

Rule 809 – Sanction of Member States

A. Executive Committee to Consider Sanctions

If the Governing Board makes a final determination that a member state is ~~not in~~ out of compliance with ~~the terms~~ a requirement of the Agreement, the Executive Committee shall consider what sanctions should be recommended to the Governing Board pursuant to the procedures set out in this rule.

B. Notice and Comments

~~The Executive Committee Director shall notify the authorized representative of each member state, the Chair of the State and Local Advisory Council, the Chair of the Business Advisory Council and the general public as provided in Rule 806.2(B) of the determination of noncompliance and that sanctions are being considered. Within 30 days of the date the notice provided for in Rule 805 is sent by the Executive Director, the Executive Committee shall provide a public comment period which shall not be shorter than 30 days during which comments regarding the types of sanctions to be considered shall be submitted. All comments received by the Executive Committee shall be posted on the Governing Board website.~~

C. Public Meeting

~~No sooner than 10 days after the close of the public comment period, the Executive Committee shall meet in hold a public meeting, which may be by teleconference pursuant to Rule 807.1(B)(2), convened in accordance with Rule 807 to determine the recommendation regarding sanctions to be made to the Governing Board. If a member of the Executive Committee represents the member state that has been finally determined to be in ~~noncompliance~~ out of compliance, that committee member shall not participate in a committee vote on the recommendation. The meeting shall provide an opportunity for public comments. The subject state shall be afforded an opportunity to be heard by the Committee at such meeting. ~~When a determination is made by the Executive Committee, it shall issue a written recommendation. The recommendation shall provide the Committee's rationale for its recommendation. A copy of the recommendation shall be sent to the subject state and the Governing Board and posted on the Governing Board's website.~~~~

D. Written Recommendation

1. When a determination of appropriate sanction(s) is made by the Executive Committee, it shall issue a written recommendation which. ~~The recommendation shall provide the Committee's rationale for its~~

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recommendation. A copy of the recommendation shall be sent to the subject state and the Governing Board's Executive Director and the recommendation shall be posted on the Governing Board's website.

2. If the Executive Committee has not issued a written recommendation within 180 days after the public meeting, it shall meet again to assess whether it is prepared to issue a written recommendation.

D. E. Possible Recommendation

In arriving at a recommendation for sanction(s) the Executive Committee shall consider ~~the action which resulted in noncompliance,~~ the requirement of the Agreement which the state is out of compliance with, the action which will be required to bring the subject state back into compliance with the Agreement and the length of time which will be required for the subject state to ~~come back into~~ be in compliance with the Agreement. Recommendations which may be made by the Executive Committee include, but are not limited to:

1. Relieving sellers registered under the Agreement which do not have a legal requirement to collect in ~~such~~ the subject state from their agreement to collect tax in ~~such~~ the subject state. Unless otherwise specifically provided by the Governing Board, sellers relieved by the Governing Board from collecting tax for a sanctioned state shall be required to begin collection of tax again on the first day of a calendar month after a minimum 60 days' notice by the Governing Board that the state is ~~back~~ in compliance with the Agreement;
2. Suspension of the subject state's right to vote on amendments to the Agreement;
3. Suspension of the subject state's right to vote to determine if a petitioning state is in compliance with the Agreement;
4. Suspension of the subject state's right to have any delegates serve on the Governing Board or to vote on any matter which may come before the Governing Board;
5. Requiring the subject state to provide compensation to sellers burdened by the subject state's noncompliance with the Agreement; or
6. Expulsion from the Agreement.

E. F. Agenda

~~Actions~~ Sanctions recommended by the Executive Committee shall be placed on the agenda of the Governing Board for the next regular or special meeting ~~at~~ for which there is sufficient time for the required notice to be given.

F. G. Effective ~~d~~ Date of Sanction

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The Governing Board shall determine the effective date of any sanction it imposes. It may provide for a conditional effective date for a sanction which would result in the sanction being imposed only if the subject state failed to come into compliance by a date certain.

G. H. Governing Board Action

At a meeting where a recommendation of the Executive Committee for a sanction is on the agenda, the Governing Board may impose a sanction recommended by the Executive Committee, may impose a different sanction or may defer any action on imposition of a sanction until a date certain.

H. I. Publication of Decision

~~Once~~ When a decision on sanctions to be imposed is made by the Governing Board, the decision shall be sent to the subject state and the Executive Director of the Governing Board and a copy of the decision shall be posted on the subject state's and the Governing Board's websites.