

TITLE 316 NEBRASKA ADMINISTRATIVE CODE, CHAPTER 57
NEBRASKA DEPARTMENT OF REVENUE
Cigarette Tax Regulations

Explanatory Statement

Summary:

These regulation changes enact current statutory requirements, adds definitions, and eliminate redundancies. The detail and scope of the regulations would be dramatically reduced.

Detailed Summary:

Reg-57-001 This alphabetizes the definitions and adds several that were previously omitted.

Reg-57-001.03 This change is due to the enactment of LB 397 (2019).

Reg-57-001.04 The definition of “complete readable” is as established in Nebraska Department of Revenue (DOR) guidance developed with input from the industry.

Reg-57-001.05 In addition to cross-referencing the statutory definition of “cigarette, this regulation also incorporates DOR guidance on what constitutes a cigarette under LB 397 (2019).

Reg-57-001.05B This exception from the statutory definition of cigarette is consistent with DOR guidance published February 22, 2021. The settlement executed with the petitioners challenging the earlier guidance on the issue required DOR to include this in our next regulation proposal.

Reg-57-001.07 The definition of “DOR” has not been included in the prior regulations but simplifies reading of the entire set of regulations.

Reg-57-002.01 Stamping agent is the statutorily correct term. Requirements that are in the statute are deleted.

Reg-57-003.02 There are many forms of payment today, so specific references were omitted.

Reg-57-003.06 The penalty has not previously been in the regulations.

Reg-57-005 The changes to this regulation eliminate redundancies, simplify language, and adopt the correct term, “stamping agent.”

Reg-57-006 The changes to this regulation eliminate redundancies, simplify language, and adopt the correct term, “stamping agent.”

Reg-57-007 The changes to this regulation eliminate redundancies, simplify language, and adopt the correct term, “stamping agent.”

Reg-57-008 The changes to this regulation eliminate redundancies, simplify language, and adopt the correct term, “stamping agent.”

Reg-57-008.02 Electronic filing is statutorily required.

Reg-57-009 (repealed) This repeal removes the distinction between cartage cost and the basic costs of cigarettes. This is necessary because of statutory changes.

Reg-57-010 Many of the changes to this regulation are to increase readability and eliminate legal formalisms. Much of the detail in minimum pricing would be eliminated from this regulation and those following. The only aspects remaining are procedural, meaning how to petition for a lower price.

Reg-57-010.05 (deleted) There is no statutory authority for confidentiality.

Regs-57-011 to 57-018 and 57-020 (repealed) All of these regulations refer to minimum pricing, which would be almost entirely removed from the regulations.

Reg-57-019 Changes to this section are to reflect the federal law on intergovernmental immunity and Neb. Rev. Stat. § 77-2602.05 which limit the exemption to members of the Tribe that is selling the cigarettes. This is also an issue of diligent enforcement of the Non-Participating Manufacturer Adjustment Settlement Agreement.

Reg-57-021 – The regulation is currently Reg-58-005. The current chapter of regulations governing tobacco manufacturers would be repealed entirely by a separate proposal that has already been approved for hearing. This one regulation remains necessary because quarterly payments are allowed, but not specified by Neb. Rev. Stat. § 69-2708(4).