



# Florida Department of Environmental Protection

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THROUGH: Herschel T. Vinyard Jr. *HTV*  
Secretary

FROM: Greg Munson *GM*  
Deputy Secretary for Water Policy and Ecosystem Restoration

DATE: March 23, 2012

SUBJECT: Timing of the Development of Minimum Flow and Level Recovery  
and Prevention Strategies

Minimum flows and levels (MFLs) are an important tool for ensuring that the current and future water supply needs of the state are met in a manner that protects our critical natural systems. MFLs are also key to identifying the water bodies that have already exceeded sustainable levels of withdrawals and are in need of recovery.

The Department recently conducted stakeholder sessions around the state with water users and environmental interests seeking input on ways to improve the consistency and effectiveness of the consumptive use permitting program. Stakeholders expressed concerns about the timing of development of needed recovery and prevention strategies in relation to the adoption of minimum flows and levels. This memo provides guidance on that issue.

Minimum flows and levels are one of the primary tools in Chapter 373, Florida Statutes, for protection of natural systems. They are defined in Section 373.042, Florida Statutes, as those flows and levels at which further withdrawals would be significantly harmful to the water resources or ecology of the area. Section 373.0421(2), Florida Statutes, recognizes that some water bodies may not meet their minimum flow or level upon adoption, or are expected to fall below the MFL within 20 years, and requires Water

Management Districts (Districts) to expeditiously develop recovery or prevention strategies, as appropriate, for those water bodies. The recovery or prevention strategy is intended to allow for an orderly transition to alternative water supplies, where needed, and to expeditiously provide adequate water for existing and future reasonable-beneficial uses. The recovery or prevention strategy includes phasing or a timetable in order to, in part, avoid abrupt modification of existing permits.

Additional direction is provided in the Water Resource Implementation Rule, 62-40.473(5), Florida Administrative Code, which requires the districts to consider simultaneously developing any needed recovery or prevention strategy required by Section 373.0421(2), Florida Statutes, when an MFL is adopted. This has the benefit of allowing water users and other interested parties to more fully understand the effects of a proposed minimum flow or level on current and future water use, including pathways to achieve recovery.

For future minimum flow or level adoption, and modification of existing MFLs, development of a minimum flow or level and any needed recovery or prevention strategy should occur simultaneously. If a District believes this should not be the case for a particular water body, it should present its alternative approach and rationale to the Department for consideration prior to adopting the minimum flow or level.

Additionally, if at some point after adoption, new information reveals that a minimum flow or level is not being met, the District shall expeditiously develop and implement a recovery or prevention strategy.

HTV/GM/as

cc: Ann B. Shortelle, Ph.D., Director, Office of Water Policy, DEP