

pursuant to Rule 68B-14.0036(5). During this closed season, the purchase, sale, or exchange of any red porgy harvested from state waters of the Atlantic Ocean is prohibited.

- (3) Special restrictions.
- (c) Amberjack.

1. No person harvesting for commercial purposes shall harvest or land any amberjack with a fork length less than 36 inches. No person shall purchase, sell, or exchange any amberjack with a fork length less than 36 inches.

2. Except during the three-month closed season specified above, no person harvesting for commercial purposes shall harvest in or from state waters of the Atlantic Ocean, possess while in or on such waters, or land from such waters more than 1,000 pounds of greater amberjack per day.

~~3.2.~~ No person harvesting for commercial purposes shall, on the same trip, harvest or possess greater amberjack pursuant to the bag limit specified in Rule 68B-14.0036(6).

(d) Red Porgy. Except during the closed season specified above, no person harvesting for commercial purposes shall harvest in or from state waters of the Atlantic Ocean, possess while in or on such waters, or land from such waters more than 50 pounds of red porgy per day.

PROPOSED EFFECTIVE DATE: March 1, 2001.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 2-1-90, Amended 12-31-92, 10-18-93, 3-1-94, 6-15-95, 1-1-96, 11-27-96, 12-31-98, 3-1-99, 1-1-00, 3-6-00, Formerly 46-14.0045, Amended 3-1-01.

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF INSURANCE

RULE NO.:	RULE TITLE:
4-154.530	Small Group Health Insurance Availability

SECOND 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. 26, No. 36, September 8, 2000, of the Florida Administrative Weekly. A notice of change was published in Vol. 26, No. 50, December 15, 2000. This change being made to address concerns expressed by the Joint Administrative Procedures Committee.

The rule is changed as follows:

In the last sentence, the citation to 641.31074(2)(c), Florida Statutes is changed to read 641.31074(2).

The remainder of the rule reads as previously published.

DEPARTMENT OF INSURANCE

RULE NOS.:	RULE TITLES:
4-156.0095	Guaranteed Issue for Eligible Persons
4-156.012	Filing and Approval of Policies and Certificates and Premium Rates

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. 26, No. 47, November 22, 2000, of the Florida Administrative Weekly. These changes are being made to address concerns expressed by the Joint Administrative Procedures Committee.

4-156.0095(2)(e)1.c. is changed to read:

c. Any PACE program under section 1894 of the Social Security Act.

4-156.012(4)(a)2. is changed to read:

2. An issuer that discontinues the availability of a policy form or certificate form pursuant to Rule 4-156.012~~(4)(a)1.~~ or section 627.410, Florida Statutes, shall not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for a period of five (5) years after the issuer provides notice to the Department of the discontinuance. ~~The period of discontinuance may be reduced if the Department determines that a shorter period is appropriate.~~

The remainder of the rule reads as previously published.

DEPARTMENT OF CITRUS

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
20-14	Methods to Determine Compliance
RULE NO.:	RULE TITLE:
20-14.001	Methods to Determine Compliance

NOTICE OF CHANGE

Notice is hereby given that the following change has been made to the proposed rule in accordance with subparagraph 120.54(3)(d), F.S., published in Vol. 26, No. 41, October 13, 2000, issue of the Florida Administrative Weekly:

20-14.001(1) through 20-14.001(34) No change.

(35) Sodium: As prescribed in "Sodium in Fruit and Fruit Products, Flame Spectrophotometric Method, AOAC Official Methods of Analysis," Chapter 37, Page 7 (1995) .

(36) Salmonella:

(a) As prescribed in FDA Bacteriological Analytical Manual, "Salmonella Culture Method for Pasteurized and Unpasteurized Orange Juice", Wallace H. Andrews, Geraldine A. June, Patricia S. Sherrod, Thomas S. Hammack, and R. Miguel Amaguana, 8th Edition, Revision A, 1998, Chapter 5, Revisions December, 1999.

(b) As prescribed in AOAC Official Methods of Analysis, 16th Ed. Section 17.9.13, AOAC Official Method 989.14, "Salmonella in Foods, Colorimetric Polyclonal Enzyme

Immunoassay,” Denis Hughes, Angela E. Dailianis, Louise Hill, Michael S. Curiale and Vidhya Gangar, Journal of AOAC International, Vol. 82, No. 3, Pages 634-647, 1999.

(e) As prescribed in AOAC Official Methods of Analysis, AOAC Official Method 2000.07, the “TECRA® Unique™ Test for Rapid Detection of Salmonella in Food: Collaborative Study”, Denise Hughes, Angela E. Dailianis, Louise Hill, Deborah A. McIntyre, Aimee Anderson, et. al., Vol. No. Pages

(37) E. coli:

(a) As prescribed in FDA Bacteriological Analytical Manual, Broth MPN Method “*Escherichia coli* and the Coliform Bacteria, Anthony D. Hitchins, Peter Feng, William D. Watkins, Scott R. Rippey, and Linda A. Chandler, 8th Ed., Chapter 4, 1995.

(b) As prescribed in AOAC Official Methods of Analysis, AOAC Official Method 991.14, “Dry Rehydratable Film for Enumeration of Total Coliforms and *Escherichia coli* in Foods: Collaborative Study”, Michael S. Curiale, Therese Sons, Dawn McIver, J. Sue McCallister, Barbara Halsey, Diane Roblee, and Terrance L. Fox, Journal of AOAC, Vol. 74, No. 4, 1991.

(c) As prescribed in AOAC Official Methods of Analysis, AOAC Official Method 996.09, “Visual Immunoprecipitate Assay (VIP) for Detection of Enterohemorrhagic *Escherichia coli* 0157:H7 in Selected Foods: Collaborative Study” Philip T. Feldsine, Maria T. Falbo-Nelson, Sharol L. Brunelle, and Robin L. Forgey, Journal of AOAC, Vol. 80, No. 3, 1997.

(38) Additional methods and analyses shall be those that achieve at least “First Action” status as an AOAC Official Method, or are introduced through expert testimony, opinion and other relevant evidence where the trier of fact determines that the testimony, evidence or opinion is otherwise admissible under Florida law.

(39) If one of the test methods in this section is used in an administrative or judicial enforcement proceeding, then, in addition to its rights to challenge the legal validity of the rule, the respondent or defendant may, in its defense, present competent substantial evidence relating to the accuracy or scientific validity of the test results, the test method, or both. Only if the respondent or defendant fails to present such evidence, shall such accuracy, scientific validity, or both, be presumed.

Specific Authority 601.10(1),(7), 601.11, 601.24, 601.25 FS. Law Implemented 601.02(5) FS. History—New 4-12-90, Amended 6-11-91, 3-20-94, 8-22-95.

DEPARTMENT OF CITRUS

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
20-49	Standards for Fresh Squeezed Citrus Juices
RULE NOS.:	RULE TITLES:
20-49.001	Purpose
20-49.002	Definitions
20-49.003	Fresh Squeezed Citrus Juices

20-49.004	Wholesale Producers – Testing
20-49.005	Wholesale Producers – Inspections
20-49.006	Small Producers – Testing
20-49.007	Small Producers – Inspections
20-49.008	Fresh Squeezed Orange Juice Marked with Florida Citrus Growers’ Certification Mark
20-49.009	Fresh Squeezed Grapefruit Juice Marked with Florida Citrus Growers’ Certification Mark

NOTICE OF CHANGE

Notice is hereby given that the following change has been made to the proposed rule in accordance with subparagraph 120.54(3)(d), F.S., published in Vol. 26, No. 41, October 13, 2000, issue of the Florida Administrative Weekly.

The effective date of proposed rules 20-49.001-20-49.009 will be March 15, 2001.

DEPARTMENT OF CORRECTIONS

RULE NOS.:	RULE TITLES:
33-506.203	Basic Training Program – Definitions
33-506.204	Basic Training Program Selection Process

SECOND 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. 26, No. 47, November 22, 2000, issue of the Florida Administrative Weekly, as amended by the notice of change published in Vol. 26, No. 50, December 15, 2000, issue of the Florida Administrative Weekly:

33-506.203 Basic Training Program – Definitions.

(1) through (10)(b) No change.

(c) Phase III – will consist of the offender's placement within a community residential facility to engage in gainful employment, pay restitution, participate in substance abuse programs, enroll in general education development or adult basic education classes as provided for in s. 958.145(6) and (8), F.S. applicable.

(11) No change.

(12) Youthful Offender, for purposes of being considered for basic training program participation pursuant to this rule, is defined as an inmate who was sentenced in accordance with s. 958.04, F.S., or who is designated a youthful offender by the department pursuant to 33-506.101(2), meeting criteria established in s. 958.045(8)(b), F.S., and whose ~~refers to any person who is found guilty of or who has tendered a plea of nolo contendere or guilty to a crime that is a felony and such crime was committed before the inmate’s 21st birthday. The inmate must not have been previously classified as a youthful offender nor found guilty of a capital or life felony.~~

Specific Authority 958.04(4)(b), 958.045(1)(b) FS. Law Implemented 958.04, 958.045 FS. History—New 2-26-89, Amended 1-25-96, 10-23-97, Formerly 33-27.003, Amended _____.

33-506.204 Basic Training Program Selection Process.

(1) through (f) No change.

~~(g) Has no current or prior conviction for a sexual offense, including adjudication withheld;~~

(h) through (j) renumbered (g) through (i) No change.

(2) through (3) No change.

Specific Authority 958.04(4)(b), 958.045(1)(b) FS. Law Implemented 946.40, 958.04, 958.045 FS. History—New 2-26-89, Amended 11-2-90, 1-25-96, 10-23-97, Formerly 33-27.004, Amended _____.

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.602 RULE TITLE: Community Release Programs

SECOND 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. 26, No. 37, September 8, 2000, issue of the Florida Administrative Weekly, as amended by the notice of change published in Vol. 26, No. 49, December 15, 2000, issue of the Florida Administrative Weekly:

33-601.602 Community Release Programs.

(1) through (2)(d) No change.

(e) When the inmate is ready for release a Transition Release Plan, Form ~~DC6-118D DC4-838C~~, shall be completed in order to assist the inmate in his or her release plans. Form ~~DC6-118D DC4-838C~~ is incorporated in (16) of this rule.

(3) through (16)(i) No change.

(j) ~~DC6-118D DC4-838C~~, Transition Release Plan, effective _____.

(k) through (l) No change.

Specific Authority 945.091 FS. Law Implemented 945.091 FS. History—New 12-7-97, Amended 4-13-98, 10-20-98, Formerly 33-9.023, Amended _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Employee Leasing Companies

RULE NO.: 61G7-6.001 RULE TITLE: Definitions

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. 26, No. 33, August 18, 2000, issue of the Florida Administrative Weekly. Based on comments received from the Joint Administrative Procedures Committee, the Board has voted to change the rule as follows: (Substantial rewording of Rule 61G7-6.001 follows. See Florida Administrative Code for present text.)

61G7-6.001 Definitions.

To enable the Board and the Department to administer Part XI of Chapter 468, F.S., the Board hereby interprets the following terms as used in the definition of employee leasing as follows:

(1) “Actively involved” as used in s. 468.520(7), F.S., to determine whether an entity is an employee leasing company, the Board interprets actively involved to mean the actual exercise of duties on behalf of an employee leasing company. Any natural person who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of any employee leasing company, through direct or indirect control of 50 percent or more of the voting securities of an employee leasing company, is deemed actively involved.

(2) “Employment responsibilities” as used in s. 468.525(4), F.S., means all those responsibilities generally incumbent on an employer, including payment of wages and taxes and the right to hire, direct, control, discipline, and terminate employees.

(3) “Full Responsibility” as used herein to determine whether an employee leasing company’s contractual arrangements comply with the conditions as set forth in s. 468.525(4), F.S., means complete and total responsibility for the collection of and payment of all payroll taxes which are payable to the Internal Revenue Service and/or to the State of Florida for services performed by leased employees as leased employees.

(4) “Health benefits or health plan,” as used in s. 468.529, F.S., means provision of comprehensive major medical health benefits.

(5) “Intangible assets” as used herein to enable initial applicants to properly report their financial assets to meet the requirements for licensure, means assets that lack physical substance. The value of intangible assets is generally based on the value of the rights inherent in them or results from allocation of costs incurred to future periods, in which case they have no realizable or recoverable value outside of their ability to benefit future earnings in the normal course of operations. Intangible assets are normally subject to amortization. Examples of intangible assets include goodwill, copyrights, trademarks, patents, organization costs, deferred costs, client enrollment costs, and excess of assets acquired over purchase price.

(6) “Long-term ongoing nature” means a situation where a client company and an employee leasing company arranged for leased employees to do more than supplement the client company’s workforce in special work situations, such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects. This definition in no way is meant to alter the concept of at-will employment.

(7) “Primarily responsible” as used in s. 468.529(1), F.S., means that the admitted carrier is liable for all claims incurred under the plan of insurance during its effective period,

regardless of any reimbursement or indemnification agreement between the licensed employee leasing company and the carrier. Any reimbursement or indemnification agreement between the employee leasing company and the admitted insurance carrier shall not limit or diminish the carrier's primary responsibility for its obligations under the health plan for the payment of claims incurred or the provision of benefits under the health plan.

(8) "Shared responsibility" as used in s. 468.525(4)(a), F.S., means that the client company exercises such right of direction and control over the leased employee as is necessary to conduct its business and without which the client would be unable to conduct its business, discharge any fiduciary responsibility which it may have, or comply with any applicable licensure, regulatory, or other responsibilities the client company may have.

(9) "Tangible accounting net worth" means net worth presented in accordance with generally accepted accounting principles as defined in Rule 61H1-20.007, F.A.C., incorporated herein by reference and effective _____ reduced by the aggregate amount of intangible assets.

(10) "Temporary" as used in 468.520(4), F.S., means a situation in which leased employees are not needed on a long-term, ongoing basis, but rather are only needed to support or supplement the client company's work force in special work situations, such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects, for a period not to exceed one year.

Specific Authority 468.520, 468.522, 468.525 FS. Law Implemented 468.520, 468.522, 458.525(4), 468.529(1) FS. History--New 7-20-92, Formerly 21EE-6.001, Amended 9-14-93, 10-24-94, 7-18-95, _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sherry Landrum, Executive Director, Board of Employee Leasing Companies, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0767

DEPARTMENT OF HEALTH

Board of Medicine

<p>RULE NO.: 64B8-56.002</p>	<p>RULE TITLE: Equipment and Devices; Protocols for Laser and Light-based Devices</p>
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NOTICE OF ADDITIONAL PUBLIC HEARING

The Board of Medicine hereby gives notice of an additional public hearing on the above-referenced rule to be held on February 3, 2001, at 2:00 p.m., or as soon thereafter as can be heard, at the Wyndham Westshore Hotel, 4860 West Kennedy Boulevard, Tampa, Florida 33609. The rule was originally published in Vol. 26, No. 24, of the June 16, 2000, Florida Administrative Weekly. The additional public hearing is in response to a request for hearing following publication of the Second Notice of Change, which appeared in Vol. 26, No. 51, of the December 22, 2000, Florida Administrative Weekly.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tanya Williams, Executive Director, Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-1753

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the Board's Executive Director at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

**Section IV
Emergency Rules**

NONE

**Section V
Petitions and Dispositions Regarding Rule
Variance or Waiver**

DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Department of Environmental Protection gives notice of its intent to issue a modification to a variance to Farmland Hydro, L.P., P. O. Box 960, Bartow, Florida 33831-0960, Polk County, pursuant to section 378.212, F.S., and rule 62C-16.0045, F.A.C.

On September 11, 1990, the Governor and Cabinet, sitting as the agency head of the Department of Natural Resources, approved an application for a variance, filed by IMC Fertilizer, Incorporated, (currently IMC Phosphates Company) and Farmland Industries (currently Farmland Hydro L.P.) to delay final reclamation and restoration of reclamation program IMC-NP-NPA(2), pursuant to Chapter 378, Part III, Florida Statutes (F.S.), and Chapter 62C-16, Florida Administrative Code (F.A.C.). On July 14, 1994, the reclamation and restoration program was amended and assigned application code IMC-NP-NPA(1D).

Farmland Hydro L.P., (Farmland) filed an application with the Department of Environmental Protection's (formerly Department of Natural Resources) Bureau of Mine Reclamation on December 17, 1999, seeking a modification to the approved variance of the reclamation program IMC-NP-NPA(1D) at the Noralyn/Phosphoria Mine in Polk County.

The variance modification sought by Farmland Hydro L.P., has three components. First, the modification proposes a change in land use designation to industrial where the gypsum stack expansion area is located within the NPA(1D) reclamation area. Second, the reclamation plan identified within the department's Consent Order No. 98-1935, will be incorporated