**Section 250.80 Establishment of Directory of Participating Manufacturers and Directory of Compliant NPMs**

a) The AGO shall develop, maintain, and publish a directory of participating manufacturers who have generally performed their financial obligations under the MSA, and a separate directory of compliant NPMs who have established a qualified escrow account and who are otherwise in compliance with Section 15(a)(2) of the Escrow Act and Section 15(a)(2) and (3) of the Escrow Enforcement Act.

b) The directories shall be published on the AGO's website (www.illinoisattorneygeneral.gov) and shall be revised as necessary as new information is received by the AGO.

1) If the AGO intends to remove or not list a TPM from the directory, the AGO shall send a notice of intent to deny the TPM or its agent for service of process. The notice of intent to deny shall include:

A) the factual and legal deficiencies upon which the AGO's intended action rests;

B) the actions that the TPM must undertake to cure the factual or legal deficiencies upon which the intended action is based; and

C) a notification that the TPM shall have 10 calendar days to cure deficiencies and submit documentation or other information of its attempt to cure to the AGO.

2) The AGO may extend the time period for a TPM to cure its deficiencies.

c) If the TPM's deficiencies have been cured, a notice of approval shall be sent to the TPM or its agent for service of process. If the TPM's deficiencies have not been cured, a notice of removal or refusal to list shall be sent to the TPM or its agent for service of process. The notice of approval, removal or refusal to list shall be sent by certified or registered U.S. Mail or by other commercial mail delivery service 10 days prior to the change. The notice of approval, removal or refusal to list shall be a final administrative decision. Any TPM may request judicial review of the final administrative decision in the manner set forth in Section 250.100.

d) If the AGO decides to add or remove a TPM or brand family from the directory, notice shall be provided to distributors. The notice to distributors shall be provided by U.S. Mail, other commercial mail delivery service, electronic mail or facsimile 10 calendar days prior to the change. In addition, notice of the directory change may be published on the AGO's website (www.illinoisattorneygeneral.gov) 10 calendar days prior to the change.

e) The AGO shall not place an NPM on the directory of compliant NPMs unless all outstanding final judgments (including interest thereon) for violations of the Escrow Act and the Escrow Enforcement Act have been fully satisfied for that brand family and NPM, and:

1) the NPM has had sales in one or more Liability Years prior to the date of the directory's publication and it is in full compliance with its escrow obligations under the Escrow Act and the Escrow Enforcement Act and Section 250.70 as to such sales, including the payment of any applicable penalties; or

2) the NPM is a successor to a tobacco product manufacturer that has had sales in one or more Liability Years prior to the date of the directory's publication, and it has deposited funds into a qualified escrow account to fully fund all prior Liability Year obligations for all of its predecessor's brands and paid all the penalties due for all such brands for all prior Liability Years, if the NPM's predecessor has not already done so; or

3) the NPM has had no sales in any prior Liability Years but has established a qualifying escrow account (as evidenced by an approved Escrow Agreement) and is otherwise compliant with the Escrow Act and the Escrow Enforcement Act.

f) Under Section 15(a)(2) of the Escrow Act, each NPM for a particular brand family is jointly and severally liable with every other NPM for that particular brand family for all Liability Year escrow obligations and penalties.

g) In determining compliance for purposes of placing a TPM on the directory of participating manufacturers and the directory of compliant NPMs, the AGO may consider the following factors:

1) the requirements for placement on the directory as set forth in this Part and in the Acts;

2) distributor filings;

3) the TPM's certifications, affidavits, and supporting documents;

4) the lack of completeness of the TPM's certifications, affidavits, and supporting documents;

5) the NPM's escrow agreement;

6) the failure of a TPM who is a PM to generally perform its financial obligations under the MSA, or of the TPM, predecessor of the TPM, or previous TPM of the brand families to make its full MSA payments unless as otherwise provided in MSA Section XI(d);

7) the failure of the NPM, predecessor of the NPM, or previous NPM of the brand families to timely pay or fully fund its qualified escrow account or to timely or entirely pay judgments or penalties due to a qualified escrow account or to the AGO under the Escrow Act or other states' tobacco statutes;

8) whether the TPM is, in fact, the manufacturer of the brands with respect to which the TPM seeks to be listed as compliant;

9) whether acting on its own or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries or another TPM, the TPM's having engaged in business as a distributor (as defined in the Tobacco Products Tax Act of 1995 [35 ILCS 143]) without first having obtained a license to do so from the Department;

10) the TPM's failure to cure the deficiencies identified in a notice of intent to deny under this Part within 10 calendar days after receiving the notice;

11) the TPM's failure to provide additional information as requested by the AGO;

12) information from any other source (e.g., U.S. Department of the Treasury, Department of Revenue, distributors) that pertains to the verification of the accuracy of the information provided by the TPM;

13) whether the TPM is controlled, managed, or operated by a person with a current or prior interest in any other TPM that is not or has not been compliant with the Escrow Act or that is the subject of an injunction for failure to comply with the Escrow Act; and

14) any other facts or circumstances that are relevant to the certification of the TPM.

(Source: Amended at 41 Ill. Reg. 2068, effective February 2, 2017)