

185—8.7(123) Delisting. Listed products that do not meet sales guidelines established by the administrator, or the administrator's designee, may be delisted. The frequency of delisting shall be determined by the administrator or the administrator's designee.

8.7(1) Notification. Suppliers of delisted products shall be notified of the decision in writing delivered electronically or in a manner prescribed by the administrator or the administrator's designee.

8.7(2) Appeals.

a. Appeal to administrator.

(1) A supplier may appeal the delisting of a product by the administrator's designee to the administrator by filing a notice of appeal within 30 days of the date of delisting notification.

(2) A notice of appeal 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 delisting and shall notify the supplier of the decision in writing.

b. Appeal to commission.

(1) If the administrator delists a product, or if the administrator affirms a delisting 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 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 product shall remain listed under terms established by the commission.

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

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

8.7(3) Removal of delisted products. Delisted products shall be removed from the division's warehouse by the supplier or by the supplier's agent or employee within a time frame established by the administrator or the administrator's designee. A supplier may authorize the division to destroy a delisted product in lieu of removal of the product by the supplier from the division's warehouse. New listing requests submitted by a supplier shall not be considered by the division until all of the supplier's delisted product has been removed from the division's warehouse.

8.7(4) Resubmission of a delisted product for listing. If a product in a permanent listing classification is delisted, a new listing request for the product may be submitted not less than six months after the date the product was removed from the warehouse.

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