

# REVISED PROPOSED REGULATION OF THE NEVADA TAX COMMISSION

## LCB File No. R146-15

EXPLANATION—Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

### COMBINED VERSION-INCLUDES NEW SUSPENSION/REVOCATION LANGUAGE AT END

#### CHAPTER 370 - TOBACCO: LICENSES AND TAXES; SUPERVISION OF MANUFACTURERS

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## GENERAL PROVISIONS

**NAC 370.010 Definitions.** As used in this chapter, unless the context otherwise requires:

1. "Commission" means the Nevada Tax Commission.
  2. "Department" means the Department of Taxation.
- (Supplied in codification)

**NAC 370.015 Applicant for license: Compliance with chapter 370A of NRS. (NRS 360.090, 370.510)** The Department will not approve an application for a license pursuant to this chapter if the applicant is not in compliance with the provisions of chapter 370A of NRS.  
(Added to NAC by Tax Comm'n by R086-02, eff. 9-20-2002)

## CIGARETTES

**NAC 370.020 Application for subsidiary place of business. (NRS 360.090, 370.100, 370.510)**

1. A cigarette wholesaler may maintain a warehouse for keeping merchandise on hand at another place than the established principal place of business, by listing the subsidiary place of business with the Department.
2. Application must be made to the Department for each subsidiary location and the application must specify the location by street and number.

[Tax Comm'n, Cigarette Tax Reg. part No. 2, eff. 6-7-68; A by Dep't of Taxation, 10-22-75]

**NAC 370.030 Conditions for use of stamping machine by dealer. (NRS 360.090, 370.180, 370.510)**

1. The privilege of using a stamping machine to apply cigarette revenue stamps will be granted to licensed wholesale cigarette dealers upon written request to the Department subject to compliance with the following terms:
  - (a) Cigarette revenue stamps applied by machines must be approved by the Department with the security codes provided by the manufacturer.
  - (b) Only cigarettes bearing clear and legible cigarette revenue stamps may be distributed by wholesale dealers.
  - (c) Cigarette revenue stamps may only be applied by machines owned or leased by the licensed wholesale dealer for which a security code has been provided to the Department.

(d) All cigarette revenue stamps applied upon packages must be of a special type devised and specified for the machines by the manufacturer. All cigarette revenue stamps must be applied on the bottom of the original package.

(e) The design of the cigarette revenue stamp must be that particular design approved by the Department.

(f) All wholesale dealers permitted to use stamping machines must take every reasonable precaution to prevent the theft of, unauthorized use of or tampering with the machines.

(g) All repairs to the machine must be made by an authorized representative of the manufacturer.

(h) All equipment must be serviced and cleaned according to the instructions issued by the manufacturer of the machine.

(i) All cigarette revenue stamps must be purchased from an authorized agent or representative of the Department.

2. Upon the failure of any licensed wholesale dealer to fully comply with subsection 1, the permission to use the machines will be summarily withdrawn and the dealer will be required to affix water decal stamps until such time as he or she satisfies the Department that the provisions of subsection 1 have been met and will be fully complied with in the future.

[Tax Comm'n, Cigarette Tax Reg. part No. 4, eff. 4-24-69; A by Dep't of Taxation, 1-1-76]—  
(NAC A by Tax Comm'n, 7-18-88)

**NAC 370.100 Placement of cigarettes in vending machines; inspection of machines by Department. (NRS 360.090, 370.270, 370.510)**

1. All packages or packets of cigarettes in each vending machine which has an opening or transparent panel through which a sampling of all of the brands of cigarettes are visible must be placed in the machine so that the cigarette revenue stamp is visible from the front of the machine.

2. On demand, an operator of cigarette vending machines shall allow any authorized representative of the Department to accompany any employee of the operator on his or her route, during business hours and on working days, and the employee or operator shall open vending machines in control of the operator for inspection by the representative of the Department.

[Tax Comm'n, Cigarette Tax Reg. part No. 3, eff. 1-18-69; A by Dep't of Taxation, 10-22-75]—  
(NAC A by Tax Comm'n, 7-18-88)

**NAC 370.120 Receipt of reports, returns and remittances sent by mail. (NRS 360.090, 370.510)**

1. Any report, return or remittance to cover a payment required by NRS 370.001 to 370.430, inclusive, which is transmitted through the United States mail, shall be deemed filed or received on the date shown by the postmark stamped upon the envelope containing it, as provided in NRS 238.100, or on the date it was mailed if other proof satisfactory to the Commission establishes that it was timely deposited in the United States mail, postage prepaid and properly addressed to the Commission.

2. The date on a receipt for material sent by certified or registered mail, if different from the postmark, prevails if the date on the receipt is earlier than the date of the postmark.

3. A record authenticated by the post office that the postmark on certain batches of mail was erroneous is proof satisfactory to the Commission that the mailing was made on a date other than the date of the postmark.

4. If it is known that the postal service was inoperative at a certain time because of a strike, riot, warfare or act of God or for some other reason, the Commission will consider the

circumstances, and if there is other evidence of timely mailing, will accept the evidence and deem the return or payment timely.

5. A postmark affixed by a postage meter in the possession of the taxpayer or other person outside the post office will be disregarded as proof of the date mailed whenever it is contradicted by an official postmark stamped upon the envelope containing the payment. Unless corroborated, statements by a taxpayer or the taxpayer's employees are not sufficient to refute the postmark as the date of mailing.

[Tax Comm'n, Cigarette Tax Reg. part No. 6, eff. 7-24-70; A 10-9-71]—(NAC A by Dep't of Taxation, 10-10-83)

## **OTHER PRODUCTS MADE FROM TOBACCO**

**NAC 370.140 Wholesale dealer to notify Department of intent to sell taxable product. (NRS 370.510)** A wholesale dealer in products made from tobacco, other than cigarettes, shall notify the Department of his or her intention to sell such products in this State before making any sales. The notification must be given on a form provided by the Department.  
(Added to NAC by Dep't of Taxation, eff. 10-10-83)

**NAC 370.150 Indicating tax on invoice; tax not to be charged to retail dealer as separate item. (NRS 370.510)** A wholesale dealer in products made from tobacco, other than cigarettes, shall indicate on his or her invoices of sale the amount of the tax he or she is required to pay pursuant to NRS 370.450 as a part of the total price of those products. This amount must not be charged to the retail dealer as a separate item.  
(Added to NAC by Dep't of Taxation, eff. 10-10-83)

**NAC 370.160 Payment of tax; monthly return. (NRS 370.465, 370.510)**

1. The tax imposed by NRS 370.450 must be paid to the Department on or before the 20th day of each month for sales made during the preceding month.
2. Each wholesale dealer shall submit with his or her payment a return on a form provided by the Department. If a wholesale dealer does not make a taxable sale during the preceding month, he or she shall file a return with the Department indicating this fact.  
(Added to NAC by Dep't of Taxation, eff. 10-10-83)

## **SALES ON INDIAN RESERVATIONS AND COLONIES**

**NAC 370.210 Sales by tribe that imposes tax equal to or greater than state tax. (NRS 360.090, 370.0751, 370.501, 370.510, 370.515)**

1. A tribe that is located and sells and delivers cigarettes or other products made from tobacco on an Indian reservation or colony whose governing body has imposed and is enforcing an excise tax on the products being sold at a rate which is equal to or greater than the rate of the tax imposed by the State on the same products shall furnish the Department a copy of the tribal ordinance which imposes the tribal tax.
2. The tribal tax must be applicable to at least all consumers who would otherwise be taxed under NRS 370.001 to 370.430, inclusive, and be actually collected whether or not the retail establishment from which the cigarettes or other products made from tobacco are sold is owned by the tribe.

3. The Department will presume that the tax is being imposed and actually enforced by the tribe if the retail price of the cigarettes or other products made from tobacco exceeds the wholesale price charged to the tribe by an amount which is at least equal to the tax.

4. Except as otherwise provided in NRS 370.240 and 370.255, the tribe is not required to maintain any records of cigarettes received, sold or distributed by the tribe on that reservation or colony.

[Dep't of Taxation, Cigarette Tax Reg. No. 9, eff. 5-26-78]—(NAC A 10-10-83; A by Tax Comm'n, 9-16-92)—(Substituted in revision for NAC 370.050)

**NAC 370.220 Purchase of tobacco by retail dealers; application for refund of precollected sales tax. (NRS 360.090, 370.280, 370.503, 370.510)**

1. Retail dealers who are located and sell and deliver cigarettes on an Indian reservation or colony shall purchase all of the cigarettes or other products made from tobacco that are to be sold and delivered on the reservation or colony from a licensed wholesale dealer who has precollected the state tax on the cigarettes and other products.

2. If a tribal tax has been imposed on the cigarettes and other products made from tobacco, the tribe may apply for a refund of the precollected tax pursuant to NRS 370.280 or 370.503 and NAC 370.230.

[Dep't of Taxation, Cigarette Tax Reg. part No. 8, eff. 5-26-78]—(NAC A by Tax Comm'n, 9-16-92)—(Substituted in revision for NAC 370.060)

**NAC 370.230 Refund of precollected state tax: Procedure; rate. (NRS 360.090, 370.280, 370.503, 370.510)**

1. As used in this section, unless the context otherwise requires:

(a) "Department" means the Department of Taxation of the State of Nevada.

(b) "Governing body" means the governmental entity that has the authority to make decisions for a tribe, commonly known as a tribal government.

(c) "Month" means a calendar month.

(d) "Reservation" means an Indian reservation, Indian colony or lands set aside for the use and occupancy of a tribe.

(e) "Retail dealer" means any person, other than a wholesale dealer or a smokeshop owned by a tribe, who is located on a reservation and who offers to sell or who is engaged in selling cigarettes, other tobacco products or both of them at retail on the reservation.

(f) "Tribe" means any Indian tribe, Indian band, Indian colony or group of Indians recognized by the Federal Government as possessing a government-to-government relationship with the United States.

2. Upon application being made by a governing body which meets the requirements of this section, the Department shall refund to the governing body the tobacco taxes collected by the State on sales of tobacco to retail dealers in accordance with NRS 370.280 and 370.503.

3. A refund made pursuant to this section must be made at the tax rate less any discounts allowed for a tobacco wholesaler or importer.

4. Except as otherwise provided in subsection 6, only the governing body may apply for refunds of taxes on sales of cigarettes or other tobacco products to retail dealers. Each application for a refund must be made for all sales which occurred during not less than 1 month. The application must include:

(a) The amount of tobacco purchased by retail dealers during the month or months for which the refund is requested;

(b) The name and location of the wholesaler or importer from whom the tobacco was purchased; and

(c) The county or counties where the retail dealers are located, and the quantity of tobacco purchased by retail dealers located in each county.

5. The governing body shall maintain, and provide to the Department upon request, documentation substantiating all refunds requested. The documentation must include:

(a) Identification of the purchasers of tobacco as retail dealers, by name and address;

(b) For each transaction for which a refund is requested, the:

(1) Name and address of the retail dealer;

(2) Price paid;

(3) Quantity purchased; and

(4) Date of sale; and

(c) Such other information as the Department determines is reasonably necessary to document that a purchase qualifies for a refund pursuant to this section.

6. If a governing body fails to maintain the records required by this section, files a fraudulent refund request or refuses to transmit to the Department information required pursuant to this section, the Department may alter the refund procedure authorized by this section and, in lieu thereof, make direct refunds to a retail dealer who:

(a) Is located on the reservation;

(b) Purchases tobacco;

(c) Pays the applicable tax imposed on the tobacco by the tribe; and

(d) Complies with the requirements of this section that are applicable to governing bodies.

(Added to NAC by Tax Comm'n, eff. 5-27-92)

**NAC 370.240 Refund of precollected state tax: Effect of provisions. (NRS 360.090, 370.510, 370.520)** NAC 370.230 does not limit state statutes regarding the sale of cigarettes or other tobacco products, including, without limitation, chapter 370 of NRS, and is not a waiver of the sovereign powers of tribes.

(Added to NAC by Tax Comm'n, eff. 5-27-92)

**NAC 370.250 List of tribes eligible to purchase cigarettes with tribal tax stamps affixed and other products exempt from state tax. (NRS 360.090, 370.510)** The Department will, as frequently as it deems necessary, publish and distribute to all licensed cigarette wholesale dealers a list of all tribes that are eligible to purchase:

1. Cigarettes to which tribal tax stamps are affixed instead of state tax stamps; and

2. Other products made from tobacco, exempt from the tax imposed by the State on products made from tobacco.

[Dep't of Taxation, Cigarette Tax Reg. part No. 8, eff. 5-26-78]—(NAC A by Tax Comm'n, 9-16-92)—(Substituted in revision for NAC 370.090)

## **MANUFACTURERS OF TOBACCO PRODUCTS**

**NAC 370.300 Definitions. (NRS 360.090, 370.510, 370.690)** As used in NAC 370.300 to 370.330, inclusive, unless the context otherwise requires, the words and terms defined in NRS 370.610 to 370.660, inclusive, and NAC 370.310 and 370.320 have the meanings ascribed to them in those sections.

(Added to NAC by Tax Comm'n by R191-05, eff. 11-13-2006)

**NAC 370.310 “Calendar quarter” defined. (NRS 360.090, 370.510, 370.690)** “Calendar quarter” means a period of 3 consecutive calendar months ending on March 31, June 30, September 30 or December 31 in each calendar year.

(Added to NAC by Tax Comm’n by R191-05, eff. 11-13-2006)

**NAC 370.320 “Escrow deposit” defined. (NRS 360.090, 370.510, 370.690)** “Escrow deposit” means a deposit required from a manufacturer of tobacco products pursuant to subsection 2 of NRS 370A.140.

(Added to NAC by Tax Comm’n by R191-05, eff. 11-13-2006)

**NAC 370.330 Nonparticipating manufacturer: Requirements for quarterly escrow deposits and reports; noncompliance with requirements. (NRS 360.090, 370.510, 370.690)**

1. A nonparticipating manufacturer shall make escrow deposits in quarterly installments for the calendar year in which the sales covered by those deposits are made if:

(a) The nonparticipating manufacturer:

(1) Has not previously established a qualified escrow fund and made escrow deposits to that fund for sales in Nevada;

(2) Has not made any escrow deposits for more than 1 year;

(3) Has failed to make any escrow deposits in a complete and timely manner for any prior calendar year;

(4) Has failed to pay any judgments entered against the nonparticipating manufacturer in any jurisdiction, including, without limitation, any judgments for any civil penalties arising from a failure to comply with the law of any jurisdiction requiring a deposit into a qualified escrow fund; or

(5) Sells more than 1.6 million cigarettes in Nevada during a calendar quarter; or

(b) The Department, in consultation with the Attorney General:

(1) Has reasonable cause to believe that the nonparticipating manufacturer may not make the entire annual escrow deposit otherwise required by subsection 2 of NRS 370A.140 in a timely manner for a particular year; and

(2) Serves the nonparticipating manufacturer with a notice that the nonparticipating manufacturer is required to make quarterly installments for that year.

2. A nonparticipating manufacturer who is required to make a quarterly installment pursuant to this section shall:

(a) Deposit the full amount of that installment on or before the last day of the month following the calendar quarter in which the sales covered by the installment are made; and

(b) Not later than 10 days after the last date upon which that installment is required pursuant to paragraph (a), provide the Attorney General with a quarterly report that includes such information as the Attorney General determines to be necessary to ascertain whether the nonparticipating manufacturer is in compliance with NRS 370.600 to 370.705, inclusive, chapter 370A of NRS and NAC 370.300 to 370.330, inclusive. The report required pursuant to this paragraph must be provided:

(1) On a form prescribed by the Attorney General; or

(2) Electronically, in a format prescribed by the Attorney General.

3. If a nonparticipating manufacturer fails to comply with any provision of subsection 2, the Department shall:

(a) Serve the nonparticipating manufacturer with a notice that the Department will remove the name and brand families of the nonparticipating manufacturer from the directory in 5 days,

excluding weekends and holidays, unless the nonparticipating manufacturer fully complies with the provisions of subsection 2 within that time; and

(b) Upon the expiration of 5 days, excluding weekends and holidays, after the service of the notice pursuant to paragraph (a), remove the name and brand families of the nonparticipating manufacturer from the directory unless the nonparticipating manufacturer has fully complied with the provisions of subsection 2 within that time.

(Added to NAC by Tax Comm'n by R191-05, eff. 11-13-2006)

### ***DISCIPLINARY ACTION***

*NAC 370.\_\_\_\_ Definitions. As used in NAC \_\_\_\_ to \_\_, inclusive, unless the context otherwise requires, the words and terms have the meaning defined in this code, or if not specifically defined in this code, the meaning ascribed to them in NRS 370 and NRS 370A.*

*NAC 370.\_\_\_\_ “Commission” defined. (NRS 370.253) “Commission” means the Nevada Tax Commission.*

*NAC 370.\_\_\_\_ “Department” defined. (NRS 370.253) “Department” means the Nevada Department of Taxation.*

*NAC 370.\_\_\_\_ “Hearing Officer” defined. (NRS 370.253) “Hearing Officer” means the Administrative Law Judge designated by the Commission.*

### ***Disciplinary Action***

*NAC 370.\_\_\_\_ Notice of Intent to Suspend or Revoke Wholesale Dealer License; Notice of Intent to Remove Nonparticipating Manufacturer from Directory. (NRS 370.250; NRS 370.675; NRS 370.698; NRS 233B.127).*

*1. When the Department has cause under NRS Chapters 370 or 370A to temporarily suspend or permanently revoke a tobacco wholesale dealer’s license or to remove a nonparticipating manufacturer and its brand families from the directory, the Department may issue a written Notice of Intent to Suspend or Revoke License or Notice of Intent to Remove from Directory stating:*

*(a) the legal authority supporting the suspension or revocation of the license or the delisting of the manufacturer;*

*(b) the factual issue forming the basis of the suspension or revocation or the delisting of the manufacturer; and*

*(c) providing 10 business days from receipt of the notice to allow:*

*(i) the wholesale dealer to show full compliance with all lawful requirements for the retention of a tobacco wholesale dealer license; or*

*(ii) the manufacturer to show full compliance with all lawful requirements to remain listed on the Nevada directory.*



2. *A Notice of Intent to Suspend or Revoke License must be served via certified mail at the permanent address the wholesale dealer has on record with the Department pursuant to NRS 370.073(1)(a).*
3. *A Notice of Intent to Remove from Directory must be served via certified mail to the address provided to the Attorney General's Office in the manufacturer's NRS 370A.160 annual certification.*
4. *If a tobacco wholesale dealer or manufacturer has received a written Notice of Intent to Suspend or Revoke License or Notice of Intent to Remove from Directory and cures the violation, the wholesale dealer or manufacturer is not entitled to another opportunity to cure if the same statutory provision is violated again within 24 months. In this case, the Department may immediately issue a Notice of Hearing.*
5. *If a wholesale dealer or manufacturer attempts to cure the deficiency under 1(c), the wholesale dealer or manufacturer's proof of compliance must be delivered in person or by certified mail to the Department employee identified in the Notice of Intent to Suspend or Revoke License or Notice of Intent to Remove from Directory.*

*NAC 370.\_\_\_\_ Notice of Hearing to Suspend or Revoke License; Notice of Hearing to Remove Nonparticipating Manufacturer from Directory. (NRS 370.250; NRS 370.698).*

1. *If a wholesale dealer or manufacturer does not cure a violation identified in a written notice, or if the wholesale dealer or manufacturer is not entitled to an opportunity to cure a previously noticed violation pursuant to NAC 370.\_\_\_\_(1)(c), the Department may serve a Notice of Hearing.*
2. *The Notice of Hearing must:*
  - (a) state the date, time, and location of the hearing. Hearings will be held before a Hearing Officer at an office of the Department or at such other place in the State as may be designated in the notice.*
  - (b) identify the legal authority and jurisdiction under which the hearing is being held;*
  - (c) specifically identify the statutes the Department alleges were violated;*
  - (d) identify the factual basis supporting suspension or revocation of the tobacco wholesale dealer license or the delisting of a nonparticipating manufacturer; and*
  - (e) include, as an attachment, all documentary evidence the Department will rely on to demonstrate the wholesale dealer or manufacturer is in violation of NRS 370 or NAC 370.*
3. *The Notice of Hearing must be served:*
  - (a) via certified mail at the permanent address the wholesale dealer has on record with the Department pursuant to NRS 370.073(1)(a) or to the address the manufacturer provided the Attorney General's Office in its NRS 370A.160 annual certification; and*
  - (b) at least 20 business days prior to the hearing.*
4. *The Commission will assign a Hearing Officer to oversee the hearing.*

*NAC 370.\_\_\_\_ Submission or exclusion of documentary evidence of respondent. (NRS 370.250).*

- 1. Not less than 5 business days before the hearing, the respondent must provide the Department a copy of all documents that are reasonably available to the respondent which he or she reasonably anticipates will be used in support of his or her position.*
- 2. The respondent may supplement the documents until the date of the hearing only if good cause exists to demonstrate why the documents were not disclosed prior to the deadline set in part 1 of this section.*
- 3. Any document not timely produced pursuant to this section may be excluded by the Hearing Officer.*

*NAC 370.\_\_\_\_ Motions. (NRS 370.250).*

- 1. All motions, unless made during a hearing, must be in writing.*
- 2. A written motion must be served on the opposing party and the Hearing Officer at least 10 business days before the hearing.*
- 3. An opposing party has 7 business days after service of a motion to file a written opposition.*

*NAC 370.\_\_\_\_ Briefs. (NRS 370.250).*

- 1. The Hearing Officer may order that briefs be filed prior to the hearing.*
- 2. Briefs must be filed with the Hearing Officer accompanied by an affidavit showing service on all other parties of record.*

*NAC 370.\_\_\_\_ Representation of parties. (NRS 370.250)*

*Appearances and representation of parties must be made as follows:*

- 1. A party may appear in person, as provided in subsection 2, or may be represented by an attorney, an accountant or an authorized representative.*
- 2. A party, if other than a natural person, may appear:*
  - (a) If a partnership, by a partner.*
  - (b) If a corporation, by an officer or other authorized representative or regular employee.*
  - (c) If a municipal corporation, by an authorized officer, agent or employee.*
  - (d) If an unincorporated association, by an authorized representative, officer or employee.*
- 3. If a party chooses to be represented by an attorney, the attorney must be one who is admitted to practice and in good standing before the highest court of any state of the United States. If the attorney is not admitted to practice and in good standing before the Supreme Court of Nevada, an attorney so admitted and in good standing must be associated with the attorney appearing before the Commission or Department.*

*NAC 370.\_\_\_\_ Continuances; recesses. (NRS 370.250).*

*The Hearing Officer may, in his or her discretion, either before or during a hearing, grant continuances or recesses.*

*NAC 370.\_\_\_\_ Failure to appear. (NRS 370.250).*

*If a party fails to appear at a hearing and a continuance has not been granted, following an offer of proof by the Department that the absent party was given proper notice and upon a determination by the Hearing Officer that the proper notice was given, the Hearing Officer may proceed to consider the case on its merits without the participation of the absent party. The case may be disposed of based on the evidence before the Hearing Officer.*

*NAC 370.\_\_\_\_ Hearings: Procedure; date of decision. (NRS 370.250; NRS 370.379).*

- 1. The Department will present witnesses and evidence, and the respondent may cross-examine witnesses in the order the Department presents them.*
- 2. When the Department has completed its presentation, the respondent will proceed with the introduction of evidence and calling of witnesses on his or her behalf, and the Department may cross-examine witnesses in the order the respondent presents them.*
- 3. When the respondent has completed his or her presentation, the Department may call any rebuttal witnesses. The respondent may cross-examine them.*
- 4. The Hearing Officer may interject questions to any witness, party, or counsel at any time during the proceedings.*
- 5. After the close of the evidentiary hearing, the Hearing Officer shall prepare findings of fact, conclusions of law, and his or her final decision on the issue presented in the hearing.*
- 6. The Hearing Officer's findings of fact, conclusions of law, and his or her final decision must be served on all parties of record within 45 business days after the date of the hearing. The Hearing Officer's decision becomes final 20 business days after service, unless an appeal is filed.*

*NAC 370.\_\_\_\_ Notice of appeal; timing; contents; response. (NRS 370.250).*

- 1. A party may, within 20 business days after service of a copy of the finding of fact, conclusions of law, and decision of the Hearing Officer, file a notice of appeal with the Commission.*
- 2. A notice of appeal must:*
  - a. Identify the decision being appealed, the date on which the decision was rendered, and the basis for the appeal;*
  - b. State with particularity the point of law or fact which, in the opinion of the appellant, the Hearing Officer overlooked or misconstrued;*
  - c. Designate the parts of the record before the Hearing Officer that the appellant deems relevant to his or her appeal;*

*d. Contain every argument in support of the appeal that the appellant intends to present; and*

*e. Be served on all parties.*

*3. After a notice of appeal is filed, the opposing party has 15 business days to file a response rebutting only the issues raised in the notice of appeal. The opposing party may also designate relevant portions of the record before the Hearing Officer that he or she deems relevant to his or her response.*

*NAC 370.\_\_\_\_ Appellate hearing. (NRS 370.250).*

*1. After receipt of a notice of appeal, and after receipt of the opposing party's response or the passage of 15 business days, the matter will be scheduled for oral argument before the Commission at its next meeting.*

*2. Oral arguments will be limited to a period of time not to exceed 15 minutes for each party.*

*a. Only evidence which was submitted to the Hearing Officer and raised in the notice of appeal or response to notice of appeal will be considered.*

*b. The appellant will present argument first and may reserve time for rebuttal following the respondent's argument.*

*3. The Commission will modify, reverse, or affirm the decision of the Hearing Officer or remand the case to the Hearing Officer. The Director shall issue a final written decision on behalf of the Commission.*

*4. Unless the matter is remanded to the Hearing Officer, the decision of the Commission is final and is immediately subject to judicial review.*

*NAC 370.\_\_\_\_ Delayed effective date of suspension or revocation of wholesale dealer's license. (NRS 370.250; NRS 370.253; 370.379).*

*A final order of a Hearing Officer or the Commission must contain a delayed effective date of 20 business days, subject to the provisions below.*

*1. Within 5 business days of a final order suspending or revoking a tobacco wholesale dealer's license, the wholesale dealer must notify each retail dealer that is a customer of the wholesale dealer of the suspension or revocation, including the date the suspension or revocation becomes effective.*

*2. Within 5 business days of a final order suspending or revoking a tobacco wholesale dealer's license, the wholesale dealer must notify each manufacturer from whom the wholesale dealer purchases product of the suspension or revocation, including the date the suspension or revocation becomes effective.*

*3. In the 20 business days between a final order suspending or revoking a tobacco wholesale dealer's license and the date the order becomes effective, the wholesale dealer may continue to engage in all legal business transactions permissible under NRS 370 and NRS 370A.*