

(d) Phasing of Projects ~~Phase I Projects~~: Applications for eligible waterway projects ~~that include construction elements below mean high water~~ will be submitted as a phased project where Phase I will include the design, engineering and permitting elements and Phase II will include the construction of the project. A description and cost estimate of the Phase II work will be submitted along with the Phase I application for Board review. Applicants for construction projects that include elements below mean high water ~~Phase II funding~~ will demonstrate that all required ~~the~~ environmental permitting ~~element of Phase I~~ will be completed by the District's final TRIM hearing. This demonstration will be by the submission of the required environmental permit(s) or by the submission of a letter from the agency(s) stating that a permit is not required. Should the environmental permitting element ~~of Phase I~~ of an application that has ~~for a~~ construction elements below mean high water ~~project~~ not be completed by the District's final TRIM hearing, the construction portion of the ~~Phase II~~ project will not be considered for funding. The District will not deviate from the funding schedule, whereby funding decisions are completed at the final TRIM hearing, to accommodate any application deficiency.

(2) Property Control: The site of a new proposed land-based development project, with the exception of those projects requesting Small-Scale Spoil Island Restoration and Enhancement funding, shall be dedicated for the public use for which the project was intended for a minimum period of 25 years after project completion. Such dedication shall be in the form of a deed, lease, management agreement or other legally binding document and shall be recorded in the public property records of the county in which the property is located. This property control requirement also applies to a project site owned by another governmental entity. The governmental entity that owns the project site may be joined as a co-applicant to meet this property control requirement. Existing land based development projects that are being repaired, replaced or modified must demonstrate that the project site has been dedicated for public use for at least 25 years with at least 10 years remaining on the dedication document. Property shall also be deemed dedicated for public use if (a) the property has been designated for the use for which the project is intended (even though there may have been no formal dedication) in a plat or map recorded prior to 1940 or (b) the project sponsor demonstrates that it has had exclusive control over the property for the public use for which the project is intended for a period of at least 30 years prior to submission of the application, or (c) there is no ongoing litigation challenging the designated use of the property as shown on the plat or map, nor has there been any judicial determination contrary to the use by the public for the use shown on the plat or map.

(3) through (5) No change.

Specific Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History--New 12-17-90, Amended 9-2-92, 6-24-93, 2-3-94, 4-12-95, 9-5-96, 2-6-97, Formerly 16T-2.008, Amended 5-17-98, 3-31-99, 5-25-00, 3-21-01, 7-30-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
David K. Roach Executive Director, Florida Inland Navigation District, 1314 Marcinski Road, Jupiter, Florida 33477, Telephone Number: (561)627-3386

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: David K. Roach, Executive Director, Florida Inland Navigation District, 1314 Marcinski Road, Jupiter, Florida 33477, Telephone Number: (561)627-3386

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 5, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 25, 2002

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF INSURANCE

RULE NOS.:	RULE TITLES:
4-138.043	General Requirements
4-138.046	Statement of Actuarial Opinion Based on Asset Adequacy Analysis

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 41, October 11, 2002, of the FAW. These changes are being made to address concerns expressed by the Joint Administrative Procedures Committee.

1. Rule 4-138.043 is changed to read as follows:

(1) Submission of Statement of Actuarial Opinion. ~~(a)1.~~ Included on or attached to Page 1 of the annual statement for each year, beginning with the year in which this part becomes effective, shall be the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with Rule 4-138.046, F.A.C. of this part.

2. ~~Any company exempted pursuant to rule 4-138.044 of this part from submitting a statement of actuarial opinion in accordance with rule 4-138.046 of this part shall include on or attach to Page 1 of the annual statement a statement of actuarial opinion rendered by an appointed actuary in accordance with rule 4-138.045 of this part.~~

~~(b) If in the previous year a company provided a statement of actuarial opinion in accordance with rule 4-138.045 of this part, and in the current year fails the exemption criteria as stated in paragraph 4-138.044(3)(a), (3)(b), or (3)(e) to again provide an actuarial opinion in accordance with rule 4-138.045, the statement of actuarial opinion in accordance with rule 4-138.046 shall not be required until August 1 following the date of the annual statement. In this instance, the company shall provide a statement of actuarial opinion in accordance with rule 4-138.045 with appropriate qualification noting the intent to subsequently provide a statement of actuarial opinion in accordance with rule 4-138.046.~~

~~(c) In the case of a statement of actuarial opinion required to be submitted by a foreign or alien company, the Department may accept the statement of actuarial opinion filed by the company with the insurance supervisory official of another state if the Department determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.~~

~~(b)(4) Upon written request by the company, the Department will, for good cause, may grant an extension of the date for submission of the statement of actuarial opinion. Good cause includes the occurrence of an event or circumstance beyond the control of the company, which prevents compliance and could not be reasonably remedied or foreseen by the company.~~

~~(2) Qualified Appointed Actuary.~~

~~(a) No change.~~

~~(b) Any appointed actuary will be considered to be a "Qualified Actuary" if he is an individual who:~~

~~1. Is a member in good standing of the American Academy of Actuaries; and~~

~~2. Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements; and~~

~~3. Is familiar with the valuation requirements applicable to life and health insurance companies; and~~

~~4. Has not been found by the Department (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing, to have:~~

~~a. Violated any provision of, or any obligation imposed by, the Insurance Code or other state or federal law relating to insurance in the course of his or her dealings as a qualified actuary; or~~

~~b. Been found guilty of or pleaded guilty or nolo contendere to fraudulent or dishonest practices without regard to whether a judgment of conviction has been entered by the court having jurisdiction in such case; or~~

~~c. Demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary; or~~

~~d. Submitted to the Department during the past five (5) years, pursuant to this part, an actuarial opinion or memorandum that the Department rejected because it did not meet the provisions of this part including standards set by the Actuarial Standards Board; or~~

~~e. Resigned or been removed as an appointed actuary within the past five (5) years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and~~

~~5. Has not failed to notify the Department of any action taken by any insurance supervisory official of any other state similar to that under subparagraph 4-138.043(2)(b)4. above.~~

~~(c) Once notice is furnished, no further notice is required with respect to this person provided the company shall give the Department written notice in the event the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set forth in paragraph subsection 4-138.043(2)(b), F.A.C. Notice must be prior to or concurrent with the termination of the actuary's appointment or retention, or upon discovery that the actuary no longer meets the requirements set forth in paragraph subsection 4-138.043(2)(b), F.A.C.~~

~~(d) No change.~~

~~(3) No change.~~

~~(4) Liabilities to Be Covered.~~

~~(a) Under authority of subsection (3) of the Standard Valuation Law, Section 625.121, Florida Statutes, the statement of actuarial opinion shall apply to all in-force business on the statement date regardless of when or where issued, e.g., reserves of Exhibits 58, 69, and 740, and claim liabilities in Exhibit 844, Part I of the Annual Statement, and equivalent items in the separate account statement or statements.~~

~~(b) No change.~~

~~(c) For years ending prior to December 31, 1995, the company may, in lieu of establishing the full amount of the additional reserve in the annual statement for that year, set up an additional reserve in an amount not less than the following:~~

~~1. For the year ending on December 31, 1993, the additional reserve divided by three.~~

~~2. For the year ending on December 31, 1994, two times the additional reserve divided by three.~~

~~(c)(d) Additional reserves established under paragraphs (b) or (e) above and deemed not necessary in subsequent years may be released. Any amounts released shall must be disclosed in the actuarial opinion for the applicable year. The release of such reserves will not be deemed an adoption of a lower standard of valuation.~~

Specific Authority 624.308(1), 625.121(3)(a) FS. Law implemented 624.307(1), 624.316(1)(c), 624.424(1), 625.121(3) FS. History--New 5-18-93, Amended 2-16-94.

2. Subsection (6) in Rule 4-138.046 has been deleted.

The remainder of the reads as previously published.

DEPARTMENT OF INSURANCE

RULE NOS.:	RULE TITLES:
4-221.051	Actively Engaged in Business; Place Suitably Designated; Accessible to Public
4-221.070	Build-Up Funds; Reporting
4-221.100	Terms and Conditions of Contracts; Surrender Forms
4-221.140	Indemnity Agreement Form

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 30, July 26, 2002, of the Florida Administrative Weekly. These changes are being made to address concerns expressed by the Joint Administrative Procedures Committee.

1. 4-221.051(1) is changed by adding after "Statutes";, and shall be designated on form D14-1541 (07/02) "Designation or Deletion of Primary Bail Bond Agent for Bail Bond Agency and Filing of Business Names", which is adopted and incorporated by reference. This form is available from the Bail Bond Section.

2. 4-221.051(4)(a)3. is changed by adding the following sentence: All forms referenced in this rule chapter are available at this address.

3. 4-221.070(2) is changed by deleting the last sentence due to an objection by the Joint Administrative Procedures Committee.

4. 4-221.100(2) is changed to read: Any bail bond agent who surrenders or recommit a defendant prior to a forfeiture shall execute form D14-1542 (07/02) titled "Statement of Surrender Form", which is adopted and incorporated herein by reference. The licensee shall provide a copy to the defendant, and maintain a copy in the file of the defendant. This form is available from the Bail Bond Section referenced above.

5. 4-221.140 is changed to replace the word "agency" in the first sentence to "agent", and to delete the words "any and" in the last sentence.

The remainder of the rule reads as previously published.

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Building Commission

RULE NOS.:	RULE TITLES:
9B-3.047	State Building Code Adopted
9B-3.053	Alternative Plans Review and Inspection Forms Adopted

NOTICE OF CORRECTION

Notice is hereby given that the Notices of Proposed Rulemaking for the above-referenced rules were published in Vol. 28, No. 46, November 15, 2002 issue of the Florida Administrative Weekly.

The location for the hearings was incorrectly published as: Rosen Plaza Hotel, 9700 International Drive, Orlando, Florida. The correct address for these hearings is: The Rosen Centre Hotel, 9840 International Drive, Orlando, Florida 32819.

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Building Commission

RULE NOS.:	RULE TITLES:
9B-74.010	Definitions
9B-74.020	Administration and Fees
9B-74.030	Plans Review and Approval

NOTICE OF CORRECTION

Notice is hereby given that the Notices of Proposed Rulemaking for the above-referenced rules were published in Vol. 28, No. 46, November 15, 2002 issue of the Florida Administrative Weekly.

The location for the hearings was incorrectly published as: Rosen Plaza Hotel, 9700 International Drive, Orlando, Florida. The correct address for these hearings is: The Rosen Centre Hotel, 9840 International Drive, Orlando, Florida 32819.

DEPARTMENT OF REVENUE

Division of Ad Valorem Tax

RULE NO.:	RULE TITLE:
12D-16.002	Index to Forms

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to this proposed rule, as published in Vol. 28, No. 40 October 4, 2002, issue of the Florida Administrative Weekly. These changes are in accordance with s. 120.54(3)(d)1., F.S.

Subsections (2), (9)(a), (13)(d), (14)(b), (16)(b), (18), (25)(a) and (b), (33)(d), (38)(a) and (d), (39)(a), (46)(b), (51)(b), and (61)(b), will be changed so that, when adopted, these subsections will read:

(2)	DR-401	Private Car and Freight Line Equipment Companies Annual Report to State of Florida Department of Revenue Property Tax Administration (r. 12/02)	<u>1/03</u> 12/02
(9)(a)	DR-409	Certificate of Correction of Tax Roll (r. 12/02)	<u>1/03</u> 12/02
(13)(d)	DR-420S	Certification of School Taxable Value (r.1/03)	<u>1/03</u> 12/02
(14)(b)	DR-422	Certification of Final Taxable Value (r.1/03)	<u>1/03</u> 12/02
(16)(b)	DR-453B	Notice of Tax Lien for Assessment of Escaped Taxes (n. 12/02)	<u>1/03</u> 12/02
(18)	DR-462	Application for Refund of Ad Valorem Taxes (r.12/02)	<u>1/03</u> 12/02
(25)(a) through (b) No change.			

			Title	Form Number	Date
(33)(d)	DR-499C	Renewal and Certification of Agricultural Classification of Lands (n. 12/02)	<u>1/03</u> 12/02 <u>Driveway/Connection Application – Category A</u>		
(38)(a)	DR-501	Original Application for Ad Valorem Tax Exemption (r.12/02)	<u>1/03</u> 12/02 Driveway/Connection Application for All Categories	<u>850-040-14</u>	<u>09/02</u>
(d)	DR-501SC	Sworn Statement of Adjusted Gross Income of Household and Return (r. 12/02)	<u>1/03</u> 12/02 Receipt of Connection Application and Fee (or Waiver of Fee)	850-040-15	<u>09/02</u> 11/94
(39)(a)	DR-501S	Eligibility Criteria to Qualify for Property Tax Exemption (r.12/02)	<u>1/03</u> 12/02 Record of Waived Requirements for All Categories	850-040-16	<u>09/02</u> 11/93
(46)(b)	DR-513	Tax Collector's Certification (r.12/02)	<u>1/03</u> 12/02 Categories	850-040-17	<u>09/02</u> 03/94
(51)(b)	DR-534	Notice and Application for Alternative Payment of 2003 Property Taxes (r.12/02)	<u>1/03</u> 12/02 Driveway Connection Permit for All Categories	850-040-18	<u>09/02</u> 11/93
(61)(b)	DR-593A	Application for Section 194.035, F.S., Reimbursement of Special Master Payments By Small Counties (n. 12/02)	<u>1/03</u> 12/02 Record Drawings Report by Permittee's Professional Engineer	850-040-19	<u>09/02</u> 11/94
			Security Instrument Receipt	850-040-20	<u>04/93</u>
			State Highway Access Connection		
			Completeness Review	850-040-21	11/94
			Applicant Time Extension Form	850-040-22	04/93
			Proposed State Highway Access Driveway/Connection Notice of Intent to Deny Permit	850-040-23	<u>09/02</u> 01/99
			Proposed State Highway Access Connection		
			Notice of Intent to Issue Permit	850-040-24	<u>09/02</u> 01/99
			Violation and Notice to Show Cause	850-040-26	<u>09/02</u> 01/99

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
14-96	State Highway System Connection Permits
RULE NOS.:	RULE TITLES:
14-96.0011	Forms
14-96.002	Definitions
14-96.005	Application
14-96.007	Application Submittal, Review, Approval, and Conditions
14-96.008	Construction and Maintenance of Traffic
14-96.011	Modification of Connections
14-96.0121	Immediate Remedial Action Against Hazards

NOTICE OF CHANGE

SUMMARY OF CHANGES: There was no request for hearing and no hearing was conducted. The following changes result from a review by the Joint Administrative Procedures Committee:

NOTE: The coding of deletions and additions is changed to reflect changes resulting from these changes, including removing the strikethrough coding, adding additional new language, or making further deletions.

1. 14-96.0011 Forms: The revision dates on forms are corrected to be consistent with the revision dates of the forms provided for review by the Joint Administrative Procedures Committee, specifically, they are revised as follows:

NOTE: For consistency, each subsequent reference to these forms in the text of the other rules within Rule Chapter 14-96 (Rules 14-96.002, 14-96.005, 14-96.007, and 14-96.011) also are updated to show the correct revision date to be consistent with the incorporation by reference section.

2. 14-96.005(4)(d)9.: Incorporation by reference for manuals have been revised as follows:

~~“9. Maintenance of Traffic Plan. The maintenance of traffic control plan must conform conforming to Department standards set forth in the Federal Manual on Uniform Traffic Control Devices, incorporated by reference in Rule 14-15.010, F.A.C. The maintenance of traffic plan must also conform to and the Department's Roadway and Traffic Design Standards, January 2002 1994, incorporated by reference in Rule 14-96.008, F.A.C. The Topic #625-010-003 e, incorporated by reference under Rule 14-96.008, and the expected time of roadway closure must be in accordance with the Department's Roadway Plans and Preparation Manual, January 2003, incorporated by reference in Rule 14-96.008, F.A.C., or other generally accepted professional practice 1989 edition, as~~

~~amended June 1994, Topic 625-000-101-b, incorporated by reference under Rule 14-96.008. A maintenance of traffic plan which does not conform to the *Plans and Preparation Manual* and the *Design Standards* must be signed and sealed by a Professional Engineer registered in the State of Florida.~~

3. 14-96.008: The actual incorporation by reference statements, referred to in the previous change, are inserted here as follows:

“14-96.008 Construction and Maintenance of Traffic Requirements. All construction and maintenance on Department right of way shall conform to the Federal *Manual on Uniform Traffic Control Devices* (MUTCD), incorporated by reference under Rule 14-15.010, F.A.C. All construction and maintenance on Department right of way shall also conform to: the Department’s ~~*Roadway and Traffic Design Standards*~~, January ~~2002~~ 1994, Topic #625-010-003-e; ~~and the *Standard Specifications for Road and Bridge Construction*, 2000 1991 Edition, as amended, and the Department’s *Roadway Plans and Preparation Manual*, January 2003, or other generally accepted professional practices 1989 Edition, as Amended June 1994, Topic #625-000-101-b.~~ With the exception of the MUTCD, which already is incorporated by reference under Rule 14-15.010, F.A.C., the manuals and standards specifically listed in this section are hereby incorporated by reference and made a part of the rules of the Department of Transportation.

4. 14-96.011(5)(b)2.: Correction of reference to Chapter 28-106, F.A.C.

“2. In lieu of filing an application, the property owner or lessee may challenge the requirement to file a permit application by filing in accordance with Rule Chapter 28-106, F.A.C., a timely written request (within 21 days of receipt of notice) for an administrative proceeding stating the reasons why a permit is not required for the connection. In such a case, final action to modify the unpermitted connection shall be taken in accordance with the results of the administrative proceeding.”

5. 14-96.0121: Correction of statutory citation to delete “(8)” after 120.60, Florida Statutes, reference as follows:

“14-96.0121 Immediate Remedial Action Against Hazards. . . . Upon determination that there is a need for immediate remedial action against hazards, the District Secretary or designee shall issue an order in compliance with Section 120.60(8), Florida Statutes, . . .”

Notice was published in Florida Administrative Weekly, Vol. 28, No. 40, October 4, 2002.

FLORIDA PAROLE COMMISSION

RULE NOS.:	RULE TITLES:
23-25.001	General
23-25.002	Definitions
23-25.003	Addiction Recovery Supervision Evaluation Procedure

23-25.004	Addiction Recovery Supervision
23-25.005	Revocation of Addiction Recovery Supervision

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 31, August 2, 2002, issue of the Florida Administrative Weekly.

THE FULL TEXT OF THE PROPOSED RULE IS:

23-25.001 General.

The Parole Commission is charged with establishing the term and conditions of supervision for offenders released from incarceration who are subject to the addiction-recovery supervision as provided under section 944.4731, F.S. The Parole Commission has the authority to issue warrants and revoke such supervision upon a finding of a violation of a condition of addiction-recovery supervision.

Specific Authority 944.4731(8) FS. Law Implemented 944.4731, 947.141 FS. History–New _____.

23-25.002 Definitions.

(1) Chair – means the Chair of the Parole Commission.

(2) Addiction Recovery Supervisor- means the person assigned to provide supervision for the Releasee.

(3) Commission – means the Parole Commission.

(4) Controlled Substance – means a “controlled substance” as defined in section 893.02, F.S.

(5) Conviction – means a “conviction” as defined in section 921.0021, F.S.

(6) Department – means the Department of Corrections

(7) Eligible Offender – means any offender who meets the criteria of section 944.4731(2)(a), F.S.

(8) History of substance abuse or addiction – means: (1) a score of 4 or more on the Department of Corrections Drug Simple Screening Instrument; or (2) two or more prior convictions for an offense for which an element of that offense relates to a controlled substance, alcohol, or drug paraphernalia; or (3) one prior conviction for any offense for which an element of that offense relates to a controlled substance, alcohol, or drug paraphernalia and the current offense has as an element of the offense a controlled substance, alcohol or drug paraphernalia; or (4) acknowledgement by the offender that he or she has sought help for alcohol or substance abuse.

(9) Participated in any drug treatment- means prior community supervision drug treatment, prison drug treatment, or mandated or voluntary substance abuse treatment.

(10) Releasee – means an offender placed on addiction recovery supervision pursuant to section 944.4731, F.S.

(11) Revocation – means the order of the Commission entered after a Releasee has been found to have violated one or more conditions of the addiction recovery supervision, and requires the Releasee's return to prison to resume service of sentence.

(12) Standard Conditions of Supervision – include the following:

(a) Promptly upon being released on addiction recovery supervision, you will proceed to (address) _____, where you will reside. Within 3 days of your release, you will report by personal visit to the Addiction Recovery Supervisor under whose supervision you are to be released.

(b) You shall secure the permission of your Addiction Recovery Supervisor before:

1. You change your residence or employment,
2. You leave the county of your residence or the state,
3. You post bail or accept pretrial release if you are arrested for a felony.

(c) You shall submit a full and truthful report to your Addiction Recovery Supervisor before the fifth day of each month in writing on the forms provided or in person.

(d) You shall not:

1. Use alcohol or intoxicants of any kind.
2. Use or possess narcotics, drugs or marijuana unless prescribed by a physician.

(e) You shall not knowingly associate with any person who is engaging in any criminal activity.

(f) You shall secure the permission of your Addiction Recovery Supervisor before you own, carry, or have in your constructive possession a knife or any other weapon.

(g) You shall obey all laws, ordinances and statutory conditions of addiction recovery supervision.

(h) You shall:

1. Submit to a search by an Addiction Recovery Supervisor, of your person, residence or automobile,
2. Waive extradition back to the state of Florida if you are wanted for return as an alleged addiction recovery supervision violator,
3. Permit your Addiction Recovery Supervisor to visit you at your residence, employment or elsewhere,
4. Promptly and truthfully answer all questions and follow instructions asked or given to you by your Addiction Recovery Supervisor or the Commission.

(i) You understand that you are to remain on addiction recovery supervision until released therefrom by expiration or by Commission order.

(j) During your addiction recovery supervision term, you shall submit to random testing as directed by your supervising officer or the professional staff of any treatment center or residential program where treatment is being received to

determine the presence or use of alcohol or controlled substances pursuant to Section 877.111, Florida Statutes, or Chapter 893, Florida Statutes.

(k) During your addiction recovery supervision term, you shall submit and pay for urinalysis testing to identify alcohol and/or drug usage and understand that your failure to make such payment or participate as defined under this condition of your addiction recovery supervision will be considered grounds for revocation of addiction recovery supervision by the Parole Commission.

(l) You shall pay cost of supervision and rehabilitation as calculated and assessed by the Department of Corrections as provided and required in Section 948.09, Florida Statutes, and any court ordered payments such as child support and restitution.

(m) You shall participate and be supervised under drug offender probation pursuant to Section 948.001(4), Florida Statutes.

(n) You shall not enter any business establishment whose primary purpose is the sale/consumption of alcoholic beverages.

(o) You shall execute and present to your Addiction Recovery Supervisor all necessary authorizations to release records to your Addiction Recovery Supervisor and the Commission so that your progress and participation in required programs can be monitored and documented.

(p) If you are accepted into a substance-abuse-transition housing program, you shall comply with the terms and conditions of that program, including payment of fees to defray the cost of your participation.

(q) You must participate in (Alcoholics Anonymous or Narcotics Anonymous) and attend meetings as directed by your Addiction Recovery Supervisor.

(13) Tentative Release Date – means the projected release date computed by the Department of Corrections based upon length of sentence reduced by applicable gain-time.

(14) Violation Hearing – means an administrative proceeding provided to a Releasee under warrant and conducted by the Commission, a Commissioner, or a duly authorized representative of the Commission, to determine whether the Releasee has violated any condition(s) of his/her release.

(15) Warrant – means a document executed by any member of the Commission which will cause the arrest and detention of a Releasee pending further action by the Commission.

Specific Authority 944.4731(8) FS. Law Implemented 944.4731, 947.141 FS. History—New _____.

23-25.003 Addiction Recovery Supervision Evaluation Procedure.

Within 180 days prior to an Eligible Offender's Tentative Release Date, a representative of the Department of Corrections will interview the offender and review the offender's program participation, disciplinary record, psychological and medical records, release plan, court ordered payments ~~including, but not limited to costs of supervision and restitution,~~ and any other information pertinent to the pending release. The Department of Corrections will forward the results of said interview and review to the Commission. A panel of no fewer than two Commissioners shall review the results of the interview and review, and establish the term and conditions of such release.

Specific Authority 944.4731(8) FS. Law Implemented 944.4731, 947.141 FS. History—New _____.

23-25.004 Addiction Recovery Supervision.

(1) Prior to an Eligible Offender being released from incarceration, the Commission shall determine the term and conditions of supervision.

(2) If an Eligible Offender has received a term of probation or community control to be served after release from incarceration, the period of probation or community control shall not be substituted for addiction recovery supervision, but shall follow the term of addiction recovery supervision.

(3) If an Eligible Offender is subject to both conditional release supervision and addiction recovery supervision, the offender shall be subject to the type of supervision that will result in the longest term of supervision, taking into consideration any applicable term of probation. If the terms of supervision are equal, the offender shall be subject to addiction recovery supervision.

(4) The Commission will determine the term of addiction recovery supervision based on the amount of gain-time that the inmate received on sentences that are eligible for addiction recovery supervision, and will toll periods of supervision as necessary to achieve the maximum period of supervision.

(a) In cases involving concurrent sentences, the maximum supervision date will be based on the eligible sentence that has the greatest amount of gain-time.

(b) In cases involving consecutive sentences, the amount of gain-time from eligible sentences will be added together to obtain the maximum term of supervision.

(5) All Eligible Offenders placed on addiction recovery supervision shall be initially subject to Standard Conditions of Supervision upon their release from incarceration. In addition to the Standard Conditions of Supervision, Eligible Offenders shall be subject to such special conditions of supervision as the Commission deems necessary from its review of the record.

(6) Offenders shall have no right to administrative review of the term and conditions of addiction recovery supervision as determined by the Commission.

Specific Authority 944.4731(8) FS. Law Implemented 944.4731, 947.141 FS. History—New _____.

23-25.005 Revocation of Addiction Recovery Supervision.

(1) Warrants.

(a) A warrant for the arrest of a Releasee shall only be executed by a Commissioner except in the case of an emergency warrant as provided in (2) herein. The decision to issue a warrant shall be based on evidence which indicates reasonable grounds to believe a Releasee has violated a condition of addiction recovery supervision. The issuance of a warrant is discretionary.

(b) Warrant requests will be reviewed by Commission staff for sufficiency of information and if found sufficient, staff shall submit a warrant request to a Commissioner for review.

(c) The reviewing Commissioner will execute a warrant, deny the warrant request, or have the warrant request placed before a panel of no fewer than two Commissioners for a decision.

(d) Should a warrant be issued, such will be transmitted to the requesting agency for appropriate service or filing. Alleged violators of addiction recovery supervision will be entered into the Florida Crime Information Center and the National Crime Information Center, unless in custody. The Commission has authority to pursue extradition of alleged violators from other jurisdictions.

(e) Should a warrant be issued and a dismissal of the warrant is requested, the signing Commissioner or Chair is authorized to dismiss the warrant for good cause.

(2) Emergency Warrants.

(a) An emergency warrant can be issued by a Commissioner or any Commission representative duly authorized by the Chair, when the Commission receives notification from an arresting agency that a Releasee has been arrested and charged with a new felony offense and there is no outstanding Commission warrant for the Releasee.

(b) The decision to issue an emergency warrant shall be based on evidence which indicates there are reasonable grounds to believe a Releasee violated the conditions of addiction recovery supervision.

(c) Should an emergency warrant be issued, Commission staff will transmit the warrant to the detaining agency for appropriate service or filing and enter information regarding the Releasee into the Florida Crime Information Center and National Crime Information Center, unless the Releasee is in custody. The Commission has authority to pursue extradition of alleged violators from other jurisdictions.

(3) Release on Recognizance.

(a) The Commission or a Commissioner may at any time during the violation process release a Releasee on recognizance. Such release will be conditioned upon the releasee's appearance at any hearings noticed by the

Commission or until further order of the Commission and may include any other condition deemed warranted from the Commission's review of the record.

(b) A review regarding release on recognizance for alleged addiction recovery supervision violators who are in custody shall be conducted before or at the time of the initial service of the notice of the Violation Hearing.

(c) The alleged violator must be informed that by accepting release on recognizance, he is waiving any and all time constraints related to the Violation Hearing.

(d) Any Releasee who has been arrested pursuant to a Commission warrant may request and shall be provided a hearing on the matter of release on recognizance regarding the Commission warrant. Such hearing shall be held by a Commissioner or a duly authorized representative of the Commission, who shall provide the Commission with a written summary of the hearing, after which a panel of no fewer than two Commissioners shall make a decision and inform the Releasee. Should the Commission or an authorized representative receive reliable information that the Releasee has violated the conditions of the release on recognizance, a Commissioner can enter an order revoking the release on recognizance. Such order shall be sufficient to cause the arrest and return of the Releasee to custody.

(4) Addiction Recovery Supervision Violation Hearing.

(a) A Commissioner or a duly authorized representative of the Commission shall convene a Violation Hearing within 45 days after notification of the arrest in the State of Florida of a Releasee charged with violation(s), unless waived by the Releasee, or within 45 days of receipt of written notification from the Department of Corrections that the alleged violator has been returned to the custody of the Department from another jurisdiction.

(b) The Releasee shall be informed, in writing, at least 14 days prior to the Violation Hearing of the date, time and location of the hearing. The notice of the hearing shall contain the charges of violation and a list of the Releasee's rights, as follows:

1. The opportunity to be present for the Violation Hearing.
2. The opportunity to present evidence in his or her own behalf, including witnesses and evidence secured by subpoena or subpoena duces tecum.
3. The opportunity to receive, prior to the Violation Hearing, the disclosure of evidence that will be presented at the Violation Hearing.
4. The opportunity to confront and cross-examine any adverse witness.
5. The opportunity to be represented by counsel, either retained or appointed, provided that such appointment is made consistent with the guidelines of the United States Supreme Court case of *Gagnon v. Scarpelli*, 411 U.S. 778 (1973).

(c) Any Violation Hearing may be waived by the Releasee after an explanation of the consequences of a waiver. The waiver shall be in writing and shall be executed before a Commissioner or duly authorized representative of the Commission. The Releasee may withdraw the waiver by submitting a written request which waives all time constraints. The waiver withdrawal request must be appropriately witnessed, and postmarked within 14 days after the execution of the waiver. Upon receipt of the waiver withdrawal request, a Violation Hearing shall be convened after appropriate notice.

(d) The Releasee may request that the Violation Hearing be postponed until such time as any pending criminal charges that are listed on the Commission's warrant or notice of hearing have been resolved. The granting of a postponement on behalf of the Releasee shall toll the 45 day period until notification is received by the Commission that the pending criminal charges have been resolved or the Releasee elects to proceed with or waive the hearing ~~constitutes a waiver by the Releasee of all time constraints and any requirements for a local hearing.~~ If there are also pending technical charges, the granting of the postponement also postpones disposition of the technical charges until such time as the criminal charges are resolved.

(e) The Releasee may request that the Violation Hearing be continued upon showing of good cause. The request for continuance may be submitted to the person conducting the hearing in writing prior to convening the hearing, provided that the reasons for the request are outlined with specificity. The granting of a continuance on behalf of the Releasee shall toll the 45 day period until the hearing is reconvened ~~constitutes a waiver by the Releasee of all time constraints, and any requirements for a local hearing.~~ If a Violation Hearing has been convened, such may be continued beyond 45 days on the motion of the Releasee, the Commission or duly authorized representative of the Commission, provided the record reflects a good cause for such continuance.

(f) Subpoenas and subpoenas duces tecum for the Releasee and the Commission shall be issued by a Commissioner or a duly authorized representative of the Commission on behalf of the State or the Releasee. The Commission, a Commissioner or a duly authorized representative of the Commission will decline a request to subpoena a witness whose testimony is found to be cumulative, irrelevant or non-probative. The party requesting the subpoenas shall furnish to the Commission, a Commissioner or a duly authorized representative of the Commission the names and addresses of his proposed witnesses at least 14 days prior to the hearing date.

(g) At the hearing, the Releasee may waive representation by an attorney, provided the waiver is reflected clearly in writing or in the record of the proceeding. Should the Releasee desire, retained counsel may represent the Releasee at the hearing. If the Releasee desires counsel and has not retained one, the following procedure shall apply:

1. The person conducting the hearing shall determine the Releasee's financial ability to retain private counsel. When the person conducting the hearing determines a Releasee has the ability to retain private counsel, reasonable time shall be permitted for the Releasee to secure counsel, if the Releasee so desires.

2. If the person conducting the hearing concludes the Releasee is unable to secure counsel by reason of indigence, the person conducting the hearing shall then proceed to determine if the Releasee is eligible for appointed counsel as provided in the guidelines outlined in *Gagnon v. Scarpelli*, 411 U.S. 778 (1973). If a request for counsel is denied, the grounds for the denial shall be stated in the record.

(h) During the Violation Hearing, the person conducting the hearing has authority to entertain arguments of counsel or the Releasee. The person conducting the hearing has authority to elect to rule on such matters during the course of the Violation Hearing or may elect to withhold ruling pending consultation with counsel or staff. Arguments of counsel of a legal nature must be reduced to writing, and, if possible, presented prior to the Violation Hearing.

(i) Based on evidence presented at the Violation Hearing, or received by stipulation, the person conducting the hearing shall make findings of fact regarding the alleged violations, with a written recommendation to the Commission. When the Commission finds that the Releasee has committed one or more violations, the Commission shall enter an order revoking the addiction recovery supervision, restoring the Releasee to supervision or such an order as deemed appropriate. Notification by copy of the Commission order shall be provided to the Releasee. If the decision of the Commission is to revoke, the order entered shall contain the condition(s) that have been violated and the evidence relied upon.

(j) The person conducting the hearing has authority to elect to receive information following the Violation Hearing if the Releasee stipulates to the receipt of such information and such stipulation is reflected in the record.

(k) When a panel of no fewer than two Commissioners revokes addiction recovery supervision, the Releasee shall be entitled to credit for time spent in custody on the Commission's warrant prior to the Violation Hearing. Time spent in another jurisdiction as a result of intervening sentences shall be considered. Credit for time in custody as decided by the panel shall be reflected in the order of revocation of addiction recovery supervision.

(l) Pursuant to the United States Supreme Court's decision in *Pennsylvania Board of Probation & Parole v. Scott*, 524 U.S. 357 (1998), the Commission may consider evidence that has been excluded in a criminal proceeding as the result of the application of the federal exclusionary rule.

Specific Authority 944.4731(8) FS. Law Implemented 944.4731, 947.141 FS. History—New _____.

DEPARTMENT OF HEALTH

Board of Optometry

RULE NOS.:

64B13-11.001

64B13-11.004

RULE TITLES:

Inactive Status

Delinquent Status License

NOTICE OF CHANGE

Pursuant to subparagraph 120.54(3)(d)1., F.S., notice is hereby given that the following changes have been made to the proposed rule published in Vol. 28, No. 35, August 30, 2002, issue of the Florida Administrative Weekly. These changes are being made in response to comments received from the JAPC. Rule 64B13-11.001, paragraphs (2) and (3)(a) now read as follows:

(2) An inactive status licensee ~~whose license has been in inactive status for less than two consecutive biennial licensure cycles~~ may change to active status at any time provided the licensee meets the ~~following~~ requirements of Rule 64B13-5.001, F.A.C., for each biennium for which their license has been inactive;

(3)(a) Meets the continuing education requirements of rule 64B13-5.001, F.A.C., ~~for each biennium for which their license has been inactive;~~

Rule 64B13-11.004 paragraph (4) now reads as follows:

(4) The delinquent status licensee who applies for active status license shall, in addition to complying with (3) immediately above, affirm compliance with the continuing education requirements of Rule ~~64B13-5.001, F.A.C., for the years the licensee has been inactive or delinquent 1.001(2).~~

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Executive Director, Board of Optometry/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

Section IV Emergency Rules

DEPARTMENT OF CITRUS

RULE TITLE:

Standards for Citrus Fruit and Citrus

RULE NO.:

Products Bearing the Mark

20ER02-10

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: 120.54(4)(b), Florida Statutes, states that those rules pertaining to perishable agricultural commodities shall be included in the definition of rules relating to the public health, safety, or welfare.

Although standards are set for the use of trademarked symbols belonging to the Department, it is the purpose of the Department to protect the citrus industry of the state and promote the sale of citrus fruit and citrus products. Adverse climactic conditions through periods of this growing season accelerated the natural reduction of acid in oranges throughout