

PRIVATELY OWNED CERVIDAE PRODUCERS MARKETING ACT (EXCERPT)
Act 190 of 2000

287.956 Application; fee; standards; business plan; forwarding copies of application; notice to local governmental units; issuance; renewal; determination of completed application; denial; review; "completed application" defined.

Sec. 6.

(1) The initial application to construct a cervidae livestock facility shall be accompanied by the application fee described in section 8. The department shall approve, deny, or propose a modification to the completed application within 60 days. The department shall utilize the standards contained in "Operational Standards for Registered Privately Owned Cervidae Facilities", published by the Michigan department of natural resources, (revised December 2005), adopted by the Michigan commission of agriculture on January 9, 2006, and adopted by the natural resources commission on January 12, 2006, and incorporated by reference, to evaluate the issuance, construction, maintenance, administration, and renewal of a registration issued under this act. The department after consultation with the department of agriculture and with concurrence of the commissions of natural resources and agriculture may, by amendment of this act, amend or update the standards adopted in this subsection. Before issuing any registration under this act, the director shall verify, through written confirmation, both of the following:

(a) The department has approved the method used to flush any free-ranging cervidae species from the facility, if applicable, and all free-ranging cervidae species have actually been flushed.

(b) The department has determined that the size and location of the facility will not place unreasonable stress on wildlife habitat or migration corridors.

(2) As part of the initial application or the application to modify a cervidae livestock facility, the applicant for registration shall submit a business plan complying with the standards established under this section that includes all of the following:

(a) The complete address of the proposed cervidae livestock facility and the size of, the location of, and a legal description of the lands on which the cervidae livestock operation will be conducted.

(b) The number of each cervidae species included in the proposed facility.

(c) Biosecurity measures to be utilized, including, but not limited to, methods of fencing and appropriate animal identification.

(d) The proposed method of flushing wild cervidae species from the enclosure, if applicable.

(e) A record-keeping system in compliance with this act and the operational standards incorporated by reference in subsection (1).

(f) The method of verification that all free-ranging cervidae species have been removed.

(g) The current zoning of the property proposed as a cervidae livestock facility and whether the local unit or units of government within which the cervidae livestock facility will be located has an ordinance regarding fences.

(h) A disease herd plan in compliance with the operational standards incorporated by reference in subsection (1) to be approved by the state veterinarian under the animal industry act, 1988 PA 466, MCL 287.701 to 287.745.

(i) Any other information considered necessary by the department.

(3) Upon receipt of an application, the director shall forward 1 copy each to the departments of agriculture and environmental quality. Upon receipt of an application, the department shall send a written notice to the local unit or units of government within which the proposed cervidae livestock facility will be located unless the department determines, from information provided in the application, that the local unit of government has a zoning ordinance under which the land is zoned agricultural. The local unit or units of government may respond, within 30 days of receipt of the written notice, indicating whether the applicant's cervidae livestock facility would be in violation of any ordinance.

(4) The department shall not issue an initial cervidae livestock facility registration or modification unless the application demonstrates all of the following:

(a) The cervidae livestock facility has been inspected by the director and he or she has determined that the cervidae livestock facility meets the standards and requirements prescribed by and adopted under this act, complies with the business plan submitted to the department, and determines that there are barriers in place to prevent the escape of cervidae species and prevent the entry of wild cervidae species. A renewal or initial applicant must provide a perimeter fence in compliance with the operational standards incorporated by reference under subsection (1).

(b) The method for individual animal identification complies with the standards incorporated by reference under this section.

(c) The applicant has all necessary permits that are required under part 31 regarding water resources protection, part 301 regarding inland lakes and streams, and part 303 regarding wetland protection of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3101 to 324.3133, 324.30101 to 324.30113, and 324.30301

to 324.30323, and any other permits or authorizations that may be required by law.

(5) Beginning the effective date of the amendatory act that added this subsection, the department shall issue an initial registration or modification registration allowing an expansion of an existing facility not later than 120 days after the applicant files a completed application. Renewal applications shall be issued not later than 60 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by the department. If the application is considered incomplete by the department, the department shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The determination of the completeness of an application does not operate as an approval of the application for the registration and does not confer eligibility upon an applicant determined otherwise ineligible for issuance of a registration. The 120-day period is tolled under any of the following circumstances:

(a) Notice sent by the department of a deficiency in the application until the date all of the requested information is received by the department.

(b) The time period during which required actions are completed that include, but are not limited to, completion of construction or renovation of the facility; mandated reinspections if by the department; other inspections if required by any state, local, or federal agency; approval by the legislative body of a local unit of government; or other actions mandated by this act or as otherwise mandated by law or local ordinance.

(6) If the department fails to issue or deny a registration within the time required by this subsection, the department shall return the registration fee and shall reduce the registration fee for the applicant's next renewal application, if any, by 15%. The failure to issue a registration within the time required under this section does not allow the department to otherwise delay the processing of the application, and that application, upon completion, shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of the application based upon the fact that the registration fee was refunded or discounted under this subsection.

(7) Upon receipt of a denial under this section and without filing a second application, the applicant may request in writing and, if requested, the department shall provide an informal review of the application. The review shall include the applicant, the department, and the departments of agriculture and environmental quality, if applicable. After the informal review, if the director determines that the proposed cervidae livestock facility or cervidae livestock operation complies with the requirements of this act, the director shall issue a registration within 30 days after the applicant notifies the department of completion of the facility. After the informal review, if the director determines that the proposed cervidae livestock facility or cervidae livestock operation does not comply with the requirements of this act, the director shall affirm the denial of the application in writing and specify the deficiencies needed to be addressed or corrected in order for a registration to be issued. The applicant may waive the informal review of the application.

(8) As used in this subsection, "completed application" means an application complete on its face and submitted with any applicable registration fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of the state of Michigan.

History: 2000, Act 190, Eff. June 1, 2001 ;-- Am. 2006, Act 561, Imd. Eff. Dec. 29, 2006

Compiler's Notes: For transfer of certain powers and duties under the cervidae act from the department of agriculture, or its director, to the department of natural resources by type II transfer, see E.R.O. No. 2004-2, compiled at MCL 287.981.