



**Dora**  
Department of Regulatory Agencies

**Office of Policy, Research and Regulatory Reform**

# **2008 Sunset Review: Colorado Slaughterers Act**

**October 15, 2008**





**Executive Director's Office**  
D. Rico Munn  
Executive Director

Bill Ritter, Jr.  
Governor

October 15, 2008

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 mission of the Department of Regulatory Agencies (DORA) is consumer protection. As a part of the Executive Director's Office within DORA, the Office of Policy, Research and Regulatory Reform seeks to fulfill its statutorily mandated responsibility to conduct sunset reviews with a focus on protecting the health, safety and welfare of all Coloradans.

DORA has completed the evaluation of the Colorado Slaughterers Act. I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2009 legislative committee of reference. The report is submitted pursuant to section 24-34-104(8)(a), of the Colorado Revised Statutes (C.R.S.), which states in part:

The department of regulatory agencies shall conduct an analysis 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 supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination....

The report discusses the question of whether there is a need for the regulation provided under Article 11 of Title 12, C.R.S. The report also discusses the effectiveness of the State Board of Stock Inspection Commissioners and staff in carrying out the intent of the statutes and makes recommendations for statutory changes by the General Assembly.

Sincerely,

D. Rico Munn  
Executive Director



Bill Ritter, Jr.  
Governor

D. Rico Munn  
Executive Director

## **2008 Sunset Review: Colorado Slaughterers Act**

### **Summary**

#### ***What is Regulated?***

According to the Colorado Department of Agriculture (CDA), slaughterers are individuals that perform a process, including bleeding, that causes the death of any animal intended for food.

#### ***Why is it Regulated?***

Slaughterers are licensed so the State Board of Stock Inspection Commissioners (Board) may check cattle brands, either pre- or post-slaughter, to determine ownership of the animals.

#### ***Who is Regulated?***

In fiscal year 06-07 there were 66 slaughterers licensed by the Board and the CDA licensed 55 slaughter plants.

#### ***How is it Regulated?***

The Board issues a license based on an applicant's ability to obtain financial surety to insure the slaughterer for cases when ownership of a slaughtered animal is in question. The Board performs brand inspections on equine, bovine, and alternative livestock animals to determine ownership.

#### ***What Does it Cost?***

The Board does not keep track of the costs specific to slaughterer licensing and regulation.

#### ***What Disciplinary Activity is There?***

Between fiscal years 02-03 and 06-07, there were no disciplinary actions taken by the Board.

#### ***Where Do I Get the Full Report?***

The full sunset review can be found on the internet at: [www.dora.state.co.us/opr/oprpublications.htm](http://www.dora.state.co.us/opr/oprpublications.htm).

## Key Recommendations

### ***Sunset the Slaughterers Act (Act).***

Though the name of the Act implies, and the placement of the Act in Title 12 of the Colorado Revised Statutes, which regulates professions and occupations, indicates that this law regulates a slaughtering profession, that is not the case. The Act is a means to inspect brands not to regulate professional conduct.

None of Colorado's peer Western states regulate slaughterers while there are multiple licenses required in Colorado statute to become a slaughterer. It is apparent that animal slaughtering is over-regulated in Colorado. Because over-regulation is burdensome and inefficient and the licensing of slaughterers by the Board does not protect the health, safety, and welfare of the public, the Act should sunset.

### ***Schedule the State Board of Stock Inspection Commissioners (Board) for sunset review.***

Sunset review is standard practice for regulatory bodies. In Colorado, the Board has been authorized in statute since 1903 without undergoing a sunset review. While reviews have been conducted on Board functions, a holistic approach to system examination allows the General Assembly to weigh the interdependence of all the parts and see how they fit together. It is the way state government continually looks at itself and monitors its purposes and effectiveness.

## Contacts Made During This Review

Carnivore Club  
Colorado Livestock Association  
Colorado Cattlemen's Association  
Colorado Department of Agriculture  
Colorado Farm Bureau  
Colorado Wool Growers Association  
Livestock Marketing Association  
Rocky Mountain Farmers Union

### What is a Sunset Review?

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether or not 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:  
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# Table of Contents

<b>Background</b> .....	<b>1</b>
<i>Introduction</i> .....	<i>1</i>
<i>Types of Regulation</i> .....	<i>2</i>
<i>Sunset Process</i> .....	<i>4</i>
<i>Methodology</i> .....	<i>4</i>
<i>Profile of the Profession</i> .....	<i>5</i>
<i>History of Regulation</i> .....	<i>5</i>
<b>Legal Framework</b> .....	<b>6</b>
<i>Federal Regulation</i> .....	<i>6</i>
<i>Colorado Statute Summary</i> .....	<i>6</i>
<b>Program Description and Administration</b> .....	<b>9</b>
<i>Licensing</i> .....	<i>9</i>
<i>Examinations</i> .....	<i>10</i>
<i>Inspections</i> .....	<i>10</i>
<i>Complaints/Disciplinary Actions</i> .....	<i>11</i>
<b>Analysis and Recommendations</b> .....	<b>12</b>
<i>Recommendation 1 – Sunset the Colorado Slaughterers Act</i> .....	<i>12</i>
<i>Recommendation 2 – Schedule the Board for sunset review in 2012</i> .....	<i>16</i>

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## Background

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

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

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## *Types of Regulation*

Regulation, when appropriate, can serve as a bulwark of consumer protection. Regulatory programs can be designed to impact individual professionals, businesses or both.

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.

Regulation, then, has many positive and potentially negative consequences.

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.

### 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.

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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.

### Regulation of Businesses

As regulatory programs relate to businesses, they can enhance public protection, promote stability and preserve profitability. But they can also reduce competition and place administrative burdens on the regulated businesses.

Regulatory programs that address businesses can involve certain capital, bookkeeping and other record keeping requirements that are meant to ensure financial solvency and responsibility, as well as accountability. Initially, these requirements may serve as barriers to entry, thereby limiting competition. On an ongoing basis, the cost of complying with these requirements may lead to greater administrative costs for the regulated entity, which costs are ultimately passed on to consumers.



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Many programs that regulate businesses involve examinations and audits of finances and other records, which are intended to ensure that the relevant businesses continue to comply with these initial requirements. Although intended to enhance public protection, these measures, too, involve costs of compliance.

Similarly, many regulated businesses may be subject to physical inspections to ensure compliance with health and safety standards.

### ***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. To facilitate input from interested parties, anyone can submit input on any upcoming sunrise or sunset review via DORA's website at: [www.dora.state.co.us/pls/real/OPR\\_Review\\_Comments.Main](http://www.dora.state.co.us/pls/real/OPR_Review_Comments.Main).

The regulation of slaughterers, in accordance with Article 11 of Title 12, Colorado Revised Statutes (C.R.S.), shall terminate on July 1, 2009, unless continued by the General Assembly. During the year prior to this date, it is the duty of DORA to conduct an analysis and evaluation of the Colorado Slaughterers Act pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the currently prescribed regulation of slaughterers should be continued for the protection of the public and to evaluate the performance of the State Board of Stock Inspection Commissioners (Board) and staff of the Division of Brand Inspection of the Colorado Department of Agriculture. During this review, the Division of Brand Inspection must demonstrate that the regulation serves to protect the public health, safety or welfare, and that the regulation is the least restrictive regulation consistent with protecting the public. DORA's findings and recommendations are submitted via this report to the legislative committee of reference of the Colorado General Assembly.

### ***Methodology***

As part of this review, DORA staff attended Board meetings; interviewed individual Board members; interviewed the Brand Commissioner; interviewed brand inspectors; reviewed Board records including complaint and disciplinary actions; interviewed Colorado Department of Agriculture (CDA) Inspection and Consumer Services Division (ICS) staff; interviewed CDA Division of Animal Industries staff; observed slaughter facility inspection; interviewed members of the regulated community; interviewed consumers; reviewed Colorado statutes and Board rules; and reviewed the laws of other states.

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## ***Profile of the Profession***

The licensing of professional slaughterers is under the jurisdiction of the Board. Because the term “slaughterer” is not defined in the Colorado Slaughterers Act (Act), the ICS supplied a working definition of “slaughtering” for the purpose of this review:

A process, including bleeding, that causes the death of any animal intended for food.

A slaughterer is a person who carries out this process.

In Colorado, slaughterers are employed by either a US Department of Agriculture (USDA)-regulated facility or a CDA-regulated custom processing plant. The larger USDA plants slaughter the majority of livestock, mostly cattle, but are fewer in number. The smaller custom slaughterhouses slaughter fewer animals per year but slaughter more species of animals and will custom butcher animals to an individual animal owner’s desires.

## ***History of Regulation***

Regulation of slaughterers dates to 1895 and was enacted as a means of protecting cattle owners from livestock theft. Originally, the law addressed slaughtering for the owner’s own use, slaughtering for sale, and penalties for violating the law.

During the ensuing 100 plus years, the law evolved with the same original purposes in mind: property theft prevention and enforcement. Branding and brand inspection became the focal point of the law and the Board became the licensing authority. Provisions demanding the licensing of slaughterers, that a licensed person must maintain a place of business, that financial indemnity for persons carrying on the trade of slaughter be in place, that detailed transaction records be kept, as well as extensive sections concerning animal identification were all added to strengthen the ability of the Board to identify ownership and prosecute suspected theft.

Both Colorado statute and Board rules now call for brand inspections at multiple times during an animal’s life, including before slaughter. Protection of one’s property is still of vital interest to the state, but a brand inspection is seldom done on individual live animals at plants just prior to slaughter. Most animals are inspected at feedlots prior to transport to the slaughterhouse. Because the Board inspects only equine, bovine, and, as of 1994<sup>2</sup>, domestic deer or elk and no other animal species, there are *de facto* limits in the regulatory scope of the Act, i.e., since there are no inspections by the licensing authority of swine, sheep, goat, or any other animal slaughtered by Colorado licensed slaughterers, in effect the Act is a cow, horse, and alternative livestock inspection law and not the regulation of animal slaughterers.

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<sup>2</sup> § 35-41.5-101, *et seq.*, C.R.S.

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## Legal Framework

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### *Federal Regulation*

The U.S. Department of Agriculture (USDA) regulates slaughtering through the Packers and Stockyards Act of 1921<sup>3</sup> (P&S). P&S prohibits certain business practices that are discriminatory, preferential, or marketplace-constraining. The Meat Inspection Act<sup>4</sup> provides for inspection of meat animals both ante- and post-mortem. The Humane Methods of Livestock Slaughter Act<sup>5</sup> provides the model for state humane slaughter methods statutes, including Colorado's.

The Code of Federal Regulations has several sections that deal with meat inspection, facility inspection and sanitation, and work safety conditions which further define expectations of federal law.

Though federal regulation addresses several aspects of the slaughtering business, it is silent on slaughtering as a trade.

### *Colorado Statute Summary*

Article 11 of Title 12, Colorado Revised Statutes (C.R.S.), the Colorado Slaughterers Act (Act), regulates livestock slaughterers in Colorado. Though livestock is not explicitly defined in the statute, the assumption, based on examination, points to it being defined as cows and horses, since no other animal group is addressed.

The main issues addressed in Article 11 are the licensing of slaughterers, identification and recording of animals slaughtered by both licensed and non-licensed slaughterers, and enforcement provisions for both the licensed and non-licensed slaughterers. Persons who slaughter for personal use are not required to be licensed, but must comply with all of the identification provisions of the statute.

### Licensing

Every person in Colorado in the business or trade of slaughtering livestock must obtain a license issued by the Colorado Department of Agriculture (CDA). The fee for the license may be based on the number of animals slaughtered in the previous year. However, the State Board of Stock Inspection Commissioners (Board) has discretion in determining the license fee. Each licensee must keep accurate records concerning the number of animals slaughtered per year for at least two years, in case the Board decides to exercise its discretion and base the license on number of animals or use a flat fee system.<sup>6</sup>

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<sup>3</sup> USDA-Grain Inspection, Packers and Stockyards Administration, *Livestock, Meat, and Poultry*. Retrieved March 25, 2008, from <http://www.gipsa.usda.gov/GIPSA/webapp?area=home&subject=Imp&topic=landing>

<sup>4</sup> 21 U.S.C. §603a.

<sup>5</sup> 7 U.S.C. §1901 *et seq.*

<sup>6</sup> §12-11-101(a), C.R.S.

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To become licensed, a slaughterer must maintain an established place of business and not slaughter animals on the open range.<sup>7</sup> The slaughterer must also file evidence of financial responsibility with the Board, a minimum of \$2,000 is required, to ensure against loss or damage claims from violations of the Act or any rule established by the Board.<sup>8</sup> However, a person who is bonded under P&S is exempt from this requirement if the bond covers all brand and sanitary inspection fees due in Colorado.<sup>9</sup>

### Animal Identification & Recording

There are several sections of the Act that speak to the inspection and identification of animals by Board-employed brand inspectors, both before and after slaughter. Keeping as detailed a record as possible is the key ingredient in all of the requirements. Slaughterers must:

- Obtain a detailed bill of sale from all sellers.<sup>10</sup>
- Keep hides, horns, and bill of sale for each animal slaughtered for at least 30 days, unless released by a brand inspector.<sup>11</sup>
- Acquire a branded hide when purchasing a carcass from any person who is not a licensed slaughterer.<sup>12</sup>
- Not accept a carcass for storage unless hide, meat, or live animal has been inspected. Conversely, a slaughterer must show an uninspected, branded hide to any purchaser presale unless he or she has financial surety enough to cover the transaction.<sup>13</sup>
- Keep records and hides available for public inspection. Refusal to display upon request is a violation.<sup>14</sup>
- Hold an intact hide with an unskinned tail for 30 days when slaughtering for one's own use, unless released by a brand inspector.<sup>15</sup>
- Keep a detailed record of every cow or horse, purchased or slaughtered, and every carcass or partial carcass purchased.<sup>16</sup>
- Keep brand-inspected animals separate from those not inspected.<sup>17</sup>
- Hold uninspected cattle or horses separately until inspection tax is paid and a brand certificate is issued.<sup>18</sup>

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<sup>7</sup> § 12-11-101(1) (a)(b)(c), C.R.S.

<sup>8</sup> §12-11-101(d), C.R.S.

<sup>9</sup> § 12-11-101(1)(d), C.R.S., facilities whose average annual purchases do not exceed \$500,000 do not need to be bonded under federal law, 7 U.S.C. § 204.

<sup>10</sup> §12-11-101(e), C.R.S.

<sup>11</sup> §12-11-101(d), C.R.S.

<sup>12</sup> §12-11-104, C.R.S.

<sup>13</sup> §§ 12-11-101(h) and 12-11-104, C.R.S.

<sup>14</sup> § 12-11-103, C.R.S.

<sup>15</sup> § 12-11-105, C.R.S.

<sup>16</sup> § 12-11-110(l), C.R.S.

<sup>17</sup> § 12-11-101(1)(i), C.R.S.

<sup>18</sup> § 12-11-111(1), C.R.S.

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## Enforcement & Discipline

The Act sets out grounds for denial, non-renewal, revocation, suspension, and placing on probation a slaughterer's license, including:<sup>19</sup>

- Providing assistance in violating, conspiring to violate, or violating the Act.
- Being found guilty or pleading *nolo contendere* to any slaughter-related felony.
- Having disciplinary action taken against a slaughterer's license in another state or by the federal government if the basis for the action is a violation of Colorado law.

While much of the statute deals with theft prevention through determining ownership of individual animals, it also outlines procedures and penalties that deal with both suspected and actual livestock theft. These provisions speak to the role of law enforcement and penalties, including:

- Any county sheriff, deputy, or brand inspector may require any unlicensed slaughterer or person in possession of any meat from an animal without a brand inspection to produce a hide for inspection within 30 days of slaughter.<sup>20</sup>
- Failure to produce a hide when requested by a sheriff, deputy, or brand inspector is sufficient grounds on which to base a search warrant for theft.<sup>21</sup>
- If a hide is produced in a suspected theft, it is not considered evidence until the prosecution has time to examine it and compare it to the meat.<sup>22</sup>
- Violations of the Act are misdemeanors.<sup>23</sup>

As further incentive to prevent theft and increase property protection, any person who informs authorities of a violation by non-licensed slaughterers will receive one-half of the fines imposed when collected.<sup>24</sup> All fines collected for violations of the record keeping and identification provisions of Article 11, C.R.S., are paid to the county where the violation occurred.<sup>25</sup>

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<sup>19</sup> § 12-11-101(2), C.R.S.

<sup>20</sup> § 12-11-106, C.R.S.

<sup>21</sup> § 12-11-107, C.R.S.

<sup>22</sup> § 12-11-108, C.R.S.

<sup>23</sup> §§ 12-11-109(1), 12-11-109(2), C.R.S.

<sup>24</sup> § 12-11-109(3) C.R.S.

<sup>25</sup> § 12-11-113, C.R.S.

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## Program Description and Administration

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Article 11 of Title 12, Colorado Revised Statutes (C.R.S.), creates a cash-funded program implemented by a Brand Commissioner who is directed by the Governor-appointed, five-member State Board of Stock Inspection Commissioners (Board). The Brand Commissioner oversees a six-member support staff and both full-time and part-time brand inspectors spread throughout the state in different geographical districts. For the purposes of this report, the term “Board” is used as the regulatory and enforcement authority. However, the Board is a policy-making body whereas it is the Brand Commissioner who enforces both Board policies and statutory conditions.

The Board is a Type I cash-funded enterprise and it does not segregate revenues and expenditures according to the statutory tasks it is responsible for implementing, i.e., there is no separate accounting for the licensing or regulation of livestock markets pursuant to section 35-33-101, *et seq.*, C.R.S., or slaughterers pursuant to section 12-11-101, *et seq.*, C.R.S., both of which the Board licenses and regulates. The Board keeps track of its funds in the aggregate with no distinction among statutory functions.

### *Licensing*

The Slaughterers Act (Act) does not regulate what the title suggests it does. The Board issues a *License to Operate a Butcher and Slaughter Plant* under Title 12, C.R.S., which covers the regulation of professions and occupations. Brand inspectors perform identification inspections, generally brand inspections, on bovine, equine, and alternative livestock species and not on sheep, swine, or goats that are slaughtered by Board-licensed slaughterers. Also, while it is not illegal to slaughter horses in Colorado, there are no slaughterers that do it for human food, and there is not much of a calling for the inspection of domestic deer or elk. Consequently, the regulation of slaughterers in the state, under this statute, amounts to an identification inspection of cattle prior to slaughter, not the regulation of a profession as one would expect by a statute contained in Title 12, C.R.S.

Obtaining a slaughterer’s license in Colorado is straightforward. A person must pay the Board a \$50 licensing fee by January 1 each year, must provide \$2,000 financial surety evidence, and complete an application. Either the Brand Commissioner or the Board acts as official trustee of the \$2,000 surety. The indemnification is in place to hold the slaughterer responsible in cases when he/she slaughters an animal that does not actually belong to the person who brought it to the slaughterer. Once an applicant completes these steps a license is immediately issued.

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As Table 2 illustrates, during fiscal years 02-03 to 06-07, the number of licenses issued fell 14 percent. During that time, both renewals and new licenses declined. This may be a reflection of a slight downturn in the cattle industry over the review period.

**Table 2**  
**License Information**

Number of Licenses			
Fiscal Year	New	Renewal	Total
02-03	5	72	77
03-04	0	75	75
04-05	3	71	74
05-06	2	66	68
06-07	1	65	66

Beyond a slaughterer license, the slaughtering facility must also obtain either a processing facility license issued by CDA's Inspection and Consumer Services (ICS) Division, be licensed by the US Department of Agriculture (USDA) Food Safety and Inspection Service (FSIS), or both. These are the programs that inspect slaughtering facilities and meat for sanitary standards.

### ***Examinations***

While many trades require some initial education, examination, apprenticeship, and/or continuing education for licensing, that is not the case for getting a slaughterer's license in Colorado. A person pays the Board a licensing fee, provides financial surety evidence, and submits a completed application to acquire a license.

### ***Inspections***

Post-licensing regulation continues with the animal identification mandate. In most cases, brand inspectors will inspect cows for brands at feed lots before they are sent to the slaughterhouse. In the case of custom slaughtering facilities, those that only slaughter cows for the owner's use and not for sale, the animals are rarely inspected before slaughter. Law requires that, if not previously released by a brand inspector, the slaughterer keep the cow's hide for 30 days postmortem for brand inspection.<sup>26</sup> However, the typical scenario is that the brand inspector will come by the facility regularly, look at the facility log book, verify the number of animals and records, and then release the meat and hide while the carcass hangs, curing in the facility.

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<sup>26</sup> § 12-11-105, C.R.S.

The Board does not inspect slaughterers and slaughtering facility inspections fall under the jurisdiction of the ICS, authorized by Article 33 of Title 35, C.R.S., or the USDA FSIS program. The Board inspects animal brands exclusively: not professions, not facilities.

The number of brand inspections completed by the Board immediately preceding slaughter is not specifically recorded. Inspections are recorded as having been done at a place on a given date, i.e., XYZ feedlot July 2, 2008. The brand inspector does not know what happens to the animal after the inspection. If the inspection is made at a feedlot then the assumption is made that the animals are going to slaughter and that constitutes the pre-slaughter inspection demanded under law. If there is a question, the dates of the inspection and the slaughter are compared and the brand inspector makes a decision concerning ownership. Notwithstanding, the action is only recorded as a completed inspection not specifically as a pre-slaughter inspection.<sup>27</sup>

***Complaints/Disciplinary Actions***

According to Board records, there have not been any complaints or disciplinary actions against a licensee or slaughterer’s surety bond during the review period. Nor does the Board have any record of criminal actions taken by other legal jurisdictions under the Act or any other criminal statute related to livestock theft. There could be several explanations, ranging from total compliance on one side of the regulatory spectrum, to a lack of enforcement by the oversight agency on the other. Still, it is rare that there are no actions on record by a program that has a wide range of disciplinary, administrative, civil, and criminal actions within its power.

**Table 3  
Agency Actions**

Type of Action	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07
Revocation	0	0	0	0	0
Surrender of License	0	0	0	0	0
Suspension	0	0	0	0	0
Probation / Practice Limitation	0	0	0	0	0
Letter of Admonition	0	0	0	0	0
License Granted with Probation / Practice Limitations	0	0	0	0	0
License Denied	0	0	0	0	0
Injunction	0	0	0	0	0
Fine	0	0	0	0	0
Facilities Ordered Cleaned	0	0	0	0	0
Actions Against Bond	0	0	0	0	0
Criminal Proceedings	0	0	0	0	0
<b>Total Disciplinary Actions</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>



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## Analysis and Recommendations

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### *Recommendation 1 – Sunset the Colorado Slaughterers Act.*

The licensing of slaughterers should be repealed because, based on the statutory criteria directing sunset reviews:

- It is not necessary to protect the public health, safety, and welfare;
- The combination of market and regulatory conditions have changed to the extent that occupational licensing is unnecessary; and
- Continued licensing of persons who slaughter animals, by the Board, is an inefficient burden on both the regulated community and the State Board of Stock Inspection Commissioners (Board) itself.

Licensure is the most restrictive form of regulation. Licensing typically involves the completion of an educational program, usually college level or higher, and passing an examination designed to determine competency. A licensed practitioner has title protection, usually associated with the highest level of consumer protection.

If it were indeed necessary to regulate the occupation of slaughterer, it should be regulated similarly to other regulated occupations, but it is not. While many trades require initial education, examination, apprenticeship, and/or continuing education for licensing, that is not the case for a slaughterer's license in Colorado. A person must merely pay the Board a license fee and provide financial surety evidence. These are similar to but not as demanding as, the requirements for registration in Colorado. Given that none of the typical prerequisites are necessary, the licensing of slaughterers serves as no more than a reason to conduct a brand inspection.

Generally, brand inspections take place at feed lots before cattle are shipped to the largest, United States Department of Agriculture (USDA)-licensed, slaughterhouses. In the case of the smaller USDA facilities or the Colorado Department of Agriculture (CDA)-regulated custom facilities, if no pre-slaughter inspection was completed, an inspector will go to the facility to inspect the records or cow hides before they are sold off to a tanner post-slaughter. This process will not change if the licensing of slaughters under Article 11 of Title 12, Colorado Revised Statutes (C.R.S.), is sunsetted. Statutory mandates to perform brand inspections will still exist.

Because brand inspectors do not carry out identification inspections on many species of livestock, such as sheep, pigs, goats, rabbits, or poultry, slaughtered by Board-licensed slaughterers, the Colorado Slaughterers Act (Act) is, in reality, a cattle brand inspection statute and not regulation of professional slaughterers. If the Act truly regulated slaughterers it would regulate all phases of the occupation similar to the regulation of other licensed occupations.

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The Act and the Slaughtering, Processing, and Sale of Meat Animals Act<sup>28</sup> (Processing Act), both require a license from the CDA. However, under the Processing Act, the CDA licenses and inspects facilities where animals, of all species, are slaughtered and meat products are produced. The Board merely inspects equine, bovine, and alternative livestock for identification. Also, because both licenses are demanded by CDA, for essentially the same task, the state is well aware of the existence of slaughterers and where they practice which eliminates the need for a registration program by the Board.

It should also be noted that the license renewal for both CDA licenses occurs at different times of the year. The Board's slaughterer license renews January 1 of each year, while the slaughtering and processing license renews July 1. While these dates could be synchronized, currently they are not. A different licensing time, for essentially the same task, by the same agency is burdensome to a business.

Moreover, while protection of one's property is of vital interest to the state, there are literally no actions recorded against slaughterers or the statute-mandated financial surety. In reality there are several possible explanations for there being no actions, but from a regulatory enforcement perspective, it signifies that 100 percent of the time, slaughterers have complied with the law, i.e., every one of the thousands of cows, horses, deer, or elk slaughtered in the state of Colorado, during the entire study period, proceeded without issue. If there are no issues, then the need for regulation of the profession must be seriously questioned.

There are several times during an animal's lifetime that Colorado statute demands a brand inspection, whether or not a statutory requisite licensing slaughterers exists. Ownership verification of equine, bovine, and alternative livestock animals is an important component of the livestock industry. The following is a list of Colorado statutes that demand brand inspection:

- Section 35-41-101, *et seq.*, C.R.S., State Board of Stock Inspection Commissioners, which establishes the Board and authorizes it to establish rules necessary to inspect livestock for identification.
- Section 35-43-101, *et seq.*, C.R.S., Branding and Herding, which discusses identification procedures, animal skinning, and penalties for theft.
- Section 35-44-101, *et seq.*, C.R.S., Estrays, which discusses identification, record keeping, and sales of stray or abandoned livestock.
- Section 35-53-101, *et seq.*, C.R.S., Transportation of Livestock, which discusses several points of inspection and the disposition of animals, hides, and carcasses in the instance that ownership is questioned.

If there is a specific provision in the Act that the General Assembly believes must be covered in statute, which is not currently contained in one of the statutes above, an amendment will unquestionably fit under the title of one of them.

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<sup>28</sup> § 35-33- 401, C.R.S.

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Including Colorado, there are fourteen states (all western), that have brand inspection programs: Arizona, California, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.<sup>29</sup>

Examinations of these states' statutes reveal that Colorado is the only state among the group that requires both the slaughterer and the slaughtering and processing facility to be licensed. It appears that there is no state statute specific to livestock slaughterers in Idaho, North Dakota, or Wyoming. Arizona, California, Montana, Nebraska, Nevada, New Mexico, Oregon, South Dakota, Utah, and Washington have some type of facility registration or licensure similar to Colorado's Processing Act. Of all states in the cohort, only Arizona specifically defines the trade "slaughterer"<sup>30</sup> or the act "slaughter"<sup>31</sup> in statute. Notwithstanding, the Arizona slaughterer's license is facility-connected, with no separate statute or provision for the licensing of slaughterers as an occupation as is the case here in Colorado.

The only state that requires continuing education for licensure is South Dakota. There the requirement is that a facility operator must complete courses in facility hygiene to retain its license. Again, the requirement is not about keeping up to date on killing and butchering trade innovations; it concerns facility functions and health standards. In Colorado, facility hygiene is regulated under the purview of the Processing Act as mentioned above.

Having the Board issue a license to slaughter cattle and horses is an artifact of a time when Colorado was very different. There was no capability of rapid communication or an accessible centralized record keeping system. Transport of both brand inspectors and animals was not as easy as it is today, and most importantly, the cleanliness of slaughtering facilities was not considered as essential as the ownership of animals.

Technology has made it is far easier to track ownership and inspect brands in several locations, to keep accurate computerized records without demanding multiple licenses for facilities, and regulation of slaughtering facilities for hygiene is done by other programs within both the USDA and CDA. Licensing programs administered by USDA and CDA proceed without regard to the species of animal being slaughtered, involve inspections of animals, meat, and facilities, and, because of these conditions, are far more comprehensive than the Board licensing program.

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<sup>29</sup> California Department of Food and Agriculture, Retrieved from [http://www.cdffa.ca.gov/ahfss/Livestock\\_ID/Required\\_Documents.html?wwparam=1198692030](http://www.cdffa.ca.gov/ahfss/Livestock_ID/Required_Documents.html?wwparam=1198692030)

<sup>30</sup> § 3-2001(26), A.R.S., "Slaughterer" means any person who slaughters cattle, sheep, swine, goats, horses, mules or other equines in a slaughtering establishment and prepares the carcasses or parts of carcasses for human consumption. Retrieved August 11, 2008, from

<http://www.azleg.state.az.us/FormatDocument.asp?inDoc=/ars/3/02001.htm&Title=3&DocType=ARS>

<sup>31</sup> § 3-2001(25), A.R.S., "Slaughter" means to kill cattle, sheep, swine, goats, horses, mules or other equines and to prepare the carcasses or parts of carcasses for human consumption. Retrieved August 11, 2008, from <http://www.azleg.state.az.us/FormatDocument.asp?inDoc=/ars/3/02001.htm&Title=3&DocType=ARS>

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The top statutory directive guiding the research, analysis, and recommendations for sunset reviews has three parts. The first part asks if regulation is necessary to protect public health, safety, and welfare. After undertaking this review, it is evident that the licensing of slaughterers is not necessary to meet these ends. The health, safety, and welfare of the public consumer is protected under the Processing Act and by the USDA under a plethora of programs. Under those programs, plants are inspected for sanitation to help ensure that tainted meat products do not make it into the food supply. While inspecting animals for brands protects the property of the animal owner and is necessary under Colorado law, a slaughterer need not be licensed for that brand inspection to take place. Brand inspections of live animals typically do not take place at the slaughtering facility and the Board has wide-ranging rule-making powers to ensure that brand inspections take place whenever a brand inspector or law enforcement official believes it is necessary. Moreover, there have not been any complaints, disciplinary actions taken by the Board, or prosecutions for rustling. The lack of actions indicates that compliance is the norm and that the welfare of the property owner is protected.

The second part of the criterion asks if conditions that lead to regulation adoption have changed. When this law was put in place, there were not the multiple layers of civil, criminal, and health codes protecting both the consumer and the property owner that there are currently, and technology was not available to track animals from birth to plate. The slaughterhouse is still a key stop in the meat production cycle. However, since brand inspections are rarely done on the slaughterhouse premises and all are licensed through other programs, there is no need for the Board to issue a license to know where and when a slaughter occurs. Information relating to licensed slaughterers is available to brand inspectors through technology and information sharing with other CDA programs.

The final part of the first sunset criterion asks if other conditions have surfaced which would result in more, less, or the same degree of regulation. Initially the justification for regulating slaughterers solely to identify some of the animals slaughtered may have been a valid condition for licensing. However, the regulation of an occupation has more to do with protecting consumers from negligence and unprofessional conduct. If there truly was a need to separately license slaughterers, even as a rationalization for brand inspection, it is highly likely that at least one of the other brand inspection states would also license slaughterers. They do not. In all of the peer states, slaughterhouses are regulated based on the federal hygienic standards if they have a state licensing program at all, and none regulate a slaughtering occupation.

Using the sunset review criteria as an evaluation tool, it is apparent that animal slaughtering is over-regulated in Colorado. In this case, over-regulation causes inefficiency for both licensees, because they have the burden of having to apply and pay for an unneeded license, and the Board, because it must devote time to recording information that is already recorded as part of other CDA license requirements. Therefore, the General Assembly should sunset the Act.

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***Recommendation 2 – Schedule the Board for sunset review in 2012.***

In Colorado, brand inspection dates to 1865, and the Board has been authorized in statute since 1903 without undergoing a sunset review. Sunset review is standard practice for regulatory bodies. It is the way state government continually looks at itself and monitors its purposes and effectiveness.

The sunset authority, section 24-34-104, C.R.S., provides the ability for the General Assembly to examine regulatory systems by way of a disinterested third party. The sunset review process is guided by a statutory framework that helps ensure that the public's interests are enhanced by regulation and that regulation is indeed necessary. Having outside examiners look at a program also provides clean eyes not clouded with predispositions and cultural experiences to assist the regulating agency, affected consumers, and the General Assembly in evaluating systems and processes. Systems that go on infinitely unexamined can become stodgy, unresponsive to current market conditions, or, in the worst cases, corrupt. The sunset review process helps mitigate possible harms from unexamined regulatory power.

During this review cycle, reviews have been conducted on two Board charges: the Colorado Slaughterers Act and the Public Livestock Markets Act. This Recommendation 2 appears in both sunset reviews.

The Board is a Type I cash-funded enterprise and it does not segregate its fiscal information according to the statutory tasks it is responsible for implementing, i.e., there is no separate accounting of the revenues and expenditures associated with the regulation of livestock markets or slaughterers. The Board keeps track of its funds in the aggregate with no distinction among statutory functions. If the Board accounts for all of its functions together, it is logical that a sunset review consider all of its functions together during one sunset review.

To continually look at the separate functions of the Board and not review the Board as a whole entity considering all its functions in the process, is not an efficient, ordered analytical approach. A holistic approach to system examination allows the General Assembly to weigh the interdependence of all the parts and see how they fit together. The piecemeal approach, the current method, does not allow for such a view. Generally, the review of an oversight board or commission is a multifaceted or holistic endeavor.

There is recent precedent for the review of boards and commissions which have policy-making authority over entire divisions of state government. Reviews conducted by Department of Regulatory Agencies include the Public Utilities Commission (2008) and Civil Rights Commission (2009). These reviews were conducted with a holistic character as they scrutinized the policy-making and implementation roles, as well as the individual statutory administrative functions each commission assumes as an oversight authority.

Therefore, the Board should be scheduled to sunset, pending a review during the 2012 session of the Colorado General Assembly.