



INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION

ANNUAL BUSINESS MEETING MINUTES

September 26, 2007

Disney's Coronado Springs Resort
Orlando, Florida

Call to Order

The meeting was called to order by Chairman W. Emmer (ND) at 8:00 a.m. EDT. Chairman W. Emmer (ND) gave welcoming remarks.

Roll Call

Roll was called by Executive Director H. Hageman. Fifty-three out of fifty-three members were present, thereby constituting a quorum.

1. Alabama	Chris Norman
2. Alaska	Donna White
3. Arizona	Dori Ege
4. Arkansas	David Guntharp
5. California	Marilyn Kalvelage
6. Colorado	Jeaneene Miller
7. Connecticut	Theresa Lantz
8. Delaware	Karl Hines
9. District of Columbia	Paul Quander, Jr.
10. Florida	Bruce Grant
11. Georgia	David Morrison
12. Hawaii	Janice Yamada
13. Idaho	Kevin Kempf
14. Illinois	Michelle Buscher
15. Indiana	Jane Seigel
16. Iowa	Jeanette Bucklew

Approved Sep 10, 2008. B.S.

17. Kansas	Keven Pellant
18. Kentucky	Lelia VanHoose
19. Louisiana	Genie Powers
20. Maine	Wayne Theriault
21. Maryland	Judith Sachwald
22. Massachusetts	Maureen Walsh
23. Michigan	John Rubitschun
24. Minnesota	Ken Merz
25. Mississippi	Lora Cole
26. Missouri	Wanda La Cour
27. Montana	Pam Bunke
28. Nebraska	James McKenzie
29. Nevada	John Allan Gonska
30. New Hampshire	Mike McAlister
31. New Jersey	Peter Barnes
32. New Mexico	Edward Gonzales
33. New York	Rich Bitel
34. North Carolina	Robert Lee Guy
35. North Dakota	Warren Emmer
36. Ohio	Linda Janes
37. Oklahoma	Milton Gilliam
38. Oregon	Scott Taylor
39. Pennsylvania	Benjamin Martinez
40. Puerto Rico	Alexis Bird
41. Rhode Island	Kevin Dunphy
42. South Carolina	Ann Clarke
43. South Dakota	Ed Ligtenberg
44. Tennessee	Deborah Duke
45. Texas	Bryan Collier
46. Utah	Brent Butcher
47. Vermont	Jacqueline Kotkin
48. Virginia	James Camache
49. Virgin Islands	Arline Swan
50. Washington	Doreen Geiger
51. West Virginia	Henry Lowery
52. Wisconsin	William Rankin
53. Wyoming	Les Pozsgi

Executive Director H. Hageman recognized Ex-Officio members:

- Pat Tuthill *Victim's Representative*
- Gerald VandeWalle *Chief Justice of the North Dakota Supreme Court*
- Denton Darrington *Senator of Idaho*

Approval of Agenda

Approved Sep 10, 2008. B.S.

Chairman W. Emmer (ND) gave an overview of the agenda with the proposed changes.

Commissioner A. Clarke (SC) made a motion to approve the agenda. Commissioner E. Ligtenberg (SD) seconded. The agenda was approved with the proposed changes.

Welcome & Overview

Commissioner B. Grant (FL) welcomed participants to Florida on behalf of Charlie Crist, Governor of Florida, James R. McDonough, Secretary of Department of Corrections, and himself.

Chairman W. Emmer (ND) instructed the Commission on the rules and procedures of the meeting, as well as on the Audience Response System (ARS) that would be used during the voting.

Sex Offender Ad Hoc Committee Report

Commissioner R. Guy (NC), Sex Offender Ad Hoc Committee Chair, presented the Committee's Report to the Commission. The presentation recognized the Committee members, goals and accomplishments. The Committee worked closely with the National Institute of Correction, the Center for Sex Offender Management (CSOM) and American Parole and Probation Association (APPA) in developing the Sex Offender Rule Proposal.

Commissioner R. Guy (NC) made a motion to accept the *Sex Offender Ad Hoc Committee Report*. Commissioner D. Ege (AZ) seconded. The report was adopted.

Rules Committee Report

Commissioner W. Rankin (WI), Rules Committee Chair, presented the Committee's Report to the Commission. He provided an overview of the Committee goals and accomplishments. The Committee took into consideration the rules referred by the Commission at the annual meeting in 2006; issues identified in ICAOS dispute resolutions and advisory opinions; rules that were proposed by the regions and standing committees; as well as proposals that were originated by the Rules Committee.

Rule 1.101 Definitions

Motion to accept the proposed definition of "sex offender" made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of forty (40) to thirteen (13).

Rule 1.101 Definitions

"Sex offender" means an adult placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling

authorities, corrections, or other criminal justice agencies, and who is required to register as a sex offender either in the sending or receiving state and who is required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

PASSED: effective date January 1, 2008

Rule 3.101-3

Motion to accept the proposed Rule 3.101-3 made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of thirty-one (31) to twenty-two (22).

The Commission had discussion concerning this matter.

Rule 3.101-3 Transfer of supervision of sex offenders

(a) Eligibility for Transfer At the discretion of the sending state a sex offender shall be eligible for transfer to a receiving state under the Compact rules. A sex offender shall not be allowed to leave the sending state until the sending state's request for transfer of supervision has been approved, or reporting instructions have been issued, by the receiving state. In addition to the other provisions of Chapter 3 of these rules, the following criteria will apply.

(b) Application for Transfer In addition to the information required in an application for transfer pursuant to Rule 3.107, in an application for transfer of supervision of a sex offender the sending state shall provide all information, if available, to assist the receiving state in supervising the offender:

(1) Assessment information, including sex offender specific assessments;

(2) Social History;

(3) Information relevant to the sex offender's criminal sexual behavior;

(4) Law enforcement report that provides specific details of sex offense;

(5) Victim Information;

- i. the name, sex, age and relationship to the offender;
- ii. the statement of the victim or victim's representative;

Approved Sep 10, 2008. B.S.

(6) The sending state's current or recommended supervision and treatment plan.

(c) Reporting Instructions for sex offenders living in the receiving state at the time of sentencing Rule 3.103 applies to the transfer of sex offenders, except for the following:

(1) The receiving state shall have five business days to review the proposed residence to ensure compliance with local policies or laws prior to issuing reporting instructions. If the proposed residence is invalid due to existing state law or policy, the receiving state may deny reporting instructions.

(2) No travel permit shall be granted by the sending state until reporting instructions are issued by the receiving state.

PASSED: effective date January 1, 2008

Rule 2.104 Forms

Motion to accept the proposed amendment to Rule 2.104 made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of fifty three (53) to zero (0).

Rule 2.104 Forms

(a) States shall use the forms or electronic information system authorized by the commission for all communication regarding offenders between or among states.

(b) The sending state shall retain the original forms containing the offender's signature until the termination of the offender's term of compact supervision.

PASSED: effective date January 1, 2008

Rule 2.109

Motion to bifurcate the proposed amendments to Rule 2.109 made by Commissioner J. Seigel (IN), seconded by Commissioner M. Buscher (IL). Motion carried.

Rule 2.109 (b)

Approved Sep 10, 2008. B.S.

Motion to accept the proposed amendment to Rule 2.109 (b) made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of thirty-two (32) to twenty-one (21).

Rule 2.109 (k)

Motion to accept the proposed amendment to Rule 2.109 (k) made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of fifty-three (53) to zero (0).

The Commission had discussion concerning these matters.

Rule 2.109 Adoption of rules; amendment

Proposed new rules or amendments to the rules shall be adopted by majority vote of the members of the Interstate Commission in the following manner.

(a) Proposed new rules and amendments to existing rules shall be submitted to the Interstate Commission office for referral to the Rules Committee in the following manner:

(1) Any Commissioner may submit a proposed rule or rule amendment for referral to the Rules Committee during the annual Commission meeting. This proposal would be made in the form of a motion and would have to be approved by a majority vote of a quorum of the Commission members present at the meeting.

(2) Standing ICAOS Committees may propose rules or rule amendments by a majority vote of that committee.

(3) ICAOS Regions may propose rules or rule amendments by a majority vote of members of that region.

(b) The Rules Committee shall prepare a draft of all proposed rules and provide the draft to all Commissioners for review and comments. All written comments received by the Rules Committee on proposed rules shall be posted on the Commission's website upon receipt. Based on the comments made by the Commissioners the Rules Committee shall prepare a final draft of the proposed rule(s) or amendments for consideration by the Commission not later than the next annual meeting **falling in an odd-numbered year.**

- (c) Prior to the Commission voting on any proposed rule or amendment, the text of the proposed rule or amendment shall be published by the Rules Committee not later than 30 days prior to the meeting at which vote on the rule is scheduled, on the official web site of the Interstate Commission and in any other official publication that may be designated by the Interstate Commission for the publication of its rules. In addition to the text of the proposed rule or amendment, the reason for the proposed rule shall be provided.
- (d) Each proposed rule or amendment shall state—
 - (1) The place, time, and date of the scheduled public hearing;
 - (2) The manner in which interested persons may submit notice to the Interstate Commission of their intention to attend the public hearing and any written comments; and
 - (3) The name, position, physical and electronic mail address, telephone, and telefax number of the person to whom interested persons may respond with notice of their attendance and written comments.
- (e) Every public hearing shall be conducted in a manner guaranteeing each person who wishes to comment a fair and reasonable opportunity to comment. No transcript of the public hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall pay for the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Interstate Commission from making a transcript or recording of the public hearing if it so chooses.
- (f) Nothing in this section shall be construed as requiring a separate public hearing on each rule. Rules may be grouped for the convenience of the Interstate Commission at public hearings required by this section.
- (g) Following the scheduled public hearing date, the Interstate Commission shall consider all written and oral comments received.
- (h) The Interstate Commission shall, by majority vote of the commissioners, take final action on the proposed rule or amendment by a vote of yes/no. The Commission shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

Approved Sep 10, 2008. B.S.

- (i) Not later than sixty days after a rule is adopted, any interested person may file a petition for judicial review of the rule in the United States District Court of the District of Columbia or in the federal district court where the Interstate Commission's principal office is located. If the court finds that the Interstate Commission's action is not supported by substantial evidence, as defined in the federal Administrative Procedures Act, in the rulemaking record, the court shall hold the rule unlawful and set it aside. In the event that a petition for judicial review of a rule is filed against the Interstate Commission by a state, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.
- (j) Upon determination that an emergency exists, the Interstate Commission may promulgate an emergency rule that shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. An emergency rule is one that must be made effective immediately in order to--
- (1) Meet an imminent threat to public health, safety, or welfare;
 - (2) Prevent a loss of federal or state funds;
 - (3) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
 - (4) Protect human health and the environment.
- (k) The Chair of the Rules Committee may direct revisions to a rule or amendment adopted by the commission, for the purpose of correcting typographical errors, errors in format or grammatical errors. Public notice of any revision shall be posted on the official web site of the Interstate Commission and in any other official publication that may be designated by the Interstate Commission for the publication of its rules. For a period of 30 days after posting, the revision is subject to challenge by any commissioner. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Executive Director of the Commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without approval of the commission.

PASSED: effective date January 1, 2008

Rule 3.101 (a)

Motion to accept the proposed amendment to Rule 3.101 (a) made by Commissioner W. Rankin (WI), seconded by Commissioner B. Martinez (PA). Motion carried by vote of forty-nine (49) to three (3).

Rule 3.101 Mandatory transfer of supervision

At the discretion of the sending state, an offender shall be eligible for transfer of supervision to a receiving state under the compact, and the receiving state shall accept transfer, if the offender:

- (a) has more than 90 days or an indefinite period of supervision remaining at the time the sending state transmits the transfer request; and
- (b) has a valid plan of supervision; and
- (c) is in substantial compliance with the terms of supervision in the sending state; and
- (d) is a resident of the receiving state; or
- (e) (1) has resident family in the receiving state who have indicated a willingness and ability to assist as specified in the plan of supervision; and
(2) can obtain employment in the receiving state or has a means of support.

PASSED: effective date January 1, 2008

Rule 3.101-1

Motion to accept the proposed amendment to Rule 3.101-1 made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of fifty-one (51) to one (1).

Rule 3.101-1 Mandatory Transfers of Military, Families of Military, and Family Members Employed;

- (a) *Transfer of military members-* An offender who is a member of the military and has been deployed by the military to another state, shall

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be immediately eligible for reporting instructions and transfer of supervision. The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.

- (b) *Transfer of offenders who live with family who are members of the military-* An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and (e)(2) and who lives with a family member who has been deployed to another state, shall be immediately eligible for reporting instructions and transfer of supervision, provided that the offender will live with the military member in the receiving state. The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.
- (c) *Employment transfer of family member to another state-* An offender who meets the criteria specified in Rules 3.101(a), (b), & (c) and (e) (2), and whose family member, with whom he or she resides, is transferred to another state by their full-time employer, shall be immediately eligible for reporting instructions and transfer of supervision, provided that the offender will live with the family member in the receiving state. The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.

PASSED: effective date January 1, 2008

Rule 3.102

Motion to accept the proposed amendment to Rule 3.102 made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of fifty-two (52) to one (1).

Rule 3.102 Submission of transfer request to a receiving state

- (a) Subject to the exceptions in Rule 3.103 ~~(b)~~ and 3.106, a sending state seeking to transfer supervision of an offender to another state shall submit a completed transfer request with all required information to the receiving state prior to allowing the offender to leave the sending state.
- (b) Subject to the exceptions in Rule 3.103 ~~(b)~~ and 3.106, the sending state shall not allow the offender to travel to the receiving state until the receiving state has replied to the transfer request. shall be given the opportunity to investigate the proposed plan of supervision prior to allowing the offender to leave the sending state.

PASSED: effective date January 1, 2008

Rule 3.103

Motion to accept the proposed amendment to Rule 3.103 made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of forty-two (42) to eleven (11).

The Commission had discussion concerning this matter.

Rule 3.103 Reporting Instructions; ~~Probation Exception to Rule 2.110~~ Offender Living in the Receiving State at the Time of Sentencing

- (a)(1) A reporting instructions request for an offender who was living in the receiving state at the time of sentencing shall be submitted by the sending state within seven calendar days of the sentencing date, or release from incarceration to probation supervision. The sending state may grant a seven-day travel permit to an offender who was living in the receiving state at the time of sentencing. Prior to granting a travel permit to an offender, the sending state shall verify that the offender is living in the receiving state.
- (2) The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.
- (3) The sending state shall ensure that the offender signs all forms requiring the offender's signature under Rule 3.107 prior to granting a travel permit to the offender. ~~Signed forms shall be maintained in the sending state until termination of compact supervision.~~ Upon request from the receiving state the sending state shall transmit all signed forms within 5 business days.
- (4) The sending state shall transmit a departure notice to the receiving state per Rule 4.105.
- (5) This ~~exception section~~ is applicable to offenders incarcerated for 6 months or less and released to probation supervision.
- (b) The sending state retains supervisory responsibility until the offender's arrival in the receiving state.
- (c) A receiving state shall assume responsibility for supervision of an offender who is granted reporting instructions upon the offender's arrival in the receiving state. The receiving state shall submit an arrival notice to the sending state per Rule 4.105.

Approved Sep 10, 2008. B.S.

- (d) A sending state shall transmit a completed transfer request for an offender granted reporting instructions no later than 15 calendar days following the granting to the offender of the reporting instructions.
- (e)(1) If the receiving state rejects the transfer request for an offender granted reporting instructions, or if the sending state fails to send a completed transfer request by the 15th calendar day following the granting of reporting instructions, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request, direct the offender to return to the sending state within 30 15 calendar days of receiving notice of rejection or failure to send a transfer request. immediately and the supervision responsibility shall revert to the sending state. The receiving state retains authority to supervise the offender until the offender's directed departure date from the receiving state or issuance of the sending state's warrant.
- (2) If the offender does not return to the sending state, as ordered, the sending state shall initiate the retaking of the offender by issuing a warrant that is effective in all compact member states without limitation as to specific geographic area, no later than 10 calendar days following the offender's failure to appear in the sending state.

PASSED: effective date January 1, 2008

Rule 3.105-1

Motion to accept the proposed amendment to Rule 3.105-1 made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion failed by vote six (6) to forty-seven (47).

The Commission had discussion concerning this matter.

Rule 3.105-1 Pre-Dispositional Transfer Requests

- (a) A sending state may request the transfer for a convicted offender awaiting a pre-sentence report and/or final sentencing disposition 120 calendar days prior to final sentencing in accordance with Rules 3.101, 3.101-1 and 3.103.
- (b) A sending state shall immediately notify a receiving state of the offender's final disposition.

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- (c) A receiving state may notify the sending state that it is withdrawing its acceptance or discontinuing its investigation if the final disposition results in "ineligibility" for compact services or incarceration for greater than 120 calendar days.
- (d) Following withdrawal or discontinuance of the receiving state's acceptance or investigation, a sending state shall direct the offender to return to the sending state and it may resubmit a request for transfer pursuant to Rule 3.103.

FAILED

Rule 3.106 (a)

Motion to accept the proposed amendments to Rule 3.106 (a) made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of forty-six (46) to six (6).

Rule 3.106 (d)

Motion to accept the proposed amendments to Rule 3.106 (d) made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of forty-three (43) to nine (9).

The Commission had discussion concerning these matters.

Rule 3.106 Request for expedited reporting instructions

- (a)(1) A sending state may request that a receiving state agree to expedited reporting instructions for an offender if the sending state believes that emergency circumstances exist and the receiving state agrees with that determination. If the receiving state does not agree with that determination, the offender shall not proceed to the receiving state until an acceptance is received under Rule 3.104-1.
- (2) (A) A receiving state that agrees to expedited reporting instructions for an offender shall immediately issue reporting instructions for the offender, and A receiving state shall provide a response to a request for expedited reporting instructions to the sending state no later than two business days following receipt of such a request. The sending state shall transmit a departure notice to the receiving state upon the offender's departure.
- (B) The sending state shall ensure that the offender signs all forms requiring the offender's signature under Rule 3.107 prior to granting reporting instructions to the offender. Signed forms

Approved Sep 10, 2008. B.S.

~~shall be maintained in the sending state until termination of compact supervision.~~ Upon request from the receiving state the sending state shall transmit all signed forms within 5 business days.

- (b) A receiving state shall assume responsibility for supervision of an offender who is granted reporting instructions during the investigation of the offender's plan of supervision upon the offender's arrival in the receiving state. The receiving state shall submit an arrival notice to the sending state per Rule 4.105.
- (c) A sending state shall transmit a completed transfer request for an offender granted reporting instructions no later than the seventh calendar day following the granting to the offender of the reporting instructions.
- (d)(1) If the receiving state rejects the transfer request for an offender granted reporting instructions, or if the sending state fails to send a completed transfer request by the seventh calendar day following the granting of reporting instructions, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request, direct the offender to return to the sending state within 15 calendar days of receiving notice of rejection or failure to send a transfer request. The receiving state retains authority to supervise the offender until the offender's directed departure date from the receiving state or issuance of the sending state's warrant. immediately and the supervision responsibility shall revert to the sending state.
- (2) If the offender does not return to the sending state as ordered, the sending state shall initiate the retaking of the offender by issuing a warrant that is effective in all ~~compact member~~ states without limitation as to specific geographic area, no later than 10 calendar days following the offender's failure to appear in the sending state.

PASSED: effective date January 1, 2008

Rule 3.107

Motion to accept the proposed amendments to Rule 3.107 made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of forty-five (45) to seven (7).

The Commission had discussion concerning this matter.

Rule 3.107 Application for transfer of supervision:

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An application for transfer of supervision of an offender shall contain—

- (a) offender's full name and any aliases by which the offender is known;
- (b) indication of whether the offender seeks transfer to the receiving state based on residency in the receiving state, family residing in the receiving state, or consent of the receiving state;
- (c) name, address, and telephone number of family in the receiving state if the offender bases the transfer request on family's residency in the receiving state;
- (d) offender's proposed residence in the receiving state;
- (e) offender's current or prospective employer in the receiving state;
- (f) offender's criminal justice identification number in the sending state;
- (g) offender's date of birth;
- (h) offender's social security number, if known;
- (i) county of conviction or imposition of supervision;
- (j) indication of the type of criminal justice supervision to which the offender has been sentenced;
- (k) instant offense in sufficient detail to describe the type and severity of offense and whether the charge has been reduced at the time of imposition of sentence;
- (l) offender's criminal history;
- (m) notice, if applicable, indicating that the supervision of the offender is a victim-sensitive matter;
- (n) date supervision is to begin, if known;
- (o) date supervision is to terminate, if known;
- (p) name and title of supervising officer;

(q) copy of the original signed “Offender Application for Interstate Compact Transfer” form, which shall include “Agreement to Return on Demand of the sending state” and “Waiver of Extradition”;

~~(r)~~ signed “Consent to Random Drug or Alcohol Testing and to Searches Based on Reasonable Suspicion” form;

~~(s)~~ signed “Authorization for Release of Medical and Psychological Information” form;

~~(r)(t)~~ photograph of offender;

~~(s)(u)~~ conditions of supervision;

~~(t)(v)~~ any orders restricting the offender’s contact with victims or any other person;

~~(u)(w)~~ any known orders protecting the offender from contact with any other person;

~~(v)(x)~~ information as to whether the offender is subject to sex offender registry requirements in the sending state along with supportive documentation;

~~(w)(y)~~ judgment and commitment documents;

~~(x)(z)~~ pre-sentence investigation report, if available;

~~(y)(aa)~~ supervision history, if available;

~~(z)(bb)~~ information relating to any court-ordered financial obligations, including but not limited to, fines, court costs, restitution, and family support; the balance that is owed by the offender on each; and the address of the office to which payment must be made.

~~(aa)(ee)~~ medical information, if available; and

~~(bb)(dd)~~ psychological evaluation, if available.

PASSED: effective date January 1, 2008

Rule 4.104

Approved Sep 10, 2008. B.S.

Motion to accept the proposed amendments to Rule 4.104 made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of thirty (30) to twenty-three (23).

The Commission had discussion concerning this matter.

Rule 4.104 Offender registration or DNA testing in receiving or sending state.

A receiving state shall require that an offender transferred under the interstate compact comply with any offender registration and DNA testing requirements in accordance with the laws or policies of the receiving state and shall assist the sending state to ensure DNA testing requirements and offender registration requirements of a sending state are fulfilled.

PASSED: effective date January 1, 2008

Rule 4.109 (b)(9)

Motion to accept the proposed amendment to Rule 4.109 (b)(9) made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of fifty-one (51) to zero (0).

Rule 4.109 (b)(10)

Motion to accept the proposed amendment to Rule 4.109 (b)(10) made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of thirty-four (34) to nineteen (19).

Rule 4.109 (c)(3)

Motion to accept the proposed amendment to Rule 4.109 (c)(3) made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of forty-seven (47) to six (6).

Rule 4.109 (c)(4)

Motion to accept the proposed amendment to Rule 4.109 (c)(4) made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of fifty-two (52) to one (1).

The Commission had discussion concerning these matters.

Rule 4.109 Violation reports

- (a) A receiving state shall notify a sending state of significant violations of conditions of supervision by an offender within 30 calendar days of discovery of the violation.
- (b) A violation report shall contain—
- (1) offender's name and location;
 - (2) offender's state-issued identifying numbers;
 - (3) date of the offense or infraction that forms the basis of the violation;
 - (4) description of the offense or infraction;
 - (5) status and disposition, if any, of offense or infraction;
 - (6) dates and descriptions of any previous violations;
 - (7) receiving state's recommendation of actions sending state may take;
 - (8) name and title of the officer making the report; and
 - (9) if the offender has absconded, the offender's last known address and telephone number, name and address of the offender's employer, and the date of the offender's last personal contact with the supervising officer and details regarding how the supervising officer determined the offender to be an absconder.
 - (10) supporting documentation regarding the violation including but not limited to police reports, toxicology reports, and preliminary findings.
- (c)(1) The sending state shall respond to a report of a violation made by the receiving state no later than ten business days following receipt by the sending state. Receipt of a violation report shall be presumed to have occurred by the fifth business day following its transmission by the receiving state;

(2) The response by the sending state shall include action to be taken by the sending state and the date by which that action will begin and its estimated completion date.

(3) A sending state shall, upon receipt of an absconder violation report and case closure, issue a warrant for the offender that is effective in all states without limit as to specific geographic area.

(4) If an offender who has absconded is apprehended on a sending state's warrant within the jurisdiction of the receiving state that issued the violation report and case closure, the receiving state shall, upon request by the sending state, conduct a probable cause hearing as provided in Rule 5.108 (d) and (e) unless waived as provided in Rule 5.108 (b).

PASSED: effective date January 1, 2008

Rule 4.110

Motion to accept the proposed amendment to Rule 4.110 made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of fifty (50) to one (1).

Rule 4.110 Transfer to a subsequent receiving state

- (a) At the request of an offender for transfer to a subsequent receiving state, and with the approval of the sending state, the sending state shall prepare and transmit a request for transfer to the subsequent state in the same manner as an initial request for transfer is made.
- (b) The receiving state shall assist the sending state in acquiring the offender's signature on the "Application for Interstate Compact Transfer," ~~the "Agreement to Return on Demand of the sending state"~~ and the ~~"Consent to Random Drug Testing and to Searches Based on Reasonable Suspicion"~~ forms, and any other forms that may be required under Rule 3.107, and shall transmit these forms to the sending state.

Approved Sep 10, 2008. B.S.

- (c) The receiving state shall submit a statement to the sending state summarizing the offender's progress under supervision.
- (d) The receiving state shall issue a travel permit to the offender when the sending state informs the receiving state that the offender's transfer to the subsequent receiving state has been approved.
- (e) Notification of offender's departure and arrival shall be made as required under Rule 4.105.
- (f) Acceptance of the offender's transfer of supervision by a subsequent state and issuance of reporting instructions to the offender terminate the receiving state's supervisory obligations for the offender.

PASSED: effective date January 1, 2008

Rule 4.111 (a) Return to the sending state

Motion to accept the proposed amendment to Rule 4.111 (a) made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of forty-nine (49) to one (1).

Rule 4.111 (b, c) Return to the sending state

Motion to accept the proposed amendment to Rule 4.111 (b,c) made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of forty-six (46) to three (3).

The Commission had discussion concerning these matters.

Rule 4.111 Return to the sending state

- (a) Upon an offender's request to return to the sending state, the receiving state shall request reporting instructions, unless the offender is under active criminal investigation or is charged with a subsequent criminal offense in the receiving state. **The offender shall remain in the receiving state until receipt of reporting instructions.**
- (b) **Except as provided in subsection (c),** the sending state shall grant the request and provide reporting instructions no later than two business days following receipt of the request for reporting instructions from the receiving state.
- (c) **In a victim sensitive case, the sending state shall not provide reporting instructions until the provisions of Rule 3.108-1 have been followed.**

Approved Sep 10, 2008. B.S.

(d) A receiving state shall notify the sending state as required in Rule 4.105 (a)

PASSED: effective date January 1, 2008

Rule 4.112

Motion to accept the proposed amendments to Rule 4.112 made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of fifty-one (51) to zero (0).

Rule 4.112 Closing of supervision by the receiving state

(a) The receiving state may close its supervision of an offender and cease supervision upon—

(1) The date of discharge indicated for the offender at the time of application for supervision unless informed of an earlier or later date by the sending state;

(2) Notification to the sending state of the absconding of the offender from supervision in the receiving state;

(3) ~~(A)~~ Notification to the sending state that the offender has been sentenced to incarceration for 180 days or longer, including judgment and sentencing documents and information about the offender's location;

~~of the sentencing of the offender to incarceration for 180 days or longer and receipt from the sending state of a warrant and detainer or other acknowledgement by the sending state of responsibility for the offender within 90 days of the notification. If the sending state fails to provide the warrant and detainer or other acknowledgement within 90 days of notification, the receiving state may close its supervision of the offender.~~

~~(B) After 90 days the sending state shall be responsible for the offender.~~

(4) Notification of death; or

(5) Return to sending state.

(b) A receiving state shall not terminate its supervision of an offender while the sending state is in the process of retaking the offender under Rule 5.101.

(c) At the time a receiving state closes supervision, a case closure notice shall be provided to the sending state which shall include last known address and employment.

PASSED: effective date January 1, 2008

Rule 5.101

Motion to accept the proposed amendment to Rule 5.101 made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of forty-eight (48) to four (4).

Rule 5.101 Retaking by the Sending State

- (a) Except as required in Rules 5.102 and 5.103, at its sole discretion, a sending state may retake an offender, unless the offender has been charged with a subsequent criminal offense in the receiving state.
- (b) If the offender has been charged with a subsequent criminal offense in the receiving state, the offender shall not be retaken without the consent of the receiving state, or until criminal charges have been dismissed, sentence has been satisfied, or the offender has been released to supervision for the subsequent offense.

PASSED: effective date January 1, 2008

Rule 5.102 and Rule 5.103

Motion to accept the proposed amendments to Rule 5.102 and Rule 5.103 made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of thirty-four (34) to nineteen (19).

Rule 5.102 Mandatory retaking for a new felony conviction.

Upon a request from the receiving state, a sending state shall retake or order the return of an offender from the receiving state or a subsequent receiving state upon the offender's conviction for a new felony offense and —

Approved Sep 10, 2008. B.S.

- (a) completion of a term of incarceration for that conviction; or
- (b) placement under supervision for that felony offense.

If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant that is effective in all states, without limitation as to specific geographic area, no later than 10 calendar days following the offender's failure to appear in the sending state.

Rule 5.103 Mandatory retaking for violations of conditions of supervision

- (a) Upon a request by the receiving state and a showing that the offender has committed three or more significant violations arising from separate incidents that establish a pattern of non-compliance of the conditions of supervision, a sending state shall retake or order the return of an offender from the receiving state or a subsequent receiving state .

(b) If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant that is effective in all states, without limitation as to specific geographic area no later than 10 calendar days following the offender's failure to appear in the sending state.

PASSED: effective date January 1, 2008

Rule 5.108 (a)

Motion to accept the proposed amendment to Rule 5.108 (a) made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of forty-eight (48) to four (4).

Rule 5.108 (e)

Motion to accept the proposed amendment to Rule 5.108 (e) made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of thirty-two (32) to nineteen (19).

Rule 5.108 (f)

Motion to accept the proposed amendment to Rule 5.108 (f) made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of forty-two (42) to ten (10).

Rule 5.108 Probable cause hearing in receiving state

Approved Sep 10, 2008. B.S.

- (a) An offender subject to retaking for violation of conditions of supervision that may result in a revocation shall be afforded the opportunity for a probable cause hearing before a neutral and detached hearing officer in or reasonably near the receiving state place where the alleged violation occurred consistent with due process requirements.
- (b) No waiver of a probable cause hearing shall be accepted unless accompanied by an admission by the offender to one or more significant violations of the terms or conditions of supervision.
- (c) A copy of a judgment of conviction regarding the conviction of a new felony offense by the offender shall be deemed conclusive proof that an offender may be retaken by a sending state without the need for further proceedings.
- (d) The offender shall be entitled to the following rights at the probable cause hearing:
- (1) Written notice of the alleged violation(s);
 - (2) Disclosure of non-privileged or non-confidential evidence regarding the alleged violation(s);
 - (3) The opportunity to be heard in person and to present witnesses and documentary evidence relevant to the alleged violation(s);
 - (4) The opportunity to confront and cross-examine adverse witnesses, unless the hearing officer determines that a risk of harm to a witness exists.
- (e) The receiving state shall prepare and submit to the sending state a written report within 30 calendar 10 business days of the hearing that identifies the time, date and location of the hearing; lists the parties present at the hearing; and includes a clear and concise summary of the testimony taken and the evidence relied upon in rendering the decision. Any evidence or record generated during a probable cause hearing shall be forwarded to the sending state.
- (f) If the hearing officer determines that there is probable cause to believe that the offender has committed the alleged violations of conditions of supervision, the receiving state shall hold the offender in custody, and the sending state shall, within 15 business days of receipt of the hearing officer's report, notify the receiving state of the decision to retake or other action to be taken. within 30 calendar days of receipt of the hearing officer's report and determination.
- (g) If probable cause is not established, the receiving state shall:
- (1) Continue supervision if the offender is not in custody

- (2) Notify the sending state to vacate the warrant, and continue supervision upon release if the offender is in custody on the sending state's warrant.
- (3) Vacate the receiving state's warrant and release the offender back to supervision within 24 hours of the hearing if the offender is in custody.

PASSED: effective date January 1, 2008

Rule 5.111

Motion to accept the proposed amendment to Rule 5.111 made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion failed by vote of twenty-five (25) to twenty-seven (27).

Rule 5.111 Denial of bail to certain offenders

An offender against whom retaking procedures have been instituted by a sending **or receiving** state shall not be admitted to bail or other release conditions in any state.

FAILED

Rule 5.111

Motion to accept the proposed amendment to Rule 5.111 made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion carried by vote of fifty (50) to three (3).

The Commission had discussion concerning this matter.

*Rule 5.111 Denial of bail **or other release conditions** to certain offenders*

An offender against whom retaking procedures have been instituted by a sending or receiving state shall not be admitted to bail or other release conditions in any state.

PASSED: effective date January 1, 2008

Rule 5.112

Motion to accept the proposed Rule 5.112 made by Commissioner W. Rankin (WI), seconded by Commissioner D. Ege (AZ). Motion failed by vote of seventeen (17) to thirty-six (36).

The Commission had discussion concerning these matters.

Rule 5.112 Retaking an offender accepted under Rule 3.101-2

(a) Upon a request by a receiving state, a sending state shall retake or order the return of an offender from the receiving state if:

(1) acceptance was based upon Rule 3.101-2 (Discretionary transfer of supervision); and

(2) the receiving state added to its acceptance a special condition requiring the sending state to retake or order the return of the offender if specific criteria, which were the basis for acceptance, no longer existed; and

(3) the special condition added by the receiving state relates directly to the sole reason the sending state requested the transfer; and

(4) the receiving state confirms to the sending state that the criteria upon which the acceptance was made no longer exist.

(b) If the offender does not return to the sending state as ordered, the sending state shall initiate the retaking of the offender by issuing a warrant that is effective in all states without limitation as to specific geographic area, no later than 10 calendar days following the offender's failure to appear in the sending state.

FAILED

Rule 6.101

Motion to accept the proposed amendment to Rule 6.101 made by Commissioner W. Rankin (WI), seconded by Commissioner W. Theriault (ME). Motion failed by vote of seventeen (17) to thirty-six (36).

Approved Sep 10, 2008. B.S.

The Commission had discussion concerning these matters.

Rule 6.101 Informal communication to resolve disputes or controversies and obtain interpretation of the rules

(a) Through the office of a state's compact administrator, states shall attempt to resolve disputes or controversies by communicating with each other by telephone, telefax, or electronic mail.

(b) Failure to resolve dispute or controversy

(1) Following an unsuccessful attempt to resolve controversies or disputes arising under this compact, its by-laws or its rules as required under Rule 6.101 (a), states shall pursue one or more of the informal dispute resolution processes set forth in Rule 6.101 (b)(2) prior to resorting to formal dispute resolution alternatives.

(2) Parties shall submit a written request to the executive director for assistance in resolving the controversy or dispute. The executive director shall provide a written response to the parties within ten business days and may, at the executive director's discretion, seek the assistance of legal counsel or the executive committee in resolving the dispute. The executive committee may authorize its standing committees or the executive director to assist in resolving the dispute or controversy.

(c) Interpretation of the rules

Any state may submit an informal written request to the executive director for assistance in interpreting the rules of this compact. The executive director may seek the assistance of legal counsel, the executive committee, or both, in interpreting the rules. The executive committee may authorize its standing committees to assist in interpreting the rules. Interpretations of the rules shall be issued in writing by the executive director or the executive committee and shall be circulated to all of the states.

(d) All written advisory opinions authored by the National Office shall be referred to the Rules Committee within thirty (30) days of issuance of said opinion. Upon receipt of the advisory opinion, the Rules Committee shall discuss this matter at the next regularly scheduled meeting and consider whether a rule change should be proposed. If the Rules Committee determines that a rule change is not warranted, such rationale shall be reduced to writing and attached to the existing advisory opinion.

Failed

Approval Minutes

Commissioner W. Theriault (ME) moved to approve the *Annual Business Meeting 2006 Minutes*. Commissioner M. Gilliam (OK) seconded. The minutes were approved.

Information & Technology Report

Executive Director H. Hageman and Website Analyst K. Terry explained the advantages of the new website over the current website. There was a discussion of the new website features.

Commissioner D. Guntharp (AR), Technology Committee Chair, presented the Technology Committee Report. The presentation recognized the Committee members and technical assistants, its goals and accomplishments, and provided an overview of the new website and ICOTS.

Commissioner S. Taylor (OR) made a motion to accept the *Technology Committee Report*. Commissioner J. Miller (CO) seconded. The report was adopted.

Legal Counsel Report

Legal Counsel R. Masters certified that the Legal Counsel Report would be closed to the public because of its confidential nature and legal proceedings in which the Commission had been involved.

Commissioner C. Norman (AL) made a motion to go into Executive Session. Commissioner G. Powers (LA) seconded. Motion carried.

Commissioner S. Taylor (OR) made a motion to come out of Executive Session. Commissioner P. Quander, Jr. (DC) seconded. Motion carried.

Commissioner K. Merz (MN) made a motion to ratify the Softscape settlement. Commissioner P. Quander, Jr. (DC) seconded. Motion carried.

Compliance Committee Report

Legal Counsel R. Masters received consent from all states involved in the non-compliance investigations to waive any confidentiality with the respect of final reports.

OH v. TX Final Report: Commissioner R. Guy informed the Commission that Texas was found in default on October 4, 2006 citing ICAOS Rule 6.103 for violation of Rule 2.110.

Approved Sep 10, 2008. B.S.

A fine of \$10,000 was imposed and suspended pending implementation of a corrective action plan. Agreed stipulation for curing the fault was agreed upon on January 4, 2007. Texas completed the corrective action plan and the Harris County audit.

Commissioner R. Guy (NC), Compliance Committee Chair, made a motion to determine that Texas had cured its default and that the fine be vacated. Commissioner W. Theriault (ME) seconded. Motion carried.

OH v. PA Final Report: Commissioner R. Guy informed the Commission that Pennsylvania was found in default on October 4, 2006 citing ICAOS Rule 6.103 for violation of Rule 2.110. A fine of \$10,000 was imposed and suspended pending implementation of a corrective action plan. Agreed stipulation for curing the fault was agreed upon on January 4, 2007. Pennsylvania completed the corrective action plan and the Allegheny County audit.

Commissioner R. Guy (NC), Compliance Committee Chair, made a motion to determine that Pennsylvania had cured its default and that the fine be vacated. Commissioner J. Miller (CO) seconded. Motion carried.

Commissioner R. Guy (NC) suggested that future investigations could be made by retired Commissioners.

Commissioner R. Guy (NC), Compliance Committee Chair, made a motion to accept the *Compliance Committee Report*. Commissioner C. Norman (AL) seconded. The report was adopted.

DCA Liaison Committee Report

Commissioner M. Gilliam (OK), the Chair of DCA Liaison Committee, presented the DCA Liaison Report to the Commission. He recognized the members of the Committee and thanked them for their hard work. The Executive Committee recommended converting the DCA Liaison Committee into a standing committee based on the mandate received from the commissioners at the previous annual meeting.

Commissioner M. Gilliam (OK) made a motion to accept *DCA Liaison Committee Report*. Commissioner J. Bucklew (IA) seconded. The report was adopted.

Finance Committee Report

Commissioner S. Taylor (OR), Finance Committee Chair, made a motion to adopt the *Budget Proposal 2009*. Commissioner K. Merz (MN) seconded. The proposal was adopted.

Commissioner S. Taylor (OR) demonstrated to the Commission its expenses and revenue using tables and charts. The Finance Committee calculated that 6% increase over three years would bring the Commission budget stability.

Commissioner S. Taylor (OR), Finance Committee Chair, explained that the formula used to determine the dues amount would be recalculated after the Commission received reliable numbers of transfer cases from ICOTS.

Commissioner S. Taylor (OR) made a motion to approve 6% Dues Increase Proposal for 2010 to 2012. Commissioner M. Kalvelage (CA) seconded. The motion carried by vote of thirty-four (34) to nineteen (19).

The Commission had discussion concerning these matters.

Region Chair Recognition

The Recognition Awards were given to the Region Chairs for their service to the Commission.

The East Region Chair Recognition Award was given to Commissioner M. Walsh (MA) by Chairman W. Emmer (ND).

The Midwest Region Chair Recognition Award was given to Commissioner K. Merz (MN) by Chairman W. Emmer (ND).

The West Region Chair Recognition Award was given to Commissioner D. Ege (AZ) by Chairman W. Emmer (ND).

Training, Education and Public Relations Committee Report

Commissioner A. Clarke (SC), the Training Committee Chair, expressed her gratitude towards the Committee members.

Commissioner A. Clarke (SC) reported that different types of trainings, such as on-site training, on-demand trainings, and WebEx sessions were delivered in the past year by the Committee. She encouraged the Commissioners to use these training opportunities to educate their staff about the Compact and its Rules.

Commissioner S. Taylor (OR) moved to accept *Training, Education and Public Relations Committee Report*. Commissioner J. Seigel (IN) seconded. The report was adopted.

Victims' Advocate Report

P. Tuthill (FL), Victims' Advocate, presented her report to the Commission. Based on her recent Victims' Representatives survey, she encouraged the Commission to have more meetings with their Victims' Representatives.

P. Tuthill (FL), Victims' Advocate, proposed to incorporate Victim Notifications feature into the ICOTS.

P. Tuthill (FL), Victims' Advocate, reported on several trainings she held across the country as well as a filming project with MSNBC.

P. Tuthill (FL), Victims' Advocate, announced the official launch of the Peyton Tuthill Foundation. Four, \$1,000 scholarships per academic year, would be awarded to young people who lost their siblings or parent due to homicide.

Commissioner C. Norman (AL) made a motion to accept the *Victims' Advocate Report*. Commissioner D. Ege (AZ) seconded. The report was adopted.

Old Business

Chairman W. Emmer (ND) expressed his appreciation toward Assistant Director A. Hassan and the rest of the office for running the National Office during the transition between executive directors.

Award Presentations

- *Executive Chair Award* was presented to Commissioner Ann Clarke (SC) by Chairman W. Emmer (ND).
- *Executive Director Award* was presented to Commissioner Milton Gilliam (OK) by Executive Director H. Hageman.
- *Peyton Tuthill Award* was presented to Victims' Advocate – Ann Gustafson (WI) by Chairman W. Emmer (ND), Victims' Advocate P. Tuthill (FL) and Commissioner W. Rankin (WI).

Oath of Office

Senator D. Darrington (ID) delivered the Oath of Officers for the following Commission positions:

- Commissioner Rich Bitel (NY) as East Region Chair,
- Commissioner Ken Merz (MN) as Midwest Region Chair, and
- Commissioner D. Ege (AZ) as West Region Chair.

New Business

Commissioner R. Bitel (NY) made a motion to ratify the DCA Liaison Committee as a standing committee. Official Designee K. Dunphy (RI) seconded. Motion carried.

Executive Director H. Hageman introduced Strategic Planning model to the Commission.

Commissioner A. Swan (VI) made a motion to establish an Ad Hoc Committee to reconsider state dues allocation. Commissioner W. Theriault (ME) seconded. Motion carried.

Commissioner J. Miller (CO) made a motion to establish an Ad Hoc Committee to review tribal issues. Commissioner D. Ege (AZ) seconded. Motion carried.

Commissioner B. Martinez (PA) made a motion to bring the following Rules 5.102, 3.103, 3.106, 4.111, 4.112 (a) (5), back for consideration on the next annual meeting. Commissioner W. Theriault (ME) seconded. Motion failed by vote of fifteen (15) to thirty-five (35).

Commissioner P. Quander, Jr. (DC) along with Maryland and Virginia moved to establish an Ad Hoc Committee to examine whether the Commission should allow neighboring states to agree upon expedited transfer procedures that would allow offenders to report for treatment out-of-state as quickly as reasonably possible. Official Designee K. Dunphy (RI) seconded. Motion carried by vote of twenty-eight (28) to twenty-two (22).

Commissioner D. Ege (AZ) encouraged the Commission members to register for the upcoming APPA Winter Institute in Arizona that would be held on February 10-13, 2008.

Senator D. Darrington (ID) addressed the Commission with the recommendation to develop a strong legislative contact that would serve them as an advocate and voice in their state legislative body. Senator D. Darrington (ID), being a part of the Executive Committee of *National Conference of State Legislators* planned to make a presentation to the Executive Committee at the National Conference about the activities of the Interstate Compact.

Chairman W. Emmer (ND) announced that the next Annual Business Meeting would take place on September 7-13, 2008 in Palm Springs, California.

Adjourn

Commissioner E. Gonzales (NM) made a motion to adjourn. Commissioner J. Bucklew (IA) seconded. The meeting was adjourned at 4:49 P.M. EDT.