

CFWI MFL Rulemaking Tasks:

- **Uniform CFWI rules must include a single consistent process, as appropriate, to set minimum flows and minimum water levels and water reservations.** (SB 552 –Section 7; s. 373.0465(2)(d)4., F.S.)
- **Uniform rules must provide for the consistent use of MFLs and Reservations in the permitting Process.** (CFWI 2020 Guiding Document]

Suggested Approach:

- Include all CFWI MFL/Reservation provisions as part of Uniform CFWI Rules in new rule chapter (Rule 62-45, F.A.C.?).
- Concurrently or following CFWI rulemaking, conduct rule revisions to Rule 62-40, F.A.C., the Water Resource Implementation Rule (State Water Policy) to add provisions that should apply statewide.
- The conceptual content of the rules is given below.

CFWI Rules related to MFLs/Reservations – Conceptual Content Outline

1. MFL Interagency Coordination

- Priority List
- Determination of MFL (general – more detail on coordination in section below)
- Recovery and Prevention Strategy (general – more detail on coordination in section below)

2. Determining the MFL

- Coordination with DEP, other WMDs in MFL determination
- *Development of all MFLs should include the following basic methods:*
 - Identify the hydrologic and ecological characteristics of the waterbody/watercourse, including the Water Resource Values (WRV) (see 62-40.473(1), F.A.C.) that are applicable to the waterbody/watercourse.
 - Determine the response of the ecological characteristic/WRV to changes in hydrology. Use a predictive simulation model and/or available data to develop a baseline hydrologic regime (e.g., no pumping or an existing conditions hydrologic regime)
 - Develop the MFLs (typically multiple levels or flows) to protect the ecological characteristic WRV that is most sensitive to changes in hydrology.
 - Assess the protection of the MFL hydrologic regime, based on the characteristic that is most sensitive. The difference between the Baseline and MFL hydrologic regimes represents the water that may be available to be allocated in future permits or the amount of recovery required to protect the MFLs.

3. Developing a Recovery or Prevention Strategy

- Water body or area (multiple MFL water bodies) specific
- May contain both regulatory and non-regulatory provisions
- Coordination with DEP, other WMDs in strategy development
- If water body in recovery, must include regulatory provisions indicating requirements for consistency with the recovery strategy for:
 - Renewals
 - Renewals/Modifications with increased allocations
 - New applications

4. Recovery Strategies adopted prior to July 1, 2016 (required by SB 552, Section 7; s. 373.0465(2)(d), F.S.)

5. Use of MFLs/Reservations in Review of CUP Applications

- Existing Conditions of Issuance
 - (4)(h) Is in accordance with any minimum flow or level and implementation strategy established pursuant to Sections 373.042 and 373.0421, F.S.
 - (4)(i) Will not use water reserved pursuant to Subsection 373.223(4), F.S.

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- If water body is in recovery, review application for compliance with the applicable regulatory recovery provisions.
- If water body is currently meeting MFL, conduct analysis of effect of proposed withdrawal
 - Use predictive model to determine if the proposed withdrawal will individually or cumulatively cause the MFL to not be met throughout the duration of the permit
- Post-permit monitoring to ensure MFL continues to be met
 - The districts should conduct yearly compliance checks by comparing actual exceedance values with MFL exceedance values
 - Short term climatic variability should be considered

Proposed Rule 62-40, F.A.C. Revisions

- Conform existing Rule 62-40 provisions to SB 552, other bills that pass during 2016 Legislative Session
- Add CFWI MFL provisions that should be applicable statewide
- Add CFWI definition of “Harm to the Water Resources” (assuming final should be applicable statewide.)
- To meet requirements of SB 552, Section 9, add any additional provisions as determined to be appropriate related to “harm” to OFS.