

**Background Report  
Final Rule 68A-14.001  
Item 5 C (2)  
June 27, 2012**

**Florida Fish and Wildlife Conservation  
Commission**

620 South Meridian Street, Tallahassee, FL 32399



**Policy**

**Title:** Use of 68A-14.001(2) to Establish Special Regulations for Hunting and Fishing Opportunities on FWC Managed Lands

Date: June 27, 2012

**Summary of text & purpose for the APG**

This policy is intended to provide guidance to staff on the use of 68A-14.001(2) to provide for public hunting or fishing on FWC managed lands. It has been recognized that there are situations where hunting or fishing opportunities are available due to unique circumstances or the need for quick action not afforded through the formal rulemaking process where the use of a Commission establishment order or executive order could provide the opportunity.

**Full Text:**

**I. Agency Positions or Guidelines**

Special regulations regarding public hunting or fishing on FWC managed lands may be created by establishment order or executive order when circumstances exist that require rapid action to provide the public with the opportunity.

**II. FWC Policy, or Outside Policy to be Followed by FWC**

**A. Introduction & Background**

Situations occur on FWC managed lands where short-term, temporary or other opportunities become available for public hunting or fishing. Examples of this may include opportunities on areas normally closed to hunting or fishing for management purposes or opportunities in areas that are being converted to uses not compatible with certain forms of public hunting or fishing or opportunities supported by landowners and stakeholders for which implementation is delayed for administrative reasons or otherwise. Establishing special regulations through an establishment order or executive

order would allow FWC to provide access to these public opportunities when they exist.

The authority to accomplish this currently exists, but guidelines are needed to clarify when it may be applied: the FWC, acting under the Authority of Article IV, Section 9, of the Florida Constitution, Section 120.81(5), Section 379.2223, and 68A-14.001, F.A.C. through its Executive Director under Delegation of Authority paragraph 16 and 19 (which is incorporated into 68-1.009, F.A.C.), has authority to provide regulations on public lands under FWC management through execution of an executive order.

## **B. General Policy Statement**

An establishment order or subsequent executive order may create special regulations for an area established by FWC, notwithstanding regulations for the wildlife management area, wildlife and environmental area, fish management area, public small game hunting area or miscellaneous area within which it occurs. Such regulations shall be noticed by posting on the area and by use of electronic media.

## **C. Implementation Procedures and/or Guidelines**

1. Unique opportunities are those for which the formal rulemaking process will not respond adequately or timely enough to provide the public hunting or fishing opportunity. It is anticipated that such opportunities will arise on short notice and likely to be temporary in nature and may not be available to the public for a long period of time.
2. Consideration must be given to the need for limiting the number of hunters or fishers and how such limits will be accomplished.
3. Coordination with the Division of Hunting and Game Management (HGM) shall be required in order to fully evaluate the opportunity and the proposed special regulations. HGM shall review the opportunity and the proposed special regulations and request internal agency review from legal staff and any other divisions as appropriate. HGM shall prepare the Establishment Order or Executive Order and present it for execution by the Commission Executive Director.
4. This approach for providing such public hunting and fishing opportunities should be utilized only after it has been determined that the formal rule making process will not achieve the same opportunities in an adequate or timely manner.
5. In cases where the hunting or fishing opportunity is feasible and sustainable over a more permanent basis, staff must commence formal rulemaking to codify such opportunities. HGM and/or the appropriate

Division or Office shall take the lead in preparing and scheduling the rule for approval by the Commission in a timely manner.

6. The Executive Director shall consult with and secure concurrence from the Chairman of the Commission before finalizing and executing an establishment order or executive order establishing special regulations for public hunting or fishing opportunities under this policy.

### **(1) Text of Revised Rule**

#### **68A-14.001 Establishment Orders.**

Whenever the Commission establishes an area to be a wildlife management area; a wildlife and environmental area; a wildlife refuge; a bird sanctuary; a restricted hunting area; a critical wildlife area; a fish management area; or a miscellaneous area, it shall do so by an establishment order.

(1) The establishment order shall recite, at least, the following:

(a) The legal description of the area to be established.

(b) Any terms and conditions under which the area is established.

(2) An establishment order or subsequent executive order will include necessary special regulations for an area established pursuant to this section, notwithstanding regulations for the wildlife management area, wildlife and environmental area, fish management area, public small game hunting area or miscellaneous area within which it occurs. Such regulations shall be noticed by posting on the area and by electronic media.

(3) The establishment orders shall be kept by the Commission in its headquarters office and lists of all orders establishing an area as a wildlife management area; a wildlife and environmental area; a wildlife refuge; a bird sanctuary; a restricted hunting area; a critical wildlife area; a fish management area; a Commission managed shooting range or a miscellaneous area shall be kept by the Commission in its headquarters office and shall be available to the public for inspection.

(4) Public small-game hunting areas may be established within wildlife management areas, wildlife and environmental areas, fish management areas, and public use areas pursuant to Rule 68A-13.007, F.A.C. Regulations for each public small-game hunting area so established shall supersede regulations for the wildlife management area, wildlife and environmental area, fish management area or miscellaneous area within which it occurs.

(5) No critical wildlife area shall be established without the prior concurrence in such designation by the owner of the property wherein the area will be situated.

(6) A critical wildlife area may be established by order of the Executive Director, with prior concurrence of the Chairman of the Commission, when there is an imperative need that an important aggregation of fish or wildlife be protected as quickly as possible. Critical wildlife areas shall be established in this manner for a specified period of time that shall not exceed 180 days unless extended by approval of the Commission at a regularly scheduled public meeting.