

# MEMORANDUM



**To:** Florida Fish and Wildlife Conservation Commissioners  
**From:** Bud Vielhauer, General Counsel, Legal Office  
**Date:** December 12, 2018  
**Subject:** Consent Agenda - Proposed Revisions to Rule 68-1.010, F.A.C.

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**Purpose:**

Obtain approval to publish a substantial rewrite to improve the organization and implementation of Rule 68-1.010, Florida Administrative Code (FAC) General Regulations Relating to Licenses, Permits and Other Authorizations.

**Summary:**

Rule 68-1.010, FAC, is the backbone of FWC's licensing and permitting enforcement. The rule currently covers:

- criteria that allow FWC to revoke licenses, permits and other authorizations, or to deny applications for such (violations of FWC rules, submission of false information, etc.);
- sets of circumstances that may be grounds for immediate denial or revocation;
- a list of factors that FWC may consider in making the decision in certain other situations (note that these situations do not usually include the violation criteria in the first bullet above); and
- criteria that FWC expects its license-holders to uphold (violations of which may lead to revocations)

The rule was moved to Division 68, FAC, from Division 68A in 2013 so that the licensing rule clearly applied to the entire agency. Numerous stakeholders and staff have voiced concern over how the rule is structured. The wording of the criteria for revocations or denials, and how the criteria interact, have complicated enforcement of the rule. The confusing organization has made processing violations and litigating challenges to denials and revocations much more difficult. As an example of the rule's confusing organization, Subsection (4) states that licensees or applicants must comply with the requirements of subsection (3). This requirement is, however, subject to the factors in subsection (5). The factors in subsection (5) *furthermore* make an exception for each situation described in subsection (1), stating that the factors should not be considered under that section.

The reorganization and editing undertaken by Legal aims to make the rule more readable and easier to implement while retaining enforcement capacity and making the applicable situations clearer. Under the new rule, the first two subsections set out situations in which FWC may act against a license or application, followed by the clear list of aggravating or mitigating factors. All of this is then followed by the criteria that FWC expects its authorization-holders to uphold.

**Staff Recommendation:**

Approval to advertise the proposed amended rule and file for adoption as soon as possible with no additional hearing unless requested.

**Staff Contact and/or Presenter:**

Bud Vielhauer, General Counsel