**Section 250.70 NPMs Required to Make Quarterly Installment Payments**

a) Whenever the AGO determines that compliance with the Escrow Act will be promoted by requiring certification and escrow deposits more frequently than on an annual basis, the AGO may require an NPM, on a case-by-case basis, to certify its compliance with the Escrow Act and make its required escrow deposits in quarterly installments during the Liability Year. The notice of the AGO's determination requiring the payment of quarterly installments shall be a final administrative decision reviewable under the Administrative Review Law [735 ILCS 5/Art. III]. Factors which may be considered in making this determination include, but are not limited to, the following:

1) the initial addition of an NPM to the directory of compliant NPMs;

2) a history of the NPM not complying with the Escrow Act;

3) a history of the NPM under-funding its qualified escrow account;

4) a history of the NPM failing to timely pay, or failing to pay entirely, judgments or penalties due under the Escrow Act to a qualified escrow account or to the AGO;

5) credible evidence supporting a concern by the AGO that the NPM may not be financially able to meet its fiscal obligations under the Escrow Act when they become due on April 30 of the following calendar year;

6) a volume of more than 2,000,000 cigarettes sold during a calendar quarter.

b) The notice of the AGO's determination requiring the payment of quarterly installments shall include:

1) the basis for the determination;

2) the date the first quarterly payment is due, such date being a minimum of 30 days after the date of notice;

3) that the NPM may request judicial review of the AGO's determination in the manner set forth in Section 250.100;

4) the requirement that quarterly installment payments shall be made for four quarters where the basis for quarterly installment payments is the initial addition of an NPM to the directory of compliant NPMs; and

5) a copy of the State of Illinois Affidavit of Nonparticipating Manufacturer Regarding Quarterly Escrow Payment.

c) Each NPM required to make quarterly installment payments shall:

1) make its required escrow deposit based upon Illinois sales for the previous quarter;

2) provide proof of deposit for each quarterly installment;

3) file quarterly with the AGO the State of Illinois Affidavit of Nonparticipating Manufacturer Regarding Quarterly Escrow Payment; and

4) file a State of Illinois Affidavit of Nonparticipating Manufacturer Regarding Escrow Reconciliation Payment, make a final reconciliation payment and provide proof of deposit on or before April 15 of the year following the liability year.

d) The information required by subsection (c) shall be filed on or before the last day of the month following the end of the quarter. The filing for:

1) January, February, and March is due on or before April 30.

2) April, May and June is due on or before July 31.

3) July, August and September is due on or before October 31.

4) October, November and December is due on or before January 31 of the following year.

e) The AGO shall notify the NPM of the date it can cease making quarterly installment payments.

f) NPMs not complying with this Section, or filing false or inaccurate information with the AGO, may be deemed to be in violation of the Escrow Enforcement Act and will be dealt with in accordance with Section 250.110. In addition, NPMs not complying with this Section shall be subject to a penalty not to exceed 5% of the amount improperly withheld from escrow per each day of the violation, and in a total amount not to exceed 100% of the original amount improperly withheld from escrow.

(Source: Amended at 31 Ill. Reg. 12718, effective August 24, 2007)