



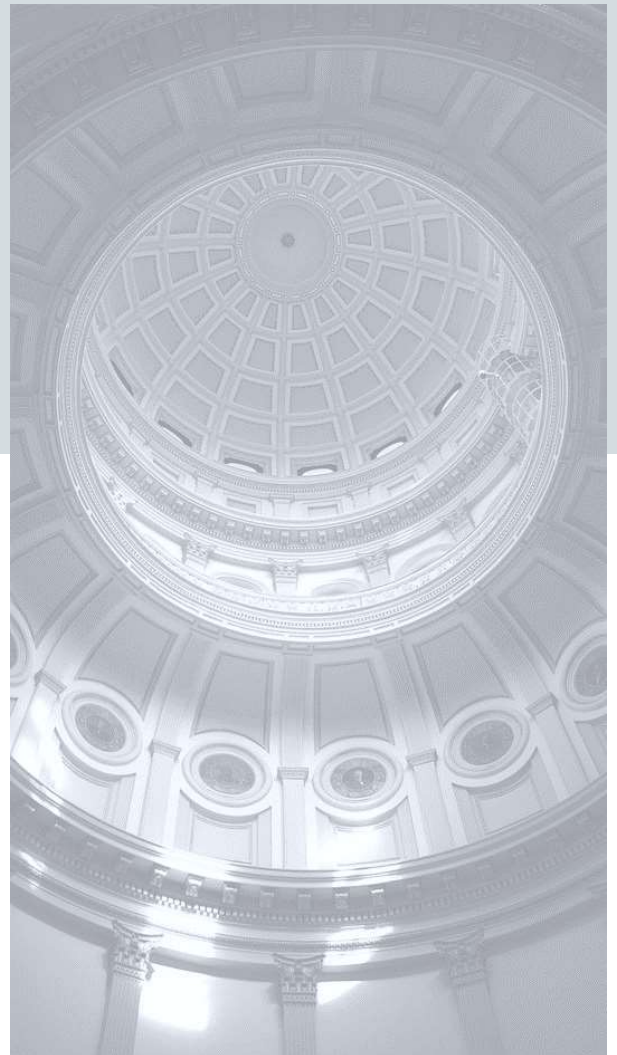
COLORADO

**Department of
Regulatory Agencies**

Colorado Office of Policy, Research &
Regulatory Reform

2021 Sunset Review

Elevator and Escalator Certification Act



October 15, 2021



COLORADO

**Department of
Regulatory Agencies**

Executive Director's Office

October 15, 2021

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado General Assembly established the sunset review process in 1976 as a way to analyze and evaluate regulatory programs and determine the least restrictive regulation consistent with the public interest. Pursuant to section 24-34-104(5)(a), Colorado Revised Statutes (C.R.S.), the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) at the Department of Regulatory Agencies (DORA) undertakes a robust review process culminating in the release of multiple reports each year on October 15.

A national leader in regulatory reform, COPRRR takes the vision of their office, DORA and more broadly of our state government seriously. Specifically, COPRRR contributes to the strong economic landscape in Colorado by ensuring that we have thoughtful, efficient and inclusive regulations that reduce barriers to entry into various professions and that open doors of opportunity for all Coloradans.

As part of this year's review, COPRRR has completed an evaluation of the Elevator and Escalator Certification Act. I am pleased to submit this written report, which will be the basis for COPRRR's oral testimony before the 2022 legislative committee of reference.

The report discusses the question of whether there is a need for the regulation provided under Article 5.5 of Title 9, C.R.S. The report also discusses the effectiveness of the Department of Labor and Employment in carrying out the intent of the statutes and makes recommendations for statutory and administrative changes for the review and discussion of the General Assembly.

To learn more about the sunset review process, among COPRRR's other functions, visit coprrr.colorado.gov.

Sincerely,

Patty Salazar
Executive Director



Sunset Review: Escalator and Elevator Certification Act

Background

What is regulated?

In Colorado, there are approximately 22,600 regulated conveyances including elevators, escalators, moving walks, dumbwaiters, platform lifts, and automated people movers (such as the trains at Denver International Airport).

Why is it regulated?

When a conveyance is not properly maintained and critical components fail, the results can be catastrophic to a conveyance rider, potentially leading to injury or even death. Due to the complexity of the machinery, regular maintenance and inspection of conveyances is required by national codes and standards to ensure that regulated conveyances provide safe transportation for Colorado consumers.

Who is regulated?

Conveyances are regulated by the Administrator who oversees the Conveyance Program (Program) within Division of Oil and Public Safety at the Department of Labor and Employment. During fiscal year 19-20, 687 contractors, mechanics, and inspector licenses were issued and approximately 22,600 conveyances are currently regulated within the state.

How is it regulated?

Regulations established in 7 CCR section 1101-8 are promulgated by the Administrator for the licensing of conveyance inspectors, contractors, and mechanics. Additionally, the Administrator establishes rules for the design, installation, registration, construction, operation,

maintenance, testing, and inspection of regulated conveyances according to adopted national codes and standards.

What does it cost?

In fiscal year 19-20, the Administrator expended \$702,025 and allotted 7.76 full-time equivalent employees to implement the Program.

What disciplinary activity is there?

During the sunset review period of fiscal years 15-16 through 19-20, 17,873 complaints were filed against conveyance owners for operating without registration and/or certificate of operation and 22 complaints were filed against conveyance owners for installing or altering a conveyance without obtaining a permit. Additionally, 102 complaints were filed against licensees resulting in 47 licensee disciplinary actions.

Key Recommendations

- **Continue the Elevator and Escalator Certification Act for nine years, until 2031.**
- **Direct that all monies collected by the Administrator resulting from civil penalties be deposited in the state's General Fund.**

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Background

Sunset Criteria

Enacted in 1976, Colorado's sunset law was the first of its kind in the United States. A sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it. During the sunset review process, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) within the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria¹ and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are guided by statutory criteria and sunset reports are organized so that a reader may consider these criteria while reading. While not all criteria are applicable to all sunset reviews, the various sections of a sunset report generally call attention to the relevant criteria. For example,

- In order to address the first criterion and determine whether a particular regulatory program is necessary to protect the public, it is necessary to understand the details of the profession or industry at issue. The Profile section of a sunset report typically describes the profession or industry at issue and addresses the current environment, which may include economic data, to aid in this analysis.
- To ascertain a second aspect of the first sunset criterion--whether conditions that led to initial regulation have changed--the History of Regulation section of a sunset report explores any relevant changes that have occurred over time in the regulatory environment. The remainder of the Legal Framework section addresses the third sunset criterion by summarizing the organic statute and rules of the program, as well as relevant federal, state and local laws to aid in the exploration of whether the program's operations are impeded or enhanced by existing statutes or rules.
- The Program Description section of a sunset report addresses several of the sunset criteria, including those inquiring whether the agency operates in the public interest and whether its operations are impeded or enhanced by existing statutes, rules, procedures and practices; whether the agency performs efficiently and effectively and whether the board, if applicable, represents the public interest.
- The Analysis and Recommendations section of a sunset report, while generally applying multiple criteria, is specifically designed in response to the tenth criterion, which asks whether administrative or statutory changes are necessary to improve agency operations to enhance the public interest.

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

These are but a few examples of how the various sections of a sunset report provide the information and, where appropriate, analysis required by the sunset criteria. Just as not all criteria are applicable to every sunset review, not all criteria are specifically highlighted as they are applied throughout a sunset review. While not necessarily exhaustive, the table below indicates where these criteria are applied in this sunset report.

Sunset Criteria	Where Applied
(I) Whether regulation by the agency is necessary to protect the public health, safety, and welfare; whether the conditions that led to the initial regulation have changed; and whether other conditions have arisen that would warrant more, less, or the same degree of regulation;	<ul style="list-style-type: none"> • Profile of the Profession. • Legal Framework: History of Regulation. • Recommendation 1.
(II) If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms, and whether agency rules enhance the public interest and are within the scope of legislative intent;	<ul style="list-style-type: none"> • Legal Framework: Legal Summary. • Recommendation 2. • Administrative Recommendation 2.
(III) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters;	<ul style="list-style-type: none"> • Legal Framework: Legal Summary. • Program Description and Administration. • Recommendation 3. • Administrative Recommendation 1.
(IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;	<ul style="list-style-type: none"> • Program Description and Administration.
(V) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;	<ul style="list-style-type: none"> • Not applicable.
(VI) The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;	<ul style="list-style-type: none"> • Profile of the Profession.
(VII) Whether complaint, investigation, and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;	<ul style="list-style-type: none"> • Program Description and Administration: Complaint and Disciplinary Activity. • Program Description and Administration: Fining. • Program Description and Administration: Audits/Inspections.
(VIII) Whether the scope of practice of the regulated occupation contributes to the optimum use of personnel and whether entry requirements encourage affirmative action;	<ul style="list-style-type: none"> • Program Description and Administration: Licensing. • Program Description and Administration: Examinations.

Sunset Criteria	Where Applied
(IX) Whether the agency through its licensing or certification process imposes any sanctions or disqualifications on applicants based on past criminal history and, if so, whether the sanctions or disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subsection (5)(a) of this section must include data on the number of licenses or certifications that the agency denied based on the applicant's criminal history, the number of conditional licenses or certifications issued based upon the applicant's criminal history, and the number of licenses or certifications revoked or suspended based on an individual's criminal conduct. For each set of data, the analysis must include the criminal offenses that led to the sanction or disqualification.	<ul style="list-style-type: none"> • Program Description and Administration: Collateral Consequences.
(X) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.	<ul style="list-style-type: none"> • Recommendations 1 and 2. • Administrative Recommendations 1 - 4.

Sunset Process

Regulatory programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials, representatives of the regulated profession and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review on COPRRR’s website at coprrr.colorado.gov.

The functions of the Director of the Division of Oil and Public Safety (Administrator and Division, respectively) within the Colorado Department of Labor and Employment as enumerated in Article 5.5 of Title 9, Colorado Revised Statutes (C.R.S.), shall terminate on July 1, 2022, unless continued by the General Assembly. During the year prior to this date, it is the duty of COPRRR to conduct an analysis and evaluation of the Administrator pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the currently prescribed regulation should be continued and to evaluate the performance of the Administrator. During this review, the Administrator must demonstrate that the program serves the public interest. COPRRR’s findings and recommendations are submitted via this report to the Office of Legislative Legal Services.

Methodology

As part of this review, COPRRR staff interviewed Division staff, practitioners, officials with state and national professional associations; and reviewed complaint file summaries, Colorado statutes and rules, and the laws of other states.

The major contacts made during this review include, but are not limited to:

- Building Owners and Managers Association
- Division of Oil and Public Safety, Department of Labor and Employment
- Division of Real Estate, Department of Regulatory Agencies
- Elevator Industry Work Preservation Fund
- International Union of Elevator Constructors, Local Chapter 25
- National Elevator Industry, Inc.
- Northwest Colorado Council of Governments
- Occupational Safety and Health Administration

In the spring of 2021, Colorado Office of Policy, Research and Regulatory Reform staff conducted a survey of 111 conveyance professionals who are licensed by the Administrator. The survey was sent to 109 participants; 2 emails were returned as undeliverable. The survey received 37 responses, which is a 34.57 percent response rate. Survey results can be found in Appendix A.

Profile of the Profession

In a sunset review, COPRRR is guided by the sunset criteria located in section 24-34-104(6)(b), C.R.S. The first criterion asks whether regulation by the agency is necessary to protect the public health, safety, and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation.

In order to understand the need for regulation, it is first necessary to understand what the profession does, where they work, who they serve and any necessary qualifications.

The origins of the modern elevator began in the 1800's, first utilizing steam power and eventually evolving to hydraulic power.² These early elevators were used in factories, mines, and warehouses to transport goods. In 1852, Elisha Graves Otis developed the first safety device designed to stop the fall of the elevator in the event of failure of the cab's supporting rope, and the first electric elevator was developed by a German inventor named Wener Von Siemens in 1880.³

America's urban centers began to expand rapidly in the early 20th century, leading to larger buildings and the necessity to move both people and goods vertically. Although

² Elevatorhistory.net. *History of Elevators*. Retrieved June 11,2021, from <http://www.elevatorhistory.net/>

³ Elevatorhistory.net. *History of Elevators*. Retrieved June 11,2021, from <http://www.elevatorhistory.net/>

elevators existed at that time, the public was reluctant to use them without additional safety measures.⁴

The Elevator Manufacturer’s Association (EMA), established in 1914, developed the first model code in 1917 entitled, “Uniform Regulations for the Construction and Installation of Passenger and Freight Elevators.”⁵

The first safety code for elevators was later developed in 1921 by the American Society of Mechanical Engineers (ASME) in its publication of ASME A17, entitled, “Safety Code for Elevators,” which contained safety guidelines for elevator speed, door locking devices, and switches. This code became the basis for the modern Safety Code for Elevators ASME A17.1/CSA B44, which is a more than 350-page document developed by ASME in conjunction with the Canadian Standards Association (CSA).⁶ The code addresses safety measures for a variety of modern conveyance mechanisms, including elevators, escalators, moving walks, material lifts, and dumbwaiters.

In addition to ASME 17.1, safety guidelines have also been established in several documents developed by ASME that pertain to other types of conveyances including:

- ASME 17.3 entitled, “Safety Code for Existing Elevators and Escalators”; and
- ASME 18.1 entitled, “Safety Standard for Platform Lifts and Stairway Chairlifts”.

In Colorado, there are approximately 22,600 regulated conveyances including elevators, escalators, moving walks, dumbwaiters, platform lifts, and automated people movers (such as the trains at Denver International Airport).

The Director of the Division of Oil and Public Safety (Administrator and Division, respectively) establishes rules for the design, installation, registration, construction, operation, maintenance, testing, and inspection of regulated conveyances according to adopted national codes and standards, which includes the ASME safety codes and standards mentioned above.

Additionally, the Elevator and Escalator Certification Act (Act) provides regulatory oversight for three distinct professions:

- Conveyance contractors,
- Conveyance mechanics, and
- Conveyance inspectors.

⁴ American Society of Mechanical Engineers (ASME). *Heavy Lifting: The History of the Elevator Code*. Retrieved June 11, 2021, from <https://www.asme.org/topics-resources/content/heavy-lifting-the-history-of-the-elevator-code>

⁵ National Elevator Industry, Inc. (NEII). *NEII History*. Retrieved June 11, 2021, from <http://www.neii.org/neiihistory.cfm>

⁶ American Society of Mechanical Engineers (ASME). *Heavy Lifting: The History of the Elevator Code*. Retrieved June 11, 2021, from <https://www.asme.org/topics-resources/content/heavy-lifting-the-history-of-the-elevator-code>

The Act requires conveyance contractors, mechanics, and inspectors to be licensed to perform work within Colorado.

Conveyance Contractors and Mechanics

Conveyance mechanics—also referred to as installers or repairers—install, maintain, repair, and replace elevators, escalators, moving walkways, and other types of moving lifts and may specialize in repair, installation, or maintenance.

Once a conveyance is installed it will require regular maintenance and repair. Contractors and mechanics working in the areas of maintenance or repair may need to have a working knowledge of hydraulics, electronics, complex troubleshooting techniques, and may also occasionally be required to perform emergency repairs. Conveyance maintenance may include replacing worn parts, greasing moving parts, and making adjustments for optimal performance of the conveyance.⁷

A conveyance contractor is defined in the Act as, “a person who engages in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining conveyances.”⁸ In Colorado, conveyance contractors are required to maintain applicable insurance, and must also employ at least one licensed mechanic in order for the contractor to obtain licensure.

The Act defines a conveyance mechanic as, “a person who erects, constructs, installs, alters, services, repairs, or maintains conveyances.”⁹ Conveyance mechanics in Colorado may be granted a license if the mechanic is supervised by a licensed contractor and meets additional requirements specified in the Act, including any applicable training coursework and examinations offered by approved national training providers. Approved national training programs typically require three to four years of hands-on experience and examinations.

In lieu of a national training credential, applicants may be eligible for licensure if other requirements are met, such as passage of an examination and sufficient experience as determined by the Administrator.

Further, conveyance mechanics must complete eight hours of continuing education every two years to renew their license.

The sixth sunset criterion requires COPRRR to evaluate the economic impact of regulation. One way this may be accomplished is to review the expected salary of the profession.

⁷ Bureau of Labor Statistics. *Occupational Outlook Handbook: What Elevator and Escalator Installers and Repairers Do*. Retrieved June 11, 2021, <https://www.bls.gov/ooh/construction-and-extraction/elevator-installers-and-repairers.htm#tab-2>

⁸ § 9-5.5-103(12), C.R.S.

⁹ § 9-5.5-103(14), C.R.S.

In 2020, there were approximately 24,800 conveyance mechanics in the United States whose hourly mean wage was \$42.57 with an annual mean wage of \$88,540.¹⁰

In fiscal year 19-20, Colorado licensed approximately 568 conveyance mechanics and 46 conveyance contractors.

Conveyance Inspectors

Conveyance inspectors examine the electrical and mechanical controls in conveyance devices such as elevators, escalators, moving walks and other types of conveyance devices.¹¹

To obtain a license in the state of Colorado, applicants must obtain national certification and pass an examination administered by the Division. Inspectors are also required to maintain their national certification and to comply with continuing education required by the Administrator to renew each year.

In 2020, the salary for construction and building inspectors—including conveyance inspectors—had an hourly mean wage of \$30.22 with an annual mean wage of \$62,860.¹² In fiscal year 19-20, Colorado licensed approximately 74 conveyance inspectors.

¹⁰ Bureau of Labor Statistics. *Occupational Outlook Handbook: Elevator and Escalator Installers and Repairers; Summary*. Retrieved June 11, 2021, from <https://www.bls.gov/ooh/construction-and-extraction/elevator-installers-and-repairers.htm#tab-1>

¹¹ Bureau of Labor Statistics. *Occupational Outlook Handbook: What Construction and Building Inspectors Do*. Retrieved June 11, 2021, from <https://www.bls.gov/ooh/construction-and-extraction/construction-and-building-inspectors.htm#tab-2>

¹² Bureau of Labor Statistics. *Occupational Outlook Handbook: Construction and Building Inspectors; Summary*. Retrieved June 11, 2021, from <https://www.bls.gov/ooh/construction-and-extraction/construction-and-building-inspectors.htm#tab-1>

Legal Framework

History of Regulation

In a sunset review, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is guided by the sunset criteria located in section 24-34-104(6)(b), Colorado Revised Statutes (C.R.S.). The first sunset criterion questions whether regulation by the agency is necessary to protect the public health, safety, and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen that would warrant more, less or the same degree of regulation.

One way that COPRRR addresses this is by examining why the program was established and how it has evolved over time.

COPRRR conducted a sunrise review regarding conveyances in Colorado during 2005, which found that many elevators in Colorado were regulated on a local jurisdictional level according to elevator code established by the American Society of Mechanical Engineers (ASME), and that many conveyance installers and mechanics received training and apprenticeship opportunities through the International Union of Elevator Constructors.

The 2005 sunrise report further recommended that municipalities and local governments should require inspections of escalators and elevators in public buildings in accordance with ASME safety codes.

Also, in 2005, Senate Bill 238 was drafted with the intent to require conveyance contractors, mechanics, and inspectors to be certified, and would have further required all conveyances in the state to be registered by July 1, 2006. However, the bill failed in the House upon third reading.

Senate Bill 07-123 passed the General Assembly and was signed into law by the governor on May 30, 2007, which officially established the Elevator and Escalator Certification Act (Act). The Act directs the Director of the Division of Oil and Public Safety (Administrator and Division, respectively) to enforce regulation including:

- Processes for the application and licensure of conveyance mechanics, inspectors, and contractors;
- Requirements regarding training and examination to demonstrate minimal competencies; and
- Processes for disciplinary action and grounds for discipline.

In 2008, the General Assembly passed Senate Bill 08-224 which modified the implementation of the adopted code ASME A17.3 and provided additional clarification regarding inspector qualifications as well as additional requirements for municipalities

or counties, also referred to as Authorities Having Jurisdiction (AHJs), regarding national code compliance.

The Act was also modified in 2010 with the passage of House Bill 10-1231 which provided further clarification including:

- Licensee requirements to notify conveyance owners and the Administrator or applicable AHJ if a conveyance is not in compliance,
- Conveyance types exempted from regulation, and
- Conveyance initial inspection requirements and certificate of operation requirements.

In 2015, several bills were passed by the General Assembly that further modified the Act. House Bill 15-1261 added cash fund reserve requirements for the Conveyance Safety Fund. Additionally, without going through the sunset review process, House Bill 15-1353 continued the Act and established a new repeal date of July 1, 2022. It should be noted that the current sunset report is the first time in which COPRRR has performed a sunset review of the Act.

Further, during the COVID-19 pandemic, House Bill 20-1406 was passed by the General Assembly to require the transfer of \$500,000 from the Conveyance Safety Fund to the General Fund.

Legal Summary

The second and third sunset criteria question

Whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms, and whether agency rules enhance the public interest and are within the scope of legislative intent; and

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters.

A summary of the current statutes and rules is necessary to understand whether regulation is set at the appropriate level and whether the current laws are impeding or enhancing the agency's ability to operate in the public interest.

The regulation of conveyances in Colorado was established in the Colorado Elevator and Escalator Certification Act (Act). The Act was passed by the General Assembly in 2008

with the stated purpose of ensuring minimum safety standards for regulated conveyances.¹³

The Director of the Division of Oil and Public Safety (Administrator and Division, respectively), within the Colorado Department of Labor and employment is responsible for promulgating regulations pursuant to the Act.

Regulations established in 7 CCR section 1101-8 are promulgated by the Administrator for the licensing of conveyance inspectors, contractors, and mechanics. In addition, the Administrator establishes rules regarding the design, construction, installation, registration, operation, maintenance, testing, and inspection of regulated conveyances¹⁴ that are accessible to the public according to accepted national codes and standards.

Further, the following standards and codes developed by the American Society of Mechanical Engineers (ASME) and the American Society of Civil Engineers (ASCE) have been adopted by the Administrator for application in conjunction with state statutes and regulations:¹⁵

- ASME A17.1 - 2019, Safety Code for Elevators and Escalators;
- ASME A18.1 - 2017, Safety Standard for Platform Lifts and Stairway Chairlifts;
- ASCE 21 - 2013, Automated People Mover Standards; and
- ASME A17.3 - 2005, Safety Code for Existing Elevators and Escalators.

Conveyance Certification and Testing

Conveyance regulations apply to mechanical moving devices that are accessible to the public¹⁶ including, but not limited to:¹⁷

- Lowering and hoisting mechanisms equipped with a car, such as elevators, personnel hoists, dumbwaiters, and platform lifts;
- Power-driven walkways and stairways that transport people between landings, such as moving walks and escalators; and
- Automated people movers, as defined by ASCE 21 as a guided transit mode with fully automated operation featuring vehicles that operate on guideways with exclusive right-of-way.¹⁸

¹³ § 9-5.5-102, C.R.S.

¹⁴ 7 CCR § 1101-8-1-1 and 1-2, Conveyance Regulations.

¹⁵ 7 CCR § 1101-8-2-2(1), Conveyance Regulations.

¹⁶ 7 CCR § 1101-8-1-1, Conveyance Regulations.

¹⁷ 7 CCR § 1101-8-1-1-5 (1), (2), and (3), Conveyance Regulations.

¹⁸ American Society of Civil Engineers (ACSE) Library. *ASCE 21, Automated People Movers; Abstract*. Retrieved September 8, 2021, from <https://ascelibrary.org/doi/book/10.1061/9780784415573>

Regulation of conveyances within the Act does not apply to moving mechanical devices including, but not limited to:¹⁹

- Passenger tramways;
- Stairway chairlifts;
- Manlifts;
- Mobile scaffolds, towers, and platforms;
- Conveyances located in facilities regulated by the Mine Safety and Health Administration located within the U.S. Department of Labor;
- Special purpose personnel elevators and wind turbine tower elevators that are not accessible to customers or the public;
- Conveyances within a single-family residence; and
- Elevators within gas or electric utility facilities that are not accessible to the public.

Regulations further require that conveyance owners must register the conveyance with the Administrator by completing the registration form and paying the one-time \$200 registration fee. Upon approval of the application, the Administrator will assign a unique registration number to the conveyance. Additionally, the conveyance owner is responsible for notifying the Administrator of any changes in ownership within 30 days.²⁰

Conveyance owners must maintain a current certificate of operation for each conveyance, which will expire on the same date each year as determined by the Administrator. To receive a certificate, the conveyance owner must demonstrate to the Administrator that the conveyance is compliant with all applicable standards and required inspections.²¹

The Administrator may authorize a temporary certificate of operation for up to 180 days if the conveyance operation is deemed necessary for public use and if no imminent life safety issues are identified by a conveyance inspector.²² Temporary elevators utilized in building construction activities may also be issued a construction certificate of operation for up to 90 days if the elevator is necessary for construction activities.²³

Conveyance owners must also ensure that each regulated conveyance receives an initial acceptance test upon completion of construction or conveyance alteration that is in accordance with the updated code based upon the type of conveyance installed or altered.²⁴

¹⁹ 7 CCR § 1101-8-1-5(4), Conveyance Regulations.

²⁰ 7 CCR § 1101-8-2-1, Conveyance Regulations.

²¹ 7 CCR § 1101-8-2-3-1-2, Conveyance Regulations.

²² 7 CCR § 1101-8-2-3-1-3(1) and (2), Conveyance Regulations.

²³ 7 CCR § 1101-8-2-3-1-4(1), Conveyance Regulations.

²⁴ 7 CCR § 1101-8-2-3-2(1), Conveyance Regulations.

Authorities Having Jurisdiction

A municipality or county, also referred to as an Authority Having Jurisdiction (AHJ) can enter into a Memorandum of Agreement (MOA) with the Administrator in which the AHJ is delegated the authority to regulate conveyances within its jurisdiction, if it meets specific requirements including:²⁵

- AHJ standards must be equal to or more stringent than the minimum standards required in state regulation; and
- AHJs are responsible for enforcement of any applicable provisions within the state regulations.

Additionally, AHJs have the authority to set and collect fees for conveyances located within their respective territories.

The Administrator also oversees the licensure process for conveyance contractors, conveyance mechanics, and conveyance inspectors. Each license issued allows the licensee to perform any applicable duties including installation, alteration, maintenance, removal, dismantling, replacement, or inspection as listed on the license issued.²⁶

Conveyance Contractor License

A conveyance contractor is defined in the Act as, “a person who engages in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining conveyances.”²⁷ In Colorado, conveyance contractors are required to maintain applicable insurance, and must also employ at least one licensed mechanic for the contractor to obtain licensure.

Conveyance contractor licenses are valid for one year. To renew, the contractor must complete the required application, pay the license renewal fee, and provide documentation to the Administrator demonstrating that the conveyance contractor continues to employ at least one licensed conveyance mechanic and continues to maintain required insurance.²⁸

Conveyance Mechanic License

The Administrator may issue a conveyance mechanic license upon the completion of the following requirements:²⁹

- Submit the conveyance mechanic license application;
- Pay the application fee; and

²⁵ 7 CCR § 1101-8-3-1, Conveyance Regulations.

²⁶ 7 CCR § 1101-8-4-1(1), Conveyance Regulations.

²⁷ § 9-5.5-103(12), C.R.S.

²⁸ 7 CCR § 1101-8-4-1-3(2), Conveyance Regulations.

²⁹ 7 CCR § 1101-8-4-1-1(2)(a), Conveyance Regulations.

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- Successfully complete a conveyance mechanic training program that is either registered with the United States Department of Labor Office of Apprenticeship or approved by the Administrator. If the applicant is seeking licensure under programs approved by the Administrator, the applicant must provide an affidavit stating that during the applicant's participation in the approved program, the applicant completed a minimum of 1,700 hours of related work experience per year performing activities listed in the work process schedule attached to the required affidavit. (According to the Division, training programs are typically completed within three to four years.)

An applicant may also qualify for licensure by submitting one of the following documentation types:³⁰

- Documentation that the applicant holds a current and valid license in another state that meets or exceeds Colorado's regulations, as determined by the Administrator, which must include a copy of the license and contact information for the issuing department in the state in which the license was issued; and
- Documentation that the applicant has at least three years of work experience on non-residential conveyances without supervision and pass an examination provided by the Administrator or a similar examination relating to applicable codes for the type of license for which the applicant applied.

Following review of the application, the Administrator will notify the applicant regarding the approval or denial of the application. If the applicant is approved, the applicant will be issued a license number and information regarding the type of work approved.³¹

Any person who is approved for a conveyance mechanic license must complete eight hours of continuing education approved by the Administrator every two years.³²

Each conveyance mechanic license issued is valid for one year. To renew a license, the applicant must complete the following requirements:³³

- Submit the conveyance mechanic license application form,
- Pay the license renewal fee, and
- Provide documentation that the applicant completed the required continuing education.

In the event of an emergency, the Administrator may issue an emergency conveyance mechanic license to an applicant who demonstrates acceptable documented education and work experience. Within five business days after commencing work, the applicant must submit the application for a conveyance mechanic license to the Administrator.³⁴

³⁰ 7 CCR § 1101-8-4-1-1(2)(b), Conveyance Regulations.

³¹ 7 CCR § 1101-8-4-1-1(4), Conveyance Regulations.

³² 7 CCR § 1101-8-4-1-1(3), Conveyance Regulations.

³³ 7 CCR § 1101-8-4-1-1(5), Conveyance Regulations.

³⁴ 7 CCR § 1101-8-4-1-2(1), Conveyance Regulations.

If no conveyance mechanics are available to perform conveyance work, the Administrator may issue a temporary conveyance mechanic license to an applicant who is enrolled and progressing through an applicable training program, and who has acceptable education and experience working on specific conveyances, based upon the judgement of a conveyance contractor. The conveyance contractor must submit the temporary conveyance mechanic license application and applicable fee to the Administrator at least five days prior to the commencement of work by the applicant.³⁵

Conveyance Inspector License

The Administrator may issue a conveyance inspector license to an applicant upon the completion of the following requirements:³⁶

- Submit the conveyance inspector license application;
- Pay the application fee;
- Pass an examination administered by the Administrator when applicable;³⁷and
- Provide additional documentation required for private conveyance inspector, AHJ conveyance inspector or AHJ-appointed conveyance inspector applications.

Additionally, any AHJ-appointed or private inspector must submit proof of insurance which demonstrates that the applicant possesses insurance of not less than \$1 million for injury and death per occurrence, and not less than \$500,000 for property damage per occurrence.³⁸ An AHJ conveyance inspector is exempt from the insurance requirement while performing official duties.³⁹

Each conveyance inspector license is valid for one year. To renew a license, the applicant must complete the following requirements:⁴⁰

- Submit the conveyance inspector license application form,
- Pay the license renewal fee,
- Provide documentation that the applicant is certified by a nationally recognized conveyance association,
- Provide documentation demonstrating that the applicant completed the required continuing education, and
- Provide proof of insurance.

Any person who is approved for a conveyance inspector license must complete continuing education. However, the Division directly facilitates continuing education for conveyance inspectors and there are no specific number of hours required in rule or statute. Instead, the Division works with inspectors to determine coursework that would be beneficial for the profession on an ongoing basis and provides the continuing

³⁵ 7 CCR § 1101-8-4-1-2(2), Conveyance Regulations.

³⁶ 7 CCR § 1101-8-4-1-4(2), Conveyance Regulations.

³⁷ 7 CCR § 1101-8-4-1-4(4)(a), Conveyance Regulations.

³⁸ 7 CCR § 1101-8-4-1-4(5), Conveyance Regulations.

³⁹ 7 CCR § 1101-8-4-1-4(6), Conveyance Regulations.

⁴⁰ 7 CCR § 1101-8-4-1-4(8), Conveyance Regulations.

education directly to conveyance inspectors on an annual basis in both spring and fall seasons, free of charge.

Additionally, the Administrator may pursue enforcement actions if a regulated conveyance, conveyance contractor, mechanic, or inspector is found to be out of compliance, or when a conveyance poses a risk of danger to the public. Enforcement actions may include any of the following:

- Notice of violation,⁴¹
- Enforcement Order,⁴²
- Suspension or revocation of a license,⁴³ and
- Issuance of fines in conjunction with a notice of violation⁴⁴ or an enforcement order.⁴⁵

⁴¹ 7 CCR § 1101-8-5-1-1, Conveyance Regulations.

⁴² 7 CCR § 1101-8-5-1-2, Conveyance Regulations.

⁴³ 7 CCR § 1101-8-5-1-3, Conveyance Regulations.

⁴⁴ 7 CCR § 1101-8-5-1-1, Conveyance Regulations.

⁴⁵ 7 CCR § 1101-8-5-1-2, Conveyance Regulations.

Program Description and Administration

In a sunset review, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is guided by sunset criteria located in section 24-34-104(6)(b), Colorado Revised Statutes (C.R.S.). The third and fourth sunset criteria question:

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures practices and any other circumstances, including budgetary, resource and personnel matters; and

Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively.

In part, COPRRR utilizes this section of the report to evaluate the agency according to these criteria.

The Conveyance Program (Program) is overseen by the Director of the Division of Oil and Public Safety or the Director's designee (Administrator and Division, respectively) within the Colorado Department of Labor and Employment (Department). The Administrator is responsible for administering and enforcing regulations pursuant to the Elevator and Escalator Certification Act (Act).

The Program is funded through conveyance fees established and collected by the Administrator, which are transmitted to the Conveyance Safety Fund established in section 9-5.5-111(2)(b), C.R.S. Funds collected and any interest earned does not revert back to the General Fund and cannot be transmitted to any other fund.

Table 1 highlights the total Program expenditures and the number of full-time equivalent (FTE) employees dedicated to the Program for fiscal year 15-16 through fiscal year 19-20.

Table 1
Program Expenditures and FTE

Fiscal Year	Program Expenditures	FTE
15-16	\$527,331	5.23
16-17	\$595,404	6.36
17-18	\$1,154,093	8.39
18-19	\$695,026	7.26
19-20	\$702,025	7.76

The Division began utilizing a new database that became operational on May 12, 2018, which enhanced the Division's ability to track additional data, and Table 1 demonstrates a significant increase in program expenditures during fiscal year 17-18. According to the Division, these expenditures included a budget request for spending authority to purchase and transition to the new database.

In fiscal year 20-21, the Division allocated a combined total of 7.25 FTE to administer the Act through the Program, apportioned in the following manner:

- Compliance Specialist III - 1.0 FTE - Provides development, implementation, maintenance training, and education regarding enforcement processes, and assists facilities that are considered out of compliance through the enforcement process;
- Program Management I (Chief Conveyance Inspector) - 1.0 FTE - Reviews the work of licensed inspectors and mechanics to ensure minimum standards are being met within code and regulatory compliance, issues variance approvals, and acts as the primary point of contact for federal and state regulatory entities, industry contractors, and mechanics regarding technical issues;
- Technician I - 2.0 FTE - Provides technical reviews of inspection reports to determine if any deficiencies may warrant additional conveyance and/or inspector audits, and may coordinate site visits with the audit inspector to request verification of compliance;
- Technician IV - 1.0 FTE - Reviews and processes information obtained from the conveyance industry and conveyance owners regarding conveyance registration, permitting, inspection, licensing, and enforcement;
- Program Management III - 0.25 FTE - Provides high-level direction for the Program and relays Department goals and expectations to supervisors and Program staff; and
- Support Personnel - Support personnel comprise a total of 1.0 FTE designated in the following manner:
 - Program Management II - 0.1 FTE - Provides supervision of the data management team and the support team supervisor;
 - Technician III - 0.2 FTE - Responsible for the reconciliation and posting of fines and fees;
 - Analyst IV - 0.5 FTE - Develops and implements database changes and acts as a liaison to the Governor's Office of Information Technology and technology vendors regarding data management; and
 - Administrator I - 0.2 FTE - Assists program staff with licensure processes.

Licensing

The eighth sunset criterion questions whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action.

In part, COPRRR utilizes this section of the report to evaluate the Program according to this criterion.

To practice as a conveyance contractor, mechanic, or inspector within the state of Colorado, each applicant must first obtain a license from the Division. The Division reviews initial licensure applications upon the completion of mandated requirements including the completion of minimal educational requirements and passing the approved examination.

It should be noted that license fees are the same amount whether an applicant is applying for initial licensure or renewal, except in instances where a fee proration for a portion of the year is warranted.

Conveyance Contractor

A conveyance contractor is defined in the Act as, “a person who engages in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining conveyances.”⁴⁶

To become a conveyance contractor, an applicant must submit the required initial application fee of \$500. The applicant must also employ at least one licensed mechanic for the contractor to obtain licensure.

Additionally, conveyance contractors are required to maintain applicable insurance of at least \$1 million for injury or death in each occurrence and at least \$500,000 for property damage in each occurrence. The contractor must also submit evidence of the insurance coverage mandated by the "Workers' Compensation Act of Colorado", Articles 40 to 47 of Title 8, C.R.S.⁴⁷

The conveyance contractor license is valid for one year. To renew, the contractor is required to show continuing proof of insurance. In addition, the contractor must submit an application to renew their license, along with a license fee of \$500.

No continuing education is required for conveyance contractors.

Conveyance Mechanic

Conveyance mechanic licenses are available in four categories for various types of conveyances that licensed conveyance mechanics are authorized to repair or maintain:⁴⁸

- Type I - All regulated conveyances, except for automated people movers;

⁴⁶ § 9-5.5-103(12), C.R.S.

⁴⁷ § 9-5.5-115(1), C.R.S.

⁴⁸ 7 CCR § 1101-8-4-1-1(1), Conveyance Regulations.

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- Type II - Platform lifts only, as described in the American Society of Mechanical Engineers (ASME) publication, ASME A18.1;
 - Type III - Automated people movers only, as described in the American Society of Civil Engineers (ASCE) publication, ASCE 21; and
 - Type IV - All regulated conveyances, except for platform lifts.

The Administrator may issue a conveyance mechanic license upon the completion of the following requirements:⁴⁹

- Submit the conveyance mechanic license application;
- Pay the initial application fee of \$125 annually or \$25 monthly if applying as a temporary mechanic⁵⁰; and
- Complete a conveyance mechanic training program that is either registered with the United States Department of Labor Office of Apprenticeship or approved by the Administrator. If the applicant is seeking licensure under programs approved by the Administrator, the applicant must provide an affidavit stating that during the applicant's participation in the approved program, the applicant completed a minimum of 1,700 hours of related work experience per year performing activities listed in the work process schedule attached to the required affidavit. (According to the Division, training programs are typically completed within three to four years.)

An applicant may also qualify for licensure by submitting one of the following documentation types:⁵¹

- Documentation that the applicant holds a current and valid license in another state that meets or exceeds Colorado's regulations, as determined by the Administrator, which must include a copy of the license and contact information for the issuing department in the state in which the license was issued; or
- Documentation that the applicant has at least three years of work experience on non-residential conveyances without supervision and pass an examination provided by the Administrator or a similar examination relating to applicable codes for the type of license for which the applicant applied.

Following review of the application, the Administrator will notify the applicant regarding the approval or denial of the application. If the applicant is approved, the applicant will be issued a license number and information regarding the type of work approved.⁵²

Any person who is approved for a conveyance mechanic license must complete eight hours of continuing education approved by the Administrator every two years.⁵³

⁴⁹ 7 CCR § 1101-8-4-1-1(2)(a), Conveyance Regulations.

⁵⁰ 7 CCR § 1101-8-4-1(6), Conveyance Regulations.

⁵¹ 7 CCR § 1101-8-4-1-1(2)(b), Conveyance Regulations.

⁵² 7 CCR § 1101-8-4-1-1(4), Conveyance Regulations.

⁵³ 7 CCR § 1101-8-4-1-1(3), Conveyance Regulations.

According to the Division, every other year is considered a continuing education year, in which all eight hours are to be completed.

Each conveyance mechanic license issued is valid for one year. To renew a license, the applicant must complete the following requirements:⁵⁴

- Submit the Conveyance Mechanic License application form,
- Pay the license renewal fee of \$125, and
- Provide documentation that the applicant completed the required continuing education.

In the event of an emergency, the Administrator may issue an emergency conveyance mechanic license to an applicant who demonstrates acceptable documented education and work experience. Within five business days of commencing work, the applicant must submit the application for a conveyance mechanic license to the Administrator.⁵⁵

If no conveyance mechanics are available to perform conveyance work, the Administrator may issue a temporary conveyance mechanic license to an applicant who is enrolled and progressing through an applicable training program, and who has acceptable education and experience working on specific conveyances, based upon the judgement of a conveyance contractor. The conveyance contractor must submit the temporary conveyance mechanic license application and pay the required \$25 monthly fee to the Administrator at least five days prior to the commencement of work by the applicant.⁵⁶

Conveyance Inspector

Conveyance inspector licenses are available in three categories. The type of license dictates the types of conveyances the inspector is allowed to inspect:⁵⁷

- Type I - Available for all conveyance types other than automated people movers, including, but not limited to elevators, escalators, moving walks, platform lifts, and dumbwaiters;
- Type II - Automated people movers; and
- Type III - All conveyances listed in Type I and Type II.

Additionally, inspectors can either become licensed as private inspectors, inspectors employed through municipalities and counties, also known as Authorities Having Jurisdiction (AHJs), or AHJ-appointed inspectors.

⁵⁴ 7 CCR § 1101-8-4-1-1(5), Conveyance Regulations.

⁵⁵ 7 CCR § 1101-8-4-1-2(1), Conveyance Regulations.

⁵⁶ 7 CCR § 1101-8-4-1-2(2), Conveyance Regulations.

⁵⁷ 7 CCR § 1101-8-4-1-4(1), Conveyance Regulations.

To obtain a license as a Type I private inspector, the applicant must complete the following requirements:⁵⁸

- Obtain certification from a nationally recognized conveyance association or provide proof that the applicant qualifies as elevator personnel according to the national ASME A17.1 standards, and be approved to take an examination offered by a national conveyance association, as approved by the Administrator;
- Submit the conveyance inspector license application;
- Pay the initial application fee of \$175; and
- Pass the examination administered by the Administrator regarding the state's regulations, policies, and guidance documents available on the Program's website. This examination is required for all new applicants for the Type I inspection license.⁵⁹

To obtain an initial license as a Type II private inspector, the following requirements must be met:⁶⁰

- Submit the conveyance inspector license application;
- Pay the initial application fee of \$175; and
- Provide proof that the applicant has a professional engineer license, or a minimum of three years of experience participating in automated people mover inspections and audits.

Type II inspector applicants are not required to complete an examination administered by the Administrator.⁶¹

It should be noted that Type III inspectors must also submit the conveyance inspector license application and pay the initial application fee of \$175. However, since Type III inspector licenses are a combination of Type I and Type II licenses, applicants for this license type must demonstrate that they meet the requirements of both Type I and Type II licenses.

Additionally, Type III applicants must renew each year by submitting the renewal application, paying the \$175 application fee, and meeting the renewal requirements for both Type I and Type II licenses.

To become a Type I AHJ inspector or an AHJ-appointed inspector, the applicant must either:⁶²

- Obtain certification from a nationally recognized conveyance association; or
- Submit one of the following documents to the Administrator:

⁵⁸ 7 CCR § 1101-8-4-1-4(2)(a)(i), Conveyance Regulations.

⁵⁹ 7 CCR § 1101-8-4-1-4(4)(a), Conveyance Regulations.

⁶⁰ 7 CCR § 1101-8-4-1-4(2)(a)(ii), Conveyance Regulations.

⁶¹ 7 CCR § 1101-8-4-1-4(4)(c), Conveyance Regulations.

⁶² 7 CCR § 1101-8-4-1-4(2)(b), Conveyance Regulations.

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- Documentation that the applicant intends to complete certification within one year following the completion of an eight-week period of supervised conveyance inspection activities; or
 - Documentation that the applicant has already completed an eight-week period of supervised conveyance inspection activities.

Additionally, any AHJ-appointed or private inspector must submit proof of insurance which demonstrates that the applicant possesses insurance of not less than \$1 million for injury and death per occurrence, and not less than \$500,000 for property damage per occurrence.⁶³ AHJ conveyance inspectors are exempt from the insurance requirement while performing official duties.⁶⁴

Any person who is approved for a conveyance inspector license must complete continuing education. However, the Division directly facilitates continuing education for conveyance inspectors and there are no specific number of hours required in rule or statute. Instead, the Division works with inspectors to determine coursework that would be beneficial for the profession on an ongoing basis and provides the continuing education directly to conveyance inspectors on an annual basis in both spring and fall seasons, free of charge.

Each conveyance inspector license issued is valid for one year. To renew a license, the applicant must complete the following requirements:

- Submit the conveyance inspector license application form,
- Pay the license renewal fee of \$175,
- Provide documentation that the applicant is certified by a nationally recognized conveyance association,
- Provide documentation demonstrating that the applicant completed the required continuing education, and
- Provide proof of insurance.

Table 2 provides the total number of licenses issued for fiscal years 15-16 through 19-20. It should be noted that license renewal occurs on June 30 each year.

⁶³ 7 CCR § 1101-8-4-1-4(5), Conveyance Regulations.

⁶⁴ 7 CCR § 1101-8-4-1-4(6), Conveyance Regulations.

**Table 2
Total Conveyance Program Licenses Issued**

Fiscal Year	Number of Licenses Issued			
	Contractors	Mechanics	Inspectors	TOTAL
15-16	33	508	60	601
16-17	37	457	58	552
17-18	48	504	60	612
18-19	44	543	55	642
19-20	46	568	73	687

The table depicts that the total number of all conveyance professionals has steadily increased during the years reviewed. These data also represent the total per fiscal year for both initial and renewal licenses.

Table 3 provides the number of licenses issued in calendar years 2018 through 2020 for both conveyance inspectors and conveyance mechanics by each license type. Due to the previous computer system utilized by the Program, this information is not available prior to 2018.

**Table 3
Total Licenses Issued Per License Type**

License Type	2018	2019	2020
Inspector Type I	53	64	65
Inspector Type II	1	1	1
Inspector Type III	0	0	0
Mechanic Type I	469	525	511
Mechanic Type II	4	2	3
Mechanic Type III	51	52	51
Mechanic Type IV	0	0	0
Temporary Mechanic	65	97	82

The table indicates that Inspector Type I and Mechanic Type I licenses are the most commonly issued licenses, and both license types slightly increased during the years reviewed.

Table 4 demonstrates the cost associated with license fees for each professional type.

Table 4
License Fees

License Type	License Fee
Mechanic	\$125
Temporary Mechanic	\$25 per month
Contractor	\$500
Inspector	\$175
Replacement License	\$25

The table above demonstrates the cost associated with license fees for each profession type. It should be noted that the fees are the same for both initial licensure and annual license renewal, except in instances where a fee proration for a portion of the year is warranted.

Examinations

The eighth sunset criterion questions whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

National Certification Requirements

To become an inspector in Colorado, it is required that applicants pass a national examination and receive certification from a national organization approved by the Administrator. The national examination tests an applicant's knowledge of the current edition of any applicable industry codes. These examinations are approximately eight hours in length and require the completion of approximately 600 questions. National examinations can be completed through a variety of national organizations. Therefore, summarized pass rate data was not available.

Administrator Examination Requirements

The Administrator requires that both conveyance mechanic and inspector initial applicants pass an examination administered by the Administrator. This examination is comprised of a mix of 40 multiple-choice and true/false question types, with three editions of the examination that can be utilized. Applicants must have a pass rate of 95 percent or higher to pass.

The examination is untimed, open-book, and is specifically related to state regulations. The examination must be completed in person, and each applicant can retake the test a second time after the initial test is scored if necessary. There is no fee required for the examination, as the cost of examination administration is built into the licensure fee structure. All the current examinations occur in person at the Program’s office in Denver.

Table 5 provides the total number of conveyance mechanic and inspector examinations given by the Division as well as the percentage of passing scores (pass rate) for fiscal years 15-16 through 19-20.

**Table 5
License Examination Information**

Fiscal Year	Number Mechanic Written Examinations Given	Initial Pass Rate (%)	Number of Inspector Written Examinations Given	Initial Pass Rate (%)
15-16	2	50	10	100
16-17	2	50	10	50
17-18	2	50	2	100
18-19	3	67	7	14
19-20	1	100	12	83

The table above demonstrates that the initial pass rate for conveyance mechanic examinations has continued to increase during the years reviewed. However, there is a noticeable decrease illustrated in the initial pass rate percentage for inspector examinations during fiscal year 18-19.

According to the Division, this examination was previously required of both initial and renewal inspector applicants. As continuing education requirements were raised for inspectors, applicants for inspector licensure renewal were no longer required to complete the examination, unless a renewal applicant failed to complete continuing education requirements or did not complete the renewal process in a timely manner.

The examination data listed in the table specifically relates to the examination administered by the Administrator and does not include examinations required for national training and testing credentials.

Conveyance Certification and Testing

The Administrator also establishes rules regarding the design, construction, installation, registration, operation, maintenance, testing, and inspection of regulated conveyances that are accessible to the public according to accepted national codes and standards.

Conveyance regulations apply to mechanical moving devices including, but not limited to:⁶⁵

- Lowering and hoisting mechanisms equipped with a car, such as elevators, personnel hoists, dumbwaiters, and platform lifts;
- Power-driven walkways and stairways that transport people between landings, such as moving walks and escalators; and
- Automated people movers, as defined by ASCE 21 as a guided transit mode with fully automated operation featuring vehicles that operate on guideways with exclusive right-of-way.⁶⁶

Regulation of conveyances within the Act does not apply to moving mechanical devices including, but not limited to:⁶⁷

- Passenger tramways;
- Stairway chairlifts;
- Manlifts;
- Mobile scaffolds, towers, and platforms;
- Conveyances located in facilities regulated by the Mine Safety and Health Administration located within the U.S. Department of Labor;
- Special purpose personnel elevators and wind turbine tower elevators that are not accessible to customers or the public;
- Conveyances within a single-family residence; and
- Elevators within gas or electric utility facilities that are not accessible to the public.

To operate regulated conveyances in areas of public access within the state of Colorado, a permit is required to complete any new installation or alter any existing conveyance, and registration with the Administrator of the conveyance is also mandatory.

Owners of regulated conveyances must complete the following registration process including completion of the registration form and paying the \$200 registration fee. Upon approval of the application, the Administrator will assign a unique registration

⁶⁵ 7 CCR § 1101-8-1-5 (1), (2), and (3), Conveyance Regulations.

⁶⁶ American Society of Civil Engineers (ACSE) Library. *ASCE 21, Automated People Movers; Abstract*. Retrieved September 8, 2021, from <https://ascelibrary.org/doi/book/10.1061/9780784415573>

⁶⁷ 7 CCR § 1101-8-1-5(4), Conveyance Regulations.

number to the conveyance. The conveyance owner will be responsible for notifying the Administrator of any changes in ownership within 30 days.⁶⁸

Additionally, the conveyance must pass an initial acceptance safety test witnessed by an inspector before a certificate of operation will be issued. The certificate of operation must be renewed on a yearly basis and will expire on the same date each year as determined by the Administrator.

The Administrator may authorize a temporary certificate of operation for up to 180 days if the conveyance operation is deemed necessary for public use and if no imminent life safety issues are identified by a conveyance inspector.⁶⁹ Temporary elevators utilized in building construction activities may also be issued a construction certificate of operation for up to 90 days if the elevator is necessary for construction activities.⁷⁰

Conveyance owners are also required to arrange periodic inspections of the conveyance in accordance with the regulations established by the Administrator.⁷¹ Conveyance owners must ensure that each regulated conveyance receives an initial acceptance test upon completion of the new conveyance installation or conveyance alteration for each regulated conveyance that is in accordance with the updated code based upon the type of conveyance installed.⁷²

Table 6 demonstrates the total number of active conveyances for calendar years 2016 through 2021. It should be noted that the total number of conveyances per year do not include those that have either been removed from service or physically removed from a property.

Table 6
Total Active Conveyances

Calendar Year	Total Conveyances
2016	20,458
2017	21,021
2018	21,518
2019	22,132
2020	22,618
2021	22,707

⁶⁸ 7 CCR § 1101-8-2-1, Conveyance Regulations.

⁶⁹ 7 CCR § 1101-8-2-3-1-3, Conveyance Regulations.

⁷⁰ 7 CCR § 1101-8-2-3-1-4, Conveyance Regulations.

⁷¹ 7 CCR § 1101-8-2-3-1-1, Conveyance Regulations.

⁷² 7 CCR § 1101-8-2-3-2, Conveyance Regulations.

The table demonstrates that total active conveyances have steadily increased during the years reviewed.

Each conveyance owner must also ensure that the regulated conveyance receives both Category 1 and Category 5 periodic tests that are to be performed by a conveyance mechanic employed by a conveyance contractor for all existing conveyances, except automated people mover conveyances.⁷³

**Table 7
Frequency of Periodic Tests⁷⁴**

Conveyance Type	Category 1		Category 5	
	Perform	Witness	Perform	Witness
Traction Elevators	Annually	5 years	5 years	5 years
Hydraulic Elevators	Annually	5 years	5 years*	5 years*
Other Elevators**	Annually	5 years	5 years	5 years
Dumbwaiters	5 years	Not required	Not required	Not required
Escalators and Moving Walks	Annually	Annually	Not required	Not required
Indoor Platform Lifts	5 years	5 years	5 years	5 years
Outdoor Platform Lifts	3 years	6 years	3 years	6 years
Private residence elevators installed in commercial buildings***	5 years	5 years	5 years	5 years

*A Category 5 test is only required to be conducted and witnessed on a hydraulic elevator if the elevator is equipped with safeties, an over-speed valve, a governor, a plunger gripper, or an oil buffer.

** Includes roped-hydraulic elevators and Limited-Use/Limited-Application elevators.

*** Private Residence Elevators shall not be installed in commercial settings after January 1, 2008, per Conveyance Regulations, section 7 CCR 1101-8-2-4-2(5).

Tests may either be performed or witnessed to meet the requirements of the Category 1 and Category 5 tests. Tests are performed by licensed conveyance mechanics. However, when it is required that a test be witnessed, a licensed conveyance inspector must also be present to witness the completion of the test.

It should also be noted that there are more components required for the more stringent Category 5 test and the Category 5 test includes all requirements of the Category 1 test.

Additionally, all conveyances begin with an acceptance test prior to receiving a certificate of operation, which is similar to the Category 5 test, although the acceptance test includes additional testing requirements.

⁷³ 7 CCR § 1101-8-2-3-2(2), Conveyance Regulations.

⁷⁴ 7 CCR § 1101-8-2-3-2, Conveyance Regulations.

As of January 1, 2021, conveyance owners must ensure that conveyance testing and inspections are aligned as follows:⁷⁵

- Certificates of operation will expire at the end of the month in which the witnessed test is due, and the compliance month will then remain the same in future years, except if approved by the Administrator;
- Non-witnessed annual tests must be completed within 60 days of the compliance month;
- Periodic inspections must be completed within the compliance month, and during or following the annual test to verify completion of the test;
- During the year in which the witnessed one-year and five-year tests are due, all testing must be completed within the compliance month, and periodic inspections must be conducted concurrently; and
- If a temporary certificate of operation was issued based upon the issuance of a non-compliance test, the previously established compliance month will remain the same.

In sum, the compliance month is the month in which the last witnessed test was completed, and this will be the month for the testing moving forward, unless adjusted by the Administrator at the request of the conveyance owner.

Table 8 details the number of conveyance registrations, certificates of operation, and permits issued for both new conveyance installations and conveyance alterations for fiscal years 15-16 through 19-20. The number of registrations represents the total number of registrations that occurred within each fiscal year in the state, whereas the number of certificates of operation, and new/alteration permits represents the total number issued in territories regulated specifically by the Administrator.

**Table 8
Conveyance Registration, Certificate of Operation, and Permits Issued**

Fiscal Year	Registrations	Certificates of Operation	New Installation Permits Issued	Alteration Permits Issued
15-16	916	9,218	241	156
16-17	918	10,639	359	216
17-18	744	9,875	268	206
18-19	829	9,615	294	250
19-20	655	9,950	228	238

The table demonstrates that although new registrations of conveyances have somewhat declined during the years reviewed, certificates of operation and new installations have

⁷⁵ 7CCR § 1101-8-2-3-2(4), Conveyance Regulations.

remained stable. Further, alterations to existing conveyances have increased from fiscal years 15-16 through 19-20.

According to the Division, when the Act was signed into law, the compliance date for registering conveyances throughout the state was August 1, 2008. However, late registrations of conveyances continued to occur for many years, and during fiscal years 15-16 to 19-20 the majority had been registered, presenting an appearance of a decline in registrations.

Authorities Having Jurisdiction

A municipality or county, also referred to as an Authority Having Jurisdiction (AHJ) can enter into a Memorandum of Agreement (MOA) with the Administrator in which the AHJ is delegated the authority to regulate conveyances within its jurisdiction, if it meets specific requirements including:⁷⁶

- AHJ standards must be equal to or more stringent than the minimum standards required in state regulation; and
- AHJs are responsible for enforcement of any applicable provisions within the state regulations.

Additionally, AHJs have the authority to set and collect fees for conveyances located within their respective territories.

According to the Division, there are currently 15 AHJ cities or counties that maintain agreements with the Administrator. Additionally, the Northwest Colorado Council of Governments has intergovernmental signatory authority for an additional 41 cities and counties. The Administrator maintains direct regulatory enforcement of all remaining cities and counties without AHJ agreements in place, which comprises approximately 40 percent of the registered conveyances in Colorado.

Complaint and Disciplinary Activity

The seventh sunset criterion requires COPRRR to examine whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

The Administrator may pursue enforcement actions if a regulated conveyance, conveyance contractor, mechanic, or inspector is found to be out of compliance with

⁷⁶ 7 CCR § 1101-8-3-1, Conveyance Regulations.

regulations, or when a conveyance poses a risk of danger to the public. Enforcement actions may include any of the following:

- Issuance of a notice of violation,⁷⁷
- Issuance of an enforcement order,⁷⁸ and
- Suspension or revocation of a license.⁷⁹

Table 9 details the number of alleged violation types received for complaints filed against individual licensees for fiscal years 15-16 through 19-20, as well as the total number of complaints received per fiscal year.

**Table 9
Nature of Licensee Complaints**

Alleged Violation	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20
Practicing without a license	6	11	9	15	22
Standard of practice	5	8	2	0	0
Fraudulent submissions	1	6	9	4	4
TOTAL	12	25	20	19	26

The table demonstrates that most complaints filed against licensees occur for the alleged violation of practicing without a license, which has steadily increased from fiscal year 17-18 to fiscal year 19-20. The Division is unaware of any reason for this increase.

Table 10 summarizes disciplinary actions taken by the Administrator in fiscal years 15-16 through 19-20.

**Table 10
Final Agency Actions**

Type of Action	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20
Revocation	0	0	0	0	0
Voluntary surrender/relinquishment	0	0	0	0	0
Suspension	1	0	0	0	0
Probation/practice limitation	0	0	0	0	0
License denied	0	0	0	0	0
Fine	8	14	10	6	8
Total Disciplinary Actions	9	14	10	6	8
Dismiss	0	0	0	0	0
Total Dismissals	0	0	0	0	0

⁷⁷ 7 CCR § 1101-8-5-1-1, Conveyance Regulations.

⁷⁸ 7 CCR § 1101-8-5-1-2, Conveyance Regulations.

⁷⁹ 7 CCR § 1101-8-5-1-3, Conveyance Regulations.

The table demonstrates that fines are the most often used form of discipline imposed by the Administrator. Total disciplinary actions have steadily decreased from fiscal year 16-17 through 19-20. According to the Division, this decrease may be due to consistent enforcement processes which include education regarding the rules, which leads to greater compliance.

Table 11 details the alleged violation types for complaints received against conveyance owners for fiscal years 15-16 through 19-20, as well as the total number of complaints received per fiscal year.

**Table 11
Nature of Conveyance Owner Complaints**

Alleged Violation	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20
Operating without registration and/or certificate of operation	3,097	3,100	4,422	3,794	3,460
Installing or altering a conveyance without obtaining a permit	4	8	0	4	6
TOTAL	3,103	3,108	4,422	3,798	3,466

The total complaints in the operating without registration and/or certificate of operation category does not include temporary certificates of operation that were issued a notice of violation in fiscal years 15-16, 16-17, and through May 12 of fiscal year 18-19. After this time, the Division began utilizing its new database which became operational on May 12, 2018, and data collected after this date now include temporary certificates of operation.

The table demonstrates that alleged violations for operating without a registration and/or certificate of operation increased in fiscal year 17-18 and then began to drop again in fiscal year 18-19. According to the Division, the transition to a new database in fiscal year 17-18 allowed for more enforcement output automation, which most likely caused these complaint numbers to be higher.

Table 12 depicts the average number of days for case processing time during fiscal years 15-16 through 19-20. Data in the table is tabulated from the date that the notice of violation was sent out to the date that the case was closed.

Table 12
Average Time to Closure

Fiscal Year	Number of Days
15-16	78
16-17	80
17-18	40
18-19	147
19-20	59

This table demonstrates that average case times were at their highest during the years reviewed in fiscal year 18-19, but then dropped rapidly in fiscal year 19-20. According to the Division, due to staffing shortages and the utilization of a new database, changes in processing occurred which may have led to issues with the transfer of information from the old database to the new database. This may have contributed to the appearance of longer average times to closure in fiscal year 18-19.

Fining Activity

The seventh sunset criterion requires COPRRR to examine whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

Table 13 provides information regarding the number of fines imposed, the total dollar amount of the fines imposed, and the total dollar amount of fines collected for fiscal years 15-16 through 19-20.

Table 13
Fines Imposed

Fiscal Year	Number of Fines Imposed	Total Value of Fines Imposed	Total Value of Fines Collected
15-16	1545	\$264,500	\$64,790
16-17	1724	\$300,950	\$64,730
17-18	1476	\$259,770	\$75,350
18-19	696	\$108,140	\$69,600
19-20	639	\$84,450	\$44,850

The table indicates that the total number of fines imposed has been steadily decreasing from fiscal year 17-18 through 19-20. According to the Division, the enforcement process includes the opportunity for the non-compliant responsible party to request an informal conference with the Division when a notice of violation or enforcement order is issued. During the conference, extenuating circumstances may be taken into consideration that may lead to a reduction or cancellation of fines.

The Division began utilizing a new computer system in fiscal year 17-18, and adjusted policy to issue fines after speaking with a member of the Division rather than automatic fine issuance. Additionally, the Division extended the length of time for a licensee to return to compliance after a notice of violation was issued to 30 days, and the Division has also included the total maximum fine amount on the notice of violation. These changes may have motivated licensees to return to compliance, thus reducing fine issuance.

Audits/Inspections

The seventh sunset criterion requires COPRRR to examine whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

The Division not only inspects conveyances, but it also audits inspection reports.

Table 14 demonstrates the total number of inspections and audits performed per fiscal year during the years reviewed.

Table 14
Audit/Inspection Information

Activity	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20
Number of Inspections	7,150	7,867	8,021	8,324	8,466
Number of Audits	1	112	88	71	119

Due to current appropriation for personnel services, the Division currently has only one inspector tasked with conducting limited audits of inspections, represented in the table above. According to the Division, the number of audits performed is only approximately one percent of inspections performed due to staffing limitations. The number of inspections listed in the table above are performed by either private inspectors, AHJ inspectors, or AHJ-appointed inspectors.

Since the beginning of the audit program, audits were tracked in a separate database through most of fiscal year 15-16, and the Division has indicated that this early audit data are not accessible, which is reflected in the reported audit data for fiscal year 15-16.

The data in the table indicate that the number of inspections performed has continued to steadily increase during the years reviewed. During the transition to the current database in May 2018, additional processes were created to capture code violations for temporary certificates of operation reported in the previous database.

Collateral Consequences - Criminal Convictions

The ninth sunset criterion requires COPRRR to examine whether the agency under review, through its licensing processes, imposes any sanctions or disqualifications based on past criminal history, and if so, whether the disqualifications serve public safety or commercial or consumer protection interests.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

The Act does not provide the Administrator with the authority to investigate, deny, or revoke licenses based upon criminal activity. Additionally, license applications do not require an applicant to provide information regarding criminal activity.

COVID-19 Response

The COVID-19 pandemic placed extraordinary pressures on the citizens of Colorado, the Colorado economy and Colorado state government. As a result, COPRRR asked the Division to summarize any measures the agency may have implemented in response to the COVID-19 pandemic, the results of those efforts and any lessons learned. This section of the report is intended to provide a high-level summary of those responses.

As of March 2020, staff at the Division no longer had access to the Division facilities unless conducting critical business functions that could not be accomplished remotely, such as the distribution of mail and license printing. While in the office, all staff followed federal Centers for Disease Control and Prevention guidelines including mask wearing, sanitizing and health assessments prior to entrance. Additionally, Division staff was equipped with equipment necessary to perform work remotely, including remote system access, laptops, and other information technology hardware when applicable.

During this timeframe, Program staff worked to provide continuing education courses for conveyance inspectors in an online, synchronous format.

During the spring and summer of 2020, a slight drop in the conveyance compliance rate was observed; from 91 percent to 88 percent. According to the Division, an elevator may be considered out of compliance if a timely inspection report has not been received for an active certificate of operation, or if safety or repeat violations have not been resolved for conveyances with a temporary certificate of operation.

However, the Program has indicated that they were able to determine from conversations with conveyance owners, mechanics, contractors, and inspectors that much of this drop in compliance could be attributed to the lack of ability to access the facility where the conveyance is housed.

The Program also worked to develop additional policies regarding the sanitization of conveyances, including ultraviolet lights, touchless operation, and air purification. The program has noted that minor adjustments to regulation may be needed in the future regarding the maintenance and inspection protocols for conveyance sanitation devices.

Further, remote communication methods were enhanced, including promoting the online payment system, increasing email communications regarding initial and renewal licenses for conveyance professionals, and electronic transmission of registration forms and inspection reports.

Due to the acceleration in the utilization of online collaboration, online payment options, and website improvements, the Program asserts that the 2021 licensing season was the most efficient in the history of the Program.

Analysis and Recommendations

The final sunset criterion questions whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest. The recommendations that follow are offered in consideration of this criterion, in general, and any criteria specifically referenced in those recommendations.

Recommendation 1 - Continue the Elevator and Escalator Certification Act for nine years, until 2031.

Conveyances provide convenience and ease of access to transport both goods and people and are a prevalent mode of transit in the daily lives of many Coloradans. In Colorado, there are approximately 22,600 regulated conveyances including elevators, escalators, moving walks, dumbwaiters, platform lifts, and automated people movers (such as the trains at Denver International Airport).

Due to the complexity of the machinery, regular maintenance and inspection of conveyances is required by national codes and standards to ensure that regulated conveyances provide safe transportation for Colorado consumers. When a conveyance is not properly maintained and critical components in a conveyance fail, the results can be catastrophic to a conveyance rider, potentially leading to injury or even death.

The Elevator and Escalator Certification Act (Act) establishes requirements according to national codes and standards for the design, installation, registration, construction, operation, maintenance, testing, and inspection of conveyances throughout Colorado in areas of public access, and establishes requirements for the licensing of conveyance contractors, mechanics, and inspectors to ensure minimal competency.

Further, the Director of the Division of Oil and Public Safety (Administrator and Division, respectively) within the Colorado Department of Labor and Employment (Department) protects consumers from harm through educational and/or licensure requirements to ensure that conveyance contractors, mechanics, and inspectors maintain competency in their field. The Administrator also reviews complaints and may discipline licensees for violations of the Act.

The first sunset criterion asks if regulation is necessary to protect the public health, safety, and welfare. Through the application of the regulatory framework established in the Act, the Administrator provides effective oversight to protect the public interest. Given the consistent changes in codes and standards, and the ever-increasing technological capabilities in conveyance mechanisms, the General Assembly should continue the Act for nine years, until 2031.

Recommendation 2 - Direct that all monies collected by the Administrator resulting from civil penalties assessed be deposited in the state's General Fund.

Section 8-20-104(4), Colorado Revised Statutes (C.R.S.), authorizes the Administrator enforce the Act, including the issuance of notices of violation and enforcement orders. Enforcement orders may carry a civil penalty not to exceed \$500 each day per violation, and not to exceed \$1,000 each day per violation in instances that may result in bodily injury.⁸⁰ Civil penalties collected resulting from applicable violations are to be credited to the Conveyance Safety Fund.⁸¹

Typically, when an agency is given fining authority, or the authority to assess civil penalties, such funds are credited to the state's General Fund. This is done so that the agency has no incentive to impose fines, other than taking legitimate disciplinary action. When fines are credited to the agency's cash fund, there can be a perceived conflict of interest that the agency may be attempting to increase revenue. Although COPRRR has absolutely no reason to believe that the Administrator or Program administration has acted improperly, this recommendation is important as a policy matter to prevent any such allegations in the future.

The third sunset criterion asks whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters.

The public interest would be enhanced by directing the funds generated through the imposition of civil penalties to the General Fund, creating further budgetary transparency and financial efficiency. Therefore, the General Assembly should direct that all monies collected by the Administrator resulting from civil penalties assessed be deposited in the state's General Fund.

Administrative Recommendation 1 - The Administrator should increase inspector presence in the Conveyance Program.

New conveyance installation is consistently rising in Colorado. According to the Division, conveyance installation has increased by approximately four percent each year for the three years prior to the onset of COVID-19. This increase led to a total of approximately 1,300 new conveyance installations during this timeframe.

The Conveyance Program (Program) within the Division is tasked with daily operations and enforcement of the Act and is required to ensure that competency standards are

⁸⁰ § 8-20-104(4)(a), C.R.S.

⁸¹ § 8-20-104(4)(b), C.R.S.

met by licensees, including ensuring that inspections of conveyances are performed with minimal competency to protect the public.

The Act permits the formulation of contractual agreements with Authorities Having Jurisdiction (AHJs), and there are presently 15 AHJ cities or counties that currently maintain an agreement with the Administrator. Additionally, the Northwest Colorado Council of Governments has intergovernmental signatory authority for an additional 41 cities and counties.

Therefore, the Program is tasked with direct regulatory enforcement of all remaining cities and counties without AHJ agreements in place, which comprises approximately 40 percent of the registered conveyances in Colorado. In these areas of the state, private inspectors perform all required conveyance inspections.

The Program currently employs one inspector to review the work of licensed inspectors to ensure minimum standards are being met in all areas of the state not in AHJ contractual agreements. In other words, one inspector within the Program is responsible for auditing the work of private inspectors throughout approximately 40 percent of the state.

Alarming, the Division has indicated that when audits of private inspectors are performed, many of these audits reveal substandard elements within the inspections themselves. Additionally, the Division has also indicated that most conveyance violations can be traced back to the initial inspection, and items in the inspection performed that may have been missed or not recorded. As was previously stated, only one percent of all inspections are audited, and additional resources are necessary to provide more consistency to ensure that inspections are performed accurately. The vast majority of inspections audited by the Division are associated with conveyances in the Front Range area, resulting in inspections and tests not being audited in other areas throughout the state in the Administrator's territory.

The third, fourth, and tenth sunset criteria ask,

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters;

Whether complaint, investigation, and disciplinary procedures adequately protect the public; and

Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

The finite staffing resources currently available to the Program largely due to budgetary constraints limit the number of audits that can be performed per year. This lack of

ability to provide effective oversight for conveyance inspections increases the risk of harm to consumers, which can lead to severe life and safety consequences when conveyances are not properly maintained.

Therefore, the Administrator should increase inspector presence within the Program by employing enough additional inspectors to ensure that effective oversight and minimal competency and safety standards are met for conveyances throughout the state.

Administrative Recommendation 2 - The Administrator should clarify in rule that dumbwaiters are excluded from regulated conveyances, unless located in areas of public access.

Section 9-5.5-104(1), C.R.S., provides a list of conveyance types that are regulated under the Act, including dumbwaiters. Additionally, conveyances exempt from regulation are identified as those that are not accessible to the public within the language of the Act and further clarified in the Administrator's rules.

Dumbwaiters are a type of conveyance meant to transport small loads of goods, and may be utilized in locations such as restaurants, laundry facilities, and hospitals. Dumbwaiters are small conveyances that are not intended to transport people. Additionally, dumbwaiters are typically located in restricted employee access areas that are not available to the public. It should also be noted that federal Occupation Health and Safety Administration (OSHA) regulations do provide additional worker protections regarding machinery utilized in areas not accessible to the public.

Further, dumbwaiters often have additional safety features, such as locking mechanisms to prevent unauthorized use. Therefore, dumbwaiters not in areas of public access do not pose a risk of harm to the public and should be removed from regulation.

However, stakeholders have indicated that there are some dumbwaiters within the state that may be in a public hallway or access point. Although these conveyances are not intended for the use of the public, if located in an area of public access they could still create harm if no longer regulated and a malfunction were to occur.

The second criterion asks,

If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering available regulatory mechanisms, and whether the agency rules enhance the public interest and are within the scope of legislative intent.

Since most dumbwaiters across the state are not accessible to the public, these conveyances should not be regulated. However, the intent of the Act is to ensure

minimum safety standards as a matter of the public interest. Therefore, the Administrator should clarify in rule that only dumbwaiters in areas of public access should continue to be regulated.

Administrative Recommendation 3 - The Administrator should clarify in rule that Type A material lifts are excluded from regulated conveyances, unless located in areas of public access.

Section 9-5.5-104(1), C.R.S., provides a list of conveyance types that are regulated under the Act but does not specifically name material lifts. However, section 9-5.5-112(1), C.R.S., does provide a list of standards which must be complied with in the Administrator's rules, including the American Society of Mechanical Engineer's (ASME) publication, ASME A17.1. This publication does include standards for material lifts. Therefore, material lifts have been consistently regulated since the establishment of the Act.

There are two types of material lifts utilized to transport goods: Type A and Type B. According to the adopted code, Type A material lifts are materials only devices and riders are not permitted. Type B material lifts do allow one operator to ride with the materials. Type A material lifts vary from Type B, in that Type A material lifts have no controls located inside of the conveyance itself; these conveyances can only be activated utilizing controls found outside of the conveyance.

Therefore, Type A material lifts typically do not pose a risk to the public since they are generally located in areas without public access, and a person cannot elect to ride a Type A material hoist on their own with no way to operate the lift from the inside. However, if a Type A material lift is located within an area of public access, there is still a risk that the conveyance could create harm if no longer regulated and a malfunction were to occur.

The second criterion asks,

If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering available regulatory mechanisms, and whether the agency rules enhance the public interest and are within the scope of legislative intent.

Since Type A material lifts are not typically accessible to the public, and cannot be controlled from inside of the conveyance, they do not typically pose a risk of harm to the public. However, the Administrator should clarify in rule that Type A material lifts are excluded from the list of regulated conveyances, unless located in areas of public access.

Administrative Recommendation 4 - The Administrator should update Memorandums of Agreement with Authorities Having Jurisdiction to include a requirement that jurisdictional rules and any applicable amendments are posted and regularly updated on their respective websites.

A municipality or county, also referred to as an Authority Having Jurisdiction (AHJ) can enter into a Memorandum of Agreement (MOA) with the Administrator in which the AHJ is delegated the authority to regulate conveyances within its jurisdiction, if it meets specific requirements including:⁸²

- AHJ standards must be equal to or more stringent than the minimum standards required in state regulation; and
- AHJs are responsible for enforcement of any applicable provisions within the state regulations.

Additionally, AHJs have the authority to set and collect fees for conveyances located within their respective territories.

According to the Division, there are currently 15 AHJ cities or counties that maintain an agreement with the Administrator. Additionally, the Northwest Colorado Council of Governments has intergovernmental signatory authority for an additional 41 cities and counties. The Administrator maintains direct regulatory enforcement of all remaining cities and counties without AHJ agreements in place, which comprises approximately 40 percent of the registered conveyances in Colorado.

Throughout the course of this sunset review, stakeholders indicated that not all AHJs have information available on their websites pertaining to their conveyance rules or amendments.

This can be problematic because conveyance professionals attempting to perform services in an AHJ in which they have not previously performed work may not be able to readily locate jurisdictional requirements, which can slow their ability to conduct business and create confusion among consumers who may also attempt to locate this information.

The tenth sunset criterion asks,

Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

Given the number of AHJs across the state and the numerous variations that exist in their rules, it can be difficult to assess requirements from one jurisdiction to the next if rules and amendments are not readily available. By requiring as a part of the MOA that AHJs keep this information updated and available on their respective websites,

⁸² 7 CCR § 1101-8-3-1, Conveyance Regulations.

conveyance industry professionals may be able to provide services more smoothly in various jurisdictions, which is in the public interest as a matter of public protection.

Therefore, the Administrator should update MOAs with AHJs to include a requirement that their rules and any applicable amendments are posted and regularly updated on their respective websites.

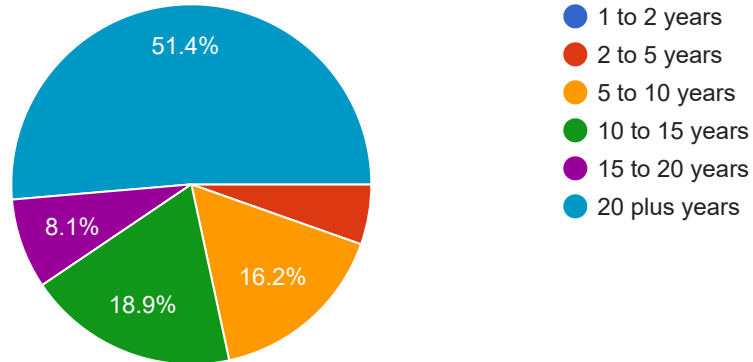
Appendix A - Customer Service Survey

In the spring of 2021, Colorado Office of Policy, Research and Regulatory Reform staff conducted a survey of 111 conveyance professionals who are licensed by the Director of the Division of Oil and Public Safety. The survey was sent to 109 participants; 2 emails were returned as undeliverable. The survey received 37 responses, which is a 34.57 percent response rate. Survey results can be found on the pages that follow.

Customer Service Survey for the Conveyances Program within the Colorado Department of Labor and Employment

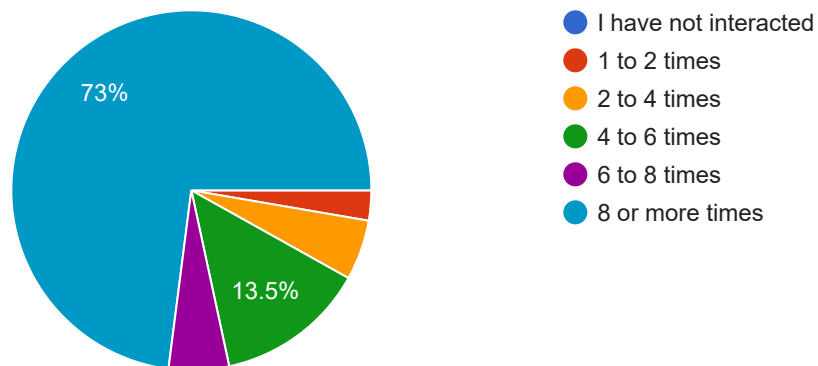
37 responses

If you are a member of the profession or occupation that is regulated by the Conveyance Program, please indicate your years of experience.



In the past year, how many times have you interacted with the Conveyance Program. Please count all forms of interaction (telephone, e-mail, internet or website, regular mail, in person).

37 responses



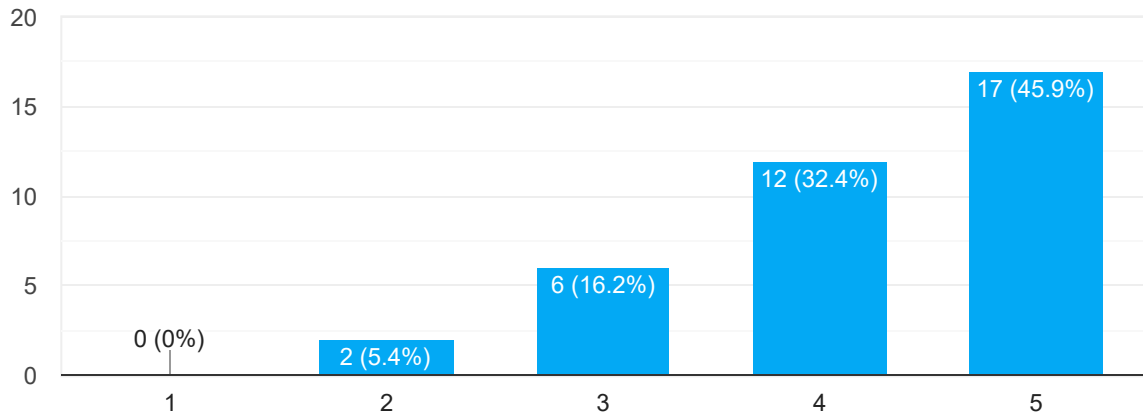
What was your primary purpose in interacting with the program?

37 responses

- inspection, audit, or examination - 48.6%
- licensing or registration - 21.6%
- continuing education - 13.5%
- participation on a board, committee, commission, taskforce, or working group for the agency - 8.1%
- obtain help with an issue -5.4%
- respond to a request made to you -2.7%
- other - 0.1%

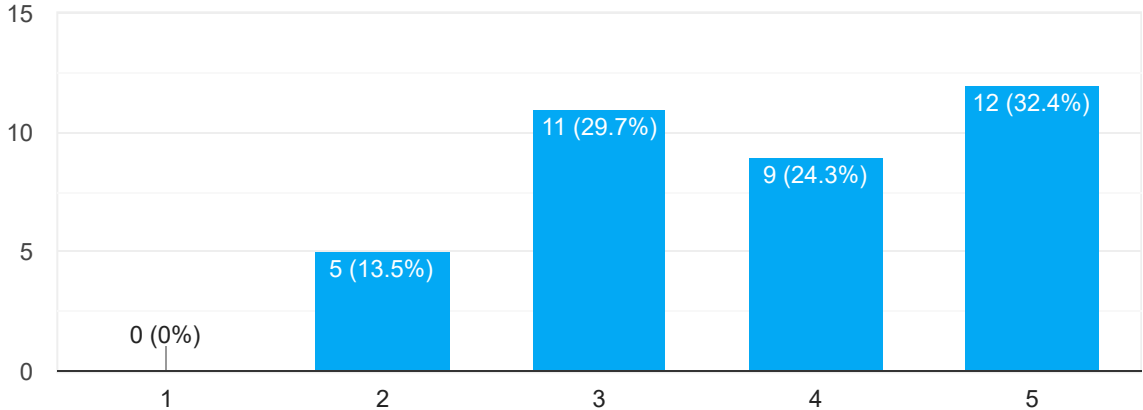
Overall please rate the service provided by the Conveyance Program on a scale of 1 to 5 with 1 being unacceptable and 5 being very acceptable.

37 responses



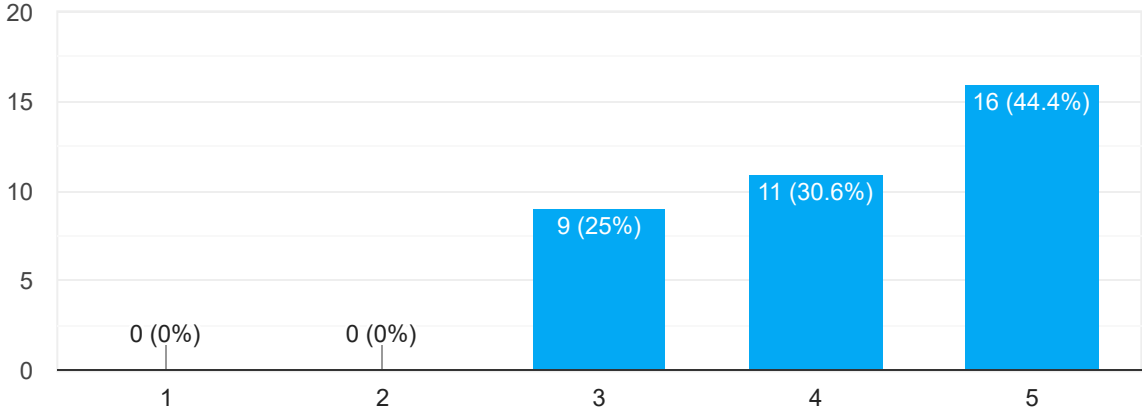
Please rate the the usefulness of the Conveyance Program's website in answering your questions or providing needed information on a scale of 1 to 5 with 1 being not very useful and 5 being very useful.

37 responses



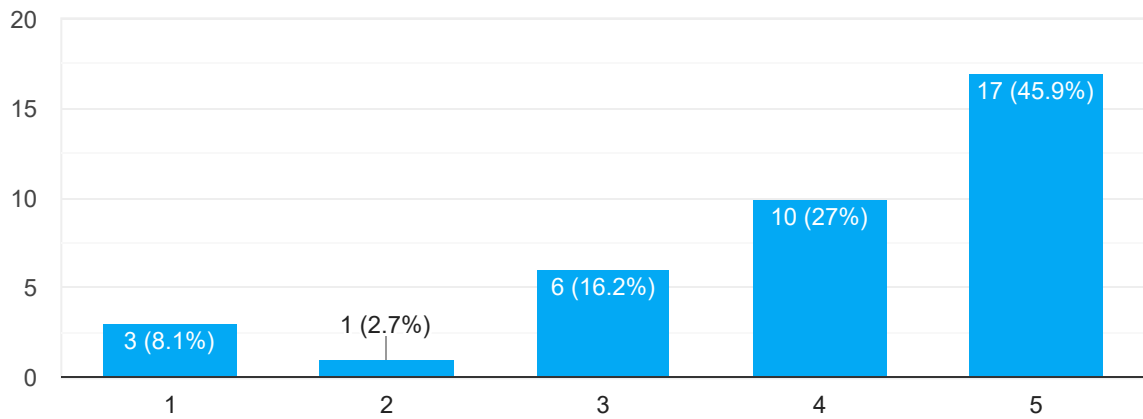
Please rate the the usefulness of the Conveyance Program's communications in answering your questions or providing needed information on a scale of 1 to 5 with 1 being not very useful and 5 being very useful.

36 responses



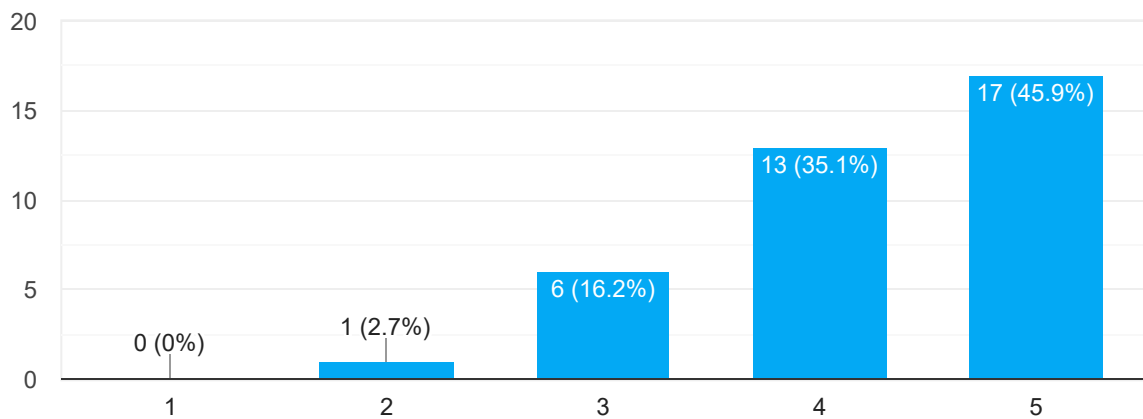
Regardless of the outcome of your most recent issue, do you feel the Conveyance Program listened to your concerns? Please use a scale of 1 to 5, with 1 being none of my concerns were heard and 5 being all of my concerns were heard.

37 responses

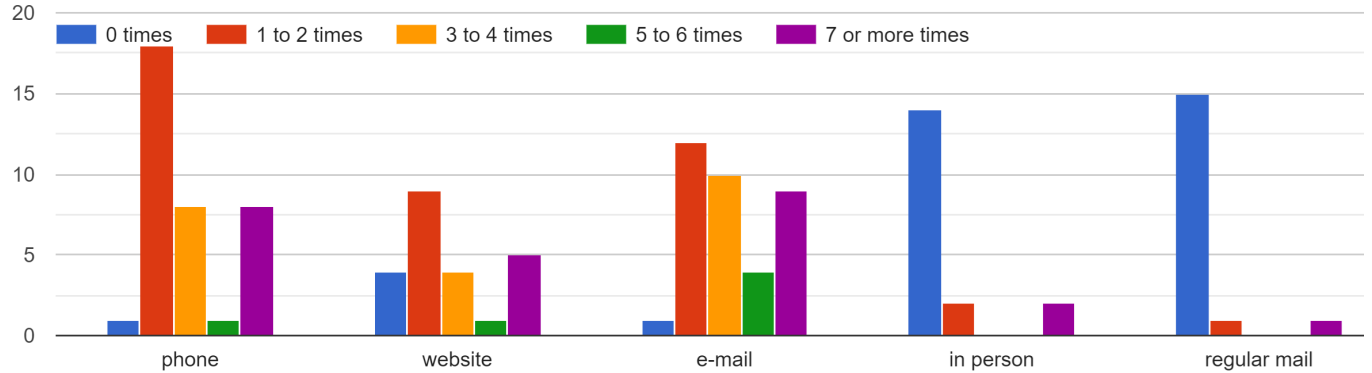


Please rate the timeliness of the Conveyance Program in responding to your issues on a scale of 1 to 5 with 1 being very untimely and 5 being very timely.

37 responses

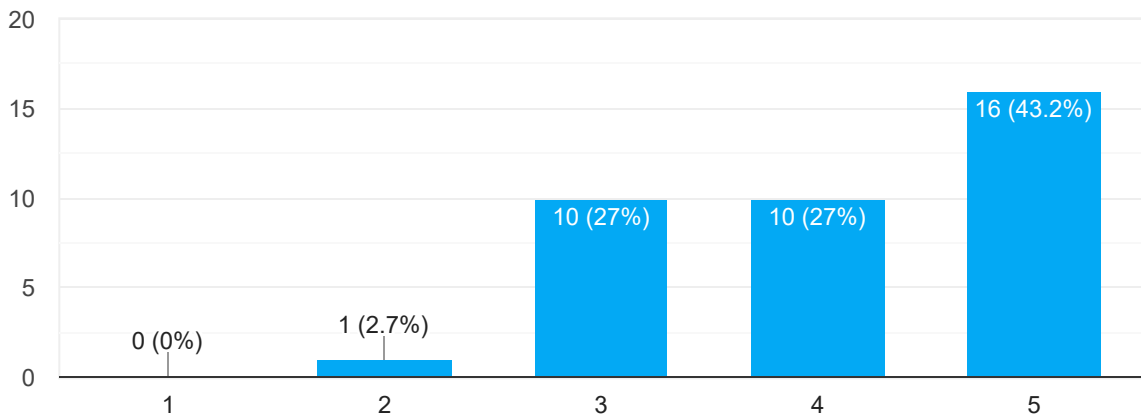


Please provide the number and types of interactions that were required to resolve or address your most recent issue. (Please select all applicable types of interactions used AND the number times for each type interaction selected.)



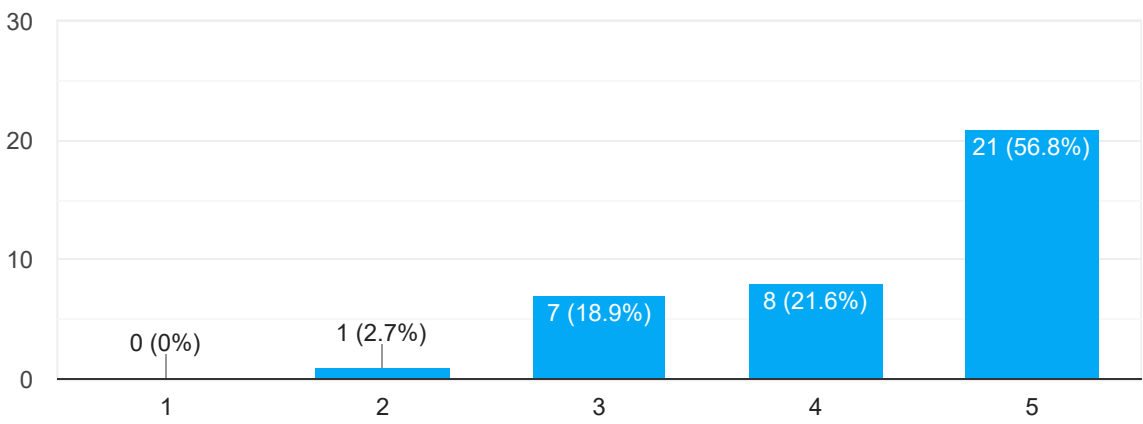
Please rate the helpfulness of the Conveyance Program in resolving your issue or need with 1 being not very helpful and 5 being very helpful.

37 responses



Please rate the professionalism of the program's staff on a scale of 1 to 5 with 1 being very unprofessional and 5 being very professional.

37 responses



On a scale of 1 to 5 please rate the accuracy of information provided by the program with 1 being not very accurate and 5 being very accurate.

37 responses

