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SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY NRS 223B.0608

LCB FILE No. R094-201
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1. A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary

Comment on the proposed Nevada Administrative Code (NAC) 583 were solicited by an electronic survey. Any interested person may obtain a copy of the survey results by contacting the Department of Agriculture (NDA) at animalindustry@agri.nv.gov or 775-353-3607. The survey for NAC 583 on custom meat and poultry regulation changes was opened on Oct. 6, 2020 and closed on Oct. 20, 2020. The survey was posted to the NDA website on Oct. 6, 2020 at <http://agri.nv.gov/survey/>. The survey was directly emailed to 386 businesses and interested parties within Nevada. In total, 6 contacts opted-out of digital communications regarding public notifications. This list was comprised of active USDA slaughter facilities, known custom meat and poultry processing facilities and interested parties, industry groups, agriculture extension offices, and licensed livestock operations within the state. A reminder email was sent to 378 contacts on Oct. 10, 2020 to encourage them to take the survey. An additional email reminder of ongoing regulatory surveys was sent out to the NDA's industry contact list notifying another 5,526 entities on Oct. 17, 2020. For meat slaughter companies without digital contact information, physical mailers were sent out as part of the survey's distribution. All survey data was collected digitally through SurveyMonkey. In total, the survey received 123 responses from 15 Nevada counties. Survey responses were not received from Mineral County and Carson City; however, 57 respondents did not disclose their county. In total, 33 contacts clicked through the survey; but did not provide feedback. Below are the results from the survey:

- What level of impact will the proposed changes to NAC 583 have on your business? (N=123)
 - No Impact: 48 respondents (39.02%)
 - Insignificant Impact: 8 respondents (6.50%)
 - Minor Impact: 15 respondents (12.20%)
 - Moderate Impact: 20 respondents (16.26%)
 - Major Impact: 22 respondents (17.89%)
 - Severe Impact: 10 respondents (8.13%)

- If enacted, would the proposed changes to NAC 583 impact your ability to do business?
(N=107, 16 respondents skipped question)
 - Yes: 37 (34.58%)
 - No: 51 (47.66%)
 - Maybe: 19 (17.76%)
- What level of financial impact would the proposed changes to NAC 583 have on your business?
(N=97, 26 respondents skipped question)
 - No Impact: 35 respondents (36.08%)
 - Insignificant Impact: 9 respondents (9.28%)
 - Minor Impact: 12 respondents (12.37%)
 - Moderate Impact: 17 respondents (17.53%)
 - Major Impact: 17 respondents (17.53%)
 - Severe Impact: 7 respondents (7.22%)

Concern was expressed from survey respondents regarding proposed NAC changes specific to the following:

- Additional fees and regulation.
- Potential for increased cost as livestock or poultry producers to have animals custom harvested and processed.
- Expense required for interested custom meat and poultry facilities to become compliant with proposed NAC.
- Changes should be made to have a State Meat and Poultry Inspection program equal to USDA.

Positive responses from survey respondents regarding proposed NAC changes related to the following:

- Opportunity to expand business.
- Would provide for more slaughter options in Nevada.
- Allow for new businesses with the addition of mobile units in regulations.
- Would provide livestock producers the opportunity to start/expand into a different market by selling live animals to customers they could have custom processed.
- Would ensure a safe food supply through custom meat and poultry facilities and address those operating in unsafe conditions.

2. The manner in which the analysis was conducted

The NDA prepared and distributed a Small Business Impact Survey to active USDA slaughter facilities, known custom meat and poultry processing facilities and interested parties, industry groups, agriculture extension offices, and licensed livestock operations within Nevada. A statistical analysis of the survey results was compiled and considered along with comments from respondents. A public workshop will be held to allow for further input from the public and regulated community regarding the proposed regulations and how they will impact small businesses. A document to clarify what is currently in statute and to answer common questions will be provided. Comments received during the public workshop will be taken into consideration for possible methods to reduce the economic impact on facilities.

3. The estimated indirect and direct economic effect of the proposed regulation on the small businesses it is to regulate, including, without limitation

On the survey, 59 respondents indicated the number of individuals they employed within the state. Per Nevada Revised Statutes (NRS) 223B, the definition of a small business reads "...business conducted for profit which employs fewer than 150 full-time or part-time employees." Only 2 respondents indicated 101 or more employees. With 55 respondents indicating their businesses employed 15 or fewer employees in Nevada, NAC 583 regulation changes regarding custom meat and poultry almost exclusively apply to small businesses.

Of the 123 respondents, 26.02% indicated proposed changes to NAC 583 would have a major or severe impact on their business. Based upon comments provided in the follow up question "How would changes to NAC 583 impact your ability to do business?" 6 respondents indicated it would have a positive financial impact to their business versus a negative impact.

The survey asked if the proposed changes to NAC 583 would impact their ability to do business. Of the 107 respondents, 34.58% indicated it would, 47.66% indicated it would not and 17.76% indicated they were unsure at this time.

The proposed regulation changes to NAC 583 are consistent with the language and guidelines outlined at the federal level to ensure food safety and eligibility and compliance with federal exemptions for custom meat and poultry facilities. Therefore, the infrastructure compliance and daily operational expenses related to food safety and sanitation for a custom facility do not vary between state and federal oversight.

Direct economic effect would be incurred by those facilities wishing to operate custom meat and poultry facilities (mobile or fixed) as they pay state fees and ensure facility compliance with food safety guidelines. Adoption of proposed regulations would also provide new opportunities in economic development for business expansion through permitting of mobile units and operators. Any increases in the number of fixed or mobile custom facilities across the state could increase access for livestock and poultry producers to custom services and the potential to diversify their business markets as allowable under the [Federal Meat Inspection Act](#) and USDA-FSIS [guidelines](#) for custom meat and poultry.

While numerous respondents expressed concern over additional state regulations and fee increases, when asked what level of financial impact the proposed changes to NAC 583 would have on their business, 57.73% of the 97 respondents indicated minor to no financial impact.

4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods

NDA considered modifying the fees set forth in the proposed regulations to be simplified and tiered so that a business may pay a fee relevant to the size of the facility. This was implemented into the proposed NAC 583 changes to better reflect the amount of time NDA staff will spend reviewing and processing documents and inspecting the facility for compliance.

In consideration for establishing different standards of compliance for small businesses, the NDA found that most regulations outline the food safety processes and procedures needed to ensure a safe food supply. Therefore, these are applicable regardless of size or scope of a custom meat and poultry facility. Because of this finding, the NDA did not use this method.

As the NDA continues through the regulatory adoption process required under the Nevada Administrative Procedure Act, it will consider any other methods to reduce the impact to small businesses that may be proposed.

5. The estimated cost to the agency for enforcement of the proposed regulation

The custom meat and poultry programming transferred from the Department of Health and Human Services to the Food Safety unit of the NDA during the 2019 Legislative session. With these proposed NAC changes, the program is being expanded to also encompass mobile units and operators. Therefore, all staffing and program expenses for custom meat and poultry are new and additional expenses to the NDA. The increase in fees is a direct result of the staff time required for application processing, annual inspection, investigating reports of non-compliance, and general program expenses.

6. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used

NDA currently permits 12 custom meat and poultry fixed facilities across Nevada. This number is anticipated to increase over the coming year with the addition of mobile units and operators, as well as increased interest in meat processing options due to the pandemic. Based on the current custom facilities, the anticipated annual revenue from fees would be approximately \$6,375.

All revenue will be used by the Department to cover staffing expenses, costs associated with in-person inspections, illegal operation or improper practices investigations, laboratory testing of water samples, hiring and training of additional staff if needed to meet statutory duties, and purchase/maintenance of new/replacement equipment and vehicles used by the NDA Food Safety staff, and material and administrative costs.

7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary

The proposed NAC 583 changes meet federal law and ensure a safe food supply in tandem with USDA-FSIS.

8. The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses

While there will be an impact on small businesses as a result of the adoption of the proposed regulation, the Department concludes that the regulations are reasonable and necessary in order to ensure a safe food supply, industry integrity, and for NDA to perform mandated duties. Based upon the survey responses received, the Department believes respondents indicating a major or severe financial impact as a result of the proposed regulations is actually lower than 24.7% because a small percent provided follow-up comments that the proposed changes provide opportunities to expand or start small businesses. Additionally, survey comments exposed some areas of general misunderstanding about custom meat and poultry and when fees would apply. The Department believes through additional clarification and communication, the percent of respondents indicating major or severe financial impact to their business will further decrease.

I certify to the best of my knowledge or belief, a concerted effort was made to determine the impact of this proposed regulation on small business, and that the information contained in this statement was prepared properly and is accurate.

Jennifer Ott
Director
Nevada Department of Agriculture