

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB FILE NO. R042-24I

**The following document is the initial draft regulation proposed
by the agency submitted on 03/04/2024**

Informational Report – Executive Order 2023-003

Name of department, agency, board, or commission: **Nevada Department of Taxation**

Address: **1550 College Parkway Suite 115**

City: **Carson City**

Zip: **89706**

Telephone: **775-684-2096**

Name of Director: **Shellie Hughes**

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Section 1 - Comprehensive Review of Regulations / Section 3 – Mandatory Meeting and Report

The above-named department, agency, board, or commission conducted a comprehensive review of the regulations subject to its enforcement that can be streamlined, clarified, reduced, or otherwise improved to ensure those regulations provide for the general welfare of the State without unnecessarily inhibiting economic growth. The regulations identified for Section 1 of Executive Order 2023-03 are listed below with the information as required on page 1 of the instruction sheet on the following pages of the report:

Regulation/ Information as required on page 1

- | |
|---|
| 1. NAC 370.230 Refund of precollected state tax: Procedure; rate. |
| 2. NAC 370.500 Definitions. |
| 3. NAC 370.540 Notice of intent to suspend or revoke license or remove from directory; contents and service of notice; opportunity to demonstrate compliance; effect of subsequent alleged violation. |
| 4. NAC 370.545 Notice of hearing; contents and service of notice; appointment of hearing officer. |
| 5. NAC 370.550 Submission of documentation by respondent; exclusion by hearing officer for untimely submission. |
| 6. NAC 370.555 Submission and service of motions and responses to motions. |
| 7. NAC 370.580 Order of proceedings; written findings and conclusions; issuance and service of decision; date on which decision becomes final. |
| 8. NAC 370.585 Filing and service of notice of appeal; rebuttal response by opposing party. |
| 9. NAC 370.590 Oral argument on appeal; consideration of certain evidence; issuance of written decision; final decision for purposes of judicial review. |
| 10. NAC 370.595 Effective date of suspension or revocation of license; duties of wholesale dealer; continuation of activities until suspension or revocation is effective. |

Section 2 – Regulation for Removal / Section 3 – Mandatory Meeting and Report

The above-named department, agency, board or commission conducted a comprehensive review of the regulations subject to its enforcement and identified the following ten (10) or more regulations recommended for removal. The regulations identified for Section 2 of Executive Order 2023-03, ranked in descending order of priority, are listed below with the information as required on page 1 of the instruction sheet on the following pages of the report:

Regulation/Information as required on page 1

1. NAC 370.020 Application for subsidiary place of business.
2. NAC 370.140 Wholesale dealer to notify Department of intent to sell taxable product.
3. NAC 370.250 List of tribes eligible to purchase cigarettes with tribal tax stamps affixed and other products exempt from state tax.
4. NAC 370.510 “Directory” defined.
5. NAC 370.520 “Manufacturer of tobacco products” or “manufacturer” defined.

Informational Report – Executive Order 2023-003

Section 1 - Comprehensive Review of Regulations

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

SALES ON INDIAN RESERVATIONS AND COLONIES

- 1. The citation of the regulation with clear indication of the proposed modification in blue italics and matters to be omitted in red and bracketed.**

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)]~~ **1.** “Department” means the Department of Taxation of the State of Nevada.
- ~~—[(b)]~~ **2.** “Governing body” means the governmental entity that has the authority to make decisions for a tribe, commonly known as a tribal government.
- ~~—[(c)]~~ **3.** “Month” means a calendar month.
- ~~[(d)]~~ **4.** “Reservation” means an Indian reservation, Indian colony or lands set aside for the use and occupancy of a tribe.
- ~~—[(e)]~~ **5.** “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)]~~ **6.** “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~~

Exhibit 370.2-A

- ~~— (4) Date of sale; and~~
- ~~— (e) 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)]~~

2. A clear and concise explanation on why such change should occur.

Subsections 2-6 can be removed. Cigarette tax is pre-collected by the purchase of the tax stamp. However, tribal stamps are distributed free of charge and only tribal stamped cigarettes may be sold on tribal land.

Additionally, Other Tobacco Product (“OTP”) wholesalers are allowed an exemption for sales to tribal lands, so pre-collecting the tax does not apply to OTP either. NRS 370.280 establishes circumstances in which the Department may authorize a refund of cigarette tax and lists specifically, “any licensed wholesaler”. NRS 370.503 establishes an allowance of refund for certain taxes paid pursuant to NRS 370.450, which is the imposition, rate, and collection of OTP Tax.

3. Information for each public meeting held to discuss the proposed regulation change, as mandated by Section 3 of Executive Order 2023-003, which must include:

- a. The date of the meeting(s) and the number of persons who attended (not including Department staff or Commissioners):**

Workshop – 4/7/23 (11 people attended)

Hearing – 4/21/23 (12 people attended)

- b. Information for each person who provided public oral or written comment or testimony on the regulation:**

There was no public comment, either made orally or in writing for this regulation.

4. The estimated impact on any business, person, or agency if the change is to occur, which must include:

- a. The adverse and beneficial effects;**
- b. The positive or negative economic impact; and**

Exhibit 370.2-A

c. Cost savings to the state or agency.

The amendment to this regulation presents no foreseeable or anticipated impact on any business, person, or agency if this change is to occur.

Informational Report – Executive Order 2023-003

Section 1 - Comprehensive Review of Regulations

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

ADMINISTRATIVE PROCEEDINGS: SUSPENSION OR REVOCATION OF LICENSE; REMOVAL
FROM DIRECTORY OF MANUFACTURERS AND BRAND FAMILIES

- 1. The citation of the regulation with clear indication of the proposed modification in blue italics and matters to be omitted in red and bracketed.**

NAC 370.500 Definitions. (NRS 370.250, [~~370.253~~], 370.510, 370.597, 370.675) As used in NAC 370.500 to 370.595, inclusive, unless the context otherwise requires, the words and terms defined in NAC [~~370.510~~] 370.515 to 370.525, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Dep't of Taxation by R146-15, eff. 9-9-2016)

- 2. A clear and concise explanation on why such change should occur.**

Amend - NRS 370.597 mandates regulations for hearing process. Amend as NRS 370.253 has been repealed and should be removed from authority in all of these regulations and NRS 370.597 should be added. Maintain, legislatively prescribed forum for these hearings. In addition, NAC 370.510 and 370.520 were recommended for repeal, therefore NAC 370.500 must be amended.

- 3. Information for each public meeting held to discuss the proposed regulation change, as mandated by Section 3 of Executive Order 2023-003, which must include:**

- a. The date of the meeting(s) and the number of persons who attended (not including Department staff or Commissioners):**

Workshop – 4/7/23 (11 people attended)

Hearing – 4/21/23 (12 people attended)

- b. Information for each person who provided public oral or written comment or testimony on the regulation:**

There was no public comment, either made orally or in writing for this regulation.

Exhibit 370.3-A

- 4. The estimated impact on any business, person, or agency if the change is to occur, which must include:**
 - a. The adverse and beneficial effects;**
 - b. The positive or negative economic impact; and**
 - c. Cost savings to the state or agency.**

The amendment to this regulation presents no foreseeable or anticipated impact on any business, person, or agency if this change is to occur.

Informational Report – Executive Order 2023-003

Section 1 - Comprehensive Review of Regulations

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

ADMINISTRATIVE PROCEEDINGS: SUSPENSION OR REVOCATION OF LICENSE; REMOVAL FROM DIRECTORY OF MANUFACTURERS AND BRAND FAMILIES

- 1. The citation of the regulation with clear indication of the proposed modification in blue italics and matters to be omitted in red and bracketed.**

NAC 370.540 Notice of intent to suspend or revoke license or remove from directory; contents and service of notice; opportunity to demonstrate compliance; effect of subsequent alleged violation. (*[NRS 370.250](#), ~~[370.253](#)~~, [370.510](#), [370.597](#), [370.675](#))*

- When the Department has cause to believe that:
 - (a) The license of a retail dealer or wholesale dealer should be temporarily suspended or permanently revoked; or
 - (b) A manufacturer of tobacco products and its brand families should be removed from the directory, the Department may issue a notice of intent to suspend or revoke the license or a notice of intent to remove the manufacturer and its brand families from the directory, as applicable.
- A notice issued pursuant to subsection 1 must include:
 - (a) A statement of the legal authority for the suspension or revocation of the license or removal of the manufacturer and its brand families from the directory, as applicable;
 - (b) A statement of the facts which support the belief of the Department that the license should be suspended or revoked or that the manufacturer and its brand families should be removed from the directory, as applicable; and
 - (c) Except as otherwise provided in subsection 6, if the notice issued is:
 - (1) A notice of intent to suspend or revoke a license, a statement that the Department may issue a notice of hearing pursuant to [NAC 370.545](#) if the licensee does not, within 10 ~~business~~ days after receipt of the notice issued pursuant to subsection 1, demonstrate to the satisfaction of the Department that the licensee is in full compliance with all lawful requirements for retention of the license; or
 - (2) A notice of intent to remove a manufacturer and its brand families from the directory, a statement that the Department may issue a notice of hearing pursuant to [NAC 370.545](#) if the manufacturer does not, within 10 ~~business~~ days after receipt of the notice issued pursuant to subsection 1, demonstrate to the satisfaction of the Department that the manufacturer is in compliance with all applicable legal requirements necessary to remain listed in the directory.
- A notice of intent to suspend or revoke a license must be served on the licensee by certified mail at the location mailing address identified by the licensee on the license application submitted by the licensee to the Department.
- A notice of intent to remove a manufacturer of tobacco products and its brand families from the directory must be served on the manufacturer by certified mail at the address identified by the manufacturer in the most recent annual certification made by the manufacturer to the Attorney General pursuant to [NRS 370A.160](#).

Exhibit 370.4-A

5. Any evidence to demonstrate compliance offered by a licensee or a manufacturer of tobacco products within the period described in subparagraph (1) or (2) of paragraph (c) of subsection 2 must be delivered in person or by certified mail to the employee of the Department identified in the notice served on the licensee or manufacturer.

6. If a licensee or manufacturer of tobacco products has received a notice issued pursuant to subsection 1, for any subsequent alleged violation of the same statutory provision during the 2-year period immediately following the issuance of such notice, the licensee or manufacturer is not entitled to the 10-day period to demonstrate compliance described in subparagraphs (1) and (2) of paragraph (c) of subsection 2 and the Department may immediately issue a notice of hearing pursuant to [NAC 370.545](#).

(Added to NAC by Dep't of Taxation by R146-15, eff. 9-9-2016)

2. A clear and concise explanation on why such change should occur.

Amend - NRS 370.597 mandates regulations for hearing process; NRS 233B.127 requires opportunity to cure. Change "business days" to "days" to conform to the standard language of the Department's regulations and the changes in Nevada Rules of Civil Procedure for counting days. Also remove NRS 370.253 and add 370.597 (NRS 370.253 was repealed).

3. Information for each public meeting held to discuss the proposed regulation change, as mandated by Section 3 of Executive Order 2023-003, which must include:

a. The date of the meeting(s) and the number of persons who attended (not including Department staff or Commissioners):

Workshop – 4/7/23 (11 people attended)

Hearing – 4/21/23 (12 people attended)

b. Information for each person who provided public oral or written comment or testimony on the regulation:

There was no public comment, either made orally or in writing for this regulation.

4. The estimated impact on any business, person, or agency if the change is to occur, which must include:

- a. The adverse and beneficial effects;**
- b. The positive or negative economic impact; and**
- c. Cost savings to the state or agency.**

The amendment to this regulation presents no foreseeable or anticipated impact on any business, person, or agency if this change is to occur.

Informational Report – Executive Order 2023-003

Section 1 - Comprehensive Review of Regulations

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

ADMINISTRATIVE PROCEEDINGS: SUSPENSION OR REVOCATION OF LICENSE; REMOVAL FROM DIRECTORY OF MANUFACTURERS AND BRAND FAMILIES

- 1. The citation of the regulation with clear indication of the proposed modification in blue italics and matters to be omitted in red and bracketed.**

NAC 370.545 Notice of hearing; contents and service of notice; appointment of hearing officer. (*NRS 370.250, ~~370.253~~, 370.510, 370.597, 370.675*)

1. If a licensee or manufacturer of tobacco products does not demonstrate compliance within the 10-day period described in subparagraph (1) or (2) of paragraph (c) of subsection 2 of [NAC 370.540](#), or if, pursuant to subsection 6 of [NAC 370.540](#), a licensee or manufacturer of tobacco products is not entitled to the 10-day period to demonstrate compliance, the Department may issue a notice of hearing.

2. A notice of hearing issued pursuant to this section must:

(a) State the date, time and location of the hearing, which may be held at an office of the Department or at such other place in this State as is designated in the notice;

(b) Include a statement of the legal authority for the suspension or revocation of the license or removal of the manufacturer and its brand families from the directory, as applicable;

(c) Identify the specific provision or provisions of [chapter 370](#) or [370A](#) of NRS which the Department alleges the licensee or manufacturer of tobacco products has violated;

(d) Include a statement of the facts which support the belief of the Department that the license should be suspended or revoked or that the manufacturer and its brand families should be removed from the directory, as applicable; and

(e) Include as attachments all documentary evidence on which the Department intends to rely to demonstrate that the licensee or manufacturer of tobacco products, as applicable, is in violation of the provision or provisions of [chapter 370](#) or [370A](#) of NRS identified pursuant to paragraph (c).

3. A notice of hearing issued pursuant to this section must be served on:

(a) All parties at least **10** ~~[20-business]~~ days before the date of the hearing;

(b) A licensee by certified mail at the location mailing address identified by the licensee on the license application submitted by the licensee to the Department; and

(c) A manufacturer of tobacco products by certified mail at the address identified by the manufacturer in the most recent annual certification made by the manufacturer to the Attorney General pursuant to [NRS 370A.160](#).

4. Upon the issuance of a notice of hearing by the Department pursuant to this section, the Commission will appoint an administrative law judge to act as a hearing officer.

(Added to NAC by Dep't of Taxation by R146-15, eff. 9-9-2016)

Exhibit 370.5-A

2. A clear and concise explanation on why such change should occur.

Amend - NRS 370.597 mandates regulations for hearing process and NRS 233B.121 governs contents of notice. Amend to change "business days" to "days" to conform to the standard language of the Department's regulations and the changes in Nevada Rules of Civil Procedure for counting days; Amend to change 20-day notice to 10-day notice to conform with NAC 360.095. Also remove NRS 370.253 and add 370.597 (NRS 370.253 was repealed).

3. Information for each public meeting held to discuss the proposed regulation change, as mandated by Section 3 of Executive Order 2023-003, which must include:

a. The date of the meeting(s) and the number of persons who attended (not including Department staff or Commissioners):

Workshop – 4/7/23 (11 people attended)

Hearing – 4/21/23 (12 people attended)

b. Information for each person who provided public oral or written comment or testimony on the regulation:

There was no public comment, either made orally or in writing for this regulation.

4. The estimated impact on any business, person, or agency if the change is to occur, which must include:

- a. The adverse and beneficial effects;**
- b. The positive or negative economic impact; and**
- c. Cost savings to the state or agency.**

The amendment to this regulation presents no foreseeable or anticipated impact on any business, person, or agency if this change is to occur.

Informational Report – Executive Order 2023-003

Section 1 - Comprehensive Review of Regulations

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

ADMINISTRATIVE PROCEEDINGS: SUSPENSION OR REVOCATION OF LICENSE; REMOVAL
FROM DIRECTORY OF MANUFACTURERS AND BRAND FAMILIES

- 1. The citation of the regulation with clear indication of the proposed modification in blue italics and matters to be omitted in red and bracketed.**

NAC 370.550 Submission of documentation by respondent; exclusion by hearing officer for untimely submission. (*NRS 370.250, ~~370.253~~, 370.510, 370.597, 370.675*)

1. Except as otherwise provided in subsection 2, a respondent must, not later than 7 ~~[5-business]~~ days before the date of the hearing set forth in the notice of hearing issued pursuant to *NAC 370.545*, provide to the Department a copy of each document which is reasonably available to the respondent and which the respondent reasonably believes will be used in support of his or her position.

2. A respondent may supplement the documents provided pursuant to subsection 1 on or before the date of the hearing only if good cause exists to demonstrate why the supplemental documents were not provided within the time required by subsection 1.

3. A hearing officer may exclude any document not timely provided pursuant to subsection 1 or 2.
(Added to NAC by Dep't of Taxation by R146-15, eff. 9-9-2016)

- 2. A clear and concise explanation on why such change should occur.**

Amend - NRS 370.597 mandates regulations for hearing process before an Administrative Law Judge. Amend to change "business days" to "days" to conform to the standard language of the Department's regulations and the changes in Nevada Rules of Civil Procedure for counting days. Also increase the days from 5 to 7. By changing "business days" to "days", it will add 2 more days to account for the weekends. Also remove NRS 370.253 and add 370.597 (NRS 370.253 was repealed).

- 3. Information for each public meeting held to discuss the proposed regulation change, as mandated by Section 3 of Executive Order 2023-003, which must include:**

- a. The date of the meeting(s) and the number of persons who attended (not including Department staff or Commissioners):**

Workshop – 4/7/23 (11 people attended)

Hearing – 4/21/23 (12 people attended)

Exhibit 370.6-A

- b. Information for each person who provided public oral or written comment or testimony on the regulation:**
- c.**

There was no public comment, either made orally or in writing for this regulation.

- 4. The estimated impact on any business, person, or agency if the change is to occur, which must include:**
 - a. The adverse and beneficial effects;**
 - b. The positive or negative economic impact; and**
 - c. Cost savings to the state or agency.**

The amendment to this regulation presents no foreseeable or anticipated impact on any business, person, or agency if this change is to occur.

Informational Report – Executive Order 2023-003

Section 1 - Comprehensive Review of Regulations

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

ADMINISTRATIVE PROCEEDINGS: SUSPENSION OR REVOCATION OF LICENSE; REMOVAL
FROM DIRECTORY OF MANUFACTURERS AND BRAND FAMILIES

- 1. The citation of the regulation with clear indication of the proposed modification in blue italics and matters to be omitted in red and bracketed.**

NAC 370.555 Submission and service of motions and responses to motions. ([NRS 370.250](#), ~~[370.253](#)~~, [370.510](#), [370.597](#), [370.675](#))

- All motions, unless made at a hearing, must be:
 - Made in writing; and
 - Served on the opposing party and the hearing officer at least **7** ~~*10 business*~~ days before the date of the hearing.
 - Any response to a motion, other than a motion made at a hearing, must be:
 - Made in writing; and
 - Served on the opposing party and the hearing officer within **5** ~~*7 business*~~ days after receipt of the motion.
- (Added to NAC by Dep't of Taxation by R146-15, eff. 9-9-2016)

- 2. A clear and concise explanation on why such change should occur.**

Amend - NRS 370.597 mandates regulations for hearing process before an Administrative Law Judge. Amend to change "business days" to "days" to conform to the standard language of the Department's regulations and the changes in Nevada Rules of Civil Procedure for counting days. Amend to change motions due 10 days before hearing to 7 days before hearing and response to 5 days before hearing to accommodate change in hearing notice. Also remove NRS 370.253 and add 370.597 (NRS 370.253 was repealed).

- 3. Information for each public meeting held to discuss the proposed regulation change, as mandated by Section 3 of Executive Order 2023-003, which must include:**

- a. The date of the meeting(s) and the number of persons who attended (not including Department staff or Commissioners):**

Exhibit 370.7-A

Workshop – 4/7/23 (11 people attended)

Hearing – 4/21/23 (12 people attended)

- b. Information for each person who provided public oral or written comment or testimony on the regulation:**

There was no public comment, either made orally or in writing for this regulation.

- 4. The estimated impact on any business, person, or agency if the change is to occur, which must include:**
 - a. The adverse and beneficial effects;**
 - b. The positive or negative economic impact; and**
 - c. Cost savings to the state or agency.**

The amendment to this regulation presents no foreseeable or anticipated impact on any business, person, or agency if this change is to occur.

Informational Report – Executive Order 2023-003

Section 1 - Comprehensive Review of Regulations

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

ADMINISTRATIVE PROCEEDINGS: SUSPENSION OR REVOCATION OF LICENSE; REMOVAL FROM DIRECTORY OF MANUFACTURERS AND BRAND FAMILIES

- 1. The citation of the regulation with clear indication of the proposed modification in blue italics and matters to be omitted in red and bracketed.**

NAC 370.580 Order of proceedings; written findings and conclusions; issuance and service of decision; date on which decision becomes final. (NRS 370.250, ~~370.253~~, 370.510, 370.597, 370.675)

1. At a hearing conducted pursuant to [NAC 370.500](#) to [370.595](#), inclusive, *evidence may be received in any manner ordered by the hearing officer but will generally proceed in the following order:*

(a) The Department will present witnesses and evidence and the respondent may cross-examine the witnesses in the order in which they are presented by the Department.

(b) After the Department has completed its presentation of witnesses and evidence, the respondent may present witnesses and evidence and the Department may cross-examine the witnesses in the order in which they are presented by the respondent.

(c) After the respondent has completed its presentation of witnesses and evidence, the Department may call any rebuttal witnesses and the respondent may cross-examine the witnesses.

(d) The hearing officer may question any witness, party, counsel or representative at any time.

2. After the close of the hearing, the hearing officer shall prepare written findings of fact, conclusions of law and his or her decision on the issues presented at the hearing.

3. A hearing officer shall issue his or her decision and serve on all parties of record a copy of the decision and the accompanying findings of fact and conclusions of law within 45 ~~business~~ days after the date on which the hearing concluded.

4. A decision issued by a hearing officer pursuant to this section becomes final **30** ~~20-business~~ days after the date of service of the decision unless a party files a timely notice of appeal pursuant to [NAC 370.585](#).

(Added to NAC by Dep't of Taxation by R146-15, eff. 9-9-2016)

- 2. A clear and concise explanation on why such change should occur.**

Amend - NRS 370.597 mandates regulations for hearing process before an Administrative Law Judge. Amend to change "business days" to "days" to conform to the standard language of the Department's regulations and the changes in Nevada Rules of Civil Procedure for counting days; Amend subsection 1 to add "evidence may be received in any manner ordered by the hearing officer but will generally proceed in the following order." Amend to extend 20-day appeal period to 30-day appeal period to conform with NAC 360.175. Also remove NRS 370.253 and add 370.597 (NRS 370.253 was repealed).

Exhibit 370.8-A

3. Information for each public meeting held to discuss the proposed regulation change, as mandated by Section 3 of Executive Order 2023-003, which must include:

- a. The date of the meeting(s) and the number of persons who attended (not including Department staff or Commissioners):**

Workshop – 4/7/23 (11 people attended)

Hearing – 4/21/23 (12 people attended)

- b. Information for each person who provided public oral or written comment or testimony on the regulation:**

There was no public comment, either made orally or in writing for this regulation.

4. The estimated impact on any business, person, or agency if the change is to occur, which must include:

- a. The adverse and beneficial effects;**
b. The positive or negative economic impact; and
c. Cost savings to the state or agency.

The amendment to this regulation presents no foreseeable or anticipated impact on any business, person, or agency if this change is to occur.

Informational Report – Executive Order 2023-003

Section 1 - Comprehensive Review of Regulations

CHAPTER 370 - TOBACCO: LICENSES AND TAXES; SUPERVISION OF MANUFACTURERS
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ADMINISTRATIVE PROCEEDINGS: SUSPENSION OR REVOCATION OF LICENSE; REMOVAL
FROM DIRECTORY OF MANUFACTURERS AND BRAND FAMILIES

- 1. The citation of the regulation with clear indication of the proposed modification in blue italics and matters to be omitted in red and bracketed.**

NAC 370.585 Filing and service of notice of appeal; rebuttal response by opposing party. (*NRS 370.250, ~~370.253~~, 370.510, 370.597, 370.675*)

1. A party may, within **30** ~~[20-business]~~ days after service of a decision issued by a hearing officer pursuant to *NAC 370.580*, file a notice of appeal with the Commission. *A notice of appeal filed pursuant to this section must be served on all parties and must identify the decision from which the party appeals, the date on which the decision was issued and the basis for the appeal.*

2. Within 30 days after filing ~~[A]~~ a notice of appeal, *the appellant shall file with the Commission an opening brief. The brief must* ~~[filed pursuant to this section must be served on all parties and must]:~~

(a) Identify the decision from which the party appeals, the date on which the decision was issued and the basis for the appeal;

(b) State with particularity each point of law or fact which, in the opinion of the appellant, the hearing officer overlooked or misconstrued;

(c) Identify the parts of the record before the hearing officer that the appellant deems relevant to the appeal; and

(d) State each argument in support of the appeal that the appellant intends to present.

3. An opposing party may, not later than **30** ~~[15-business]~~ days after service of a notice of appeal, file with the Commission a response rebutting only the issues raised in the notice of appeal. Such a response may include identification of the parts of the record before the hearing officer that the opposing party deems relevant to his or her response.

(Added to NAC by Dep't of Taxation by R146-15, eff. 9-9-2016)

- 2. A clear and concise explanation on why such change should occur.**

Amend - NRS 370.597 mandates regulations for hearing process for appeal to Commission and Petition for Judicial Review. Amend to change "business days" to "days" to conform to the standard language of the Department's regulations and the changes in Nevada Rules of Civil Procedure for counting days; Amend to extend 20-day appeal period to 30-day appeal period to conform with NAC 360.175; Amend process for filing notice of appeal and briefs to mirror NAC 360.173 and NAC 360.175. Also remove NRS 370.253 and add 370.597 (NRS 370.253 was repealed).

Exhibit 370.9-A

3. Information for each public meeting held to discuss the proposed regulation change, as mandated by Section 3 of Executive Order 2023-003, which must include:

- a. The date of the meeting(s) and the number of persons who attended (not including Department staff or Commissioners):**

Workshop – 4/7/23 (11 people attended)

Hearing – 4/21/23 (12 people attended)

- b. Information for each person who provided public oral or written comment or testimony on the regulation:**

There was no public comment, either made orally or in writing for this regulation.

4. The estimated impact on any business, person, or agency if the change is to occur, which must include:

- a. The adverse and beneficial effects;**
b. The positive or negative economic impact; and
c. Cost savings to the state or agency.

The amendment to this regulation presents no foreseeable or anticipated impact on any business, person, or agency if this change is to occur.

Informational Report – Executive Order 2023-003

Section 1 - Comprehensive Review of Regulations

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

ADMINISTRATIVE PROCEEDINGS: SUSPENSION OR REVOCATION OF LICENSE; REMOVAL
FROM DIRECTORY OF MANUFACTURERS AND BRAND FAMILIES

- 1. The citation of the regulation with clear indication of the proposed modification in blue italics and matters to be omitted in red and bracketed.**

NAC 370.590 Oral argument on appeal; consideration of certain evidence; issuance of written decision; final decision for purposes of judicial review. (*NRS 370.250*, ~~*370.253*~~, *370.510*, *370.597*, *370.675*)

1. Upon the filing of a response to the notice of appeal pursuant to *NAC 370.585* or the expiration of the time for filing such a response, the Executive Director will schedule oral argument on the appeal at the next meeting of the Commission.

2. Oral argument before the Commission will be limited to **20** ~~**15**~~ minutes for each party. The appellant must present his or her argument first but may reserve time for rebuttal following the presentation of argument by the opposing party. The Commission will consider only evidence which was submitted to the hearing officer and identified in the notice of appeal or response to the notice of appeal.

3. The Commission may affirm, reverse or modify the decision of the hearing officer or remand the case to the hearing officer. The Executive Director shall, on behalf of the Commission, issue a written decision on the appeal.

4. Unless the Commission remands a case to the hearing officer, the decision of the Commission is a final decision in a contested case for the purposes of judicial review.

(Added to NAC by Dep't of Taxation by R146-15, eff. 9-9-2016)

- 2. A clear and concise explanation on why such change should occur.**

Amend - NRS 370.597 mandates regulations for hearing process for appeal to Commission and Petition for Judicial Review. Amend to change 15 minutes of oral argument before the Commission to 20 minutes to conform with NAC 360.175. Also remove NRS 370.253 and add 370.597 (NRS 370.253 was repealed).

- 3. Information for each public meeting held to discuss the proposed regulation change, as mandated by Section 3 of Executive Order 2023-003, which must include:**

- a. The date of the meeting(s) and the number of persons who attended (not including Department staff or Commissioners):**

Exhibit 370.10-A

Workshop – 4/7/23 (11 people attended)

Hearing – 4/21/23 (12 people attended)

b. Information for each person who provided public oral or written comment or testimony on the regulation:

There was no public comment, either made orally or in writing for this regulation.

4. The estimated impact on any business, person, or agency if the change is to occur, which must include:

- a. The adverse and beneficial effects;**
- b. The positive or negative economic impact; and**
- c. Cost savings to the state or agency.**

The amendment to this regulation presents no foreseeable or anticipated impact on any business, person, or agency if this change is to occur.

Informational Report – Executive Order 2023-003

Section 1 - Comprehensive Review of Regulations

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

ADMINISTRATIVE PROCEEDINGS: SUSPENSION OR REVOCATION OF LICENSE; REMOVAL
FROM DIRECTORY OF MANUFACTURERS AND BRAND FAMILIES

- 1. The citation of the regulation with clear indication of the proposed modification in blue italics and matters to be omitted in red and bracketed.**

NAC 370.595 Effective date of suspension or revocation of license; duties of wholesale dealer; continuation of activities until suspension or revocation is effective. ([NRS 370.250](#), ~~[370.253](#)~~, [370.510](#), [370.597](#), [370.675](#)) If a final order issued by a hearing officer or the Commission temporarily suspends or permanently revokes the license of a wholesale dealer:

1. The final order must not become effective and the license of the wholesale dealer must not be suspended or revoked until 20 ~~business~~ days after the date of issuance of the final order.

2. The wholesale dealer shall, within 7 ~~business~~ days after the date on which the final order is issued:

- (a) Notify each retail dealer that is a customer of the wholesale dealer of the revocation or suspension of the license of the wholesale dealer and the date on which the revocation or suspension becomes effective; and

- (b) Notify each manufacturer of tobacco products from whom the wholesale dealer purchases tobacco products of the revocation or suspension of the license of the wholesale dealer and the date on which the revocation or suspension becomes effective.

3. Until the date on which the revocation or suspension of the license is effective, the wholesale dealer may continue to engage in any lawful activity otherwise authorized or permitted pursuant to [chapters 370](#) and [370A](#) of NRS.

(Added to NAC by Dep't of Taxation by R146-15, eff. 9-9-2016)

- 2. A clear and concise explanation on why such change should occur.**

Amend - NRS 370.597 mandates regulations for hearing process and post hearing procedures. Amend to change "business days" to "days" to conform to the standard language of the Department's regulations and the changes in Nevada Rules of Civil Procedure for counting days. Also increase the days from 5 to 7. By changing "business days" to "days", it will add 2 more days to account for the weekends. Also remove NRS 370.253 and add 370.597 (NRS 370.253 was repealed).

Exhibit 370.11-A

3. Information for each public meeting held to discuss the proposed regulation change, as mandated by Section 3 of Executive Order 2023-003, which must include:

- a. The date of the meeting(s) and the number of persons who attended (not including Department staff or Commissioners):**

Workshop – 4/7/23 (11 people attended)

Hearing – 4/21/23 (12 people attended)

- b. Information for each person who provided public oral or written comment or testimony on the regulation:**

There was no public comment, either made orally or in writing for this regulation.

4. The estimated impact on any business, person, or agency if the change is to occur, which must include:

- a. The adverse and beneficial effects;**
b. The positive or negative economic impact; and
c. Cost savings to the state or agency.

The amendment to this regulation presents no foreseeable or anticipated impact on any business, person, or agency if this change is to occur.

Informational Report – Executive Order 2023-003

Section 2 – Regulation for Removal

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

CIGARETTES

1. The citation of the regulation with matters to be omitted in red and bracketed.

~~[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]~~

2. A clear and concise explanation of the need for the elimination of the regulation.

Repeal - In 2019, NRS 370.585 was enacted to impose certain license requirements for cigarette wholesale warehouses. This section of NAC no longer complies with statute.

3. Information for each public meeting held to discuss the proposed regulation elimination, as mandated by Section 3 of Executive Order 2023-003, which must include:

a. The date of the meeting(s) and the number of persons who attended (not including Department staff or Commissioners):

Workshop – 4/7/23 (11 people attended)

Hearing – 4/21/23 (12 people attended)

b. Information for each person who provided public oral or written comment or testimony on the regulation:

There was no public comment, either made orally or in writing for this regulation.

Exhibit 370.1-R

- 4. The estimated impact on any business, person, or agency if the change is to occur, which must include:**
 - a. The adverse and beneficial effects;**
 - b. The positive or negative economic impact; and**
 - c. Cost savings to the state or agency.**

The repeal of this regulation presents no foreseeable or anticipated impact on any business, person, or agency if this change is to occur.

Informational Report – Executive Order 2023-003

Section 2 – Regulation for Removal

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

OTHER PRODUCTS MADE FROM TOBACCO

1. The citation of the regulation with matters to be omitted in red and bracketed.

~~— [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)]~~

2. A clear and concise explanation of the need for the elimination of the regulation.

Repeal - NRS 370.567, enacted in 2019, requires licensing by the Department and includes Other Tobacco Product (“OTP”) wholesale and retail. This section of NAC is outdated.

3. Information for each public meeting held to discuss the proposed regulation elimination, as mandated by Section 3 of Executive Order 2023-003, which must include:
 - a. The date of the meeting(s) and the number of persons who attended (not including Department staff or Commissioners):

Workshop – 4/7/23 (11 people attended)

Hearing – 4/21/23 (12 people attended)

- b. Information for each person who provided public oral or written comment or testimony on the regulation:

There was no public comment, either made orally or in writing for this regulation.

4. The estimated impact on any business, person, or agency if the change is to occur, which must include:

Exhibit 370.2-R

- a. The adverse and beneficial effects;**
- b. The positive or negative economic impact; and**
- c. Cost savings to the state or agency.**

The repeal of this regulation presents no foreseeable or anticipated impact on any business, person, or agency if this change is to occur.

Informational Report – Executive Order 2023-003

Section 2 – Regulation for Removal

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

SALES ON INDIAN RESERVATIONS AND COLONIES

1. The citation of the regulation with matters to be omitted in red and bracketed.

~~[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)]~~

2. A clear and concise explanation of the need for the elimination of the regulation.

Repeal - NRS 370.571 addresses the requirement for the Department to maintain a list of all licensed Tobacco Wholesalers. Since the tribes are not licensed by the Department, we only have ordinances on file and provide that list on our website. The NAC is obsolete because the Department does not license tribes.

3. Information for each public meeting held to discuss the proposed regulation elimination, as mandated by Section 3 of Executive Order 2023-003, which must include:

- a. The date of the meeting(s) and the number of persons who attended (not including Department staff or Commissioners);;**

Workshop – 4/7/23 (11 people attended)

Hearing – 4/21/23 (12 people attended)

- b. Information for each person who provided public oral or written comment or testimony on the regulation:**

Exhibit 370.4-R

There was no public comment, either made orally or in writing for this regulation.

- 4. The estimated impact on any business, person, or agency if the change is to occur, which must include:**
 - a. The adverse and beneficial effects;**
 - b. The positive or negative economic impact; and**
 - c. Cost savings to the state or agency.**

The repeal of this regulation presents no foreseeable or anticipated impact on any business, person, or agency if this change is to occur.

Informational Report – Executive Order 2023-003

Section 2 – Regulation for Removal

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

ADMINISTRATIVE PROCEEDINGS: SUSPENSION OR REVOCATION OF LICENSE; REMOVAL
FROM DIRECTORY OF MANUFACTURERS AND BRAND FAMILIES

1. The citation of the regulation with matters to be omitted in red and bracketed.

~~NAC 370.510 – “Directory” defined. (NRS 370.250, 370.253, 370.510, 370.675) – “Directory” means the directory created pursuant to NRS 370.675.
— (Added to NAC by Dep’t of Taxation by R146-15, eff. 9-9-2016)~~

2. A clear and concise explanation of the need for the elimination of the regulation.

Repeal – This section of NAC is duplicative of the NRS.

3. Information for each public meeting held to discuss the proposed regulation elimination, as mandated by Section 3 of Executive Order 2023-003, which must include:
 - a. The date of the meeting(s) and the number of persons who attended (not including Department staff or Commissioners):

Workshop – 4/7/23 (11 people attended)

Hearing – 4/21/23 (12 people attended)

- b. Information for each person who provided public oral or written comment or testimony on the regulation:

There was no public comment, either made orally or in writing for this regulation.

4. The estimated impact on any business, person, or agency if the change is to occur, which must include:
 - a. The adverse and beneficial effects;

Exhibit 370.5-R

- b. The positive or negative economic impact; and**
- c. Cost savings to the state or agency.**

The repeal of this regulation presents no foreseeable or anticipated impact on any business, person, or agency if this change is to occur.

Informational Report – Executive Order 2023-003

Section 2 – Regulation for Removal

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

ADMINISTRATIVE PROCEEDINGS: SUSPENSION OR REVOCATION OF LICENSE; REMOVAL
FROM DIRECTORY OF MANUFACTURERS AND BRAND FAMILIES

1. The citation of the regulation with matters to be omitted in red and bracketed.

~~[NAC 370.520 “Manufacturer of tobacco products” or “manufacturer” defined. (NRS 370.250, 370.253, 370.510, 370.675) “Manufacturer of tobacco products” or “manufacturer” has the meaning ascribed to the term “manufacturer of tobacco products” in NRS 370A.060. —(Added to NAC by Dep’t of Taxation by R146-15, eff. 9-9-2016)]~~

2. A clear and concise explanation of the need for the elimination of the regulation.

Repeal – This section of NAC is duplicative of the NRS.

3. Information for each public meeting held to discuss the proposed regulation elimination, as mandated by Section 3 of Executive Order 2023-003, which must include:

- a. The date of the meeting(s) and the number of persons who attended (not including Department staff or Commissioners):

Workshop – 4/7/23 (11 people attended)

Hearing – 4/21/23 (12 people attended)

- b. Information for each person who provided public oral or written comment or testimony on the regulation:

There was no public comment, either made orally or in writing for this regulation.

4. The estimated impact on any business, person, or agency if the change is to occur, which must include:

Exhibit 370.6-R

- a. The adverse and beneficial effects;**
- b. The positive or negative economic impact; and**
- c. Cost savings to the state or agency.**

The repeal of this regulation presents no foreseeable or anticipated impact on any business, person, or agency if this change is to occur.