

A motion by Arkansas and Utah to create Rule 809 of the SSTGB Rules relating to the sanction of member states to read as follows:

Rule 809 – Sanction of Member States

A. Executive Committee to Consider Sanctions

If the Governing Board finds a member state is out of compliance with ~~the terms~~ 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. At the discretion of the Executive Committee, consideration of sanctions shall be stayed if a member state files a petition pursuant to Rule 1001 for reconsideration. This discretion extends solely to the issue of non-compliance for which a state has filed the petition. The stay of the consideration of sanctions shall be lifted when the petition has been finally determined and the state has been found out of compliance.

B. Notice and Comments

Within 30 days after the notice provided for in Section 805.1 is sent by the Executive Director, the Executive Committee shall provide a 30-day public comment period during which written comments regarding the types of sanctions the Executive Committee shall consider may 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 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 found by the Governing Board to be 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.

D. Written Recommendation

1. When a determination of the proposed sanction(s) is made by the Executive Committee, it shall issue a written recommendation which shall provide the Committee's rationale for its recommendation. A copy of the recommendation shall be sent to the subject state, the Governing Board delegates of each member state and the Governing Board's Executive Director. The recommendation shall be posted on the Governing Board's website.

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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.

E. Possible Recommendation

In arriving at a recommendation for sanction(s) the Executive Committee shall consider the requirement of the Agreement with which the state is out of compliance, 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 return to 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 the subject state from their agreement to collect tax in 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 no longer out of 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.

F. Agenda

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

G. Effective Date of Sanction

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.

H. Governing Board Action

A motion by Arkansas and Utah to create Rule 809 of the SSTGB Rules relating to the sanction of member states to read as follows:

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.

I. Reconsideration of Sanctions

1. If a member state remains out of compliance with the same requirement of the Agreement from the prior year at the time of the next annual recertification process under section 803 the Executive Committee shall reconsider potential sanctions pursuant to the procedures set out in this rule.
2. If a member state which has been sanctioned believes that it has returned to compliance with the Agreement, it may file a petition pursuant to Rule 1001 for reconsideration. Sanctions which have been imposed remain in effect during the reconsideration process.

J. Publication of Decision

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