**Section 250.90 Release of Escrow Account Money**

a) Funds deposited by a tobacco product manufacturer pursuant to Section 15 of the Escrow Act shall be released from escrow only:

1) to pay a judgment or settlement on any released claim brought against the tobacco product manufacturer by the State or any releasing party located or residing in the State;

2) to the extent a tobacco product manufacturer establishes that the amount it was required to place into escrow was greater than the MSA payments, as determined by Section IX(i) of that Agreement, in which case the excess shall revert back to the tobacco product manufacturer;

3) to the extent the funds were not released under subsection (a)(1) or (2) above in which case the remaining funds shall revert back to the tobacco product manufacturer 25 years after the date on which they were placed into escrow.

b) The release of escrow account funds under subsection (a)(1) above may be effectuated only pursuant to a Court order or a valid, fully executed Settlement Agreement. The order or agreement shall be forwarded to the escrow agent, who shall promptly release the funds to the AGO or the releasing party (as the case may be) in the order in which they were placed into escrow, and only in the amount specified in the order or agreement.

c) The release of escrow account funds under subsection (a)(2) above may be effectuated only upon the presentation to the AGO of sufficient documentary evidence demonstrating that the tobacco product manufacturer did in fact place funds into the escrow account, that it is current on all escrow obligations and penalties for any period for any brand family (including those of any predecessor above TPM), and that it was required to place into escrow amounts greater than it would have paid had it been a participating manufacturer under the MSA. Upon the presentation of such evidence, the AGO and the TPM will by letter direct the escrow agent to promptly release funds from the escrow account to the tobacco product manufacturer in the order in which they were placed into escrow, in the amount specified by the letter of direction.

d) The release of escrow account funds under subsection (a)(3) above may be effectuated only upon the presentation to the AGO of sufficient documentary evidence demonstrating that the tobacco product manufacturer did in fact place funds into the escrow account, that it is current on all escrow obligations and penalties for any period for any brand family (including those of any predecessor TPM), and that the funds for which it is seeking a release were placed in the account more than 25 years earlier and they are not needed to pay any judgment or settlement to the State or a releasing party. Upon the presentation of such evidence, the AGO and the TPM will by letter direct the escrow agent to promptly release funds from the escrow account to the tobacco product manufacturer in the order in which they were placed into escrow, in the amount specified by the letter of direction.

(Source: Added at 28 Ill. Reg. 7904, effective May 28, 2004)