

1992 SUNSET REVIEW

OF THE

PASSENGER TRAMWAY SAFETY BOARD

**SUBMITTED BY THE
COLORADO DEPARTMENT OF REGULATORY AGENCIES
JUNE 1992**

June 30, 1992

The Honorable Bob Schaffer
Joint Sunrise/Sunset Review Committee Chairman
Room 348, State Capitol Building
Denver, Colorado 80203

Dear Senator Schaffer:

We have completed our evaluation of the Colorado Passenger Tramway Safety Board and are pleased to submit this written report which will be the basis for my office's oral testimony before the Joint Legislative Sunrise/Sunset Review Committee. The report is submitted pursuant to section 24-34-104(8)(a), Colorado Revised Statutes, which states in part:

The Department of Regulatory Agencies shall conduct an analysis and evaluation of the performance of each division, board, or agency or each function scheduled for termination under this section... The Department of Regulatory Agencies shall submit a report and such supporting materials as may be requested, to the Sunrise and Sunset Review Committee, created by joint rule of the Senate and House of Representatives, no later than July 1 of the year preceding the date established for termination...

The report discusses the question of whether there is need for the regulation provided under the Passenger Tramway Safety Act pursuant to C.R.S. 25-5-701 et seq., as amended. The report also discusses the effectiveness of the regulatory program in carrying out the intention of the statute and makes recommendations for statutory and administrative changes if the program is continued.

Sincerely,

Steven V. Berson
Executive Director

EXECUTIVE SUMMARY

The Department of Regulatory Agencies has completed its 1992 sunset review of the Colorado Passenger Tramway Safety Board. The Department recommends that regulation of passenger tramways continue.

The Colorado Passenger Tramway Safety Board has been the national leader in developing tramway standards and often serves as the model for regulatory boards in other states. The purpose of tramway regulation is to protect the public safety. To accomplish this, the Board registers tramways subject to successful completion of inspection and adopts standards for the design, construction, maintenance, and operation of these devices. A majority of the passenger tramways regulated in Colorado are located in ski areas, however recreational areas with passenger tramways such as Elitch Gardens, Heritage Square, Royal Gorge, and Santa's Workshop are also regulated by the Board.

The Department has recommended numerous changes to the statute to improve the effectiveness of the Board and to update passenger tramway regulation in Colorado. The advent of the portable tramway device and the private residence tramway has necessitated statutory recommendations. In addition the following statutory changes are recommended:

- (1) Include reckless conduct in the operation or maintenance of a passenger tramway and failure to cooperate in any lawful board investigation as grounds for disciplinary action.
- (2) Allow the Board provisions for confidentiality of records during an accident/incident investigatory period.
- (3) Broaden the current structure of the Board.
- (4) Add provision for the continuous appropriation of funds for inspections.
- (5) Have the Board review its reluctance to impose disciplinary actions on area operators.

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I. BACKGROUND

Sunset Process

The regulation of passenger tramways pursuant to Article 5 of Title 25, C.R.S. is scheduled to terminate on July 1, 1993 unless continued by the General Assembly. During the year prior to that date, it is the responsibility of the Department of Regulatory Agencies to conduct a sunset review and evaluation of that regulatory program.

During this review, the Colorado Passenger Tramway Safety Board must demonstrate that there is a need for the continued existence of the program and that the regulation it provides is the least restrictive consistent with public interest. The Department's findings and recommendations are submitted via this report to the Joint Legislative Sunrise and Sunset Review Committee of the Colorado General Assembly. (Statutory criteria used in this sunset review may be found in the Appendix B of this report.)

The scope of this sunset review was comprehensive in nature. Passenger tramway licensees were surveyed by the Office of Policy and Research. State and federal officials were interviewed as well as the staff of the Passenger Tramway Safety Board and the Assistant Attorney General assigned to represent the board. Several professional organizations were contacted for interviews and conferences and meetings were attended. Board meetings and technical subcommittee meetings were frequented. Visits were made to several ski areas to observe lift inspections and acceptance tests.

Historical Information

The earliest formalized effort to impose safety regulations at ski areas in Colorado was undertaken by the Rocky Mountain Ski Areas Operator's Association (RMSA), a trade organization formed in the mid 1950's by Colorado area ski owners. One of the requirements of membership was an agreement by ski area owners to have all lifts inspected annually for safety defects by an outside engineering firm. Though membership in RMSA was voluntary, the industry efforts established minimum safety standards and contributed to the safety of the industry.

In a lawsuit filed against Breckenridge Ski Corporation in 1965, a Denver District Court ruled, in part, that ski lifts and similar devices were, in essence, common carriers and subject to regulation by the Public Utilities Commission (PUC). To avoid what its members considered to be regulation by an inappropriate agency, the RMSA coordinated a successful lobbying effort in 1965 to establish the Colorado Tramway Safety Board to inspect and register ski lift devices.

The act creating the Tramway Board specifically exempted tramways from common carrier status. Because of the unique nature of passenger tramways and the amount of supervision required, regulation by a special board was seen as being more effective regulation than placing tramways under PUC jurisdiction. Not only were ski lifts regulated by the Passenger Tramway Safety Board but also tramways providing recreational access to such areas as Elitch Gardens, Heritage Square, Royal Gorge, and Santa's Workshop in Colorado Springs.

The Board was originally composed of six members whose ski industry backgrounds were statutorily prescribed: one member appointed by the U.S. Forest Service, two members representing the tramway operators, one member chosen from the tramway manufacturing design field, one member representing the tramway insurance industry, and one public member. The structure of the Board changed in 1977 with the addition of another public member and a redefinition of the six remaining members. The Board composition was redefined to include a representative from the U.S. Forest Service, two members representing the industry, two members representing the public, and two members familiar with or experienced in the tramway industry who may represent the passenger tramway manufacturing or design industry.

Inspections of lifts were made by engineers working on contract to the state. One engineer conducted all inspections and clerical duties from 1965 to 1968. Training of five new contract inspectors was concluded in fiscal year 1968-1969, and inspections were conducted by these individuals until 1975. In 1975 four new inspectors were trained.

In March of 1976, the Vail gondola accident occurred, which was the impetus for significant legislative, regulatory and administrative reforms. One of the administrative changes was the authorization given to the Board by the legislature to employ a full-time supervisory tramway engineer. After the death of the supervisory tramway engineer in 1980, the Board and the Department of Regulatory Agencies jointly decided not to fill this position. It was believed that it would be difficult to recruit a full-time engineer of the caliber needed at the salary the state would be able to pay. Instead, spending for contract inspectors was increased.

The 1982 Sunset Review of the Colorado Passenger Tramway Safety Board recommended the reinstatement of the supervisory tramway engineer position because maintaining the consistency and quality of the inspection program was not possible with contractual inspectors only. The report determined that since 1980, there had been a serious gap in how the board verified whether ski area operators actually had corrected deficiencies found in annual inspections. The duty essentially was left to a secretary who had no technical expertise in engineering or ski lifts. The Sunset Review reported that

adequate passenger tramway safety required careful administration and expert supervision which had not been a characteristic of the past 2 1/2 years of tramway regulation since the death of the supervisory tramway engineer. Subsequently, the recommendation was made to hire an experienced, full-time tramway engineer to provide oversight for the inspection process.

One of the provisions of Senate Bill 20, an outgrowth of the 1982 Sunset Review of the Passenger Tramway Safety Board, was the authorization to hire a full-time supervisory tramway engineer. The bill was subsequently passed and a full-time supervisory tramway engineer was hired to perform the following functions as recommended by the 1982 Sunset Review:

- * interpret rules and regulations of the board and advise area owners and engineers seeking to comply with board rules
- * perform routine and special engineering inspections and provide oversight for the contract inspectors, thus allowing for more uniformity and continuity in the inspection program
- * train contract inspectors
- * authorize the shut down of lifts in appropriate situations

The full-time supervisory engineer has been on staff since 1983 performing the above-mentioned functions.

Passenger tramway registration increased tremendously from approximately 27 in the 1960's to over 170 in 1971. The total number of registered passenger tramways from recreational and ski areas increased to 228 by 1975 and over the next ten years continued to increase. By 1985 passenger tramway registration tallied 261. As demonstrated by the chart on the following page, there has been only a slight increase from 1985 to 1988 and from 1988 to 1992, the total registrations have maintained a status quo.

However, it is important to note that even though total passenger tramway registrations haven't changed in the past four seasons, the capacity to transport persons is increasing greatly due to two person fixed grip lifts being replaced by four person high speed lifts.

Registrations							
Year	85-86	86-87	87-88	88-89	89-90	90-91	91-92
Chairlifts	202	202	210	212	212	212	212
Surface	31	28	28	28	29	29	25
Tow	19	17	19	19	22	21	22
Gondola	3	5	5	5	5	5	5
Funicular	4	3	3	3	2	2	2
Rev Tram	2	2	2	2	2	2	3
Total	261	257	267	270	272	271	270
New Installations							
Chairlifts	14	10	5	4	8	6	4
Surface	3	2	1	1	2	1	1
Tow	0	0	3	4	4	0	2
Gondola	0	2	0	0	0	0	1
Rev Tram	0	0	0	0	0	0	1
Total	17	14	9	9	14	7	9

Another critical event in the history of Colorado's passenger tramway industry which was the impetus for regulatory change was the accident occurring at Keystone resort. In December 1985, the bullwheel from the Teller lift fell causing the rope to derail. Subsequently forty-nine persons were injured and two persons died. A bullwheel is a large wheel at either end of the lift that reverses the direction of the rope. As a result of the Teller accident, the Board imposed an emergency shutdown order on the Teller lift and ordered the dismantling of two bullwheels at another Colorado ski resort that was the same vintage and design as the bullwheel that failed at Keystone resort. Also, several ski areas voluntarily installed retention systems on their bullwheels. In addition, the insurance companies recommended to their clients that all bullwheels currently registered in Colorado that had a similar cantilevered design as the bullwheel that failed install a retention system.

The Board also adopted a rule that required bullwheel retention on all new lifts installed after January 1, 1988. However, the problem of requiring retrofitting of all existing bullwheels was vigorously debated. Concern was raised whether modifying all the bullwheels in the State of Colorado was technically sound. The Board discussed modifying a lift that had a good safety record, and the potential situation of the lift having a failure as the result of being modified.

Opponents of retrofitting argued that the inherent design of the system is probably the best retention device that can exist. They contended that whether one has a catcher or a device that holds the bullwheel up, if it is designed properly, the retention problem has been effectively addressed. Testimony was given that stated that a modification that is poorly conceived or poorly implemented would not enhance aerial tramway safety.

Initially, the Board voted in November 1987 to require retrofitting of all bullwheels on passenger tramways in Colorado. As a result of the rule requiring retrofitting of all bullwheels, the Board was deluged with requests for variances. In June of 1989, a board member proposed repealing the rule that required bullwheel retention on all existing installed lifts. Discussion included the argument that there is as much danger in modifying an original design as there is with the potential failure of that original design. There was a very lengthy discussion during this meeting where numerous comments from manufacturers, engineers, and licensees were heard. There was no decision to repeal the retrofitting rule at that time. Instead in August 1989, the Board authorized the formation of the Bullwheel Retention Committee, which was composed of insurance and manufacturer industry representatives, tramway engineers, area operators, and the public. The purpose of this committee was to study the problem of bullwheel retention on passenger tramways.

The result of the Bullwheel Retention Committee was twofold. It recommended the repeal of the 1987 rule requiring the retrofitting of all bullwheels on passenger tramways in Colorado. This rule was repealed effective July 30, 1990. In addition, the committee recommended the formation of a Quality Assurance Ad Hoc Committee (QA Committee). This QA Committee would address safety issues through quality assurance of all critical components rather than focusing only on bullwheel retention. The purpose of the committee was to assure that the components put in the field were up to standard and that the older components were not approaching their fatigue life. The committee agreed that the recommendations must be definable and enforceable.

Since the inception of this committee, the members have defined critical components and adopted a rule stating that critical components must be designed, manufactured, installed and operated in accordance with a quality assurance program. It was the committee's intent that with this general requirement in place, specific quality sections in the rules would be developed for each of the critical components.

The committee prioritized the list of critical components for the purpose of addressing specific quality requirements for each component. The requirements, once adopted by the Board, are to be included in the appropriate section of the rules and regulations. The prioritization of critical components is as follows:

- (1) Carrier, including grip, hanger, chair, or gondola
- (2) Terminal sheaves (includes bullwheels) and their attachments
- (3) Haul rope sheaves, sheave units and their attachments
- (4) Tension systems and their attachments
- (5) Wire rope, including haul ropes, track ropes and counterweight ropes

The committee's quality requirements for grips were presented to the Board in May of 1992 and will be presented for rule making at the July 1992 Board meeting.

II. OTHER REGULATION OF PASSENGER TRAMWAYS

The U.S. Forest Service has jurisdiction over approximately 90% of the passenger tramways in Colorado because the lifts are operated on Federal land. Because all passenger tramways located on U.S. Forest Service lands require the approval of both the Tramway Board and the Forest Service before operation can begin, one seat on the Board is designated for a representative of the Forest Service to promote cooperation between the two agencies.

The Forest Service's responsibility is to ensure that there is no excessive damage to public lands and that the public's health and safety is adequately protected. In previous years, Forest Service personnel performed inspections on passenger tramways. However, the position of the Colorado regional office is that because of the Passenger Tramway Safety Board's excellent inspection program, the Forest Service sees no reason to perform maintenance inspections of tramways.

The following list outlines the responsibilities of the Forest Service in relation to passenger tramways on public lands.

- * responsible for site review, plan approval, and land use dedication
- * reviews state board inspections
- * performs operational inspections on a periodic basis

In 1990, Colorado's 27 ski areas paid the U.S. Forest Service \$6.5 million in fees to rent 76,000 acres for ski terrain. This fee, based on capital improvements, is in return for a special permit allowing area operators to use federal land for skiing purposes.

III. CONTRIBUTION OF SKIING TO THE COLORADO ECONOMY

Colorado's commercial ski industry is a relatively recent establishment with only a few of the state's present ski areas predating World War II. In 1950, Aspen hosted the World Alpine Championships, providing international recognition of Colorado skiing. At that time, only a few hundred people were employed in the downhill skiing industry.

In the following years the state's ski industry has grown to encompass some 66,000 jobs in 1991. The industry now supports 29 ski areas, nearly 10 million skier visits, and an average of 10,000 out-of-state visitors a day. Total skier expenditures including lift tickets, ski school, equipment rental, lodging, eating, drinking, entertainment, miscellaneous retail, and other services totalled approximately \$2.5 billion in 1991. Summer visitor retail sales credited to ski resorts totalled \$255 million in 1991.

The Colorado ski industry is a large contributor to the state's tax coffers. The Colorado Association of Ski Towns (CAST) conducted a study in December 1988 analyzing the relationship between skiing based tourism business and state tax receipts. The report concluded that a typical resort community generates 55% more state revenue per resident than occurs on a statewide average (\$1139 vs. \$736).

During the 1991-1992 ski season, the Colorado ski industry attracted a record 10 million skier visits. A barometer for the rest of the state's resorts, Winter Park, recorded an 8% increase in skier visits, (Denver Post, April 20, 1992). With the exception of two minimal snowfall years, the annual growth rate of skier visits to Colorado from 1981 to 1989 was 4.5%, and the annual growth rate of ski lift capacity was 7.5%

As demonstrated by the graph on the following page, Colorado's ski area lift capacity has increased over the past several years due to new lift technology. Currently, there is extensive use of high speed, high capacity lifts that has shortened lift lines and dramatically altered the accessibility and use of available ski terrain.

Source: Colorado Ski Country USA

Colorado ski areas are visited by day skiers and "destination skiers", persons staying overnight away from home. Destination skiers represent nearly 70% of the state skier visits, though 90% of these skiers are from out-of-state. Day skiers, which represent 31% of the skier market in Colorado, are characteristically resort area or Front Range and other Colorado county residents. The largest out-of-state markets for Colorado ski industry ticket sales are represented by Texas, Oklahoma, California, Illinois, New York, and Florida.

Direct expenditures by visiting skiers and summer tourists to Colorado ski resort communities strengthen a variety of businesses and services. These businesses and employees in turn purchase additional goods and services, which creates the secondary economic impact, or multiplier effect, of skiing and tourism in the state.

IV. REVIEW OF STATUTE AND REGULATION

Review of Statute

Article 5 of Title 25 of the Colorado Revised Statutes provides for the regulation of passenger tramways in the State of Colorado. The Legislative Declaration creating the regulatory scheme declares that the main purpose of the Passenger Tramway Safety Board is to assure the public safety by preventing unnecessary mechanical hazards in the operation of ski tows, lifts, and tramways. It is the Board's duty to ensure that reasonable design and construction are used, that accepted safety devices and sufficient personnel are provided for and that periodic inspections and adjustments are made which are deemed essential to the safe operation of ski tows, ski lifts, and passenger tramways.

Board composition

The statute sets up a seven member board consisting of one member designated by the U.S. Forest Service, two members representing the industry, two public members, and two members experienced in the tramway industry who may represent passenger tramway manufacturing or design industry. The statute specifies that appointees' knowledge or experience shall be either from active involvement in the design, manufacture, or operation of passenger tramways or as a result of extensive involvement in related activities. (25-5-703 C.R.S.)

Powers of the Board

The Board is empowered to perform the following duties under the Act:

- * promulgate rules and regulations
- * approve, deny, revoke and renew registrations for passenger tramways
- * issue permits for new construction or major modification of a passenger tramway
- * hold hearings
- * establish standing or temporary technical and safety committees
- * collect fees
- * provide for the reporting of any passenger tramway accident or failure

Registration requirements

Registration of lift devices is dependent upon adherence to the rules and standards of the Board as determined by the supervisory tramway engineer and the Board contract inspectors. The construction of new lifts and modifications to existing lifts must be supervised by Colorado licensed engineers and be acceptance tested before registration is granted. Deficiencies noted in lift inspections must be corrected by the operator before a registration is granted.

Inspections

The Board is empowered to inspect pursuant to section 25-5-711, C.R.S. Colorado law requires that a minimum of two inspections be performed annually on each tow, lift or tramway that the Board registers. The Board requires an annual registration inspection each year for each tow, lift or tramway prior to the renewal of its license for that year. The Board then requires that each licensee receive an unannounced or surprise inspection sometime during the peak of the operating season. Both of these inspections are performed by the agents of the Board.

The Board may also require additional inspections to be performed if a licensee has had some serious deficiencies, if an inspector recommends it, if a tramway failure has occurred, or if the Board has received any other information that might lead it to believe that the public safety is being threatened.

Disciplinary actions

The Board is authorized to suspend, revoke or deny, a registration. The Board is also empowered to place an operator on probation, issue a public reprimand to an operator or impose a fine not to exceed ten thousand dollars per act or omission. Section 25-5-713.5(b) C.R.S. lists grounds for disciplinary action that include:

- * failure to report an incident;
- * violation of any rule or regulation;
- * operation of a passenger tramway while a condition exists that endangers the public health, safety or welfare;

Disciplinary proceedings

The Board may investigate all matters which present grounds for disciplinary action. The Board may conduct disciplinary hearings or it may appoint an administrative law judge to take evidence and make a decision which is then reviewable by the Board. The Board has the power to bring injunctive proceedings in district court.

Special provisions

Under Section 25-5-718 C.R.S., the regulation, registration and licensing provisions of the statute pre-empt any other regulations promulgated by a local jurisdiction. This section also notes that passenger tramways are not common carriers as defined elsewhere by Colorado law.

Review of Rules and Regulations

The Colorado Passenger Tramway Safety Board is statutorily required to adopt lift design and safety standards as formulated by the American National Standards Institute (ANSI) Safety Requirements for Aerial Tramways and Lifts, Surface Lifts, and Tows. The Board reviews these standards and expands upon them as deemed necessary. In past revisions, the ANSI code has been expanded to more fully address operational safety, equipment performance, critical components, and safety device requirements. Board revisions of the ANSI code and additional rules not covered by ANSI are published in Colorado Passenger Tramway Safety Board Rules and Regulations.

The ANSI standards are concerned with regulation of the design, installation, operation, and maintenance of passenger tramways, as well as wire rope and strand requirements. In addition to the above-mentioned standards, the Colorado Passenger Tramway Rules and Regulations address tramway registration, new installations and modifications, inspections, and accidents and incidents.

V. REGULATORY EFFORTS OF THE PASSENGER TRAMWAY SAFETY BOARD

Colorado has long enjoyed the reputation of having an admirable tramway safety record. The Colorado Passenger Tramway Safety Board has been the national leader in developing tramway standards and often serves as the model for regulatory boards in other states. The purpose of tramway regulation in this state is to protect the public safety. To accomplish this, the Board registers all tramways subject to successful completion of inspection and adopts standards for the design, construction, maintenance, and operation of these devices.

This section will discuss the Board's activity in imposing safety regulations on passenger tramways in Colorado.

Inspections

Registration is required of all passenger tramway devices in the state. Prior to opening, annual inspections of each tramway are performed by the supervisory tramway engineer or engineers under contract with the board. At this time deficiencies are noted and must be corrected before registration is approved and the tramway registration certificate is issued. The licensee must submit a notarized letter to the Board indicating how each deficiency was corrected.

The other standard inspection of passenger tramways conducted by the board is the annual unannounced inspection. This is a surprise inspection conducted during the high-use season and focuses on tramway operation and maintenance. During the unannounced inspection, inspectors check to see that previous deficiencies have been remedied and that adequate operating and maintenance personnel and procedures are utilized. If unsafe conditions are noted in the unannounced inspection, the tramway can be shut down and the registration revoked or suspended until the condition is corrected.

Some ski areas operate passenger tramways during the summer months. Area operators are required to notify the Board of those tramways which will be operated during the summer and the dates of operation. A summer unannounced inspection is then performed to assure that the specific requirements in the Board's Rules and Regulations relative to this type of operation are being observed.

The Board has the statutory authority to order special inspections if a need arises. For example, special inspections have been ordered previously in those circumstances when an unusually large number of deficiencies have been cited or when operational problems have been documented.

Inspections are auditory and visual and include all components of the tramway. Inspectors also review maintenance logs and reports. New and modified tramways are load-tested prior to registration and must meet technical standards under operating conditions before being approved for passenger transportation. The technical standards are those adopted from the American National Standards Institute (ANSI) Safety Requirements for Aerial Tramways and Lifts, Surface Lifts and Tows and modified to reflect more stringent Board requirements and technical committee recommendations.

Currently, five contract engineers and the supervisory tramway engineer perform inspections for the Board. The cost of inspections conducted by the contract inspectors totalled \$120,000 in fiscal year 1991-1992. While the Colorado Passenger Tramway Safety Board is a cash funded agency, the inspection budget is a unique aspect of its financial structure. Inspection expenses are billed by inspectors and paid by the Board. The Board is then reimbursed by the area operators for the inspections. Hence it is literally a revolving door, with the entire inspection budget being paid out and reimbursed by the licensees by the end of the fiscal year.

Complaints

Complaints are received by the Board from a variety of sources: consumers, area employees, injured parties, etc. Usually either the supervisory tramway engineer or one of the contract inspectors will visit the area to determine the validity of the complaint and whether it is related to tramway operation or maintenance issues. Other complaints of a non-technical nature may be handled by telephone. The Board has the option of using the Division of Registration's Complaints and Investigations section. This option is rarely exercised because employees of this section are trained investigators rather than technical subject matter experts.

The Board does not keep formal records regarding complaints. As complaints are received, the Board responds to them on a case by case basis. After the problem is resolved, correspondence and other pertinent information are filed in the licensee's file. It is difficult to summarize the exact number or type of complaints received over the years without reviewing all licensee and correspondence files. The Board reports that since 1983, they have received 2-4 consumer complaints per year.

Discipline

The Board has a variety of enforcement mechanisms available to it which are created by statute to assure that passenger tramways in Colorado are operated and maintained properly. A Board member or the Supervisory Tramway Engineer has the authority to issue an emergency shutdown to close a tramway for 72 hours if a situation exists that endangers the public safety. Rarely is a tramway shut down without consultation between Board and staff members. Once a tramway is closed, the Board must act within 72 hours to issue a remedial order outlining what must be done in order to reopen a tramway or the Board must take further disciplinary action to keep the tramway closed.

The Board can issue an order as part of the emergency shutdown procedure. The Board can also issue an order for violation of its rules and regulations. The primary purpose of an order is to require corrective action by the area operator.

The following chart illustrates orders issued by the Board from 1985 through 1992.

DATE	INCIDENT	BOARD ACTION
3/18/85	Inspection: dangerous conditions observed	Shutdown Order
12/19/85	Accident: the bullwheel broke	Shutdown Order Subsequent Order to Correct
2/21/86	Accident: chair hit a tower	Shutdown Order
11/3/86	Result of 12/19/85 Accident: similar bullwheel	Order to Inspect
3/6/87	Inspection: dangerous conditions observed	Shutdown Order
4/21/88	Accident: grips deficient	Order Requiring Remedial Action
1/19/89	Accident: chair fatigue (other areas with similar equipment - order to inspect)	Order Requiring Remedial Action
1/24/91	Inspection: modify towers	Order Requiring Remedial Action
2/14/91	Inspection: rope tow difficulties	Order Requiring Remedial Action
2/7/92	Accident: operational issue	Order Requiring Remedial Action
2/26/92	Inspection: no operational personnel on duty at rope tow	Shutdown Order

Because of the sensitivity to negative media coverage of a shutdown order, ski areas may choose to voluntarily cease operation. It is estimated that as many ski areas choose to voluntarily cease operations as are ordered by the Board to shut down.

In 1986, the Board was granted the authority to impose a fine for violations of the statute, not to exceed \$10,000 per act or omission. In addition, it was given the authority to impose an

additional fine not to exceed \$50,000 if the act or omission was willful. Since 1986, the Board has only imposed a fine once, and that was assessed against an area operator for numerous violations and negligence in the operation of equipment. The Board fined the licensee \$2,500, collecting \$500 and designating that the remaining \$2000 be spent by the licensee on training of operational personnel.

The Board does not impose fines on licensees to help assure adherence by area operators. In addition, the Board does not fine area operators for lesser infractions in lieu of remedial orders or other disciplinary actions.

Accident and Incident Reporting

Section 14 of the Colorado Passenger Tramway Safety Board Rules and Regulation defines the requirements for accidents and incidents (please see Appendix D for "reportable passenger tramway accidents and incidents"). Area operators are required to verbally report passenger tramway accidents and reportable tramway incidents within 24 hours of occurrence.

The purpose of a verbal report is that in case of a more serious incident, specific actions can be taken before the lift is reopened.

The intent of the entire reporting process is to allow the Board to track incident/accident causes, thereby determining whether there are trends emerging which might relate to a certain lift component or operational conditions.

The Rules require that area operators maintain a log which contains reports of all loading and unloading incidents in which an injury occurs. For each such incident, the log should contain (1) identification of the passenger tramway (2) date incident occurred (3) name and address of person injured (4) description of the injury (5) description of the incident (6) description of any mechanical, structural, electrical, or other problem (if known) and (7) whether the incident is under investigation. The log must be available for inspection, and, if requested by the Board, the operator must provide copies of the relevant records relating to any of the incidents. However, logs for loading and unloading incidents do not have to be routinely submitted to the Board.

The following table shows reported accidents/incidents, injuries, and deaths since 1985.

REPORTED ACCIDENTS/INCIDENTS								
YEAR	19	85-86	86-87	87-88	88-89	89-90	90-91	91-92*
DEATHS		2				1		1
INJURIES		61	11	12	6	26	57	22
Mechanical		49 ¹	2	5	0	10	4	6
People-related (Skier Falls from Chair Lift)		3	8	4	6	16	5	16
Other (People-related)		9	1	3	0	0	48 ²	0
¹ 49 injured in 12/14/85 Keystone accident.								
² 48 injured in 7/11/90 attributed to a hailstorm at Elitch Gardens								
* 91-92 statistics are through 6/5/92								

The bullwheel failure at the Keystone resort during the 1985-86 season contributed to the high number of reported injuries for those years. The injuries noted on the above chart reflect both people-related causes and equipment failures. The higher number of injuries reported during the 1989-90 season may be attributed to the reporting requirement effective November 1988 for falls from chairlifts. Since the 1985-86 bullwheel failure, there have been no deaths as a result of a mechanical failure of a passenger tramway. The deaths during the 1989-90 and 1991-92 season were attributed to persons losing consciousness and falling out of a chair.

As mentioned previously in this report, the Colorado ski industry experienced a banner season in 1991-92, reporting ten million skier visits. For an industry that transports such a vast number of persons aurally, most frequently in devices which suspend them in midair, its safety record is quite commendable as demonstrated by the chart above.

Do we need to regulate the passenger tramway industry?

Tramways are cable-dependent devices, airborne or surface based. In 1991-92 there were 270 registered tramways in Colorado. Passenger tramways annually transport ten million skiers and tourists in the state up mountains and over ravines via a moving cable, sometimes suspended hundreds of feet above the ground. Passenger tramways in

Colorado are used primarily for transporting skiers in the winter and secondarily as sightseeing vehicles for tourists in the summer months. In addition, they provide transportation for bicycles and bicyclists in the summer months.

One characteristic of tramway devices is that component parts can become worn, broken, or out of adjustment, endangering the lives of passengers. There is a distinct need for effective regulation of tramways because of the potential harm to the public. Tramway devices which are not properly designed, installed, operated and maintained pose a serious danger to the physical well-being of passengers. Regular inspections of passenger tramways by qualified engineers can identify potential problems and minimize the risks of injury to the public.

The Colorado Passenger Tramway Safety Board was established to assure that all tramways within the state meet and maintain minimum standards of safety before being allowed to operate. The present Board structure is designed to include varied industry perspectives in the hope of developing comprehensive regulation. Were regulation to stop, area operators might reduce the level of maintenance and inspection operations. Industry efforts to set standards in the 1950's were not as demanding as those promulgated by the Tramway Board after it was established.

The original intent of the Board was to regulate all passenger tramways in Colorado as defined by statute. Since the commencement of the Board, not only ski area tramways but other recreational tramways, such as those at the Royal Gorge, the Air Force Academy, Fraser Tubing Hill, Santa's Workshop, Estes Park, Heritage Square and Elitch Gardens have been inspected and registered. Interest in the use of Automated People Movers (APMs) for the circulation needs of urban activity centers has grown steadily since the 1970's. Urban activity centers include airports, and planned unit developments which may consist of office parks, university campuses, shopping centers, and residential areas, or combinations of such land uses. The installation of APMs has been discussed and proposed for the new Denver International Airport and the University of Colorado at Denver, Auraria campus. Cable-powered Automated People Movers (APMs) have been identified as appropriate technology for mass transport. Presently, it is estimated that fifty-nine APM systems carry over 1.3 million passengers per day in the United States. The definition of "passenger tramway" as found in C.R.S. 25-5-702 would include these automated people movers and therefore be subject to regulation.

The Colorado ski industry has an excellent reputation for safety and has been a national leader in developing tramway standards. Several Colorado ski industry personnel have made significant contributions to the revision of the nationally recognized ANSI B77 standards for passenger tramways.

The ski industry is not a stagnant one, but continues to change and grow. By the year 2000, industry experts predict it will be a different world at the nation's ski resorts. Computerization will continue to transform the financial side of the business and automation will change

mountain operations. "High tech" is already being utilized in Canadian resorts where skiers purchase tickets worth a certain number of points, then computer-linked turnstiles at lifts deduct a certain number of points per lift ride, depending on the sophistication of the lift. Industry specialists foresee the discontinuation of the attendant who punches tickets at the base of the lift. One Colorado ski area plans to install ticket-dispensing automated-teller machines at slopeside to allow skiers to skip long ticket lines.

Snowmaking systems become more sophisticated as they incorporate on-mountain humidity and temperature sensors that allow snow crews to determine when optimal temperatures for snowmaking occur, then activate the snow guns by computer from several ridges away.

In the last decade, detachable quad lifts have become the industry's choice for quick, efficient uphill transportation. The utilization of these lifts enables ski areas to transport twice as many persons and at a much faster rate.

As equipment becomes more sophisticated, numbers of skiers increase, and the nature of the ski industry changes, the Passenger Tramway Safety Board regulations must be responsive in order to effectively continue to protect the health and safety of the public.

CONCLUSION

It is the conclusion of the Department of Regulatory Agencies that regulation of the passenger tramway industry is needed and that the State Board be continued to regulate the industry. The present scheme, with some changes particularly in the area of disciplinary actions, seem to be the most efficient approach to regulation. The Department has recommended numerous changes to the statute to improve and update passenger tramway regulation in Colorado.

RECOMMENDATION 1: CONTINUE THE PASSENGER TRAMWAY SAFETY BOARD.

The General Assembly should continue the Passenger Tramway Safety Board.

VI. STATUTORY RECOMMENDATIONS

The current law regulating passenger tramway safety, 25-5-701 et seq., C.R.S. needs to be repealed and reenacted.

The current law has provisions that are ambiguous, unclear and outdated and the statute is not in a logical sequential order. The law has been amended several times since its enactment in 1965. Significant changes have occurred in the passenger tramway industry to facilitate several changes to the statute. Both substantive and housekeeping changes are necessary to improve and update the passenger tramway safety statute.

RECOMMENDATION 2: REPEAL AND REENACT THE PASSENGER TRAMWAY SAFETY LAW, WITH SECTIONS RENUMBERED IN THE FOLLOWING ORDER (PLEASE SEE APPENDIX A FOR THE RECODIFIED LAW IN ITS ENTIRETY).

Section 701: Legislative declaration

Section 702: Definitions

Section 703: Passenger tramway safety board

Section 704: Powers and duties of the board

Section 704.5: Responsibilities of area operators

Section 705: Disciplinary actions - grounds for discipline

Section 706: Disciplinary actions - penalties

Section 707: Disciplinary proceedings

Section 708: Passenger tramway registration required

Section 709: Application for new construction or modification

Section 710: Application for registration

Section 711: Registration of passenger tramways

Section 712: Registration and certification fees

Section 713: Disposition of fees

Section 714: Inspections - costs - reports

Section 715: Emergency shutdown

Section 716: Orders

Section 717: Provisions in lieu of others

Section 718: Governmental immunity - limitations on liability

Due to the large number of additions and statutory clean-up recommendations, the following recommendations have been made in the order of the current statute for easier identification.

RECOMMENDATION 3: REPLACE REFERENCES TO "SKI TOWS AND LIFTS".

The General Assembly should replace the terms ski tows, lifts, and tramways in C.R.S. 25-5-701 and replace them with the term "passenger tramways".

Eliminating the "ski" references and replacing them with the term "passenger tramway" reflects the broader scope of the statute. The Board currently regulates tramways that are not located in ski areas. These include tramways located at the Air Force Academy, Elitch Gardens, Estes Park, Frazer Tubing Hill, Heritage Square, Royal Gorge, and Santa's Workshop.

RECOMMENDATION 4: REVISED DEFINITIONS.

The General Assembly should amend the definition section for consistency. All definitions should be enclosed in quotation marks and followed by the term "means". The General Assembly should revise the definition section, 25-5-702 C.R.S. to read as follows:

- (1) delete term "administrator"
- (3) add "area" before "operator" and use term "area operator" wherever necessary in statute.
- (4)(c) redefine "funicular" to read: "funicular" MEANS a device in which a passenger car running on steel or wooden tracks is attached to and PROPELLED by a steel cable, or similar devices;
- (4)(e) Insert the term "surface lift" which typically means j-bar, t-bar, or platter pull, and similar types of devices or means of transportation which pull skiers riding on skis by means of an attachment to a main overhead cable supported by trestles or towers with one or more spans;

By redefining the above terms, the statute will be made more consistent with industry definitions that are currently in use.

RECOMMENDATION 5: DEFINE "PORTABLE DEVICE".

The General Assembly should amend Section 25-5-702(4) by adding a definition of "portable device" to read: "portable device" means any device designed to be used and operated as a rope tow or surface lift without permanent foundations and intended for temporary use in changing or variable locations when used within the boundary of a recognized recreational area.

Under current law all portable devices are subject to board regulation. The law should be changed so that the Board's jurisdiction over such devices is limited. Anything that meets the definition above would be regulated by the Board.

These portable devices can be purchased by private individuals for \$3000-\$4000 and can be easily set-up and transported. They are currently being used in Colorado on a limited basis. Some typical uses currently include back country skiing by ski clubs, racing teams, and families. It is highly unreasonable and unrealistic to require a tramway inspector to inspect all portable devices periodically installed throughout Colorado on very short notice, even assuming all users of these devices would in fact notify the Passenger Tramway Safety Board to schedule an inspection. The enforcement problem associated with regulating portable devices used by private groups in locations other than ski area boundaries is overwhelming.

Nevertheless, given the obvious public safety issues presented by the use of portable devices, the Colorado Passenger Safety Tramway Board needs legislative authority to promulgate reasonable rules establishing minimum design/operation specifications of portable devices when used by members of the public within the boundary of a recognized recreational area. Recommended Board regulation would be limited to operation of portable devices only within the boundaries of a recognized recreational area.

Regulation of privately owned devices, when used on private land or public land not within a recognized ski area boundary, is not recommended because such would be beyond the scope of the Board's legislative purpose. Successful enforcement and inspection of such private use portable devices cannot be realistically achieved.

RECOMMENDATION 6: DEFINE "PRIVATE RESIDENCE TRAMWAY".

The General Assembly should add a definition of "private residence tramway" to Section 25-5-702(4) to read: "private residence tramway" means a device installed at a private residence or installed in multiple dwellings as a means of access to a private residence in such multiple dwelling buildings, provided the tramway is so installed that it is not accessible to the general public or to other occupants in the building.

See Recommendation 17 for discussion of "private residence tramway"

RECOMMENDATION 7: DEFINE "PORTABLE AERIAL TRAMWAY DEVICE".

The General Assembly should amend Section 25-5-702(4) by adding a definition of "portable aerial tramway device" to read: "portable aerial tramway device" means any device designed for temporary use and operation without permanent foundations, in changing or variable locations with a load capacity of less than 5 persons and not for use by the general public.

See Recommendation 15 for discussion of "portable aerial tramway device"

RECOMMENDATION 8: DEFINE "DETACHABLE GRIP LIFT".

The General Assembly should amend Section 25-5-702(4) by deleting the definition of "multiple-car aerial passenger tramway" and replacing it with the following: "detachable grip lift" means an aerial lift on which carriers alternately attach to and detach from a moving haul rope. The tramway system may be monocable or bicable.

This definition reflects current standard industry terminology.

RECOMMENDATION 9: DEFINE "FIXED GRIP LIFT".

The General Assembly should amend Section 25-5-702(4) by deleting the definition of "two-car aerial passenger tramway" and adding the following: "fixed grip lift" means an aerial lift on which carriers remain attached to a haul rope. The tramway system may be either continuous or intermittent circulating, and either monocable or bicable.

This definition reflects current standard industry terminology.

RECOMMENDATION 10: DEFINE "REVERSIBLE AERIAL TRAMWAY".

The General Assembly should amend Section 25-5-702(4) by adding a definition of "reversible aerial tramway" to read: "reversible aerial tramway" means a device on which the passengers are transported in cable- supported carriers and are not in contact with the ground or snow surface, and in which the carriers reciprocate between terminals.

This definition reflects current standard industry terminology and was previously undefined in the statute.

RECOMMENDATION 11: BOARD COMPOSITION.

The General Assembly should broaden the current structure of the Board by revising C.R.S. section 25-5-703 to read in part: There is hereby created a passenger tramway safety board of six appointive members and one member designated by the United States Forest Service. The appointive members shall be appointed by the governor from persons representing the following interests: Two members to represent the industry OR AREA OPERATOR; two members to represent the public at large; and two members familiar with or HAVING experience RELATED TO TRAMWAYS OR SIMILAR DEVICES, which may include but not be limited to, the passenger tramway manufacturing or design industry, ACADEMIA, THE INSURANCE INDUSTRY OR THE TOURISM INDUSTRY, BUT ARE NOT INDUSTRY MEMBERS, AREA OPERATORS OR THEIR EMPLOYEES.

The Colorado Passenger Tramway Safety Board consists of seven members: one U.S. Forest Service representative, two industry members, two members representative from tramway manufacturing/design field, and two members of the public at large. The current pool of eligible nominees to the Board is limited. The narrow restrictions on board composition with the current structure limits the type of persons eligible for nomination. There are currently only two lift manufacturer representatives in Colorado. There is the potential for the Board to become overloaded with ski industry personnel. The addition of persons representing other industries that are related to the tramway industry expands the pool of possible candidates.

RECOMMENDATION 12: REMOVAL OF BOARD MEMBERS.

The General Assembly should amend 25-5-703 C.R.S. to include a provision for removing board members. It should read: The governor may remove any member of the board for misconduct, incompetence, or

neglect of duty.

Previously, there was no statutory authority to remove Passenger Tramway Safety Board members. This recommendation is consistent with the wording in most other regulatory statutes.

RECOMMENDATION 13: RESIDENCY OF BOARD MEMBERS.

The General Assembly should amend 25-5-703 C.R.S. to include a provision that requires board members appointed by the Governor to be residents of Colorado for at least one year.

This recommendation is consistent with most boards that require Colorado residency.

RECOMMENDATION 14: QUORUM OF BOARD.

The General Assembly should amend 25-5-703 C.R.S. to include provisions for a quorum of the board and shall read: A majority of the board shall constitute a quorum for the purpose of all official business of the board.

Currently, there is no provision in the statute for a quorum of the board. This addition will conform with the statutory language of other boards.

RECOMMENDATION 15: PORTABLE AERIAL TRAMWAY DEVICE REGISTRATION EXEMPTION.

The General Assembly should amend 25-5-705 to read: (1) ~~No~~ A passenger tramway shall not be operated in this state unless it has been registered by the board. (2) THE BOARD SHALL HAVE NO JURISDICTION OVER A PORTABLE AERIAL TRAMWAY DEVICE AS DEFINED IN 25-5-702.

The General Assembly should amend the statutes so that the Colorado Passenger Safety Tramway Board has no jurisdiction over a "portable aerial tramway device". Colorado continues to be selected as the site of national and international ski events. Television networks often choose to broadcast such events and periodically use aerial camera tramways to photograph the event. Under the current law, a camera tramway is subject to Board jurisdiction and regulation despite the fact that these devices are not designed to be used to transport the general public. These devices should be exempted from Board regulation.

RECOMMENDATION 16: TRAMWAY MODIFICATIONS.

The General Assembly should amend section 25-5-705.5 C.R.S. and all other references to "major modification" by eliminating the term "major".

Currently the terms "major" and "minor" modifications are defined in the Passenger Tramway Safety Board Rules and Regulations section 11, 11.1.1. and 11.1.2. It wasn't until 1986 that the terms major and minor modifications were even defined. Since the inception of the board, **all** modifications of existing tramways had to be submitted to the board and a letter of acknowledgement received. This recommendation makes the statute consistent with past and present policy of the board. The board has always required application for any modification to an existing tramway.

RECOMMENDATION 17: PRIVATE RESIDENCE TRAMWAY REGISTRATION.

The General Assembly should amend section 25-5-705 C.R.S. by adding the registration of a "private residence tramway" to read as follows: Any new construction of a private residence tramway or any modification of an existing installation shall not be commenced until an application to begin construction or modification has been submitted to and approved by the Board. The Board shall have the authority to promulgate rules and regulations regarding construction and modification of private residence tramways as set forth in C.R.S. 25-5-704. Annual registration of private residence tramways as set forth in 25-5-711 shall not be required.

It was the original intent of the Colorado Passenger Tramway Safety Board statutes to regulate ski lift devices for the purpose of protecting the public's health, safety and welfare. However, any device defined by Colorado law to be a passenger tramway under C.R.S. 25-5-702(4) is subject to Colorado Passenger Tramway Safety Board (CPTSB) jurisdiction, regardless of intended use.

The advent of private residence tramways suggests that a clarification of the Board's jurisdiction is necessary to ensure the Board is regulating only in areas which are truly in keeping with its defined legislative purpose. Arguably, a private residence tramway used in conjunction with the use and enjoyment of a private family residence should not be the ongoing responsibility of the State of Colorado. Instead, responsibility and tort liability should be placed upon the private tramway owner under the rationale that this situation is similar to ownership of private outdoor swimming pools. A private residence tramway owner should be under an affirmative duty to take such precautions as those a reasonably prudent landowner would take to prevent injury to children who by reason of the tramway installation would be reasonably expected to seek to play there.

This Sunset Review proposes that the CPTSB regulate private residence tramways on a limited basis. Through the promulgation of rules and regulations the Board would ensure that the private residence tramway system substantially conforms to minimum safety standards and that it is installed in accordance with such standards. After the appropriate initial installation inspection has been made by the Board, subsequent responsibility for maintenance, operation, insurance liability, and performance will be the responsibility of the owner of the private residence tramway.

RECOMMENDATION 18: QUALIFICATION OF TRAMWAY DESIGN OR CONSTRUCTION ENGINEERS.

The General Assembly should repeal 25-5-706.5 C.R.S., Qualification of tramway design or construction engineers.

This section is included in section 25-5-702(5), C.R.S. and is therefore redundant.

RECOMMENDATION 19: DISPOSITION OF FEES.

The General Assembly should amend 25-5-709 and add provision for the continuous appropriation of funds for inspections: ANY FUNDS COLLECTED BY THE BOARD FOR COSTS RELATED TO SAFETY AND INCIDENT OR ACCIDENT INSPECTIONS ARE HEREBY CONTINUOUSLY APPROPRIATED TO THE DIVISION OF REGISTRATIONS IN ADDITION TO ANY OTHER FUNDS APPROPRIATED BY THE GENERAL ASSEMBLY FOR ITS NORMAL OPERATIONS.

While the Colorado Passenger Tramway Safety Board is a cash-funded agency, the inspection budget has a unique financial structure. The Board serves as a collection agency for the independent contractors as the area operators pay the entire cost of their inspections. The contractor invoices the Board and is compensated from monies budgeted for inspections. The Board staff subsequently invoices the area operators for the entire inspection amount. During an operating season an incident or accident might occur that requires an investigation by an inspector, or a licensee of a large area might desire additional inspections. Under the current budgetary constraints, the only way to allow for inspections not originally budgeted for would be to request a supplemental appropriation.

Since the area operators pay for the inspections, the authority to continuously appropriate would not impact the general fund and would allow the board to provide better service to the area operators in order to meet their needs for inspection services.

RECOMMENDATION 20: POWERS AND DUTIES OF THE BOARD.

The General Assembly should relocate 25-5-710 to follow 25-5-703, Passenger tramway safety board, and amend the section as follows:

Powers and duties of the board. (1)The Board has the following powers in addition to those otherwise described by this part 7.

(a) to adopt, PROMULGATE, AMEND, AND REPEAL SUCH RULES AND REGULATIONS AS MAY BE NECESSARY OR PROPER TO CARRY OUT THE PROVISIONS OF THIS ARTICLE. In adopting such rules and regulations the board shall MAY use as general guidelines the standards contained in the "American National Standard for Passenger Tramways - Aerial Tramways and Lifts, Surface Lifts, and Tows - Safety Requirements"... et. al.;

(b) TO INVESTIGATE ALL MATTERS RELATING TO EXERCISE AND PERFORMANCE OF THE POWERS AND DUTIES VESTED IN THE BOARD;

(c) TO CONDUCT MEETINGS and hold hearings in all matters relating to the exercise and performance of the board...

(d) TO DISCIPLINE OPERATORS IN ACCORDANCE WITH THIS PART 7;

(e) TO APPROVE AND RENEW REGISTRATIONS IN ACCORDANCE WITH THIS PART 7;

(f) TO ISSUE ORDERS TO CARRY OUT THE PROVISIONS OF THIS PART 7;

(g) to elect officers;

(h) to adopt and have an official seal which shall be affixed to all registrations issued by the board;

(i) to establish standing or temporary technical and safety committees;

(j) to collect fees, established pursuant to section 24-34-105, C.R.S. for any application for new construction or modification for any application or registration or supplemental application, **AND FOR INSPECTION AND ACCIDENT INVESTIGATIONS;**

(k) TO SEEK JUDICIAL RELIEF OR PROSECUTION OF, OR ENJOINER OF ALL PERSONS VIOLATING THIS PART 7;

(l) to delegate duties to program administrator;

(m) TO KEEP A RECORD OF ITS PROCEEDINGS AND OF ALL APPLICATIONS.

This section needs to be reorganized so that all matters relating to the powers and duties of the board are together in one section. In addition, several powers that are consistent with board authority have been added and items that are in conflict with other personnel statutes

have been deleted.

It is recommended that **shall** be changed to **may** in section 25-5-710(1)(a) regarding ANSI Standards. Traditionally, the national ANSI revision committee for passenger tramway standards receives recommendations and input from entities throughout the United States. On occasions, this process can be very time-consuming and decisions are often delayed. Consequently the board needs the option to make recommendations without having to await the final results of ANSI revisions. Historically, Colorado has taken the lead in recommending changes to the national standards and therefore, has the knowledge and ability to promulgate rules and regulations that will protect the public health and safety. In addition, for certain types of passenger tramways there might be other standards more germane than the ANSI standards.

RECOMMENDATION 21: RESPONSIBILITIES - REGISTRATIONS - INSPECTIONS.

The General Assembly should amend 25-5-710.1 C.R.S. to read: Such inspections shall include, as a minimum, two inspections annually OR EVERY 2000 OPERATING HOURS, WHICHEVER OCCURS FIRST, of each passenger tramway, one of which shall be during the high season and shall be unannounced,

The primary responsibility for design, construction, maintenance, and inspection rests within the area operators of passenger tramway devices. The state, through the Passenger Tramway Board, registers all passenger tramways, unless specifically exempted by law, establishes reasonable standards of design and operational practices, and causes to be made such inspections as may be necessary in carrying out this policy. Such inspections include, as a minimum, two inspections annually or every 2000 operating hours of each passenger tramway, one of which must be during the high use season and must be unannounced.

ANSI standards recommend a yearly inspection or every 2000 operating hours, whatever comes first. Historically, it was inconceivable that any passenger tramway would run over 2000 hours. However, today tramways are operated more extensively due to increased summer usage, night skiing, and restaurants open until midnight. Previously 800-900 operating hours was considered high usage, while today several tramways in Colorado operate well over 3000 hours a year.

RECOMMENDATION 22: CONTRACT INSPECTIONS.

The General Assembly should amend part of section 25-5-710.1 C.R.S. by adding: Such inspections shall include, as a minimum, two inspections annually or every 2000 operating hours, or whatever comes first, of each passenger tramway, one of which shall be during the high use season and shall be unannounced, and shall be carried out under contract with persons selected by the board OR BY THE SUPERVISORY TRAMWAY ENGINEER.

From 1965 until 1975, only contract inspectors performed tramway inspections. However, the 1976 Vail gondola accident was an impetus for significant administrative reforms. One of the administrative changes was the authorization given to the Board by the legislature to employ a full-time supervisory tramway engineer. Currently inspections are performed by contract inspectors and by the full-time supervisory tramway engineer employed by the State of Colorado. The addition of the supervisory tramway engineer reflects current practice of the board.

RECOMMENDATION 23: INVESTIGATION AUTHORITY AND REIMBURSEMENT.

The General Assembly should amend 25-5-711 C.R.S. to give the board authority to reasonably require an investigation as the result of an accident at a passenger tramway and to collect from the area operator, whenever necessary, for such service and for the actual expenses of each investigation. This section reads as follows:

The board may cause to be made such investigation pursuant to an accident or incident of a passenger tramway as the board may reasonably require. The board may employ qualified personnel to make such investigations for reasonable fees plus expenses. The expenses incurred by the board in connection with the conduct of investigations provided for in this part 7 shall be paid in the first instance by the board, and each area operator may be billed for any charges made by such personnel for such services and for the actual expenses of each investigation.

The existing statute allows the board to reasonably require an inspection of the design, construction, operation, and maintenance of passenger tramways. In cases of accidents that require an investigation, there is no provision for the board to collect expenses incurred by either contract inspectors or technical consultants.

During the extensive investigation of the Teller accident in Keystone in December 1985, the board had to hire a metallurgist at a significant expense to the board and had no authority to bill Keystone Resort for any expenses incurred. Consequently, the board requested a \$25,000 supplemental appropriation from the Legislature to investigate the accident and this cost was born by all area operators through increased fees the next fiscal year.

The industry views an inspection and an investigation as two separate entities. Section 25-5-711, C.R.S. grants the Board the authority to require an inspection and to collect expenses from such inspection. However there is no specific language in the statute that grants authority to collect monies for investigations incurred due to an accident.

With the addition of the recommendation above, the board **may** use its discretion to hire independent consultants to study an accident and subsequently **may** bill the licensee for the amount the board feels may be appropriate.

RECOMMENDATION 24: DISCIPLINARY ACTION BY THE BOARD.

The General Assembly should amend 25-5-713.5, C.R.S. and add under Grounds for discipline the following:

(1) FAILURE TO COOPERATE IN ANY LAWFUL BOARD INVESTIGATION.

(2) RECKLESS CONDUCT IN THE OPERATION OR MAINTENANCE OF A PASSENGER TRAMWAY.

There is currently no provision under disciplinary actions that addresses the above recommendations. It is imperative for the public's welfare and safety that during an investigation the Board receive cooperation of all concerned parties. Failure to receive this cooperation might impede or restrain the investigatory process. Events being investigated and the failure of any equipment could be generic and might impact other passenger tramways.

Reckless conduct is defined as careless, heedless, inattentive or indifferent to circumstances. According to circumstances it may mean desperately heedless, wanton or willful, or it may mean only careless, inattentive, or negligent. When this type of conduct is practiced, willfully or unwillfully, during the operation or maintenance of a passenger tramway, the public is at risk. By including reckless conduct as a grounds for discipline, the Board is given the authority to penalize any area operator practicing such acts.

RECOMMENDATION 25: CONFIDENTIALITY OF RECORDS.

The General Assembly should amend 25-5-713.5, C.R.S. to allow the Board to include provisions for confidentiality of records during the accident/incident investigatory period. The provisions should read: During the investigatory period of an accident or incident, records on file with the board, evidence obtained during the investigation, and the results of investigation shall be closed to public inspection, until such time as a report is submitted to the board.

Most occupational boards have the authority to keep investigation files confidential during the investigatory process. Currently the Passenger Safety Tramway Board's records are subject to the Public Records Law for there is no specific statutory language that restricts access to records during the investigatory process.

The purpose of this recommendation is not to hide information from the public but is to establish an arena of fairness during an accident investigation. The ski industry is a very visible one in Colorado and any accident tends to bring about tremendous media coverage. It is important during the investigatory period that the board objectively and carefully reviews the data and is free from information provided by outside sources.

The intention of this confidentiality recommendation is not to delay the release of information any longer than necessary. Other boards close their records and investigation results until any charges are dismissed or until notice of hearing and charges are served. This statutory addition would necessitate the closing of files only until a report is submitted to the board.

VII. ADMINISTRATIVE RECOMMENDATIONS

RECOMMENDATION 26: REPORTING REQUIREMENTS.

The Board should promulgate rules and regulations that require area operators to report to the board any loading or unloading incident/accident.

As discussed on page 14, "Accident and Incident Reporting" (Appendix D) licensees are not required to report incidents/accidents in the loading or unloading zone. They must only maintain logs for incidents in which an injury occurs. The log must be available for inspection, but does not have to be routinely submitted to the Board.

The intent of the reporting procedure is to give the Board information to determine whether there are recurring incidents that might be related to an operational or design feature. During the past several years, there have been significant occurrences during loading and/or unloading that might indicate a need for some modification of the loading or unloading area. It would benefit both the passenger tramway industry and the public if information were compiled and reviewed regarding loading and unloading incidents.

RECOMMENDATION 27: DISCIPLINARY ACTIONS.

The Board needs to review its reluctance to impose disciplinary actions on any area operators.

As early as 1977, the Sunset Review noted that board orders were not reinforced by a penalty system of fines or other punitive measures. However, it wasn't until 1986 that the Board was granted disciplinary powers which included the authority to deny, suspend, or revoke registration; to impose fines; or to issue a public reprimand.

As mentioned previously, the Board has only imposed a fine once since it was granted statutory authority in 1986, and has never revoked, suspended, or sent letters of admonition to area operators. The Board has issued emergency shutdown orders and remedial orders when the Board has been made aware of conditions which create a hazard to public safety. A shutdown order will often result in loss of revenue for an area plus there is often adverse publicity involved.

One reason for the Board's reluctance to impose disciplinary measures is the emphasis on cooperation between the passenger tramway industry and the Colorado Passenger Tramway Safety Board. This philosophy is valid to a point, but when the industry and the Board become too familiar, the public's health and safety may not be well protected. There does exist an information network between area operators whereby they exchange experience and knowledge relating to passenger tramways.

After reviewing board orders and board meeting minutes, it was noted that there were incidents that may have warranted disciplinary action. It is important for the Board to maintain good relations with the industry, but it is critical for the public's health and safety to take disciplinary action against obvious violations.

RECOMMENDATION 28: RECORDKEEPING.

The Board should keep formal records of complaints and final disposition of those complaints.

Currently, after the board has responded to complaints, the records are placed either in the licensees' or in a correspondence file. To make this information more easily available for review, a tracking system should be implemented.

This recommendation has been accepted by the Board and they plan to establish a complete tracking system for complaints.

APPENDIX A

Revised Statute

The underlined text reflects changes to the current statute.

25-5-701. Legislative declaration. (1) In order to assist in safeguarding life, health, property, and the welfare of this state, it is the policy of the state of Colorado to establish a board empowered to prevent unnecessary mechanical hazards in the operation of passenger tramways and to assure that reasonable design and construction are used for, that accepted safety devices and sufficient personnel are provided for, and that periodic inspections and adjustments are made which are deemed essential to the safe operation of passenger tramways.

25-5-702. **Definitions.** As used in this part 7, unless the context otherwise requires:

- (1) "Area operator" means a person who owns, manages, or directs the operation of a passenger tramway. "Area operator" may apply to the state or any political subdivision or instrumentality thereof.
- (2) "Board" means the passenger tramway safety board created by section 25-5-703.
- (3) "Industry" means the activities of all those persons in this state who own, manage, or direct the operation of passenger tramways.
- (4) "Passenger tramway" means a device used to transport passengers uphill on skis, or in cars on tracks, or suspended in the air by the use of steel cables, chains, or belts, or by ropes, and usually supported by trestle or towers with one or more spans. "Passenger tramway" includes, but is not limited to, the following devices:
 - (a) "Chair lift" means a type of transportation on which passengers are carried on chairs suspended in the air and attached to a moving cable, chain, or link belt supported by trestles or towers with one or more spans, or similar devices;
 - (b) "Detachable grip lift" means an aerial lift on which carriers alternately attach to and detach from a moving haul rope. The tramway system may be monocable or bicable.
 - (c) "Fixed grip lift" means an aerial lift on which carriers remain attached to a haul rope. The tramway system may be either continuous or intermittent circulating, and either monocable or bicable;

- (d) "Funicular" means a device in which a passenger car running on steel or wooden tracks is attached to and propelled by a steel cable, or similar devices;
 - (e) "Portable aerial tramway device" means any device designed for temporary use and operation without permanent foundations, in changing or variable locations with a capacity of less than 5 persons and not for use by the general public;
 - (f) "Portable device" means any device designed to be used and operated as a rope tow or surface lift without permanent foundations and intended for temporary use in changing or variable locations when used within the boundary of a recognized ski area;
 - (g) "Private residence tramway" means a device installed at a private residence or installed in multiple dwellings as a means of access to a private residence in such multiple dwelling buildings, provided the tramway is so installed that it is not accessible to the general public or to other occupants in the building;
 - (h) "Reversible aerial tramway" means a device on which the passengers are transported in cable-supported carriers and are not in contact with the ground or snow surface, and in which the carriers reciprocate between terminals.
 - (i) "Rope tow" means a type of transportation which pulls the skier riding on skis as the skier grasps the rope manually, or similar devices;
 - (j) "Surface lift" which typically means a J-bar, T-bar, or platter pull, and similar types of devices or means of transportation which pull skiers riding on skis by means of an attachment to a main overhead cable supported by trestles or towers with one or more spans;
- (5) "Qualified tramway design engineer" or "qualified tramway construction engineer" means an engineer registered by the state board of registration for professional engineers and professional land surveyors pursuant to part 1 or article 25 or title 12, C.R.S., to practice professional engineering in this state.

25-5-703. Passenger tramway safety board. (1) There is hereby created a passenger tramway safety board of six appointive members and one member designated by the United States Forest Service. The appointive members shall be appointed by the governor from persons representing the following interests: Two members to represent the industry or area operator; two members to represent the public at large; and two members familiar with or having experience related to tramways or similar devices, which may include but not be limited to, the passenger tramway manufacturing or design industry, academia, the insurance industry, or tourism industry, but are not industry members, area

operators or their employees. (2) No person shall be so appointed or designated except those who, by reason of knowledge or experience, shall be deemed to be qualified. Such knowledge or experience shall be either from active involvement in the design, manufacture, or operation of passenger tramways or as a result of extensive involvement in related activities. The governor, in making such appointments, shall consider recommendations made to him by the membership of the particular interest from which the appointments are to be made. (3) Each of the appointed members shall be appointed for a term of four years and until his/her successor is appointed and qualified; Board members shall be appointed for a four-year term of service, and no Board member shall serve more than two consecutive four-year terms. A Board member may be reappointed to the board after having vacated the board for one four-year term. Vacancies in the board, for either an unexpired term or for a new term, shall be filled through prompt appointment by the governor. The member of the board designated by the United States Forest Service shall serve for such period as such federal agency shall determine and shall serve without compensation or reimbursement of expenses. (formerly 25-5-704). (4) The governor may remove any member of the board for misconduct, incompetence, or neglect of duty. (5) Board members appointed by the Governor shall be residents of this state for at least one year (6) No member of the board who shall have any form of conflict of interest or the potential thereof shall participate in consideration of the deliberations on matters to which such conflict may relate; such conflicts may include, but are not limited to, a member of the board having acted in any consulting relationship or being directly or indirectly involved in the operation of the tramway in question (formerly in 25-5-710(2)). (7) A majority of the board shall constitute a quorum for the purpose of all official business of the board. (8) The provisions of section 24-34-104, C.R.S., concerning the termination schedule for regulatory bodies of the state unless extended as provided in that section, are applicable to the passenger tramway safety board created by section 25-5-703 (formerly 25-5-703.5).

25-5-703.5(2) This article is repealed, effective July 1, 1993.

25-5-704. Powers and duties of the board (formerly 25-5-710). (1) The board has the following powers and duties in addition to those otherwise described by this part 7.

(a) To adopt, promulgate, amend, and repeal such rules and regulations as may be necessary or proper to carry out the provisions of this article. In adopting such rules and regulations the board may use as general guidelines the standards contained in the "American National Standard for Passenger Tramways - Aerial Tramways and Lifts, Surface Lifts, and Tows - Safety Requirements", as adopted by the American National

Standards Institute, incorporated, as amended from time to time. Such rules and regulations shall not be discriminatory in their application to area operators of passenger tramways; and procedures of the board with respect thereto shall be as provided in sections 24-4-102 and 24-

4-103, C.R.S., with respect to rule-making;

(b) To investigate all matters relating to exercise and performance of the powers and duties vested in the board.

(c) to conduct meetings and hold hearings and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the board, subpoena witnesses, administer oaths, and compel the testimony of witnesses and the production of books, papers, and records relevant to any inquiry. The board may appoint an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S., to take evidence and to make findings and report them to the board. The board may elect to hear the matter itself with the assistance of an administrative law judge or an advisory attorney from the office of the attorney general, and, in such case, the advisor or administrative law judge shall advise the board on legal and procedural matters, rule on evidence, and otherwise conduct the course of the hearing;

(d) to discipline operators in accordance with this part 7 (formerly in (1)(c));

(e) to approve and renew registrations in accordance with this part 7. (formerly in (1)(c));

(f) to issue orders to carry out the provisions of this part 7;

(g) To elect officers; (formerly (1)(e));

(h) To adopt and have an official seal which shall be affixed to all registrations issued by the board (formerly part of (1)(e));

(i) To establish standing or temporary technical and safety committees composed of persons with expertise in tramway-related fields to review, as the board deems necessary, the design, construction, maintenance, and operation of passenger tramways and to make recommendations to the board concerning their findings. Committees established pursuant to this paragraph (h) shall meet as deemed necessary by the board or the supervisory tramway engineer. (formerly (1)(h));

(j) To collect fees, established pursuant to section 24-34-105, C.R.S., for any application for new construction or modification, for any application for registration or supplemental application, AND FOR INSPECTION AND ACCIDENT INVESTIGATIONS; (formerly (1)(i));

- (k) To seek judicial relief, or prosecution of, or enjoinder of, all persons violating this part 7 and incur the necessary expenses thereof. (formerly (1)d)):
- (l) to delegate duties to the program administrator; (formerly 25-5-710.5):
- (m) To keep a record of its proceedings and of all applications.

25-5-704.5 Responsibilities of area operators (formerly 25-5-710.1) The primary responsibility for design, construction, maintenance, and inspection rests within the area operators of passenger tramway devices.

25-5-705. Disciplinary actions - grounds for discipline (formerly part of section 25-5-713.5).

(1) Disciplinary actions of the board pursuant to this section shall be taken in accordance with the provisions of article 4 of title 24, C.R.S.

(2) The board has the power to deny, suspend, revoke, or refuse to renew registration of any passenger tramway for any of the following acts or omissions:

- (a) Any violation of the provisions of this part 7 or of any rule or regulation of the board promulgated pursuant to section 25-5-704 when the act or omission upon which the violation is based was known to, or reasonably should have been known to, the area operator;
- (b) Violation of any order of the board issued pursuant to provisions of this part 7;
- (c) Failure to report any incident/accident to the board as required by any provision of this part 7 or any rule or regulation of the board promulgated pursuant to section 25-5-704 when the incident was known to, or reasonably should have been known to, the area operator;
- (d) Failure to cooperate in any lawful board investigation;
- (e) Operation of a passenger tramway while a condition exists in the design, construction, operation, or maintenance of the passenger tramway which endangers the public health, safety, or welfare, which condition was known or reasonably should have been known by the area operator;
- (f) Reckless conduct in the operation or maintenance of a passenger tramway.

25-5-706. Disciplinary actions - penalties (formerly part of section 25-5-713.5) (1) As an alternative to, or in conjunction with, the issuance of orders pursuant to section 25-5-716, the board may:

- (a) Deny, suspend, revoke, or refuse to renew registrations;
 - (b) Summarily suspend a registration pursuant to the authority of this part 7 or of article 4 of title 24, C.R.S.
 - (c) Impose upon the area operator a fine not to exceed ten thousand dollars per act or omission;
 - (d) In addition to any disciplinary action taken by the board, the board may impose on an area operator an additional fine not to exceed fifty thousand dollars if the board finds the act or omission of the operator willful;
 - (e) Fines collected pursuant to this section shall be deposited in the general fund of the state;
 - (f) Issue a public reprimand to an area operator; or
 - (g) Place an area operator on probation and set reasonable conditions thereof;
- (2) Any area operator who operates a passenger tramway which has not been registered by the board or after its registration has been suspended by the board or any area operator who does not comply with an order of the board issued under section 25-5-716 commits a class 3 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S. **(formerly 25-5-717)**

(3) Any person who violates an order issued pursuant to section 25-5-716 shall be subject to a civil penalty of not more than five thousand dollars for each day during which such violation occurs. Civil penalties under this section shall be determined and collected by a court of competent jurisdiction upon action instituted by the board. (formerly 25-5-714.5)

(4) The board has the power to bring injunctive proceedings in the district court of the judicial district in which the passenger tramway is located to compel compliance with any lawful order of the board (formerly 25-5-714).

25-5-707. Disciplinary proceedings. (1) The board may investigate all matters which present grounds for disciplinary action as specified in this part 7.

(2) During the investigatory period of an accident or incident, records on file with the board, evidence obtained during the investigation, and the results of the investigation, shall be closed to public inspection until such time as a report is submitted to the board.

(3) The board or the administrative law judge may take evidence in all matters relating to the exercise and performance of the powers and duties vested in the board, subpoena witnesses, administer oaths, and compel the testimony of witnesses and the production of books, papers, and records relevant to any inquiry. The program administrator may issue a subpoena on behalf of the board (formerly 25-5-710(b)).

(4) Disciplinary hearings may be conducted by the board or the board may appoint an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S. to take evidence and to make findings and report them to the board. The board may elect to hear the matter itself with the assistance of an administrative law judge or an advisory attorney, from the office of the attorney general, and in such case, the advisor or administrative law judge shall advise the board on legal and procedural matters, rule on evidence, and otherwise conduct the course of the hearing **(formerly 25-5-710(b)).**

(5) Any appeal of a final action or order of the board shall be reviewed by the court of appeals in proceedings conducted in accordance with section 24-4-106, C.R.S. (formerly 25-5-715)

25-5-708. Passenger tramway registration required. (formerly 25-5-705) (1) The state, through the Passenger Tramway Safety Board, shall register all passenger tramways, unless specifically exempted by law, establish reasonable standards of design and operational practices, and cause to be made such inspections as may be necessary in carrying out this policy. **(formerly 25-5-710.1)** (2) A passenger tramway shall not be operated in this state unless it has been registered by the board. No new passenger tramway shall be initially registered in this state as complying with the rules and regulations of the board promulgated pursuant to section 25-5-703. Such certification shall be made by a qualified tramway design engineer or a qualified tramway construction engineer, whichever the case requires. (3) Any new construction of a private residence tramway or any modification of an existing installation shall not be commenced until an application to begin construction or modification has been submitted to and approved by the Board. The Board shall have the authority to promulgate rules and regulations regarding construction and modification of private residence tramways as set forth in C.R.S. 25-5-704. Annual registration of private residence tramways as set forth in 25-5-711 shall not be required. (4) The board shall have no jurisdiction over a portable aerial tramway device as defined in 25-5-702 (4) The board shall have no jurisdiction over a portable device when used outside the boundary of a recognized recreational area.

25-5-709. Application for new construction or modification. (formerly 25-5-705.5) Any new construction of a passenger tramway or any modification to an existing installation shall not be initiated unless an application for such construction or modification has been made to the board and a permit therefor has been issued by the board.

25-5-710. Application for registration. (formerly 25-5-706) Each year, every area operator of a passenger tramway shall apply to the board, on forms prepared by it, for registration of the passenger tramways which such area operator owns or manages or the operation of which he/she directs. The application shall contain such information as the board may reasonably require in order for it to determine whether the passenger tramway sought to be registered by such operator comply with the intent of this part 7 as specified in section 25-5-701 and the rules and regulations promulgated by the board pursuant to section 25-5-704.

25-5-711. Registration of passenger tramways. (formerly 25-5-707) (1) The board shall issue to the applying area operator without delay registration certificates for each passenger tramway owned, managed, or the operation of which is directed by such area operator when it is satisfied:

- (a) That the facts stated in the application are sufficient to enable the board to fulfill its duties under this part 7; and
- (b) That each such passenger tramway sought to be registered has been inspected by an inspector designated by the board according to procedures established by the board and that such inspection disclosed no safety hazard and no violations of the board rules and regulations promulgated pursuant to section 25-5-704.

(2) In order to satisfy itself that the conditions described in paragraphs (a) and (b) of subsection (1) of this section have been fulfilled, the board may cause to be made such inspections described in section 25-5-714 as it may reasonably deem necessary.

(3) When an area operator installs a passenger tramway subsequent to annual registration dates established by the board, such area operator shall file a supplemental application for registration of such passenger tramway. Upon the receipt of such supplemental application, the board shall proceed immediately to initiate proceedings leading to the registration or rejection of registration of such passenger tramway pursuant to the provision of this part 7.

(4) Registrations shall expire on dates established by the board.

(5) Each area operator shall cause the registration certificate, or copy thereof, for each passenger tramway thus registered to be displayed prominently at the place where passengers are loaded thereon.

25-5-712. Registration and certification fees (formerly 25-5-708). (1) The application for new construction or modification and the application for registration or supplemental application shall be accompanied by a fee established pursuant to section 24-34-105, C.R.S.

25-5-713. Disposition of fees (formerly 25-5-709). All fees collected by the board under the provisions of this part 7 shall be transmitted to the state treasurer, who shall credit the same pursuant to section 24-34-105, C.R.S., and the general assembly shall make annual appropriations pursuant to said section for expenditures of the board incurred in the performance of its duties under this part 7, which expenditures shall be made from such appropriations upon vouchers and warrants drawn pursuant to law. Any funds collected by the board for costs related to safety and incident or accident inspections are hereby continuously appropriated to the Division of Registrations in addition to any other funds appropriated by the General Assembly for its normal operations.

25-5-714. Inspections/Investigations - costs - reports (formerly 25-5-711). (1) The board may cause to be made such inspection of the design, construction, operation, maintenance, or of passenger tramways as the board may reasonably require. (2) Such inspections shall include, as a minimum, two inspections annually or every 2,000 operating hours, whichever occurs first, of each passenger tramway. One inspection which shall be during the high use season and shall be unannounced. Additional inspections may be required if the initial inspections are not completed to the satisfaction of the board. The board shall provide in its rules and regulations that no facility shall be shut down for the purposes of a regular inspection during normal operating hours, unless sufficient daylight is not available for the inspection **(formerly 25-5-710.1)**. (3) The board may employ qualified personnel to make such inspections for reasonable fees plus expenses. The expenses incurred by the board in connection with the conduct of inspections provided for in this part 7 shall be paid in the first instance by the board, but each area operator of the passenger tramway which was the subject of such inspection shall, upon notification by the board of the amount due, reimburse the board for any charges made by such personnel for such services and for the actual expenses of each inspection. (4) The board may cause to be made such investigation pursuant to an accident or incident of a passenger tramway as the board may reasonably require. (5) The board may employ qualified personnel to make such investigations for reasonable fees plus expenses. The expenses incurred by the board in connection with the conduct of investigations provided for in this part 7 shall be paid in the first instance by the board, and each area operator may be billed for any charges made by such personnel for such services and for the actual expenses of each investigation. (6) If, as the result of an

inspection, it is found that a violation of the board's rules and regulations exists, or a condition in passenger tramway design, construction, operation, or maintenance exists, endangering the safety of the public, an immediate report shall be made to the board for appropriate investigation and order.

25-5-715. Emergency shutdown (formerly 25-5-712). When facts are presented tending to show that a ~~unreasonable~~ hazard exists in the continued operation of a passenger tramway, after such verification of said facts as is practical under the circumstances and consistent with the public safety, the board, any member thereof, of the supervisory tramway engineer may, by an emergency order, require the area operator of said tramway forthwith to cease using the same for the transportation of passengers. Such emergency order shall be in writing and signed by a member of the board or the supervisory tramway engineer, and notice thereof may be served by the supervisory tramway engineer, any member of the board, or as provided by the Colorado rules of civil procedure or Administrative Procedures Act. Such service shall be made upon the area operator or his/her agent immediately in control of said tramway. Such emergency shutdown shall be effective for a period not to exceed seventy-two hours from the time of service. The board shall conduct an investigation into the facts of the case and shall take such action under section 25-5-705, section 25-5-706, or section 25-5-716. or all, as may be appropriate.

25-5-716. Orders (1) If, after investigation, the board finds that a violation of any of its rules or regulations exists or that there is a condition in passenger tramway design, construction, operation, or maintenance endangering the safety of the public, it shall forthwith issue its written order setting forth its findings and corrective action to be taken and fixing a reasonable time for compliance therewith. (2) Such order shall be served upon the area operator involved in accordance with the Colorado rules of civil procedure or Colorado Administrative Procedures Act and shall become final unless the operator applies to the board for hearing in the manner provided in section 24-4-105, C.R.S. (3) If any area operator fails to comply with the lawful order of the board issued under section 25-5-716, within the time fixed thereby, the board may suspend the registration of the affected passenger tramway for such time as it may consider necessary for the protection of the safety of the public. (formerly 25-5-716)

25-5-717. Provisions in lieu of others. (formerly 25-5-718) The provisions for regulation, registration, and licensing of passenger tramways and the operators thereof under this part 7 shall be in lieu of all other Colorado state regulations or registration, or licensing requirements, and passenger tramways shall not be construed to be common carriers within the meaning of the laws of this state.

25-5-718. Governmental immunity - limitations on liability. (formerly 25-5-719) (1) The

board, any member of the board, any person on the staff of the board, any technical advisor appointed by the board, any member of an advisory committee appointed by the board, and any independent contractors with whom the board contracts for assistance shall be provided all protections of governmental immunity provided to public employees by article 10 of title 24, C.R.S., including but not limited to the payment of judgements and settlements, the provision of legal defense, and the payment of costs incurred in court actions. these protections shall be provided to the board, board members, staff, technical advisors, committee members, and independent contractors only with regard to actions brought because of acts or omissions committed by such persons in the course of official board duties.

(2) The provisions of subsection (1) of this section shall be construed as a specific exception to the general exclusion of independent contractors from the protections of governmental immunity provided in article 10 of title 24, C.R.S.

APPENDIX B

Sunset Statutory Evaluation Criteria

- (I) 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 regulations;
- (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;
- (III) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices of the Department of Regulatory Agencies and any other circumstances, including budgetary, resource and personnel matters;
- (IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- (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;
- (VI) The economic impact of regulation and, if national economic information is available, whether the agency stimulates or restricts competition;
- (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;
- (VIII) Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;
- (IX) Whether administrative and statutory changes are necessary to improve agency operations to enhance public interest.

APPENDIX C

Responses From Area Operators To Questionnaire On The Colorado Passenger Tramway Safety Board

The Department of Regulatory Agencies sent questionnaires to all passenger tramway area operators to receive input on the performance of the Colorado Passenger Tramway Safety Board. Eighty-three percent of the area operators responded. The following information summarizes their feedback.

34 RESPONSES OUT OF 41 AREA OPERATORS

1. **Have you been in contact with the Passenger Tramway Safety Board with regard to the following? (Check as many as applicable.)**
 - 16 New installation
 - 24 Modification of existing installations
 - 5 Complaints
 - 32 Inspections
 - 5 Problem with licensing (please specify)
 - 3 Other (please specify)

2. **Do you feel the current Passenger Tramway Safety Board is responsive to your needs? (Please check one.)**
 - 55%-19 Very Responsive
 - 32%-11 Usually responsive
 - 13%-4 Somewhat responsive
 - 0 Unresponsive

3. **Do you feel the current Passenger Tramway Safety Board's staff is responsive to your needs?**
 - 56%-19 Very Responsive
 - 29%-10 Usually responsive
 - 12%-4 Somewhat responsive
 - 3%-1 Unresponsive

4. **What suggestions would you have for improving Board-licensee relationships?**

Please see following comment page.

5. **Do you think the required number of inspections (the preseason, in-season unannounced, and summer unannounced) is adequate?**

100%-34 Yes
0 No

6. **How would you describe the quality of inspections?**

15%-5 Excellent
62%-21 Very Good
17%-6 Average
3%-1 Poor
3%-1 No Response

7. **Over the past 4 years how would you describe the consistency of the quality of inspections.**

53%-18 Usually Consistent
44%-15 Varies Greatly
3%-1 No Response

8. **Do you feel that the current fee schedule is equitable?**

73%-25 Yes
15%-5 No
12%-4 No Response

9. **Do you feel there are other ways to assure effective public safety on passenger tramways? (Please list any other possible options.)**

Please see following comments page

10. **Please add any additional information which may assist us in the review of the current Passenger Tramway Safety Board regulatory process.**

Please see following comments page.

11. **Do you favor continuation of the Colorado Passenger Tramway Safety Board?**

100%-34 Yes

Comments From Area Operators

- * The Board should try to keep their fees and expenses down.
- * Continue to urge the staff to assume a nonadvisory posture with licensees.
- * Should approach inspections with more of an open eye.
- * Consistency is needed in the interpretation of regulations.
- * Use common sense in judgements. Even though inspectors feel items are not necessary, they still have to impose them upon all.
- * Board-licensee relationship is good.
- * Keep the communications flowing.
- * Information from the board is very complicated if you are not a ski area professional. Information pertinent to smaller areas should be clearly and concisely stated.
- * Insurance companies also do inspections which help assure effective public safety on passenger tramways.
- * Department of Transportation could possibly be the regulatory agency like in other states.
- * Financial responsibility and competition keeps the industry as safe as it is. The regulations are a bi-product guideline.
- * The board is always looking for ways to change and that means more rules. If it works, don't fix it.
- * Some rules are vague and leave much room for varied opinions.
- * The state should pay the inspectors (instead of the ski area) because it is the state that wants the lifts inspected. Most ski areas run a tight ship and the inspector will find only minor deficiencies.

APPENDIX D

Passenger Tramway Accidents and Incidents

14.1 DEFINITIONS

- (A) A "passenger tramway accident" is any accident from a possible malfunction of a passenger tramway in which a person is injured or killed.
- (B) A "reportable passenger tramway accident" is defined as:
 - (1) Any unintentional deropement regardless of whether or not the tramway is evacuated.
 - (2) Any unplanned evacuation other than by prime mover or auxiliary power unit, regardless of cause.
 - (3) Any fire involving tramway equipment or structures.
 - (4) Failure of any electrical or mechanical component which results in a loss of control of the tramway. Any of the following six (6) conditions is considered a loss of control:
 - (a) Tramway will not slow down when given the command to do so.
 - (b) Tramway will not stop when given the command to do so.
 - (c) Tramway overspeeds beyond the control settings and/or maximum design speed.
 - (d) Tramway accelerates faster than normal design acceleration.
 - (e) Tramway self-starts or self-accelerates without the command to do so.
 - (f) Tramway reverses direction unintentionally and without the command to do so.
 - (5) Any wire rope damage which exceeds the requirements of rule 7.4.1.1.
 - (6) Structural failure of any component that affects the integrity of the tramway. The structural failure of the following components are reportable:
 - (a) Terminal structure
 - (b) Bullwheel
 - (c) Brake system
 - (d) Tower structure

- (e) Sheave, axle or sheave assembly
- (f) Carrier
- (g) Grip

This list (items 6a-6g) is to be used as a guideline and reporting structural failures should not be limited to these items.

- (7) Any incident in which a passenger falls from a chair which is outside of the load of unload zone. For the purposes of this rule, the load zone is defined as the area from the "wait here" sign to a point where the "no ski closure" ends or in the event there are no closures, at a point where the vertical clearance of an ascending lift line is less than eight feet as measured from the bottom of the chair seat of an open carrier.

For the purpose of this rule the "unload zone" is defined as the area from where the "no ski closure" area begins or in the event there are no closures, at a point where the vertical clearance of the ascending lift line is less than eight feet as measured from the bottom of an open carrier to the toe of the unload ramp.

APPENDIX E

Fee Schedule History							
	85-86	86-87	87-88	88-89	89-90	90-91	91-92
RENEWALS							
CHAIRLIFT	466.00	641.00	637.00				
GONDOLA	462.00	688.00	640.00				
FIXED GRIP				500.00	619.00	720.00	700.00
DETACHABLE				770.00	965.00	1095.00	1050.00
SURFACE	212.00	288.00	277.00	250.00	302.00	325.00	300.00
TOW	67.00	95.00	88.00	125.00	156.00	160.00	150.00
FUNICULAR	462.00	624.00	683.00	500.00	619.00	670.00	650.00
REV TRAM	319.00	381.00	412.00	500.00	619.00	670.00	650.00
CONSTRUCTION							
CHAIRLIFT	487.00	554.00	565.00				
GONDOLA	487.00	554.00	565.00				
FIXED GRIP				600.00	600.00	600.00	600.00
DETACHABLE				1200.00	1200.00	1200.00	1200.00
SURFACE	212.00	241.00	246.00	300.00	300.00	300.00	300.00
TOW	70.00	80.00	82.00	150.00	150.00	150.00	150.00
FUNICULAR	487.00	554.00	565.00	1200.00	1200.00	1200.00	1200.00
REV TRAM	487.00	554.00	565.00	1200.00	1200.00	1200.00	1200.00
Fee structure changed in 1988 to delineate between fixed grip tramways and detachable tramways.							