with Section 24-4-103(1), C.R.S., the Division's rulemaking process is subject to requirements of the State Administrative Procedure Act [Section 24-4-101, et seq., C.R.S.]. In April 2008, the Division Director promulgated rules related to the construction, alteration, repair, service, and maintenance of conveyances, as required by statute [Section 9-5.5-112(1), C.R.S.]. In July 2008, the Division Director promulgated a rule establishing the advisory board, which is made up of experts within the conveyance industry, to assist in the development of regulations and resolution of issues relating to the operation of the program [7 C.C.R. 1101-8, Section 1-4(2)]. The advisory board and industry stakeholders are actively involved with the Division's rulemaking process. Conveyance Program rules have been revised eight times since they were first adopted.

The Conveyance Program’s mission is “to protect the riding public and industry personnel in the State of Colorado from the hazards of dangerous conveyances.” To fulfill this mission and its regulatory responsibilities in statute and rules, the Division performs a variety of functions, including the following:

- **REGISTER CONVEYANCES.** All conveyance owners must register their conveyances with the Division and pay a fee [Section 9-5.5-111, C.R.S.; 7 C.C.R. 1101-8, Section 2-1].
- **ISSUE CERTIFICATES OF OPERATION.** A conveyance cannot operate unless the Division has issued a certificate of operation, which signifies that an inspector has determined that the conveyance is safe and complies with rules [Sections 9-5.5-113(3)(c) and 9-5.5-103(10), C.R.S.]. Owners are required to arrange for annual inspections and submit passing inspection reports and a fee to the Division within 30 days of completion of the inspection [Sections 9-5.5-114(1) and (6), C.R.S. and 7 C.C.R. 1101-8, Section 2-3-1-1].
- **ISSUE OCCUPATIONAL LICENSES.** All conveyance inspectors, mechanics, and contractors who wish to operate in Colorado must obtain a license from the Division and pay fees associated with such licensure [Sections 9-5.5-106 through 9-5.5-108, C.R.S.; 7 C.C.R. 1101-8, Section 4-1].
- **APPROVE LOCAL JURISDICTIONS TO REGULATE CONVEYANCES IN LIEU OF THE STATE.** Statute provides for the Division to approve local jurisdictions to regulate conveyances within their respective territories through memoranda of agreement (MOAs) [Section 9-5.5-112(2)(a), C.R.S.]. During hearings for the Conveyance Program’s enabling legislation (Senate Bill 07-123), legislators and stakeholders emphasized the importance of allowing local jurisdictions to maintain regulatory control over conveyances in their territories. These jurisdictions are referred to as Approved Authorities Having Jurisdiction or “Approved AHJs” in rule [7 C.C.R. 1101-8, Section 3-1]. As of March 2015, the Division had MOAs with 26 Approved AHJs, which regulate about 65 percent of

the state's conveyances. The Division directly regulates the remaining 35 percent of conveyances.

- **ENFORCE COMPLIANCE.** Statute requires the Division to enforce the provisions of the statutes and rules related to conveyance oversight in Colorado [Section 8-20-104(1), C.R.S.]. Statute and rules outline the processes by which the Division can enforce conveyance requirements, including issuing notices of violation, issuing enforcement orders, and engaging in informal conferences with regulated entities [Section 8-20-104, C.R.S.; 7 C.C.R. 1101-8, Section 5-1].

Since the Conveyance Program's inception, statutes have been amended three times to clarify existing requirements or add new ones. Senate Bill 08-224 allowed inspectors to qualify for licensure if they demonstrated eligibility to obtain national certification within a year and granted the Division authority to require Approved AHJs to adopt updated industry standards. House Bill 10-1231 required that new and altered conveyances be inspected before use, and changed licensing requirements for contractors. House Bill 15-1353 extended the Conveyance Program's sunset date from July 1, 2017, to July 1, 2022.

DATA MANAGEMENT SYSTEM

The Division uses a data management system called AMANDA to capture information about conveyance owners and responsible parties (e.g., entities that do not own conveyances but are responsible for maintaining them, such as building management companies), registrations, inspections, and required safety tests, as well as enforcement actions taken against conveyance owners and licensees. The Division also captures information about occupational licensees in AMANDA, but this function is still in development, so licensing data are maintained through a combination of hard copy and electronic files.

The Division deployed the AMANDA system in September 2013 to replace its legacy data management system. The Division reports that the launch of and initial data conversion to the AMANDA system was “extremely complex,” and the system has undergone and continues to undergo changes designed to stabilize the system, simplify system operation, and provide enhanced capabilities to the Division. The Division’s Boiler Inspection Program also uses the AMANDA system.

FUNDING

The Conveyance Program is cash funded through the fees collected by the Division for its regulatory activities, including registration and licensing, as well as revenue generated by enforcement actions (i.e., fines) and interest income. Fees range from \$25 to \$500 depending on the purpose of the fee. For example, the one-time fee to register a conveyance with the Division is \$200, the fee to obtain an annual certificate of operation from the Division is \$30, and occupational license fees range from \$25 to \$500 depending on the type of license. Revenue for the Conveyance Program is deposited into the Conveyance Safety Fund, established in Section 9-5.5-111(2)(b), C.R.S. According to the Department, revenue for the Conveyance Program in Fiscal Year 2015 was about \$671,000, and expenses were about \$668,000.

AUDIT PURPOSE, SCOPE, AND METHODOLOGY

This report includes the results of our performance audit of the Conveyance Program within the Department of Labor and Employment, Division of Oil and Public Safety. We conducted this audit pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government. Audit work was performed from January 2015 through October 2015. We appreciate the cooperation and assistance provided by the management and staff of the Department of Labor and Employment during this audit.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The key objectives of the audit were to assess the Division's processes for:

- Issuing certificates of operation to eligible conveyance owners and occupational licenses to eligible conveyance inspectors, mechanics, and contractors.
- Pursuing enforcement against conveyance owners and occupational licensees who violate statute or rules.
- Approving and monitoring local Authorities Having Jurisdiction.
- Calculating its internal performance measure.

To accomplish our audit objectives, we performed the following audit work:

- Reviewed relevant statutes, rules, and Department and Division policies and procedures.
- Interviewed Division staff to understand processes related to regulating conveyances. We also interviewed staff from nine Approved AHJs and one conveyance inspection company that conducts inspections on behalf of Approved AHJs.
- Analyzed certain data fields related to the nearly 5,800 conveyances with certificates of operation that expired from April 1, 2014, through March 31, 2015, to evaluate the Division's methodology for calculating its internal performance measure and whether the measure is calculated accurately and is valid for informing decision-making.

- Analyzed aggregate data related to licensees with active licenses from April 1, 2014, through April 13, 2015, to evaluate the Division's licensing processes.
- Reviewed data for a sample of conveyances to evaluate the Division's processes for issuing certificates of operation and taking enforcement action.
- Reviewed data for a sample of occupational licenses to evaluate the Division's licensing processes.
- Analyzed current and historical MOAs that the Division had entered into with Approved AHJs as of July 2015 and observed an audit of one Approved AHJ conducted by Division staff.
- Analyzed accident reports submitted to the Division during Fiscal Years 2014 and 2015, and reviewed national research on conveyance accidents.

We relied on sampling techniques to support our audit work. We designed our samples based on our audit objectives to test whether the Division issues certificates of operation in accordance with statute and rule, and occupational licenses only to eligible conveyance inspectors, mechanics, and contractors. In addition, we relied on sampling as part of analyzing the Division's processes for entering into agreements with and monitoring Approved AHJs. Specifically, we selected and reviewed the following samples:

- A non-statistical, random sample of 20 conveyances from the population of conveyances with certificates of operation that expired between April 1, 2014, and March 31, 2015. The sample included 18 elevators and two platform lifts.
- A non-statistical sample of 15 occupational licenses issued by the Division during Fiscal Year 2015 that were active from July 1, 2014, through April 13, 2015. The sample included six randomly selected

inspectors, six randomly selected mechanics, and three randomly selected contractors.

- A non-statistical, judgmental sample of eight MOAs the Division had entered into based on the geographic locations of the Approved AHJs, the number of conveyances that each contained, and how recently the MOAs had been executed.
- A non-statistical, judgmental sample of nine Approved AHJs with whom to conduct interviews based on the number of conveyances in each jurisdiction, whether the jurisdictions had undergone Division audits and the outcome of those audits, and geographic location of the jurisdictions.

When samples were chosen, the results of our testing were not intended to be projected to the entire population. Rather, the samples were selected to provide sufficient coverage to test controls of those areas that were significant to the objectives of this audit.

We planned our audit work to assess the effectiveness of those internal controls that were significant to our audit objectives. Our conclusions on the effectiveness of those controls, as well as specific details about the audit work supporting our findings, conclusions, and recommendations, are described in CHAPTER 2.

CHAPTER 2

CONVEYANCE REGULATION

The Division of Oil and Public Safety (Division), within the Department of Labor and Employment (Department), administers the Conveyance Program and is responsible for “enforcing and administering” the Elevator and Escalator Certification Act (Act) [Section 8-20-101(5), C.R.S.]. The Division’s responsibilities under the Act include authorizing the operation of conveyances if they are deemed safe and in compliance with rules [Section 9-5.5-114(1), C.R.S.], licensing professionals who maintain and inspect conveyances

[Sections 9-5.5-106 through 109, C.R.S.], and approving local jurisdictions to regulate conveyances in their territories [Section 9-5.5-112(2), C.R.S.].

We found that the Division has implemented processes to carry out its primary functions related to regulating conveyances in Colorado. However, our audit identified several areas in which the Division could improve its regulatory processes for ensuring that (1) conveyances operating within its territory of responsibility are safe and compliant with statutes, rules, and Division guidance; (2) occupational licenses are only issued after obtaining evidence that license applicants met qualifications required by statute, rules, and Division policies; and (3) local jurisdictions approved to regulate conveyances in their territories have standards that are “equal to or greater than” those of the Act. Improvements in these areas can help the Division consistently fulfill the statutory intent for conveyances to operate in accordance with minimum safety standards [Section 9-5.5-102, C.R.S.] and its mission to protect the public by ensuring the safe operation of conveyances. We discuss these issues and our recommendations in the remainder of CHAPTER 2.

OPERATION OF CONVEYANCES

Statute and rules establish processes intended to ensure that conveyances are determined to be safe before they are legally allowed to operate in Colorado. Specifically:

- Conveyance owners are required to have third-party conveyance inspectors conduct annual inspections [Section 9-5.5-114(3), C.R.S. and 7 C.C.R. 1101-8, Section 2-3-1-1(1)].
- As a condition of the Division’s issuing a certificate of operation, conveyance owners must arrange for inspections before the current certificate expires and must submit passing inspection reports to the

Division within 30 days of completion of the inspection [Section 9-5.5-114(1), C.R.S. and 7 C.C.R. 1101-8, Section 2-3-1-1(4) and (5)].

- Owners may not operate conveyances unless they have a current certificate of operation [Section 9-5.5-114(5), C.R.S. and 7 C.C.R. 1101-8, Section 2-3-1-2(1)].
- Owners must have licensed mechanics conduct routine safety tests and make the test results available to the Division upon request. For the most common types of conveyances, including elevators and escalators, rules require that these safety tests be conducted annually [7 C.C.R. 1101-8, Section 2-3-2(1)-(3)]. Inspectors review test results during annual inspections and document the test dates on the Division's inspection report form.
- In the event an inspector identifies violations that pose a potential public safety risk, the inspector either (1) notifies the Division that the conveyance may need to be shut down because the violations pose imminent life safety issues [Section 9-5.5-119, C.R.S.] or (2) recommends that the Division issue a temporary certificate of operation to allow the conveyance to operate on a temporary basis while the owner corrects the violations [7 C.C.R. 1101-8, Section 2-3-1-3 and Division policy]. Once the owner demonstrates that the violations have been corrected, the Division issues a certificate of operation good for 1 year [7 C.C.R. 1101-8, Section 2-3-1-1(1) and (6)]. Examples of violations that would warrant immediate shut down of the conveyance include elevators or escalators with missing or inoperable electrical safety devices or failure of certain safety tests. Examples of violations that do *not* pose an imminent safety risk, but that owners must correct within a specific period of time as indicated on a temporary certificate of operation, include past-due safety tests, inoperable fire service components, and problems with conveyance safety devices.

Since May 2014, the Division has tracked an internal performance measure for the Conveyance Program that shows the percentage of

conveyances operating with current certificates of operation. As of early May 2015, the Division reported that 84 percent of the conveyances in its territory were operating with current certificates of operation. The Division's goal is for an 88.5 percent compliance rate.

WHAT AUDIT WORK WAS PERFORMED AND WHAT WAS THE PURPOSE?

We conducted the following audit work: (1) reviewed relevant statutes, rules, and Division policies and procedures; (2) interviewed Division staff; (3) reviewed hard copy and electronic data for a random sample of 20 conveyances, which included 18 elevators and two platform lifts; and (4) analyzed accident reports submitted to the Division during Fiscal Years 2014 and 2015 and analyzed national research on conveyance accidents. We selected our sample from the population of conveyances with certificates of operation that expired from April 1, 2014, to March 31, 2015.

To assess the reliability of aggregate conveyances data in AMANDA for conveyances with certificates of operation that expired between April 1, 2014, and March 31, 2015, we compared information in the Division's hard copy files to the electronic data. We did not identify concerns about the reliability of AMANDA data. However, we were unable to analyze the aggregate data to evaluate compliance with inspection requirements because the database's complicated structure creates barriers to correlating the dates of key events (e.g., inspection dates and certificate of operation expiration dates) to enforcement actions (e.g., dates when notices of violation were issued) for the entire population of conveyances. Division staff confirmed that the only practical way to trace a conveyance's history is to look up information in AMANDA for one conveyance at a time.

We conducted analyses of several data fields to evaluate the Division's methodology for calculating its internal performance measure, which tracks the percentage of conveyances operating with a current certificate of operation. We did not identify concerns with the

accuracy of the Division's calculation methodology or the validity of the data used to inform the measure. The Division reported that staff review the performance measure results on a weekly basis and leverage this information to pursue enforcement action against noncompliant conveyance owners.

Our audit work focused on the Division's management of the certificate of operation issuance process for the nearly 5,800 conveyances in its regulatory territory with certificates of operation that expired between April 1, 2014, and March 31, 2015. The purpose of our work was to evaluate the Division's processes for ensuring that conveyances are determined to be safe and in compliance with applicable rules in order to be allowed to operate in Colorado.

HOW WERE THE RESULTS OF THE AUDIT WORK MEASURED?

The Division has the fundamental responsibility to “enforce and administer” the Elevator and Escalator Certification Act (Act), which includes authorizing the operation of conveyances in its regulatory territory only if they are deemed safe and in compliance with rules promulgated by the Division [Section 8-20-101(5), C.R.S., and Section 9-5.5-114(1), C.R.S.].

The Division has the following responsibilities in statute and rule:

- **ISSUE CERTIFICATES OF OPERATION.** Rules require the Division to issue certificates of operation only for conveyances that have been inspected by licensed inspectors prior to the expiration date of the current certificate of operation [7 C.C.R. 1101-8, Sections 2-3-1-1(1), (5), and (6)] and are found to be operating in compliance with Division rules, which include having periodic safety tests performed according to frequencies specified in rule [7 C.C.R. 1101-8, Sections 2-3-2(1) and (5)]. Certificates of operation expire on the last day of the month in which the prior year's inspection took place [7 C.C.R. 1101-8, Section 2-3-1-1(6)]. For example, a conveyance that received a passing inspection in March 2014 would

have been issued a certificate of operation that expired March 31, 2015. The owner of this conveyance would have been required to arrange for an inspection by March 31, 2015, to obtain a certificate of operation for the next year. Starting in January 2015, owners were required by rule to submit passing inspection reports to the Division within 30 days of the date of inspection [7 C.C.R. 1101-8, Section 2-3-1-1(4)]; prior to January 2015, there was no deadline for owners to submit inspection reports.

- **HOLD OWNERS ACCOUNTABLE FOR CORRECTING VIOLATIONS.** Rules require the Division to withhold certificates of operation until violations that pose a potential public safety risk have been resolved. Specifically, the Division issues temporary certificates of operation, instead of 1-year certificates of operation, when the inspector identifies violations that must be corrected, but temporary operation of the conveyance by the public is necessary and imminent life safety issues have *not* been identified by a conveyance inspector [7 C.C.R. 1101-8, Sections 2-3-1-3 and 2-3-1-2(3) and Division inspection report form]. The deadline for correcting the violations is the expiration date of the temporary certificate of operation; rule allows the Division to issue temporary certificates of operation for up to 180 days.
- **TAKE ENFORCEMENT ACTION.** Statute and rules authorize the Division to enforce requirements of the Act, including if owners operate conveyances without a current certificate of operation [Section 8-20-101(5), C.R.S. and 7 C.C.R. 1101-8, Section 2-3-1-1(5)]. Statute [Section 8-20-104(2), C.R.S.] allows the Division to issue notices of violation to a person who is believed to have violated the Act or rules. In practice, the Division includes monetary penalties in notices of violation. Rules indicate that the Division's enforcement process is intended to bring conveyances back into compliance with requirements [7 C.C.R. 1101-8, Section 5-1].

WHAT PROBLEMS DID THE AUDIT WORK IDENTIFY?

We found instances of when the Division did not ensure that conveyances operating within its territory of responsibility were safe and compliant with statutes, rules, and Division guidance. We were unable to analyze aggregate data in the Division's AMANDA database to evaluate compliance with inspection requirements due to the data limitations noted above, so these results are based on our review of electronic and hard copy files for the conveyances in our sample.

Of the 20 conveyances in our sample, we found deficiencies in the Division's mechanisms to ensure compliance with rules and statutes for five conveyances, with one conveyance having three problems. In all, we found:

- Five conveyances operated for periods ranging from 15 to 904 days, even though one or more safety requirements had not been met. This includes one conveyance that was inspected 904 days after its certificate of operation expired, and five conveyances whose most recent safety tests occurred an average of 198 days after the prior safety test expired, in violation of rules. The most recent safety tests were between 15 days and 14 months late, as of June 2015. In addition, one conveyance had both a safety test that was more than 4 months late and an inspection that was about 2.5 years late. The Division did not initiate enforcement action for any of these conveyances.
- One conveyance that operated for 11 days after its temporary certificate of operation expired before the Division realized that the conveyance still had an unresolved violation. The Division only became aware of the temporary certificate of operation's expiration after the conveyance owner submitted a new inspection report that showed that the violation had been addressed.

In addition, we found one instance from our file review in which the Division issued a notice of violation to a conveyance owner who

submitted a passing inspection report before the 30-day grace period allowed in rule expired. The Division subsequently waived the fine and issued a certificate of operation for that conveyance since the owner was in compliance with rule. Although we found only one instance of the Division assessing a fine against an owner who was compliant with the inspection report submission requirement, the 30-day grace period creates a risk that other owners will be fined if they submit passing inspection reports after certificates of operation expire, but within the grace period allowed by rule.

WHY DID THE PROBLEMS OCCUR?

THE ISSUANCE OF NOTICES OF VIOLATION IS NOT ALIGNED WITH RULE AND OTHER REQUIREMENTS. Although rule allows conveyance owners up to 30 days after an inspection to submit inspection reports to the Division [7 C.C.R. 1101-8, Section 2-3-1-1(4)], AMANDA is programmed to automatically issue notices of violation to conveyance owners 15 days after the certificates of operation expire if the Division has not received new inspection information and entered it into the database. As a result, we found one instance in which the Division fined a conveyance owner who submitted a passing inspection report after the certificate of operation had expired, but before the 30-day grace period had run out. The Division retroactively waived the fine, which the Division told us is standard procedure when AMANDA issues notices of violation to owners who submitted their inspection reports within the allowable grace period.

AMANDA is also programmed to send notices of violation to conveyance owners 15 days after temporary certificates of operation expire. However, unlike inspections, rules do not provide a grace period for conveyance owners to submit affidavits that they have corrected violations noted on the temporary certificates of operation. As a result, the Division may allow conveyances to operate without a current certificate of operation for the first 15 days after a temporary certificate expires before issuing a notice of violation.

ASPECTS OF RULES AND THE DIVISION'S ENFORCEMENT PROCESS MAY NOT MAXIMIZE COMPLIANCE. We identified two factors that may have contributed to the problems that we found:

- **TIMING OF SAFETY TESTS, INSPECTIONS, AND CERTIFICATE OF OPERATION RENEWAL ARE NOT ALIGNED.** Rule requires conveyance owners to conduct safety tests at specific frequencies (e.g., “annually” for elevators) [7 C.C.R. 1101-8, Section 2-3-2] but do not specify whether that means once every calendar year or once every 12 months, or whether required tests should occur in proximity to the annual inspections. The lack of precision in rule may contribute to safety tests that are conducted months before conveyances undergo annual inspections, which does not provide assurance that the safety features tested are functioning properly at the time of inspection. For the five conveyances in our sample in which safety tests were not conducted in a timely manner, the most recent tests were conducted at least 10 months before the inspections, or longer. Nonetheless, the Division issued 1-year certificates of operation for all five conveyances because the safety tests were technically current at the time of inspection. As a result, these conveyances were issued certificates of operation to operate for another year without undergoing tests that, in combination with the inspections, would have provided assurance that the conveyances were safe. The Division reported that it has not required tests and inspections to happen around the same time in an effort to allow owners more flexibility. However, by not aligning the testing and inspection requirements, the intent of the rules, to ensure that conveyances are safe for the full duration they are authorized to operate, may not be met.
- **MINIMAL FINES.** The Division reported that it believes the issuance of notices of violation serve as an effective tool to promote compliance, because conveyance owners almost always correct violations in response to a notice of violation without the need for further enforcement action. Nonetheless, the Division may be able to strengthen its enforcement efforts by increasing its fine amounts, thereby motivating conveyance owners to comply with inspection

requirements before enforcement action becomes necessary. Although statute [Section 8-20-104(4)(a), C.R.S.] grants the Division authority to fine conveyance owners up to \$500 per day for violations, or up to \$1,000 per day when the violation results in or may reasonably be expected to result in serious bodily injury, the Division's practice is to assess a one-time fine of \$60 to owners who operate conveyances without current certificates of operation. The \$60 fine, which is established in the Division's violation schedule, is the lowest fine on the schedule. Other fine amounts on the schedule include one-time penalties of \$200 for operating an unregistered conveyance and \$500 for installing or constructing a new or altered conveyance without the Division's approval. Increasing the penalty for operating a conveyance without a current certificate of operation could help incentivize conveyance owners to comply with inspection requirements to ensure that only safe conveyances are operating.

WHY DO THESE PROBLEMS MATTER?

Conveyances that have not undergone required inspections and safety tests are not operating in accordance with minimum safety standards, as was the legislative intent of the Conveyance Program [Section 9-5.5-102, C.R.S.]. The Division's mission for this program is also to protect the public by ensuring the safe operation of conveyances. Therefore, it is important that the Division fulfill its regulatory responsibilities to make sure that conveyances undergo proper safety tests and inspections and that violations are resolved in a timely manner. In addition, conveyances that are not compliant with safety standards could become unnecessarily dangerous to the general public and workers who install, repair, and maintain them. According to a September 2013 report based on data from the U.S. Bureau of Labor Statistics and Consumer Product Safety Commission, incidents involving elevators and escalators kill about 30 people and seriously injure about 17,000 people every year in the United States. According to the Division, since the effective date of the Conveyance Program (January 1, 2008) no fatalities have been reported in Colorado as a result of accidents involving conveyances that the Division regulates.

RECOMMENDATION 1

The Department of Labor and Employment should improve its system for ensuring that conveyances in its territory are operating in accordance with minimum safety standards by:

- A Aligning the issuance of notices of violation with the grace period allowed in rule to submit passing inspection reports, as well as with the expiration of temporary certificates of operation.
- B Considering an increase in fines assessed for operating a conveyance without a current certificate of operation to help motivate owner compliance with inspection requirements.
- C Changing rules to align the timing of safety tests so that they occur within a short amount of time (e.g., 30 days) before inspections.

RESPONSE

DEPARTMENT OF LABOR AND EMPLOYMENT

- A AGREE. IMPLEMENTATION DATE: JULY 2017.

Since the inception of the conveyance program in January 2008 until December 31, 2014, the Division enforcement process for owners operating conveyances with an expired Certificate of Operation (CO) was to issue a Notice of Violation (NOV) 15 days after the expiration date of the CO. Through the enforcement process the Division realized that in many cases even though owners had completed the conveyance inspection prior to the CO expiration date, they had not submitted the inspection report to the Division which is a requirement for renewal of their CO. In an attempt to ensure owners understood the importance of submitting

the conveyance inspection report prior to the expiration of their CO, the Division revised regulations to require the owner to submit the conveyance inspection report to the Division within 30 days of the inspection. An unintended consequence of this rule revision was that it created a grace period after the expiration of the CO for certain owners who were issued NOVs. To address the auditors concerns and this unintended consequence, the Division will revise regulations to delete the requirement to submit the reports within 30 days, as statute and regulations already require the owner to have a current CO prior to operating the conveyance. This regulation revision will also address concerns related to NOVs issued because of TCO expiration.

For all recommendations with an implementation date of July 2017, the following information applies: The Division intends to file a notice of intent to revise our conveyance regulations to address all proposed revisions related to this audit in the spring of 2016. To enable adequate stakeholder engagement, and time for the Administrative Procedures Act (APA) requirements, the Division anticipates the revised rule will be finalized, adopted and implemented by July 2017.

B AGREE. IMPLEMENTATION DATE: JULY 2017.

The Divisions current Notice of Violation (NOV) for operating a conveyance without a current Certificate of Operation (CO) includes issuance of a nominal fine and states that further non-compliance could result in fines up to \$1,000 per day of violation, which the Division believes has been effective in obtaining compliance. In accordance with the auditor's recommendation, the Division will investigate an appropriate increase of the fine associated with operating a conveyance without a current CO. The Division will also amend future NOVs to state that continued non-compliance with regulations will result in shut-down of the conveyance. The Division believes this statement is more effective than monetary fines, and is currently used in the Enforcement Order which is the next step in the enforcement process.

C AGREE. IMPLEMENTATION DATE: JULY 2017.

At the inception of the program, stakeholders advised the Division that periodic safety tests, recommended by adopted code, could significantly enhance safety, but were not being conducted because they were not mandatory. Therefore, early in the program, the Division amended regulations to require annual safety tests, and that every five years this annual safety test be witnessed by a third party inspector. To allow conveyance owners with scheduling flexibility, the Division did not stipulate that these tests be completed in conjunction with the annual inspection, as the regulations require documentation of these tests be made available upon request by the Division. Since all of the annual safety tests (other than the 5-year witnessed test) do not have to coincide with the annual third party inspection, the auditors raised concern that the inspectors may not be able to verify completion of the annual safety tests. To address this concern, the Division will revise regulations to state that the non-witnessed annual safety tests must be conducted prior to and within a short amount of time of the annual inspection and expiration of the certificate of operation. Stakeholder input will be considered in the Division's determination of an acceptable timeframe between the safety test and inspection.

OCCUPATIONAL LICENSING

The Division is responsible for issuing occupational licenses to qualified individuals who work on conveyances in Colorado, including those who work for local jurisdictions [Sections 9-5.5-107(1)(a) and 9-5.5-108(1)(a), C.R.S., 7 C.C.R. 1101-8, Section 1-4].

The Division may issue a license to qualified contractors, inspectors, or mechanics at any time during the license year, but licenses must be renewed each July 1, according to rule [7 C.C.R. 1101-8, Section 4-1] and Division guidance. During the period from April 1, 2014, through April 13, 2015, there were 570 contractors, inspectors, and mechanics with active licenses. EXHIBIT 2.1 below shows the number of active licenses during that period by license type.

EXHIBIT 2.1 ACTIVE CONVEYANCE OCCUPATIONAL LICENSES APRIL 1, 2014 THROUGH APRIL 13, 2015		
LICENSE TYPE	NUMBER ISSUED	PERCENT OF TOTAL
Inspectors	59	10%
Mechanics ¹	477	84%
Contractors	34	6%
TOTAL LICENSES	570	100%

SOURCE: Office of the State Auditor's analysis of data from the AMANDA database for all licenses issued by the Division that were active from April 1, 2014 through April 13, 2015.

¹ Includes 11 temporary mechanic licenses. The Division can issue temporary mechanic licenses when there are no certified conveyance mechanics available to perform conveyance work [Section 9-5.5-108(3)(a), C.R.S.].

WHAT AUDIT WORK WAS PERFORMED AND WHAT WAS THE PURPOSE?

We conducted the following audit work: (1) reviewed statutes, rules, and other guidance promulgated by the Division related to issuing

occupational licenses; (2) interviewed Division staff to determine the process for issuing licenses; (3) analyzed the results of a Division-administered inspector exam for inspectors with active licenses from April 1, 2014, through April 13, 2015, including comparing the list of inspectors to records in the AMANDA database; (4) compared the Division's list of nine states that have substantially similar standards to Colorado's with out-of-state mechanic approvals documented in the AMANDA database for all mechanic licenses, excluding temporary mechanic licenses, that were active from April 1, 2014 through April 13, 2015; (5) reviewed workers' compensation policy documentation in the AMANDA database for all contractor licenses that were active from April 1, 2014 through April 13, 2015; and (6) reviewed hard-copy documentation and records in the AMANDA database for a random sample of 15 occupational licenses issued by the Division during Fiscal Year 2015 that were active from July 1, 2014, through April 13, 2015, including files for six inspectors, six mechanics, and three contractors. Our file review included looking at each licensee's initial license issuance and the Fiscal Years 2014 and 2015 renewals, as applicable. The purpose of our audit work was to determine whether the Division only issues occupational licenses to qualified mechanics, contractors, and inspectors.

HOW WERE THE RESULTS OF THE AUDIT WORK MEASURED?

Statutes and rules contain requirements for each professional who is required to obtain an occupational license, as described below.

CONTRACTORS engage in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining conveyances [Section 9-5.5-103(12), C.R.S.]. To be licensed, contractors must employ at least one licensed conveyance mechanic and hold workers' compensation and liability insurance [Section 9-5.5-107(3)(b), C.R.S.]. Contractors demonstrate to the Division that they employ at least one licensed mechanic by providing a statement on the employer's letterhead that is signed by the personnel administrator or other

person of authority affirming that this requirement has been met [7 C.C.R. 1101-8, Section 4-1-3(1)(a)]. Contractors are also required by Section 9-5.5-115, C.R.S., to submit to the Division evidence of the insurance coverage.

MECHANICS erect, construct, install, alter, service, repair, and maintain conveyances under the supervision of a certified conveyance contractor [Section 9-5.5-103(14), C.R.S. and Section 9-5.5-106(1)(a), C.R.S.]. To be licensed, mechanics must meet one of the following requirements:

- Complete a mechanic training program. Rules [7 C.C.R. 1101-8, Section 4-1-1(2)(a)] require mechanic license applicants to submit documentation that they completed a training program and, in certain circumstances, an affidavit that they completed at least 1,700 hours of work experience on specific conveyances, such as escalators and moving walks, each year of their training. Rules [7 C.C.R. 1101-8, Section 4-1-1(3)] and the Division's Standard Operating Procedure state that if mechanics do not provide documentation of escalator training, then an exclusion from working on escalators and moving walks will be indicated on the license.
- Hold a valid mechanic license from another state whose standards are substantially similar to Colorado's, as determined by the Division [Section 9-5.5-107(1)(b), C.R.S.].
- Pass an exam approved by the Division and provide the Division with evidence that they worked as a mechanic for at least 3 years without direct supervision [Section 9-5.5-107(1)(c), C.R.S.].

Further, mechanics are required to complete at least 8 hours of Division-approved continuing education every 2 years to maintain their licenses [Section 9-5.5-108(1)(b), C.R.S. and 7 C.C.R. 1101-8, Section 4-1-1(4)]. The Division's mechanic license application specifies that applicants seeking license renewals must submit proof of their continuing education hours.

INSPECTORS who inspect conveyances for purposes of the issuance of a certificate of operation are required to have a conveyance inspector license [Section 9-5.5-106(2), C.R.S.]. To be licensed, inspectors must be certified by a nationally recognized conveyance association [Section 9-5.5-107(2), C.R.S.], maintain liability insurance [Section 9-5.5-115(2), C.R.S.], and pass a Division exam with at least a 90 percent score every 3 years [7 C.C.R. 1101-8, Sections 4-1-4(4) and (5)].

WHAT PROBLEMS DID THE AUDIT WORK IDENTIFY?

We found instances of the Division issuing occupational licenses to individuals without obtaining evidence that they met qualifications required by statute, rules, and Division policies. Through our review of 15 licensing files, as well as analysis of aggregate data related to inspector exams and contractor workers' compensation insurance, we identified 17 licensees who did not qualify for licensure when the Division issued them a license between March 2009 and April 2015. We identified seven of these licensees through our file review and 10 through our analysis of aggregate data. In five of the 17 cases, licensees did not qualify for licensure during an earlier year's licensing cycle but as of October 2015 either (1) had not renewed the license or (2) were qualified. The remaining 12 of these 17 licensees were still licensed as of October 2015, so we are recommending that the Division follow up with those individuals to verify whether they are qualified for licensure. For another 10 licensees, we could not determine if they qualified for licensure before the Division issued the license, though they appear to qualify now. The problems we found are described below.

LACK OF WORKERS' COMPENSATION INSURANCE DOCUMENTATION. The Division did not require nine contractors to provide evidence of holding workers' compensation policies prior to issuing them licenses, based on our review of three files and aggregate licensing data.

LACK OF EVIDENCE THAT SOME MECHANICS MET ALL LICENSURE REQUIREMENTS. We found that four of the six mechanics in our sample were issued licenses without the Division having documentation that they met all requirements. Specifically:

- One mechanic who completed a mechanic training program did not provide documentation affirming that he had completed the work experience that is a required component of the training.
- Two mechanics were issued renewal licenses without providing documentation that they had completed the required number of hours of continuing education coursework.
- One mechanic had an exclusion from working on escalators and moving walks lifted from his license, but did not provide evidence of having completed the required training.

MECHANIC LICENSED WITHOUT MEETING OUT-OF-STATE LICENSE QUALIFICATIONS. Our review of aggregate data for the 466 mechanics in the Division's database found that the Division inappropriately licensed one mechanic in 2009 and continued to renew his license until 2013 based on having an out-of-state license from a state that the Division had not approved as having standards equal to or greater than Colorado's. In 2013, the licensee completed a mechanic training program that qualified him for licensure. Division staff reviewed documentation in this mechanic's hard copy file and confirmed that he should not have been licensed in 2009 or in subsequent years on the basis of having been licensed in another state.

NOT ALL INSPECTORS PASSED THE DIVISION'S REQUIRED TEST. Based on our review of aggregate data, we found that three of the 59 inspectors with active licenses from April 1, 2014 to April 13, 2015, did not pass the Division's exam before being licensed, and for another 10 the Division lacked evidence that the inspectors had passed the exam before being licensed. Specifically:

- Three inspectors were licensed before they took the exam. As of August 2015, one inspector had been licensed for 13 months

without taking the exam, yet the Division renewed his license twice in this period. In July 2015, another inspector passed the exam 12 months after being licensed. The third inspector had an active license for about 5 months, but never took the exam.

- Ten inspectors took the exam more than once before achieving a passing score, but the date for when they had finally passed the exam was not documented in Division records at the time of our review. Therefore, we could not determine whether these inspectors passed the exam before their licenses were issued. Although the Division reported that these inspectors were qualified for licensure, it could not provide documentation substantiating the dates of the passing exams.

WHY DID THE PROBLEMS OCCUR?

The Division could not explain why all of the licensing problems we found occurred, such as why some mechanics were licensed without providing adequate evidence of their qualifications. However, the Division was able to explain other problems which allowed us to identify several gaps in the Division's processes:

THE DIVISION DID NOT ALWAYS VERIFY LICENSE APPLICANTS' QUALIFICATIONS. The Division reported to us that, in some cases, it either did not verify the applicants' qualifications, or the Division accepted undocumented statements from applicants instead of requiring them to provide the documentation specified in statute and rules. Specifically:

- For the nine contractors who did not have workers' compensation insurance, the Division (1) did not obtain copies of their insurance policies, (2) accepted verbal statements from the contractors that they were single-employee companies and therefore exempt from statutory requirements to carry this insurance, or (3) did not verify that the workers' compensation insurance policies were applicable in Colorado. Subsequent to our analysis, the Division obtained guidance from the Division of Workers' Compensation, also within

the Department of Labor and Employment, indicating that any company with one or more employees is required to carry workers' compensation insurance, unless it is exempted by the Division of Workers' Compensation. The Division did not have evidence that four contractors who claimed to be single-employee companies had been approved for this exemption. The Division of Workers' Compensation guidance also indicated that certain types of workers' compensation policies that apply to all states are not accepted in Colorado. The Division told us that they have historically accepted such policies when approving contractor licenses and had not sought guidance from the Division of Workers' Compensation prior to our audit. Although we did not review workers' compensation insurance policies for all 34 contractors who were licensed as of April 2015, there is a risk that some of those contractors have policies that are not valid in Colorado.

- The Division licensed a mechanic who qualified on the basis of having an out-of-state license without consulting the Division's list of approved states.

- The Division reported that when the mechanics union presented its Fiscal Year 2014 and 2015 continuing education courses to the Division for approval, it was verbally understood that the courses would satisfy the 8-hour continuing education requirement and that documentation from the union would substantiate that mechanics had completed this coursework. However, the Division did not obtain documentation from the union to verify this agreement until September 2015.

THE DIVISION MADE EXCEPTIONS TO INSPECTOR TESTING RULES. The Division reported that it sometimes issues licenses even when applicants have not provided evidence that they meet all requirements in rules. However, rules do not provide for these exceptions, including requirements related to the Division-administered inspector exam. The Division made exceptions to its rules in the following instances:

- The Division allowed one inspector to delay the exam for 1 year after being licensed so he could focus on obtaining his national certification.
- One inspector solely inspects the automated people movers at Denver International Airport, which, according to the Division, have requirements that are “significantly different and abbreviated in comparison to the elevator and escalator requirements,” making the exam irrelevant for this inspector.
- One inspector was employed by the Division and was licensed for about 5 months in early 2014. According to the Division, this individual does not conduct conveyance inspections as part of his primary job duties, so the Division issued him a license for only a short period of time when he was conducting inspections on an ad hoc basis. In addition, the Division reported that this individual helped develop the exam, so the Division did not require him to later take and pass the exam. However, if this individual is likely to conduct inspections on an ad hoc basis in the future, it is reasonable to expect that he would fulfill the same requirements that apply to other licensees.

To align practice and rules, the Division could change its rules to either reflect requirements more precisely (e.g., that the inspector exam is not required for individuals who only inspect automated people movers), or to allow for Division staff to make exceptions on a case by case basis.

THE DIVISION LACKS A COMPREHENSIVE WRITTEN PROCEDURE FOR ISSUING LICENSES. Although the Division began issuing occupational licenses in 2008, it did not establish any written procedures for issuing licenses until April 2015, when it created its Standard Operating Procedure for Conveyance License Processing. This written procedure is based on practices that staff had used but did not have in writing. However, this procedure does not address all licensing requirements and does not provide any guidance on what circumstances, if any, warrant an exception to the rules. For example, the procedure does

not say anything about the Division-administered inspector test, including how Division staff should document that inspectors had taken and passed the test; what documentation Division staff should obtain from contractors that report they have an exemption from workers' compensation insurance requirements; or how Division staff are to verify the number of continuing education hours an applicant completes.

THE DIVISION LACKS CLEAR, CONSISTENT DOCUMENTATION OF LICENSING DECISIONS. We found some discrepancies between the information in hard copy files and information in AMANDA, which is the State's official record of conveyance-related information, according to the Division. For example, we found two instances in which the hard copies indicated that licensed contractors had provided evidence of their workers' compensation insurance, but AMANDA indicated that the evidence had not been provided.

DIRECTIONS TO APPLY FOR A MECHANIC LICENSE ARE UNCLEAR. We found that the mechanic license application does not list the completed affidavit to document work experience as a required form that mechanics must submit with their applications. In fact, the affidavit form is not available on the Division's website or included with the license application. Although the requirement for the affidavit is stated in the Division's Standard Operating Procedure, without a reference to the requirement in the application itself, or a link to the form on the website, it may not be clear to applicants that the completed affidavit is a required component of the application.

WHY DO THESE PROBLEMS MATTER?

The General Assembly passed the Elevator and Escalator Certification Act into law to "ensure minimum safety standards throughout Colorado" for both the general public and the professionals who work on conveyances. By not fully or consistently enforcing rules for licensing inspectors, mechanics, and contractors, the Division cannot provide assurance that only qualified individuals are working on conveyances. For example, when inspectors do not demonstrate

adequate knowledge of technical requirements by passing the Division's inspector exam, or when mechanics do not receive the required continuing education to work on conveyances, there is a risk that they will make mistakes that could compromise safety for themselves or others. Further, when the Division issues licenses to individuals who were not clearly qualified for licensure, such as contractors who were licensed without providing evidence of having workers' compensation insurance, there is a risk that workers will not be adequately protected in the event of injury on the job.

In addition, consistently enforcing the requirement for all inspectors to take and pass the inspector exam before getting licensed helps promote standardization and ensure that inspectors both understand state requirements and demonstrate their qualifications to conduct inspections. According to staff, one of the reasons the Division established its inspector testing requirement was to standardize the inspection process, while one licensed inspector told us that the Division's inspector test is an important mechanism for communicating the State's requirements and expectations.

RECOMMENDATION 2

The Department of Labor and Employment should strengthen its process for issuing occupational licenses by:

- A Verifying that applicants for licensure meet all qualifications specified in statute and rule before issuing them licenses.
- B Updating the Division of Oil and Public Safety's (Division's) Standard Operating Procedure for Conveyance License Processing to clarify program requirements.
- C Changing rules to either (1) make requirements for the Division's inspector exams more precise, or (2) specify that Division staff have discretion to grant exceptions to rules under certain circumstances.
- D Implementing procedures to maintain complete documentation to support licensing decisions, including the rationale for any approved waivers of licensing requirements.
- E Following up with the 12 current licensees identified through our audit for whom the Division lacked evidence of qualification for licensure and either (1) obtaining documentation to substantiate that those individuals are qualified for the licenses, or (2) revoking their licenses.
- F Reviewing workers' compensation insurance policies for all contractors who hold current licenses to verify whether their policies are valid in Colorado. If the Division's documentation does not provide sufficient evidence that contractors have valid workers' compensation insurance, the Division should follow up to either (1) obtain additional evidence that they hold valid insurance policies, or (2) revoke their licenses until they provide evidence that they meet workers' compensation insurance requirements.

- G Modifying the mechanic license application form to clearly indicate when a completed mechanic training and work experience affidavit must be submitted with the application and making the affidavit form readily available to applicants.

RESPONSE

DEPARTMENT OF LABOR AND EMPLOYMENT

- A AGREE. IMPLEMENTATION DATE: JULY 2017.

The Division has utilized a practical approach to ensuring applicants meet the intent of statute and regulation for licensing conveyance mechanics, contractors and inspectors. For example, the conveyance mechanic licensing program was set up to rely on U.S. Department of Labor (USDOL) certificates to verify completion of a USDOL-approved apprenticeship program, including the International Union of Elevator Constructors (IUEC) mechanic training program. Due to resource issues at the USDOL, the Division was not receiving these certificates from USDOL in a timely manner, so the Division used a practical approach of verifying applicant's completion of the approved apprenticeship program directly through the IUEC and approved those mechanics licenses. Practical approaches utilized by the Division for licensing inspectors are explained in the Division response to 2C. In some instances of small, one-mechanic contractor companies, the Division relied upon contractor statements regarding exemption from Workers Compensation, in lieu of fully researching and incorporating Colorado-specific requirements for Workers Compensation. The Division will consider stakeholder input and revise licensing requirements in regulations to allow for these practical approaches to obtaining license qualification information and to fully clarify Workers Compensation requirements.

B AGREE. IMPLEMENTATION DATE: JULY 2017.

The Division will revise the licensing SOP to reflect proposed changes in regulation and to clarify and document program requirements by; including methodology to review other state programs for reciprocity with the Division mechanic licensing program, listing methods to obtain proof of workers compensation compliance for contractors (e.g. CDLE-WC website), adding scenarios that would be exempt from specific qualification and testing requirements, and describing any alternate methods to receive proof of completion of Division-approved training programs. Stakeholder input will be considered in the Division's determination of appropriate revisions.

C AGREE. IMPLEMENTATION DATE: JULY 2017.

The conveyance statute does not have any requirement that 3rd-party inspectors pass an examination administered by the Division, but rather that they have a certificate from a nationally accredited organization. However through implementation of the program the Division realized that many private 3rd-party inspectors were not familiarizing themselves with the Division's conveyance regulations. The Division amended regulations to require that, in addition to the national accreditation, the 3rd-party inspectors pass an exam on Division regulation and guidance documents in order to be licensed. Statute also requires the regulation of Automated People Movers (trains at DIA) which are different from elevators and escalators in adopted code and inspection requirements. Therefore, the Division did not require the one APM inspector to take and pass the Division inspector exam. The Division also did not require the Division-employed inspector, who developed the exam, to take and pass the exam that he developed. In accordance with the auditor's recommendation, the Division will revise regulations to include exemptions regarding the Division exam requirement.

D AGREE. IMPLEMENTATION DATE: JULY 2017.

Upon revising regulations to allow for waivers, the Division will ensure that all documentation for all licensing decisions including waivers of licensing requirements is maintained.

E AGREE. IMPLEMENTATION DATE: JANUARY 2016.

The Division has followed up with the 12 current licensees (9 contractors, 2 mechanics and 1 inspector) and verified that 8 of the 9 contractors that required workers compensation coverage verification have adequate coverage and the remaining 1 is currently in conversation with CDLE Division of Workers' Compensation (CDLE-WC) to resolve this issue. The Division will require an acceptable policy from this contractor by December 1, 2015 or their license will be revoked. Regarding the two mechanic licensees, the Division is working to obtain documentation from the training organization and/or licensees that indicates current compliance for licensing. The one inspector (APM inspector) will not be required to take the Division exam because the exam does not reflect APM requirements. As stated in the response to Recommendation 2 Part C, the Division will revise regulations to exclude APM inspectors from the exam requirement.

F AGREE. IMPLEMENTATION DATE: JANUARY 2016.

The Division has reviewed the contractor Liability Insurance policies and Workers' Compensation policies for all of the 31 currently licensed conveyances contractors. The Division has received confirmation from CDLE-WC that all contractors, with the exception of one licensee (refer to response 2 part E), have current and acceptable policies.

G AGREE. IMPLEMENTATION DATE: JUNE 2016.

The Division will revise the mechanic license application and add clarification regarding the work experience requirement and will make the work experience affidavit available on the Division website.

DELEGATION OF REGULATORY AUTHORITY

Statute [Section 9-5.5-112(2)(a), C.R.S.] gives the Division authority to delegate much of its conveyance oversight responsibilities to local jurisdictions that want to regulate conveyances located within their territory. These local jurisdictions, which are referred to as Authorities Having Jurisdiction (AHJs) in rule [7 C.C.R. 1101-8, Section 1-4], may be any city, county, city and county, or any agent thereof. Although statute broadly establishes that “nothing in [the Elevator and Escalator Certification Act] shall be construed to prevent a local jurisdiction from regulating conveyances” [Section 9-5.5-102, C.R.S.], the Division retains statewide responsibility for conveyance registration and occupational licensing [Section 9-5.5-107, C.R.S.; Section 9-5.5-108, C.R.S.; Section 9-5.5-109, C.R.S.; Section 9-5.5-111, C.R.S.; and 7 C.C.R. 1101-8, Section 3-1].

The Division delegates regulatory authority to “Approved AHJs” through memoranda of agreement (MOAs) [7 C.C.R. 1101-8, Section 3-1]. Since the Conveyance Program started in January 2008, the Division has delegated authority to a total of 30 Approved AHJs; 26 of those are still operating as Approved AHJs. These Approved AHJs regulate about 12,700 conveyances, or 65 percent of the approximately 19,500 conveyances in the state as of March 2015. APPENDIX B lists the local jurisdictions that had delegation agreements in effect as of March 2015. Most of these MOAs were first established 6 or 7 years ago.

WHAT AUDIT WORK WAS PERFORMED AND WHAT WAS THE PURPOSE?

We conducted the following audit work: (1) reviewed relevant statutes, Division rules, and MOA provisions; (2) interviewed Division staff regarding their processes for delegating regulatory authority to Approved AHJs; (3) reviewed a judgmental sample of eight MOAs the Division had entered into with Approved AHJs as of May 2015; and (4) reviewed current and historical MOAs and related documentation for the 30 local jurisdictions designated as Approved AHJs since January 2008.

The purpose of our audit work was to evaluate whether the Division's delegation of authority to Approved AHJs aligns with statute and rule.

HOW WERE THE RESULTS OF THE AUDIT WORK MEASURED?

APPROVED AHJS MUST HAVE ADEQUATE STANDARDS. To delegate authority for a local jurisdiction to regulate conveyances in its territory in lieu of the State, statute states that the Division “shall determine whether a local jurisdiction’s standards are equal to or greater than those of [the Elevator and Escalator Certification Act]. If so, then the administrator shall enter into a memorandum of agreement with the local jurisdiction that approves the jurisdiction’s authority to regulate conveyances” [Section 9-5.5-112(2)(a), C.R.S.]. Further, rule [7 C.C.R. 1101-8, Section 3-1(1)] states that the Division may delegate regulatory authority to Approved AHJs “provided that the AHJ program has standards that are equal to or more stringent than the minimum standards listed in Sections 2-2 through 2-11 of these regulations.” These rules outline requirements for various regulatory responsibilities ranging from the review of required inspections and issuance of certificates of operation, to reporting accidents and shutting down dangerous conveyances. Approved AHJs are further “responsible for enforcing the applicable provisions of these regulations” [7 C.C.R. 1101-8, Section 3-1(2)].

WHAT PROBLEM DID THE AUDIT WORK IDENTIFY?

The Division delegates regulatory authority to local jurisdictions without first making its own determination that they have standards “equal to or greater than” those of the Act. Of the 30 local jurisdictions the Division had ever approved as of July 2015, the Division did not evaluate the local standards of the jurisdictions to determine whether they were at least as stringent as requirements in statute or rule. Instead, the Division reported that its staff reviewed the signed MOAs, which served as an attestation by the local jurisdictions that they had stringent enough standards in place. According to the Division, no other type of review, such as a comparison of local ordinances against state requirements, is required to comply with statute.

By not determining in advance whether Approved AHJs have appropriate standards, the Division risks delegating regulatory authority to jurisdictions that do not have adequate programs in place. As discussed in the next section of the report, the Division conducts audits of Approved AHJs, in part to conclude on whether they are operating conveyance programs that meet required standards. However, the Division has not audited all Approved AHJs and only conducts the audits after delegation. As of July 2015, the Division had not audited 14 of the 26 Approved AHJs, meaning that the Division had delegated regulatory authority to these jurisdictions without first checking whether they were meeting requirements for operating local conveyance programs. When the Division did conduct audits, all of those audits were conducted at least 3.5 and as many as 6 years after the Division delegated authority to those local jurisdictions.

Further, once the Division conducted audits, it concluded that four of the 12 that it had audited as of July 2015, *were not* meeting requirements. The Division reported that in August and September 2015 it had followed up with two of the four Approved AHJs that were not meeting requirements and concluded that one had

implemented adequate standards after the initial audit. This means that, as late as September 2015, the other three Approved AHJs were still not meeting requirements.

The Division did conduct a “preliminary review” of one local entity’s planned conveyance program about 3 months prior to executing an MOA. The Division reported that the purpose of this review was not to determine that the local standards were at least equal to those in statute and rule, but rather to more generally evaluate whether concerns about the local entity’s capability to effectively take over a pre-existing conveyance program were justified.

WHY DID THE PROBLEM OCCUR?

A plain reading of the statutory requirement related to delegating regulatory authority suggests that the Division is responsible for deciding whether a local jurisdiction meets the statutory requirements *as a basis* for delegating regulatory authority. Specifically, Section 9-5.5-112(2)(a), C.R.S., states, “THE ADMINISTRATOR [DIVISION] SHALL DETERMINE whether a local jurisdiction’s standards are equal to or greater than those of [the Elevator and Escalator Certification Act]. IF SO, THEN the administrator shall enter into a memorandum of agreement with the local jurisdiction...” [emphasis added]. However, the Division does not believe statute requires it to review and determine whether a local jurisdiction’s standards are adequate as the basis for delegating its regulatory responsibilities. Instead, the Division told us that by signing an MOA, a local jurisdiction is attesting that it will “operate and enforce a conveyance regulation program within its territory of authority with standards equal to or more stringent than those within current [Division] statute and regulation,” as outlined in the MOA.

As of October 2015, the Division reported that it had not sought legal guidance from the Attorney General on whether obtaining an attestation from a local jurisdiction is sufficient to comply with the requirement in statute that the Department “determine whether a local jurisdictions’ standards are equal to or greater than those of [the

Elevator and Escalator Certification Act]” as a basis for delegating regulatory authority over conveyances. Therefore, a first step in clarifying the Department’s responsibilities in this area would be to seek guidance from the Attorney General’s Office about whether statute intends the Department to determine that a local jurisdiction’s standards are equal to or greater than those of the Act in order to delegate conveyance regulation.

This finding may also illustrate a policy issue. Specifically, if the General Assembly intended the Department to ensure that local jurisdictions have appropriate standards in place as a basis for approving such jurisdictions to regulate conveyances in their territories, but the Attorney General’s opinion indicates that this intent is not clear in the existing statutory language, the General Assembly may wish to consider amending the statute to make this intention clearer.

WHY DOES THIS PROBLEM MATTER?

The legislative intent of the Conveyance Program is to “ensure minimum safety standards throughout Colorado” [Section 9-5.5-102, C.R.S.]. If the Division does not ensure that local jurisdictions have adequate standards in place to regulate conveyances, then there is a risk that this goal will not be accomplished. Since Approved AHJs oversee about two-thirds of the conveyances in Colorado, it is important that they have local programs that operate in accordance with required standards.

Reviewing a local jurisdiction’s standards as a basis for executing an MOA would also be a more effective way for the Division to delegate its regulatory responsibilities. The Division told us that it can deny a local jurisdiction’s request for delegation of regulatory authority if the jurisdiction does not meet requirements under Section 9-5.5-112(2)(a), C.R.S. However, it is not clear how the Division would know that a local jurisdiction does not have adequate standards without having a process in place to review the local standards. Reviewing local standards at the time of delegation would also help the Division

identify and advise local jurisdictions that want to establish their own conveyance programs but are not yet eligible to do so.

RECOMMENDATION 3

The Department of Labor and Employment should ensure that it effectively delegates its regulatory authority to local Authorities Having Jurisdiction (AHJs) by:

- A Obtaining legal guidance from the Attorney General about whether an attestation from a local jurisdiction is sufficient in place of the Department determining “whether a local jurisdiction’s standards are equal to or greater than those of [the Elevator and Escalator Certification Act]” as a basis for delegating regulatory authority over conveyances and whether the Department’s determination must be made before the Department delegates regulatory authority.
- B Implementing a process to review local standards as a basis for delegating regulatory authority, if the legal guidance obtained in PART A indicates that the Division of Oil and Public Safety (Division) should conduct such reviews, and expediting them for all currently Approved AHJs. The Division should only execute or continue MOAs with AHJs it finds to have adequate standards.

RESPONSE

DEPARTMENT OF LABOR AND EMPLOYMENT

- A AGREE. IMPLEMENTATION DATE: JANUARY 2016.

The Division, in consultation with the Attorney General’s office, developed a Memorandum of Agreement (MOA) template which would be used as the instrument to delegate authority to qualified local jurisdictions. The Division’s expectations for this delegation are detailed in the MOA which is reviewed, and upon acceptance, signed by appropriate signatory officials. Upon review of the

signed MOA to ensure that statutory requirements have not been changed, the Division executes the MOA, officially delegating authority to the local jurisdiction. It has been the understanding of both parties that execution of the MOA is the verification that both parties agree to the terms of the agreement. The Division had conducted follow-up reviews post-delegation to verify whether the local jurisdiction was complying with the adopted codes or minimum standards agreed to in the MOA. The MOA process has enabled rapid delegation to local jurisdictions, ensuring the safety of conveyances. While the MOA process has not caused concern or been challenged, per the auditors' request, the Division has solicited an informal opinion from the Attorney General's office regarding whether the existing MOA process satisfies the Division's responsibility for review of jurisdiction standards and, if not, whether the review of the jurisdiction standards must be conducted prior to delegation of authority.

B AGREE. IMPLEMENTATION DATE: JULY 2016.

As of November 2015, the Division has conducted reviews with 24 of the 26 delegated local jurisdictions, and has determined that all those reviewed have standards that are equal to the Division's standards. The Division is in the process of completing reviews of the remaining 2 delegated local jurisdictions to confirm whether they are meeting the requirements in the MOA. Dependent upon the Attorney General's guidance, the Division will take actions, if necessary, to ensure compliance with the statutory delegation process.

MONITORING APPROVED AUTHORITIES HAVING JURISDICTION

After entering into memoranda of agreement (MOAs) that delegate authority for local jurisdictions to regulate conveyances within their territory, the Division periodically conducts outreach in the form of “audits” that conclude on whether Approved AHJs are operating conveyance programs that meet the requirements of an approved AHJ based on the Division’s minimum standards.

WHAT AUDIT WORK WAS PERFORMED AND WHAT WAS THE PURPOSE?

We conducted the following audit work: (1) reviewed relevant statutes, Division rules, state fiscal rules, and MOA provisions; (2) interviewed Division staff regarding their processes for overseeing Approved AHJs; (3) interviewed staff from nine Approved AHJs and one conveyance inspection company that conducts inspections on behalf of Approved AHJs; (4) observed one Approved AHJ audit conducted by Division staff; (5) reviewed a judgmental sample of eight MOAs that the Division had entered into with Approved AHJs as of May 2015; (6) reviewed and analyzed 11 documented audits of 10 Approved AHJs that the Division had performed as of July 2015; and (7) reviewed current and historical MOAs and related documentation for the 30 local jurisdictions designated as Approved AHJs since January 2008.

The purpose of our audit work was to evaluate whether the Division effectively monitors its MOAs with Approved AHJs.

HOW WERE THE RESULTS OF THE AUDIT WORK MEASURED?

Section 8-20-101(5), C.R.S., requires the Division Director to “enforce and administer” the Elevator and Escalator Certification Act (Act). The Division interprets this provision to mean that it is responsible for overseeing all conveyances in Colorado, including those located in Approved AHJs’ territory. Each MOA the Division executes with an Approved AHJ contains standard language stating that the agreement “shall be effective...upon the satisfaction of [the Division] that the AHJ has developed a program that can adequately regulate conveyances within its territory.” In addition, according to the MOAs, the Division can inspect and review an Approved AHJ’s records with regard to the delegation agreement.

Approved AHJs are responsible for carrying out key regulatory functions. Specifically, Section 9-5.5-112(2)(a), C.R.S., indicates that by having an MOA with the Division, an Approved AHJ is taking on responsibility for regulating the conveyances in its territory. Rule further states that Approved AHJs are “responsible for enforcing the applicable provisions of these regulations” [7 C.C.R. 1101-8, Section 3-1(2)]. These responsibilities include issuing certificates of operation for conveyances that are deemed to be safe and compliant with standards, approving permits to install new conveyances, receiving accident reports, and enforcing compliance with inspection, safety testing, permitting, and other conveyance program requirements. The MOA generally establishes that an Approved AHJ “shall operate and enforce a conveyance regulation program within its territory of authority with standards equal to or more stringent than those within current [Division] statute and regulation.”

WHAT PROBLEMS DID THE AUDIT WORK IDENTIFY?

MOAS TAKE EFFECT WITHOUT THE DIVISION MAKING ITS OWN DETERMINATION THAT SOME APPROVED AHJS HAVE PROGRAMS TO

ADEQUATELY REGULATE CONVEYANCES. As of July 2015, the Division had not conducted audits of 14, or more than half, of the 26 Approved AHJs with current MOAs to evaluate the adequacy of their programs. Therefore, the Division did not know if those jurisdictions, which had been regulating conveyances under MOAs for between 6 and 7 years, were meeting its requirements for operating local conveyance programs.

Even though the Division began entering into MOAs with local jurisdictions as early as July 2008, the Division did not begin auditing any Approved AHJs until May 2013. During this time, four former Approved AHJs went through the entire duration of their agreements, which lasted between 1 and 5 years each, without undergoing a Division audit. Once the Division began conducting audits in May 2013, those audits occurred at least 3.5 and as many as 6 years after the Division delegated authority to those local jurisdictions, based on audits the Division had conducted as of July 2015.

In August 2015, the Division reported that since the end of our testing period in July 2015, the Division had audited another six Approved AHJs.

SOME APPROVED AHJS ARE NOT MEETING DIVISION REQUIREMENTS. As of July 2015, the Division concluded that four of the 26 existing Approved AHJs *were not* meeting its requirements and that eight were. The Division's conclusions are based on audits and follow-up reviews it conducted of 12 Approved AHJs between May 2013 and July 2015. The Division was able to provide audit reports for 10 of the Approved AHJs it had audited, but did not have reports for the other two.

Of the four Approved AHJs that Division audits found were not meeting requirements, the Division reported that in August and September 2015 it had followed up with two of them. Based on that follow up, the Division concluded that one Approved AHJ had implemented adequate standards since the initial audit. This means

that, as late as September 2015, the other three Approved AHJs were still not meeting requirements.

WHY DID THE PROBLEMS OCCUR?

THE DIVISION'S SYSTEM FOR MONITORING APPROVED AHJS DOES NOT HOLD THEM ACCOUNTABLE FOR COMPLYING WITH DIVISION REQUIREMENTS. Specifically, the Division does not have written policies and procedures that outline parameters for which Approved AHJs staff will follow up on, or that require Approved AHJs to submit, plans specifying how they will correct deficiencies. Of the four Approved AHJs that were not operating conveyance programs in accordance with Division requirements as of July 2015, the Division had not followed up with any of them, even though the audits occurred between 5 months and more than 2 years earlier. The Division reported that its decision not to audit some Approved AHJs was based on factors that could indicate how much outreach a jurisdiction appears to need, such as how often the Division interacts with staff at a jurisdiction, the experience level of personnel running an Approved AHJ's conveyance program, and the number of conveyances located in a jurisdiction.

In addition, the Division has not opted to terminate agreements with the four Approved AHJs that were not operating conveyance programs in accordance with Division requirements as of July 2015, nor has the Division suspended the delegation of certain program functions that were problematic. The Division reported that it believes those jurisdictions have addressed deficiencies noted during Division audits and follow-up reviews, so the Division believes it is appropriate to continue delegating its regulatory authority to those Approved AHJs. While the Division has discretion to decide when termination is appropriate, the Division has not clearly defined what deficiencies or circumstances would result in termination of an MOA or suspension of delegated authority for an Approved AHJ to regulate certain functions.

According to the Division, an underlying expectation of the Elevator and Escalator Certification Act was that local jurisdictions would carry out a significant role in conveyance regulation, even though the Act established state-level authority and responsibility for conveyances. Based on this expectation, the Division's focus is on helping Approved AHJs run effective programs rather than pursuing punitive measures when Division audits find deficiencies. The Division stated that its audits serve as a key mechanism for providing this outreach, as well as training the Division provides to Approved AHJ staff. In addition, the Division reported that it does not have enough resources to absorb the additional workload that could result from terminating an MOA.

THE DIVISION HAS NOT CLEARLY DEFINED ITS EXPECTATIONS OF APPROVED AHJS. The Division has not defined in rule, or the MOA, which specific business processes it expects Approved AHJs to follow. We found that during its audits, the Division sometimes cites local jurisdictions for having deficiencies in areas that statute, rules, and the MOAs do not specifically address, including:

- Not using an inspection report format similar to the Division's form.
- Not having a database capable of tracking data specified by the Division.
- Not performing audits of third-party conveyance inspectors operating in the Approved AHJ's territory.

One Approved AHJ conveyance program manager with many years of experience in the conveyance industry reported being surprised that his jurisdiction's program was found to be deficient in some of these areas, because they are not related to requirements in statute, rules, the MOA, or local ordinances. According to the Division, requirements that are not explicitly addressed in the MOA are included in the MOA provision that states an Approved AHJ must "operate and enforce a conveyance regulation program within its territory of authority with standards equal to or more stringent than those within current OPS statute and regulation."

WHY DO THESE PROBLEMS MATTER?

Although one intent of the Act may have been for local jurisdictions to play a key role in regulating conveyances, without sufficient Division oversight, there is a risk that some conveyances are not being adequately regulated. We found indicators that some Approved AHJs may not be carrying out all of their delegated responsibilities in a rigorous manner. Administrators from two of the nine Approved AHJs we interviewed told us they believed their jurisdictions had limited responsibilities related to regulating conveyances. For example, the administrator from one of these jurisdictions reported that her jurisdiction had not been issuing annual certificates of operation for the conveyances in its territory because she was unaware of the requirement to do so. Issuing certificates of operation is a key function of Approved AHJs, as specified in statute and rule [Section 9-5.5-114(1)(a), C.R.S., and 7 C.C.R. 1101-8, Section 2-3-1-2]. These two administrators also reported that they had limited knowledge of conveyances and did not know where to find authoritative guidance for their programs.

RECOMMENDATION 4

The Department of Labor and Employment should ensure that Approved Authorities Having Jurisdiction (Approved AHJs) have adequate regulatory programs by:

- A Developing a written policy that outlines the Division of Oil and Public Safety's (Division's) process for conducting audits or other outreach to Approved AHJs, including (1) how the Division will determine that the Approved AHJs have developed programs that can adequately regulate conveyances; (2) how the Division will ensure that Approved AHJs understand their responsibilities and are meeting Division requirements; (3) actions the Division will take once it identifies deficiencies, including when follow-up audits will be triggered; and (4) requirements for Approved AHJs to submit corrective action plans outlining how they plan to address deficiencies.
- B Describing all expectations for Approved AHJs in rule, written policy, or the MOA. This should include specifying what types of problems will cause termination of the MOA or suspension of delegated authority to regulate certain functions until the problems are resolved.

RESPONSE

DEPARTMENT OF LABOR AND EMPLOYMENT

- A AGREE. IMPLEMENTATION DATE: JULY 2017.

The Division has always been committed to continuous process improvement and, in accordance with the auditors recommendations, will develop written procedures for the AHJ

review process which will address each item listed in RECOMMENDATION 4 PART A.

B AGREE. IMPLEMENTATION DATE: JULY 2017.

The Division will create a policy or revise the MOA to include a description of what types of problems will warrant the suspension or termination of the MOA.



APPENDIX A



SUMMARY OF FINDINGS RELATED TO
THE SMART GOVERNMENT ACT
CONVEYANCE PROGRAM
DEPARTMENT OF LABOR AND EMPLOYMENT
NOVEMBER 2015

The SMART Government Act [Section 2-7-204(5), C.R.S.] requires the State Auditor to annually conduct performance audits of one or more specific programs or services in at least two departments. These audits may include, but are not limited to, the review of:

- The integrity of the department's performance measures audited.
- The accuracy and validity of the department's reported results.
- The overall cost and effectiveness of the audited programs or services in achieving legislative intent and the department's goals.

The performance audit relating to the Conveyance Program was selected for focused audit work related to the Division of Oil and Public Safety's (Division) internal performance measure for that program. This document outlines our findings related to the Conveyance Program. We have presented our findings as responses to three key questions that can assist legislators and the general public in assessing the value received for the public funds spent by the Conveyance Program.

What is the purpose of the Conveyance Program, and how much does it cost?

In 2007, the General Assembly established statewide regulation of conveyances through passage of the Elevator and Escalator Certification Act (Act) (Senate Bill 07-123), in order to "ensure minimum safety standards throughout Colorado." The Act, which took effect on January 1, 2008, arose out of concern for the safety of people working on and riding conveyances, because there was no statewide standard for conveyance inspections and maintenance, or minimum qualifications for individuals who inspect and maintain conveyances.

To measure its success in meeting this purpose, the Division has established an internal performance measure that tracks the percentage of conveyances operating with a current certificate of operation. The Division reported that staff review the performance measure results on a weekly basis. The Division's goal is for an 88.5 percent compliance rate.

The Conveyance Program is cash funded through the fees collected by the Division for its regulatory activities, including registration and licensing, as well as revenue generated by enforcement actions (i.e., fines) and interest income. In Fiscal Year 2015, the Division

reports to have collected about \$671,000 in revenue for the Conveyance Program and had expenses of about \$668,000.

What key improvements did the audit recommend related to the Conveyance Program's measurement of its performance?

The audit made no recommendations related to the Division's measurement and reporting of the program's performance.

What other key improvements did the audit recommend related to the effectiveness of the Conveyance Program in achieving its purpose?

We found that the Conveyance Program could improve its effectiveness at ensuring minimum safety standards for conveyances throughout Colorado. RECOMMENDATION 1 identified ways for the Division to improve its system for ensuring that conveyances in its territory are operating in accordance with minimum safety standards. RECOMMENDATION 2 identified ways for the Division to strengthen its process for issuing occupational licenses. RECOMMENDATIONS 3 and 4 identified ways for the Division to effectively delegate its regulatory authority to local Authorities Having Jurisdiction and ensure that those jurisdictions have adequate programs to regulate conveyances in their territories.

APPENDIX B



**APPROVED AUTHORITIES HAVING JURISDICTION
AS OF MARCH 2015¹**

NAME OF APPROVED AUTHORITY HAVING JURISDICTION		NUMBER OF CONVEYANCES
1	Arapahoe County	203
2	Berthoud	7
3	Black Hawk	116
4	Brighton	80
5	Castle Rock	76
6	Central City	30
7	Cherry Hills Village	18
8	Cripple Creek	— ²
9	Denver Fire Department	5,892
10	Douglas County	445
11	Englewood	167
12	Glendale	114
13	Greenwood Village	442
14	Littleton	171
15	Lone Tree	165
16	Longmont	199
17	Louisville	103
18	Mt. Crested Butte	32
19	Northwest Colorado Council of Governments (Aspen, Avon, Basalt, Breckenridge, Carbondale, Clear Creek County, Craig, Dillon, Eagle, Eagle County, Fraser, Frisco, Garfield County, Georgetown, Glenwood Springs, Granby, Grand County, Grand Lake, Gypsum, Hayden, Hot Sulphur Springs, Kremmling, Lake County, Minturn, New Castle, Oak Creek, Pitkin County, Red Cliff, Rifle, Routt County, Silt, Silverthorne, Steamboat Springs, Summit County, Vail, Walden, Winter Park, Yampa)	1,794
20	Parker	87
21	Pikes Peak Regional Building Department (Colorado Springs, El Paso County, Fountain, Green Mountain Falls, Manitou Springs, Monument, Palmer Lake)	1,743
22	Pueblo Regional Building Department (Boone, Pueblo, Pueblo County)	395
23	Snowmass Village	93
24	Teller County	39 ²
25	Thornton	121
26	Wheat Ridge	128
TOTAL		12,660

SOURCE: Office of the State Auditor's analysis of data provided by the Division of Oil and Public Safety.

¹ Four local jurisdictions that no longer have MOAs with the Division are not listed.

² The numbers of conveyances located in Cripple Creek and Teller County are reported to the Division of Oil and Public Safety as a single total for both jurisdictions because their conveyance programs are jointly administered.



