



**COLORADO**

**Department of  
Regulatory Agencies**

Colorado Office of Policy, Research &  
Regulatory Reform

**2017 Sunset Review:  
Custom Processing of Meat Animals Act**

*October 13, 2017*



**COLORADO**

**Department of  
Regulatory Agencies**

Executive Director's Office

October 13, 2017

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

Dear Members of the General Assembly:

The Colorado General Assembly established the sunset review process in 1976 as a way to analyze and evaluate regulatory programs and determine the least restrictive regulation consistent with the public interest. Since that time, Colorado's sunset process has gained national recognition and is routinely highlighted as a best practice as governments seek to streamline regulation and increase efficiencies.

Section 24-34-104(5)(a), Colorado Revised Statutes (C.R.S.), directs the Department of Regulatory Agencies to:

- Conduct an analysis of the performance of each division, board or agency or each function scheduled for termination; and
- Submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination.

The Colorado Office of Policy, Research and Regulatory Reform (COPRRR), located within my office, is responsible for fulfilling these statutory mandates. Accordingly, COPRRR has completed the evaluation of the regulation of custom meat processors. I am pleased to submit this written report, which will be the basis for COPRRR's oral testimony before the 2018 legislative committee of reference.

The report discusses the question of whether there is a need for the regulation provided under Article 33 of Title 35, C.R.S. The report also discusses the effectiveness of the Commissioner of Agriculture and the Division of Inspection and Consumer Services and staff in carrying out the intent of the statutes and makes recommendations for statutory changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

Marguerite Salazar  
Executive Director





# COLORADO

## Department of Regulatory Agencies

Colorado Office of Policy, Research &  
Regulatory Reform

### 2017 Sunset Review Custom Processing of Meat Animals Act

#### SUMMARY

##### ***What is regulated?***

The Custom Processing of Meat Animals Act (Act) provides regulatory oversight of custom meat processors. Custom meat processors slaughter or process, for a fee or other compensation, meat or meat products of an animal that is not owned by the person performing the slaughtering or processing and not intended for sale by the owner of the animal.

##### ***Why is it regulated?***

The purpose of the Act is to ensure, among other things, that the slaughter and processing of animals occurs in a safe, sanitary and non-deceptive manner.

##### ***Who is regulated?***

In fiscal year 15-16, there were 111 licensed custom meat processors.

##### ***How is it regulated?***

The Commissioner of Agriculture is responsible for licensing, imposing discipline, rulemaking and policymaking. Also, Colorado Department of Agriculture, Division of Inspection Services (Division) staff performs periodic inspections of custom meat processing facilities. Inspections are comprehensive and cover facility construction and maintenance, operating procedures, sanitation, labeling and recordkeeping. During inspections, Division staff takes environmental samples from equipment and various surfaces, such as tables and floor drains, to test for listeria, *E. coli* and salmonella. The samples are taken to the Division's biochemistry laboratory for testing.

##### ***What does it cost?***

In fiscal year 15-16, the total expenditures for regulatory oversight were \$40,900. There were 0.6 full-time equivalent employees associated with regulatory oversight.

##### ***What disciplinary activity is there?***

Between fiscal years 11-12 and 15-16, only one complaint was filed (in fiscal year 14-15) against a licensee who was practicing on an expired license. The Commissioner subsequently fined the licensee \$750.

## KEY RECOMMENDATIONS

### ***Continue the Regulation of Meat Processing for 13 years, until 2031.***

This sunset review identified few instances where consumers were harmed by custom meat processors. In fact, the Commissioner imposed disciplinary action once in the past five fiscal years. Perhaps the most robust explanation for the low number of complaints and formal disciplinary actions is the existence of comprehensive inspections of facilities by Division staff. The inspections ensure compliance with existing requirements and, thus, enhance consumer protection.

### ***Amend the Act to allow poultry producers licensed by the Division to sell their products to retail establishments.***

Currently, the Act does not authorize licensed poultry producers to sell their products to retail establishments, such as grocery stores. However, since poultry producers who process more than 1,000 but fewer than 20,000 birds per year are required to secure a license from the Division, they must comply with the current sanitation, record keeping and labeling requirements highlighted in the Act. Doing so also, coincidentally, fulfills the requirements to be designated as an “approved source,” which is a requirement of the Colorado Department of Health and Environment in order to sell food for human consumption to retail establishments. Amending the Act to allow licensed poultry producers to sell their products to retail establishments will provide additional opportunities for poultry processors.

## METHODOLOGY

As part of this review, Colorado Office of Policy, Research and Regulatory Reform staff interviewed Division staff, reviewed records, interviewed officials with state and national professional associations, interviewed other stakeholders, reviewed Colorado statutes and rules, and reviewed the laws of other states.

## MAJOR CONTACTS MADE DURING THIS REVIEW

Colorado Cattleman’s Association  
Colorado Department of Agriculture  
Colorado Department of Public Health and Environment  
Colorado Farm Bureau  
Colorado Restaurant Association  
Oregon Department of Agriculture  
Washington Department of Agriculture

### What is a Sunset Review?

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether they should be continued by the legislature. Sunset reviews focus on creating the least restrictive form of regulation consistent with protecting the public. In formulating recommendations, sunset reviews consider the public’s right to consistent, high quality professional or occupational services and the ability of businesses to exist and thrive in a competitive market, free from unnecessary regulation.

Sunset Reviews are prepared by:  
Colorado Department of Regulatory Agencies  
Colorado Office of Policy, Research and Regulatory Reform  
1560 Broadway, Suite 1550, Denver, CO 80202  
[www.dora.colorado.gov/opr](http://www.dora.colorado.gov/opr)



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# Background

## Introduction

Enacted in 1976, Colorado's sunset law was the first of its kind in the United States. A sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it. During the sunset review process, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) within the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria<sup>1</sup> and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are based on the following statutory criteria:

- Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- 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;
- Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- 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;
- The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- 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;
- Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;

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

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- Whether the agency through its licensing or certification process imposes any disqualifications on applicants based on past criminal history and, if so, whether the disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subparagraph (i) of paragraph (a) of subsection (8) of this section shall include data on the number of licenses or certifications that were denied, revoked, or suspended based on a disqualification and the basis for the disqualification; and
  - Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

## Types of Regulation

Consistent, flexible, and fair regulatory oversight assures consumers, professionals and businesses an equitable playing field. All Coloradans share a long-term, common interest in a fair marketplace where consumers are protected. Regulation, if done appropriately, should protect consumers. If consumers are not better protected and competition is hindered, then regulation may not be the answer.

As regulatory programs relate to individual professionals, such programs typically entail the establishment of minimum standards for initial entry and continued participation in a given profession or occupation. This serves to protect the public from incompetent practitioners. Similarly, such programs provide a vehicle for limiting or removing from practice those practitioners deemed to have harmed the public.

From a practitioner perspective, regulation can lead to increased prestige and higher income. Accordingly, regulatory programs are often championed by those who will be the subject of regulation.

On the other hand, by erecting barriers to entry into a given profession or occupation, even when justified, regulation can serve to restrict the supply of practitioners. This not only limits consumer choice, but can also lead to an increase in the cost of services.

There are also several levels of regulation.

### Licensure

Licensure is the most restrictive form of regulation, yet it provides the greatest level of public protection. Licensing programs typically involve the completion of a prescribed educational program (usually college level or higher) and the passage of an examination that is designed to measure a minimal level of competency. These types of programs usually entail title protection - only those individuals who are properly licensed may use a particular title(s) - and practice exclusivity - only those individuals who are properly licensed may engage in the particular practice. While these requirements can be viewed as barriers to entry, they also afford the highest level of consumer protection in that they ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

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## Certification

Certification programs offer a level of consumer protection similar to licensing programs, but the barriers to entry are generally lower. The required educational program may be more vocational in nature, but the required examination should still measure a minimal level of competency. Additionally, certification programs typically involve a non-governmental entity that establishes the training requirements and owns and administers the examination. State certification is made conditional upon the individual practitioner obtaining and maintaining the relevant private credential. These types of programs also usually entail title protection and practice exclusivity.

While the aforementioned requirements can still be viewed as barriers to entry, they afford a level of consumer protection that is lower than a licensing program. They ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

## Registration

Registration programs can serve to protect the public with minimal barriers to entry. A typical registration program involves an individual satisfying certain prescribed requirements - typically non-practice related items, such as insurance or the use of a disclosure form - and the state, in turn, placing that individual on the pertinent registry. These types of programs can entail title protection and practice exclusivity. Since the barriers to entry in registration programs are relatively low, registration programs are generally best suited to those professions and occupations where the risk of public harm is relatively low, but nevertheless present. In short, registration programs serve to notify the state of which individuals are engaging in the relevant practice and to notify the public of those who may practice by the title(s) used.

## Title Protection

Finally, title protection programs represent one of the lowest levels of regulation. Only those who satisfy certain prescribed requirements may use the relevant prescribed title(s). Practitioners need not register or otherwise notify the state that they are engaging in the relevant practice, and practice exclusivity does not attach. In other words, anyone may engage in the particular practice, but only those who satisfy the prescribed requirements may use the enumerated title(s). This serves to indirectly ensure a minimal level of competency - depending upon the prescribed preconditions for use of the protected title(s) - and the public is alerted to the qualifications of those who may use the particular title(s).

Licensing, certification and registration programs also typically involve some kind of mechanism for removing individuals from practice when such individuals engage in enumerated proscribed activities. This is generally not the case with title protection programs.

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## Regulation of Businesses

Regulatory programs involving businesses are typically in place to enhance public safety, as with a salon or pharmacy. These programs also help to ensure financial solvency and reliability of continued service for consumers, such as with a public utility, a bank or an insurance company.

Activities can involve auditing of certain capital, bookkeeping and other recordkeeping requirements, such as filing quarterly financial statements with the regulator. Other programs may require onsite examinations of financial records, safety features or service records.

Although these programs are intended to enhance public protection and reliability of service for consumers, costs of compliance are a factor. These administrative costs, if too burdensome, may be passed on to consumers.

## **Sunset Process**

Regulatory programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials, representatives of the regulated profession and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review on COPRRR's website at: [www.dora.colorado.gov/opr](http://www.dora.colorado.gov/opr).

The functions of the Commissioner of Agriculture (Commissioner) as enumerated in Article 33 of Title 35, Colorado Revised Statutes (C.R.S.), shall terminate on July 1, 2018, unless continued by the General Assembly. During the year prior to this date, it is the duty of COPRRR to conduct an analysis and evaluation of the program pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the currently prescribed program to regulate custom meat processors should be continued and to evaluate the performance of the Commissioner and the staff of the Division of Inspection and Consumer Services (Division). During this review, the Commissioner and the Division must demonstrate that the program serves the public interest. COPRRR's findings and recommendations are submitted via this report to the Office of Legislative Legal Services.

## **Methodology**

As part of this review, COPRRR staff interviewed Division staff, reviewed records, interviewed officials with state and national professional associations, interviewed other stakeholders, reviewed Colorado statutes and rules, and reviewed the laws of other states.

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## Profile of the Profession

Custom meat processors are responsible for the preparation of meat for consumers. The Custom Processing of Meat Animals Act requires the meat processed<sup>2</sup> by custom meat processors to be consumed by the owner of the meat. That is, the meat is prohibited from being sold to other consumers.

However, the General Assembly, via Senate Bill 16-058, authorized poultry processors to sell their poultry directly to individuals, most commonly at local farmers' markets.

Custom meat processors are used by a variety of consumers. For example, if a hunter kills an elk during hunting season, he or she, often, will utilize the services of a custom meat processor. The custom meat processor may cut the various parts of the carcass into different cuts of meat.

Additionally, ranchers may utilize custom meat processors. For instance, a rancher may bring a pig to a custom meat processor for slaughtering and processing. Again, the processed meat is prohibited from being sold to other consumers, and may be used by the rancher only.

The typical yield from a carcass is approximately 40 percent of the live weight.<sup>3</sup> The actual yield, however, depends on the breed, age and condition of the animal.

In order to ensure the safety and sanitation of meat in custom meat processing facilities, there are a variety of protocols in place. For example, the receiving and holding areas must be constructed to ensure that animals are handled in a humane fashion, without being hurt.<sup>4</sup>

Also, the processing, refrigeration, freezing and storage areas are required to be constructed so the processing can be completed in a safe and sanitary manner.<sup>5</sup> Proper construction includes requirements such as proper drainage. The walls in all areas of the facility must be constructed of materials that can be easily cleaned and sanitized and can be easily washed after processing is complete.<sup>6</sup>

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<sup>2</sup> Processing means the slaughtering, dressing, cutting, preparing, trimming, wrapping or packaging of an animal.

<sup>3</sup> Colorado Department of Agriculture. *Questions & Answers Regarding the Custom Meat Processor Law*. Retrieved July 8, 2017, from <https://www.colorado.gov/pacific/sites/default/files/Questions%20%26%20Answers%20Regarding%20the%20Colorado%20Custom%20Meat%20Processor%20Law.pdf>

<sup>4</sup> Colorado Department of Agriculture. *Questions & Answers Regarding the Custom Meat Processor Law*. Retrieved July 8, 2017, from <https://www.colorado.gov/pacific/sites/default/files/Questions%20%26%20Answers%20Regarding%20the%20Colorado%20Custom%20Meat%20Processor%20Law.pdf>

<sup>5</sup> Colorado Department of Agriculture. *Questions & Answers Regarding the Custom Meat Processor Law*. Retrieved July 8, 2017, from <https://www.colorado.gov/pacific/sites/default/files/Questions%20%26%20Answers%20Regarding%20the%20Colorado%20Custom%20Meat%20Processor%20Law.pdf>

<sup>6</sup> Colorado Department of Agriculture. *Questions & Answers Regarding the Custom Meat Processor Law*. Retrieved July 8, 2017, from <https://www.colorado.gov/pacific/sites/default/files/Questions%20%26%20Answers%20Regarding%20the%20Colorado%20Custom%20Meat%20Processor%20Law.pdf>

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# Legal Framework

## History of Regulation

Regulatory oversight of custom meat processors was originally enacted as the Frozen Food Provisioner Law in 1963. The law licensed food plan operators, locker plants and processing operations concerning the cutting, wrapping and packaging of meat and meat products intended to be stored in freezers at home or in storage facilities.

The law was repealed and reenacted in 1989 with its regulatory scope placing a major emphasis on processing facility sanitation.

Additionally, the General Assembly expanded the definition of meat and meat products when it included large game animals. This allows for the inspection of processing plants that specialize in game and operate for short periods of time during a hunting season.

Since inception of regulatory oversight, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) has conducted several sunset reviews. Most recently, COPRRR completed a sunset review in 2008. Some salient recommendations from the report include:

- Sunset the regulation of locker plants, which are refrigerated storage units rented by consumers to store bulk quantities of food.
- Divide the Slaughter, Processing and Sale of Meat Animals Act into custom processing and home food service plans. This recommendation created two, separate practice acts, and each are subject to their own sunset reviews.
- Define the terms “slaughter” and “processing.”

The aforementioned recommendations were enacted by the General Assembly in the 2009 legislative session.

## Legal Summary

The regulation of custom meat processing, commonly referred to as the Custom Processing of Meat Animals Act (Act), is created in section 33-35-101, *et seq.*, Colorado Revised Statutes. The purpose of the Act is to ensure that the slaughter and processing of animals occurs in a safe, sanitary and non-deceptive manner.<sup>7</sup>

Custom meat processing is the slaughter or processing, for a fee or other compensation, of meat or meat products of an animal that is not owned by the person performing the slaughtering or processing and not intended for sale by the owner of the animal.<sup>8</sup>

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<sup>7</sup> § 35-33-102, C.R.S.

<sup>8</sup> § 35-33-103(4), C.R.S.

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Meat or meat products are defined as the carcasses derived from any animals used for food, including poultry.<sup>9</sup>

Slaughtering is defined as the process of bleeding that causes the death of any animal intended for food.<sup>10</sup> The use of a manually operated hammer, sledge or poleax is not permitted.<sup>11</sup>

In order to operate a custom meat processing facility, an applicant is required to secure a license from the Division of Inspection and Consumer Services (Division) within the Colorado Department of Agriculture. There are two types of facilities: traditional, stand-alone buildings and mobile units.

Each processing facility is required to be operated and maintained in a manner sufficient to prevent the creation of unsanitary conditions and to ensure that meat or meat products are not adulterated.<sup>12</sup>

Facilities, among other things, are inspected for sanitation, must maintain proper records and properly label meat and meat products. Division staff inspects facilities and premises to ensure that equipment, facilities, surrounding premises and operation of the establishment comply with the Act and applicable rules.

Additionally, licensees are required to maintain records of each consumer transaction, including:

- Date of the transaction;
- A description of the meat or meat products processed, including species and quantity;
- The name and address of the owner; and
- Any other information required by the Commissioner of Agriculture (Commissioner).

All records must be kept by the licensed facility for two years and made available to the Commissioner on demand.<sup>13</sup>

Licensees are also required to properly label all meat or meat products resulting from the processing or slaughter of animals and to mark the product with the owner's name and placing a "NOT FOR SALE" label in letters at least three-eighths of an inch in height.<sup>14</sup>

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<sup>9</sup> § 35-33-103(8), C.R.S.

<sup>10</sup> § 35-33-103(14), C.R.S.

<sup>11</sup> § 35-33-203(2), C.R.S.

<sup>12</sup> § 35-33-201(1), C.R.S.

<sup>13</sup> §§ 35-33-202(1)(a)(I-IV), C.R.S.

<sup>14</sup> § 35-33-201(10)(a), C.R.S.

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Importantly, licensees who process fewer than 1,000 birds per year are exempt from the licensing requirement. However, these facilities are required to label the processed birds. Labeling requirements include, but are not limited to:<sup>15</sup>

- A description of the meat or meat products, including species and quantity;
- A statement: “This poultry was produced in a facility that is not subject to licensure or inspection. This product is not intended for resale.”;
- Safe handling instructions;
- The pack or processing date; and
- The name and address of the processor.

Additionally, custom meat processors who are not required to possess a license must comply with the recordkeeping requirement.

Licensees who process more than 1,000 and fewer than 20,000 birds per year must obtain a license from the Division. Labeling requirements include, but are not limited to:<sup>16</sup>

- A description of the meat or meat products, including species and quantity;
- A statement “This poultry is exempt from USDA inspection and is not intended for resale. It was produced in a facility that is licensed by the Colorado Department of Agriculture.”;
- Safe handling instructions;
- The pack or processing date; and
- The name and address of the processor.

The Commissioner has the authority to, among other things, impose discipline on licensees for violations of the Act and/or applicable rules. Specifically, the Commissioner may deny, suspend, revoke, restrict, refuse to renew or place licensees on probation.<sup>17</sup> Grounds for disciplinary action include:<sup>18</sup>

- Making a false statement or misrepresentation on an application for a license or license renewal;
- Having had a previous license revoked, suspended or denied by any authority in Colorado or any other state;
- Failing to comply with or violating any provision of the Act or rules; and
- Failing to obey any lawful order of the Commissioner.

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<sup>15</sup> 8 CCR § 1202-13, Custom Processing of Meat Animals. Rules 8.2.2, 8.2.3, 8.2.4, 8.2.5 and 8.2.6.

<sup>16</sup> 8 CCR § 1202-13, Custom Processing of Meat Animals. Rules 8.1.2, 8.1.3, 8.1.4, 8.1.5 and 8.1.6.

<sup>17</sup> § 35-33-208(1), C.R.S.

<sup>18</sup> §§ 35-33-208(1)(a-d), C.R.S.

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The Commissioner is also authorized to issue a cease and desist order to any person who is in violation of any provision of the Act or applicable rules.<sup>19</sup>

The Commissioner may also impose a civil penalty on licensees who violate the Act or applicable rules. Civil penalties cannot exceed \$750 per violation for each day of the violation.

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<sup>19</sup> § 35-33-104(5), C.R.S.

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## Program Description and Administration

The Custom Processing of Meat Animals Act (Act) is created in section 35-33-101, *et seq.*, Colorado Revised Statutes, (C.R.S.). The purpose of the Act is to provide regulatory oversight of licensed custom meat processors.

The regulation of licensed custom meat processors is vested with the Commissioner of Agriculture (Commissioner). The Commissioner is responsible for, among other things, imposing discipline, rulemaking and policymaking.

The Division of Inspection and Consumer Services (Division) staff, within the Colorado Department of Agriculture, are responsible for a variety of administrative functions related to licensed custom meat processors. Duties include, but are not limited to: issuing licenses, inspecting custom meat processing facilities, researching complaints and providing general support to the Commissioner.

In fiscal year 15-16, the Division devoted 0.6 full-time equivalent (FTE) employees to provide professional support to the Commissioner. The FTE are as follows:

- Program Manager I,
- Inspector,
- Administrative Assistant, and
- Laboratory Assistant.

Table 1 shows the total expenditures for the regulation of meat processors in fiscal years 11-12 through 15-16.

**Table 1**  
**Total Expenditures in Fiscal Years 11-12 through 15-16**

Fiscal Year	Total Program Expenditures
11-12	\$66,800
12-13	\$43,800
13-14	\$45,400
14-15	\$45,400
15-16	\$40,900

Generally, the decrease in the total program expenditures from fiscal year 11-12 to fiscal year 15-16 is attributed to the decline in the number of licensees.

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## Licensing

In order to operate as a custom meat processor in Colorado, an applicant is required to secure a license from the Division. Prior to securing a license, Division staff performs an inspection of the facility or mobile unit to ensure that it complies with current safety and sanitation requirements. Once the inspection is complete, an applicant is issued a license to operate. If an owner has multiple facilities, he or she is required to secure a license for each, separate facility. Also, a custom meat processor may choose to provide services for wild game only.

Importantly, a custom meat processor who processes fewer than 1,000 birds per calendar year is exempt from the licensing requirement. Facility owners who process more than 1,000 but fewer than 20,000 birds in a calendar year are required to secure a license. Meat processors who process more than 20,000 birds in a calendar year are required to secure a license through the United States Department of Agriculture.

Table 2 highlights the total number of licensees in fiscal years 11-12 through 15-16.

**Table 2**  
**Total Number of Licensees in Fiscal Years 11-12 through 15-16**

Fiscal Year	Total Number of Licensees
11-12	135
12-13	132
13-14	140
14-15	127
15-16	111

As indicated in Table 2, the total number of licensees, with the exception of fiscal year 13-14, has decreased in each fiscal year. The exact reason for the decline is unclear, but speculatively, the desire for consumers to have their meat slaughtered and/or processed by licensed meat processors may be declining.

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Table 3 delineates the total number of original and renewal licenses in fiscal years 11-12 through 15-16.

**Table 3**  
**Total Number of Original and Renewal Licenses in Fiscal Years 11-12 through 15-16**

Fiscal Year	Original	Renewal	Total Active Licenses
11-12	9	129	138
12-13	9	123	132
13-14	9	131	140
14-15	5	122	127
15-16	8	103	111

In fiscal year 15-16, the fee to obtain an original license or to renew a license was \$300 annually. Wild game only and mobile unit custom meat processors are required to pay a \$250 licensing fee annually.

## Inspections

Division staff complete many inspections of custom meat processor facilities; inspections are unannounced and typically occur every 12 months. However, inspections may occur more frequently if there is reason to believe that there may be safety or sanitation concerns.

Inspections are comprehensive and cover facility construction and maintenance, operating procedures, sanitation, labeling and recordkeeping.<sup>20</sup> During inspections, Division staff takes environmental samples from equipment and various surfaces, such as tables and floor drains, to test for listeria, *E. coli* and salmonella. The samples are taken to the Division’s biochemistry laboratory for testing.

The inspection portion of regulatory oversight ensures that licensees are in compliance with the Act and applicable rules, which enhances consumer protection.

Table 4 highlights the total number of inspections Division staff completed on licensed custom meat processors in fiscal years 11-12 through 15-16.

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<sup>20</sup> Colorado Department of Agriculture. *Establishing a State Regulatory Program to Ensure Processed Poultry Sold to Retail Food Establishments is From an Approved Source*. Retrieved May 12, 2017, from <https://www.colorado.gov/pacific/sites/default/files/FINAL%20HRI%20Poultry%20Report%20%283%29.pdf>

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**Table 4**  
**Total Number of Inspections in Fiscal Years 11-12 through 15-16**

<b>Fiscal Year</b>	<b>Number of Inspections</b>
11-12	139
12-13	157
13-14	148
14-15	116
15-16	145
<b>Total</b>	<b>705</b>

As delineated in Table 4, the number of inspections, except fiscal year 14-15, exceeds the total number of licensees. The data illustrate that Division staff is, for the most part, inspecting each licensee at least once in each fiscal year. Doing so ensures facilities are in compliance with existing regulatory requirements, which ensures consumer safety.

### **Complaints/Disciplinary Actions**

Between fiscal years 11-12 and 15-16, only one complaint was filed (in fiscal year 14-15) against a licensee who was practicing on an expired license. The Commissioner subsequently fined the licensee \$750.

During each inspection, it is common for Division staff to find minor unsanitary conditions and address them through education so the licensed facility can prevent any potential health issues. If needed, a follow-up inspection will be completed within the calendar year. These minor deficiencies do not warrant formal disciplinary action.

### **Collateral Consequences – Criminal Convictions**

Section 24-34-104(6)(b)(IX), C.R.S., requires the Colorado Office of Policy, Research and Regulatory Reform to determine whether the agency under review, through its licensing processes, imposes any disqualifications on applicants or registrants based on past criminal history, and if so, whether the disqualifications serve public safety or commercial or consumer protection interests.

The Act does not provide the Commissioner the authority to deny, revoke or suspend a custom meat processor license based on past criminal history. As such, there have been no denials, revocations or suspensions of custom meat processors based on criminal history in the past five fiscal years.

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## Analysis and Recommendations

### Recommendation 1 – Continue the Custom Processing of Meat Animals Act for 13 years, until 2031.

Custom meat processors provide services to consumers where they slaughter and/or process meat, such as deer, elk, pigs or cattle. Custom meat processing is the slaughter or processing, for a fee or other compensation, of meat or meat products of an animal that is not owned by the person performing the slaughtering or processing and not intended for sale by the owner of the animal.<sup>21</sup>

Meat processed by custom meat processors is prohibited from being sold to other consumers. That is, the meat processed by a custom meat processor can only be consumed by the owner of the animal or his/her family.

In order to operate as a custom meat processor, an applicant must obtain a license from the Division of Inspection and Consumer Services (Division) within the Colorado Department of Agriculture. Obtaining a license requires an applicant to complete a licensing application, pay the applicable licensing fee and pass an initial inspection, which is performed by Division staff. Inspections are comprehensive and cover facility construction and maintenance, operating procedures, sanitation, labeling and recordkeeping.<sup>22</sup>

Once licensed, custom meat processors must comply with all sanitation, labeling and recordkeeping requirements.

Importantly, a custom meat processor who processes fewer than 1,000 birds per calendar year is exempt from the licensing requirement. Facility owners who process more than 1,000 but fewer than 20,000 birds in a calendar year are required to secure a license. Exempt and poultry processors licensed by the Division are authorized to sell poultry directly to consumers, most typically at farmers' markets, but not to retail establishments, such as grocery stores.

There are two types of custom meat processor facilities—traditional, stand-alone facilities and mobile units. Persons who have multiple facilities or mobile units are required to secure a license for each facility.

Sunset reviews require a comprehensive review of the current regulatory oversight of various practice acts. Specifically, regulatory oversight, among other things, is to provide protection to consumers. The first sunset criterion asks whether regulation is necessary to protect the health, safety and welfare of the public.

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<sup>21</sup> § 35-33-103(4), C.R.S.

<sup>22</sup> Colorado Department of Agriculture. *Establishing a State Regulatory Program to Ensure Processed Poultry Sold to Retail Food Establishments is From an Approved Source*. Retrieved May 12, 2017, from <https://www.colorado.gov/pacific/sites/default/files/FINAL%20HRI%20Poultry%20Report%20%283%29.pdf>

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This sunset review identified few instances where consumers were harmed by licensees. In fact, the Commissioner of Agriculture (Commissioner) imposed only one disciplinary action, a \$750-fine, on a licensee in the past five fiscal years.

Perhaps the most robust explanation for the low number of complaints and formal disciplinary actions is the existence of comprehensive inspections of facilities by Division staff. These inspections ensure compliance with existing requirements and, thus, enhance consumer protection. Generally, inspections are performed on facilities at least once per year. If Division staff receives a complaint or a facility has had any issues associated with regulatory compliance, Division staff may inspect a facility more frequently.

Inspections, as well as the current labeling and recordkeeping requirements related to custom meat processors, provide adequate protection to consumers. These requirements ensure that meat is processed in safe and sanitary conditions, that the meat is labeled correctly, and accurate records are maintained.

This sunset review did not identify issues associated with the regulatory oversight of custom meat processors. As such, the continuation of the Custom Meat Processing Act (Act) for an extended period of time is warranted. In order to ensure that consumer protections are maintained, the General Assembly should continue the Act for 13 years, until 2031. Doing so will allow meat and poultry processing to continue in a safe and sanitary environment.

**Recommendation 2 – Allow poultry producers licensed by the Division to sell their products to retail establishments.**

During the 2016 legislative session, the General Assembly, via Senate Bill 16-058 (SB-058), created a new licensing program where poultry processors who process more than 1,000 but fewer than 20,000 birds per year are required to secure a license from the Division. The licensing requirements are the same as for any other licensee under the Act. That is, licensees are subject to periodic inspections by Division staff to ensure, among other things, the facility is sanitary. Licensees must also comply with current labeling and recordkeeping requirements.

Section 35-33-301(1), Colorado Revised Statutes (C.R.S.), which was enacted via SB-058, authorizes poultry processors licensed by the Division and poultry processors who are exempt from the licensing requirement (processors who process fewer than 1,000 birds per year) to sell poultry directly to individuals, most commonly at local farmers' markets, but not to retail establishments.

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Retail establishments are defined in section 25-4-1602(14), C.R.S., as

...a retail operation that stores, prepares or packages food for human consumption or serves or otherwise provides food for human consumption to consumers directly or indirectly through a delivery service, whether such food is consumed on or off the premises or whether there is a charge for such food...

Poultry processors who process more than 20,000 birds per year are regulated by the United States Department of Agriculture, and are authorized to sell their processed birds to individuals and to retail establishments.

In Colorado, and throughout the country, there is increasing demand for “farm to table” products. “Farm to table” essentially means that local products are available to consumers for their consumption. Allowing poultry processors licensed by the Division to sell poultry to retail establishments would enable consumers to purchase, and consume, locally processed poultry from various retail establishments (e.g., grocery stores).

Allowing poultry processors who process more than 1,000 but fewer than 20,000 birds per year to sell poultry to retail establishments is not without precedent. Oregon and Washington have current processes in place that allow these poultry processors to sell poultry to retail establishments. During this sunset review, the Colorado Office of Policy, Research and Regulatory Reform staff interviewed representatives from the Oregon and Washington Departments of Agriculture to discern whether there have been any regulatory issues associated with poultry processors selling poultry to retail establishments. Both representatives indicated that there have not been any issues in this area of regulatory oversight.

Anticipating a desire to allow poultry processors licensed by the Division to sell their poultry to retail establishments, the General Assembly, in section 35-33-301(3)(d), C.R.S., required Division staff to convene with stakeholders to develop a regulatory framework for the processing of poultry that is sold to retail establishments.

During the stakeholder meeting process, one of the concerns expressed was the current requirement by the Department of Public Health and Environment that in order for food for human consumption to be sold to retail establishments, it must come from an “approved source,” which essentially means sources that comply with existing laws related to food and food labeling requirements.

A poultry processor licensed by the Division must comply with all current laws related to the Act, including sanitation requirements, labeling and recordkeeping, and as such, would qualify as an “approved source.”

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Expanding the opportunities for poultry processors licensed by the Division to sell poultry to retail establishments will not compromise consumer protection. As stated above, the regulatory requirements are applicable and enforced by Division staff and the Commissioner. These requirements, as well as the Commissioner’s authority to impose formal discipline on licensees for violations of the Act, serve to insulate consumers from harm.

Additionally, in the event of a foodborne illness outbreak, the labeling and recordkeeping requirements provide the necessary link to effectively trace adulterated poultry from the retail establishment to the poultry processor.

Before poultry producers licensed by the Division can sell their poultry to retail establishments, two things must occur: the poultry must come from an approved source and the licensees must have statutory authority to sell to retail establishments. The Division has successfully addressed the issue of “approved source.”

Therefore, the General Assembly should amend section 35-33-301(1), C.R.S., to allow poultry producers licensed by the Division to sell poultry to retail establishments. Doing so will provide additional opportunities for poultry processors licensed by the Division to sell their birds, and under the current regulatory structure, it will maintain current requirements to ensure consumer protection.