

DEPARTMENT OF AGRICULTURE

LABORATORY DIVISION

REGULATION NO. 563. RETAIL GASOLINE DEALER LICENSING

(By authority conferred on the director of the department of agriculture by section 7 of Act No. 44 of the Public Acts of 1984, being S290.647 of the Michigan Compiled Laws)

R 285.563.1 Definitions.

Rule 1. (1) As used in these rules, "act" means Act No. 44 of the Public Acts of 1984, being S290.641 et seq. of the Michigan Compiled Laws.

(2) The terms defined in the act have the same meanings when used in these rules.

History: 1985 AACCS.

R 285.563.2 License; application; renewal; transferability.

Rule 2. (1) A completed original application shall, on the form prescribed by the department, be filed with the department by a distributor or retail dealer for each retail outlet operated by that person not less than 60 days before the date on which the applicant wishes to engage in retail sales. If sufficient time is not available to apply 60 days prior to engaging in retail sales and the applicant is a new owner of a retail outlet, the department shall waive the 60-day filing requirement and issue a license upon receipt, in person or by mail, of the completed application and fee and written notice that the applicant is a new owner. The application shall include all of the following information:

(a) Business name and address.

(b) Mailing address if different than business address.

(c) Type of ownership of the distributor or retail dealer, such as an individual, partnership, association, trust, corporation, or any other legal entity or combination thereof.

(d) The name, address, telephone number, and date of birth of the owner of the distributorship or retail dealership.

(e) If a partnership, the names, titles, addresses, and dates of birth of all partners who are owners of the distributorship or retail dealership; if a corporation, the name, title, address, and date of birth of the president; or, if an out-of-state corporation, the name, title, address, and date of birth of the president and the name, title, and address of the Michigan resident agent.

(f) An authorized signature, title, and date for each applicant.

(g) Number of grades of gasoline offered for sale at the retail outlet.

(h) Number of hoses connected to gasoline dispensers.

(2) License renewal application shall be made to the department on a form provided by the department on or before September 1 of the year the license expires. The application shall include all the information required in subrule (1) of this rule.

(3) A license shall not be transferable.

History: 1985 AACCS.

R 285.563.3 License display.

Rule 3. A person licensed under the act shall post the license in a conspicuous place for public inspection at the retail outlet.

History: 1985 AACCS.

R 285.563.4 Retail outlet engaged in marketing gasoline for use in aircraft; license exemption.

Rule 4. A retail outlet engaged only in the marketing of gasoline for use in aircraft is exempt from the requirement of obtaining a retail gasoline dealer license.

History: 1985 AACCS.

R 285.563.5 Noncompliance with act or rules.

Rule 5. (1) If the director or his or her authorized agent determines that a person is not in compliance with the requirements of the act or rules promulgated pursuant to the act, the director may refuse to issue a license to such person.

(2) If the director or his or her authorized agent determines that a person licensed under the act has not maintained compliance with the requirements of the act or rules promulgated pursuant to the act, the director may permanently or temporarily suspend or revoke such person's license after opportunity for a hearing.

(3) The department shall render a written decision as to suspension, revocation, or renewal of a license within 30 days after the conclusion of a hearing.

History: 1985 AACCS.

R 285.563.6 Suspension or revocation hearing; procedure.

Rule 6. A hearing to suspend or revoke a license shall be conducted pursuant to Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws.

History: 1985 AACCS.

R 285.563.7 Hearings.

Rule 7. (1) The notice of hearing shall state all of the following information:

(a) The date, time, and place of the hearing.

(b) Issues involved.

(c) Reasons for holding the hearing. Notice shall be served not less than 15 days before the hearing.

(2) When an appearance is made at a hearing, it shall be made in person, by a duly authorized representative, or by counsel.

(3) The person or persons who have been served with a notice of hearing may file a written answer before the date set for hearing or may appear at the hearing and present an oral statement on the charges contained in the notice of hearing. When written briefs or arguments are presented, a copy shall be served upon the director not less than 5 days before the date set for the hearing.

(4) If the person or persons who have been previously served with a notice of hearing fail to appear at a noticed hearing, the director, hearing officer, or the member of the department staff authorized by law to conduct such hearings may proceed with the hearing and may, on the evidence presented, make a decision.

(5) A hearing shall not be adjourned or continued, except upon an order of the director, hearing officer, or the department employee conducting the hearing. All motions and requests for an adjournment or a continuance shall be in writing. The motion or request shall state concisely the reasons why an adjournment or continuance is necessary. A motion or request for an adjournment or a continuance will not be considered unless the motion or request is filed with the director not less than 5 days before the date assigned for the hearing, except upon order of the director, which exception will be granted only upon a showing that, for reasons not within the control of the person or party making the motion or request, the motion or request could not be filed within the time allotted.

(6) The parties to any hearing before the director may, by a stipulation in writing filed with the director, agree upon the facts or any portion of the facts involved in the controversy, which stipulation shall be regarded and used as evidence in the hearing. Parties are requested to agree upon the facts when practicable.

(7) Depositions shall only be taken upon written authority of the director where it is proved, in writing, to the director that it is impractical or impossible to otherwise obtain the evidence.

Where depositions are permitted, they shall be taken according to the rules for taking depositions as set forth in the Michigan general court rules.

History: 1985 AACs.