

185—8.3(123) Listing requests. The supplier of a product to be sold by the division shall submit a listing request for consideration by the administrator or the administrator's designee.

8.3(1) Submitting a listing request. Listing requests shall be submitted electronically or in a manner prescribed by the administrator or the administrator's designee.

8.3(2) Listing request requirements.

a. A listing request shall contain the following information:

(1) A control state code number for the product issued by the National Alcohol Beverage Control Association.

(2) The supplier's f.o.b. cost per case. The case price shall be evenly divisible by the number of bottles in the case. The supplier shall determine the number of bottles that constitute a case for the product.

(3) The product's case quantity size and standard of fill.

(4) An image of the product.

(5) A brief description of the product.

(6) The weights and dimensions of the product container, case, and pallet.

(7) The product's 14-digit shipping container code.

(8) The product's universal product code.

(9) Any other information required by the administrator or the administrator's designee.

b. The administrator, or the administrator's designee, may require a supplier to conduct a listing presentation for new products that have not been previously listed.

8.3(3) Decisions.

a. The criteria used to determine whether a listing request shall be approved or denied shall include, but not be limited to, the following:

(1) Whether the product violates the code of responsible practices established by the Distilled Spirits Council of the United States.

(2) The reasonable potential of the product to unduly jeopardize the welfare, health, peace, morals, or safety of the people of the state.

b. The administrator, or the administrator's designee, shall approve or deny a listing request not more than 20 business days from the date the listing request was submitted. Suppliers shall be notified of the decision in writing delivered electronically or in a manner prescribed by the administrator or the administrator's designee.

8.3(4) Appeals.

a. Appeal to administrator.

(1) A supplier may appeal the denial of a listing request by the administrator's designee to the administrator by filing a notice of appeal within 30 days of the date of denial.

(2) A notice of appeal shall be in writing and shall specify the specific findings or conclusions to which exception is taken, the relief sought, and the grounds for relief.

(3) A notice of appeal shall be considered filed at the time it is received by the administrator.

(4) The administrator shall affirm, reverse, or modify the denial of the listing request and shall notify the supplier of the decision in writing.

b. Appeal to commission.

(1) If the administrator denies a listing request or affirms the denial of a listing request by the administrator's designee, the supplier may appeal the administrator's decision by filing a notice of appeal with the commission within 30 days of the date of the administrator's decision.

(2) A notice of appeal shall be in writing and shall specify the specific findings or conclusions to which exception is taken, the relief sought, and the grounds for relief.

(3) A notice of appeal shall be considered filed at the time it is received by the commission.

(4) The commission shall have discretion as to whether to hear the appeal. If the commission chooses to hear the appeal, it shall be heard at the next scheduled commission meeting or a special meeting called for by the commission chairperson, the administrator, or at least three members of the commission.

(5) If the commission reverses the decision of the administrator, the listing request shall be approved.

(6) If the commission affirms the administrator's decision or chooses not to hear the appeal, the listing request shall be denied.

(7) The commission's decision shall constitute final agency action for the purposes of Iowa Code chapter 17A.

8.3(5) *Resubmission of a listing request.* If a listing request for a product is denied, a new listing request for the product may be submitted by the supplier not less than three months after the denial date of the original listing request.

8.3(6) *Moratorium.* The administrator, or the administrator's designee, may implement a moratorium on new permanent listing requests. The duration of the moratorium period shall be determined by the administrator or the administrator's designee. The administrator, or the administrator's designee, may allow a supplier to trade out a permanently listed product for a new product during a moratorium period.

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