

A motion by Kansas to amend the rules relating to compliance review:

Rule 905. Annual Recertification

- A. **Recertification Requirement.** Pursuant to Section 803 of the Agreement, each member state shall annually recertify to the Governing Board by August 1 of each year that the state is in compliance with the Agreement. A state is in compliance with the Agreement if the effect of the state's laws, rules, regulations, and policies is substantially compliant with each of the requirements set forth in the Agreement.

1. Recertification Documents

a. On or before August 1 of each year, each member state shall submit to the Executive Director either a statement certifying that the state is in compliance with the Agreement as it exists on August first of the year or a statement of noncompliance.

b. With the statement, each member state shall submit:

(1.) The certificate of compliance issued for the recertification period that sets out the state's statutes, rules, regulations, and other authorities adopted to comply with the specific provisions of the Agreement as of August first of the year;

(2.) A list and the effective date of any of the state's statutes, regulations, or written policies to remain or come into compliance that have changed since August first of the prior year;

(3.) Its most current taxability matrix;

(4.) A statement disclosing any known items of noncompliance with a description of the action the state intends to take to remedy the noncompliance; and

(5.) A list of any significant administrative or judicial decisions (regardless of outcome) that impact the state's compliance since August first of the prior year.

2. Posting Documents. Each member state shall post its statement of recertification or its statement of noncompliance and all supporting recertification documents on the state's web site on or before August first of each year. The Executive Director shall post all recertification filings on the Governing Board's web site.

- B. **Review Responsibility.** Pursuant to Article 7, Section 2 of the bylaws, the Compliance Review and Interpretations Committee (CRIC) is responsible for reviewing each state's annual recertification filings, determining any needs for re-assessment and recommending to the Governing Board findings of non-compliance.

C. CRIC Evaluation and Report

1. On or before September 30 of the recertification year, the Executive Director shall:

a. Review all statements and accompanying documents;

b. Conduct a state-by-state review of each state's compliance with the Agreement; and

c. Issue an initial written report to CRIC listing potential compliance issues for each member state or stating there are no compliance issues. The Executive Director shall publish the initial written report on the Governing Board's web site

and CRIC shall hold at least one meeting to discuss the report and schedule dates for states and the public to submit comments.

2. Providing at least thirty days notice, CRIC shall give states and the public the opportunity to submit written comments to CRIC. Such responses and comments shall be delivered to the Executive Director who shall notify the public of their filing and publish those documents on the Governing Board's web site.

3. Providing at least ten days notice, CRIC shall give the states and the public the opportunity to submit written comments to CRIC solely to address any issues previously raised in CRIC's report or to address comments received from the states or the public. Such responses and comments shall be delivered to the Executive Director who shall notify the public of their filing and publish those documents on the Governing Board's web site.

4. On or before November 30 of the recertification year, CRIC shall issue its final report to the Governing Board. Such report shall:

a. Summarize, as practical, the comments received from the member states and the public;

b. Describe how CRIC addressed those comments; and

c. State how each CRIC member voted.

5. If any date provided in this rule falls on a weekend day, federal holiday or a banking holiday in a member state, such date shall be the next day that is not a weekend day, federal holiday or a banking holiday in a member state.

6. The CRIC chair, for due cause shown, may extend the September 30 or November 30 deadlines established in this section.

D. Review Standards

1. **Scope of Review.** The member states' annual recertification of compliance covers all aspects of the Agreement, including any applicable rules and interpretations, and is not limited to changes made in the prior year.

2. Determination of Compliance

a. A member state is presumed to be in compliance. Except as provided in subparagraph b of this paragraph, if documentation is provided to CRIC indicating a state is not in compliance, such state has an affirmative duty to explain how it is in compliance.

b. If an issue of a state's compliance has previously been raised against a state for which it was found in compliance that was the subject of a prior unsuccessful challenge under this paragraph, such state need only respond that it previously was held in compliance on that same issue. CRIC and the Governing Board, however, must take into consideration any documentations that supports such state is not in compliance.

3. Reliance. The determination of a member state being in compliance shall be based only on a review of the state's laws, regulations and written policies; such provisions listed in order of preference and reliance. Legislation shall be relied upon only if it has passed both legislative chambers (or the legislative chamber for a unicameral state) and there is no known threat of a Governor's veto. A regulation shall be relied upon only if it has been fully adopted. A written policy shall be relied upon only if it is publically accessible through the state revenue agency's web site.

B. ~~Compliance Review And Interpretations Committee.~~

~~1. **Responsibility.** Pursuant to Article 7, Section 2 of the by laws, the Compliance Review and Interpretations Committee is responsible for reviewing compliance review reports to determine any needs for re-assessment and recommending findings of compliance and non-compliance to the Governing Board.~~

~~2. **Recertification Documents.**~~

- ~~a. By August 1 of each year, each member state shall submit to the Executive Director a statement certifying that the state is in compliance with the Agreement or submit a statement of noncompliance. The Executive Director shall forward all statements and any accompanying documents to the Chair of the Compliance Review and Interpretations Committee. A member state shall indicate any known items of noncompliance that may occur at a date following its certification submission or action needed to be taken to comply with requirements of the Agreement with future effective dates.~~
- ~~b. With the statement in subsection (a), each member state shall submit a certificate of compliance that sets out the state's statutes, rules, regulations, or other authorities that have been adopted to come into compliance with the specific provisions of the Agreement.~~
- ~~c. Each member state shall post its statement of recertification or its statement of noncompliance and an updated certificate of compliance on the state's web site by August 1 of each year. The updated certificate of compliance shall reflect the state's compliance with the provisions of the Agreement through August 1 of the year of submission. The Executive Director shall post all recertification filings on the Governing Board's web site.~~

~~3. **Evaluation**~~

- ~~a. The Compliance Review and Interpretations Committee and any designees that the chair of the Committee appoints to provide assistance shall review all statements and accompanying documents.~~
- ~~b. The Compliance Review and Interpretations Committee shall submit to a member state any findings of noncompliance based on a review of a certificate of compliance or other documentation submitted with a member state's annual statement of recertification. Such member state shall have 30 days to respond to the findings in writing to the chair of the Compliance Review and Interpretations Committee. No sooner than 31 days after submission of the findings to the member state, the Compliance Review and Interpretations Committee shall determine if further action is warranted.~~
- ~~c. If the Compliance Review and Certification Committee finds that a member state is in compliance with the Agreement, the committee shall report such findings to the Governing Board. If the Compliance Review and Interpretations Committee determines that a member state is not in compliance with the Agreement, the committee shall submit such findings to the Governing Board.~~

E. C. Public Notice. The Executive Director shall provide a copy notice and copies of a statement any statements of noncompliance from the received by a member state and any

findings of noncompliance by the ~~Compliance Review and Interpretations Committee~~ CRIC to and shall solicit comments from the following parties:

1. the authorized representative of each member state;
2. the Chair of the State and Local Advisory ~~Committee~~ Council;
3. the Chair of the Business Advisory Council; and
4. the general public as provided in Rule 806.2.

F. ~~D.~~ Agenda. ~~No sooner than 60 days after the solicitation of comment, the statement~~ If possible, by December 31 of the recertification year any statements of noncompliance from ~~the~~ a member state and any findings of noncompliance by the ~~Compliance Review and Interpretations Committee~~, the issue as to whether the member state is in compliance with the Agreement CRIC shall be placed on the agenda of the Governing Board for either a regular meeting or a special meeting. In addition, upon a motion at that same meeting, the Governing Board shall determine if a state is out of compliance that did not have a finding of noncompliance by CRIC based on documentation reviewed by CRIC or submitted to the Governing Board. If a member state is found to be out of compliance by the Governing Board, the member state shall be subject to sanctions as authorized under Section 809 of the Agreement.

G. ~~E.~~ Appeal. ~~If the subject state~~ any person disagrees with the Governing Board's determination, ~~the subject state~~ that person may invoke the ~~appeals~~ issue resolution process provided for in Section 1002 of the Agreement.

H. ~~F.~~ Publication of the Decision Decisions. Once the decision of the Governing Board becomes final, either because no appeal is filed or the appeal procedures have been exhausted, the decision shall be sent to the subject state and a copy of the decision shall be posted on the Web. The Governing Board's web site shall list the following for each state found not in compliance:

1. The date a state was found not in compliance;
2. The noncompliance issue(s);
3. The sanction(s) imposed with any timeframes; and
4. When known, the date the state will return to compliance.