Existing Permitted Uses – for purposes of this rule, Existing Permitted Uses shall be defined as the permitted uses as of (rule effective date)

MFL Compliance Points – the Fort White Gage and the US 441 Gauge on the Santa Fe River and the US Highway 27 Gauge on the Ichetucknee River as set for the in Rule 62-42.300(1), F.A.C.

**Applicability**

These Supplemental Regulatory Measures are adopted by the Department of Environmental Protection (Department) in Rule 62-42.300(X), F.A.C., pursuant to Section 373.042(4), F.S., as a component of the overall Prevention and Recovery strategy for the Lower Santa Fe and Ichetucknee Rivers and Associated Priority Springs (LSFIR) MFLs (adopted in subparagraph 62-42.300(X), F.A.C.). In accordance with 373.042(5), F.S., each water management district (district or districts) shall apply the Department’s minimum flow or minimum water level and recovery or prevention strategy without the need for district’s adoption by rule. These supplemental regulatory measures apply within the North Florida Water Supply Planning Area, which includes Alachua, Baker, Bradford, Clay, Columbia, Duval, Flagler, Gilchrist, Hamilton, Nassau, Putnam, St. Johns, Suwannee, and Union Counties.

**Evaluation of Impacts to the Lower Santa Fe and Ichetucknee Rivers**

All permittees and applicants, including applicants for renewals, modifications, and new uses, shall be evaluated for their predicted impact on the MFL Compliance Points utilizing best available information. The assessment of impacts to flow at the MFL Compliance Points from both existing and proposed water uses will be based on the best available information. When a permittee or applicant submits a groundwater flow model in support of its application or its impact analysis as described below, the permittee or applicant must provide reasonable assurance that the model accurately simulates potential impacts to the MFL Compliance Points. For example, an applicant may use the North Florida Southeast Georgia regional groundwater flow model (NFSEG). When submitting the results of a groundwater flow model, impacts to the MFL Compliance Points shall be reported by comparing changes in flow.

**Base Condition Water Use for the Lower Santa Fe and Ichetucknee River MFL Recovery and Prevention Strategy**

For the purposes of the Lower Santa Fe and Ichetucknee River MFL Recovery and Prevention Strategy, the Base Condition Water Use shall be defined as the average annual quantity of groundwater from the Floridan aquifer withdrawn by the applicant from January 1, 2014 to December 31, 2018. In determining the Base Condition Water Use, the Districts shall consider and allow adjustments if the applicant demonstrates this average is not representative of normal operations. Supporting evidence of withdrawal quantities shall be provided by the applicant if withdrawals were unmetered during the base condition time period. Where no supporting evidence is available, the District shall utilize the best available information to support a base condition water use. Such information may include, but not be limited to, data from the Florida Statewide Agricultural Irrigation Demand (FSAID).

**Recovery Strategy Requirements for Existing Permitted Uses**

The rules contained within this section address the status of Existing Permitted Uses while the projects and strategies to recover the MFL Waterbodies are being implemented, and the responsibilities of the existing permittees in the recovery of the MFL Waterbodies.

All Existing Permitted Uses shall be considered consistent with the Recovery Strategy and will not be subject to revocation in whole or in part solely for causing or contributing to a reduction in the water levels in the MFL Waterbodies below the MFLs, provided the permittee does not exceed its authorized quantities and meets all requirements within this rule. Permits that do not meet the requirements within this rule will be subject to revocation in whole or in part upon demonstration by the District that the permittee’s consumptive use of water has caused or contributed to the reduction of the water levels at the MFL Compliance Points. Nothing in this section shall be construed to alter the District’s authority to enforce or modify a permit under circumstances not addressed in this section.

**Recovery of the MFL Compliance Points**

All permittees shall offset their proportionate share of impacts from their Base Condition Water Use to the MFL Compliance Points as soon as practicable and in no case more than 20 years from the effective date of this rule.

In determining the permittee’s proportionate share, the District shall consider the magnitude of the permittee’s withdrawals along with any offsets. Benefits associated with an offset project implemented by the permittee that provides a benefit to the MFL Compliance Points shall be calculated and applied to the permittee’s offset of their proportionate share. For benefits of offset project(s) to be considered, the offsets project(s) must be calculated and incorporated into the permittee’s consumptive use permit. If the permittee ceases operation of the offset project, or the project does not achieve the anticipated benefit, an equivalent replacement offset must be provided, or the allocation must be reduced to address the permittee’s proportionate share of impacts to the MFL Compliance Points.

*Method for Calculating the Permittees Proportionate Share for Recovery*

The permittee’s proportionate share of the recovery for the MFL waterbodies shall be based on the impact from the permittee’s Base Condition Water Use on the Recovery MFL Compliance Points divided by the total impact to the MFL waterbodies from all Floridan aquifer withdrawals within the delineated area on Figure XX at the Base Condition Water Use and multiplied by the recovery amount at the Recovery MFL Compliance Points. For illustration only, if a permittee’s withdrawals have an impact of reducing flow by 1 cubic foot per second (cfs), the total impact to the MFL Compliance Points from all Base Condition Water Uses is 10 cfs, and the required recovery at a gauge is 2 cfs, then the permittee’s proportionate share would be (1 cfs/10 cfs) X 2 cfs = 0.2 cfs.

\*Insert Figure XX: NFSEG Model Domain

**Prevention of Impacts to MFL Compliance Points**

Permittees shall fully address (i.e., 100%) their impacts from Existing Permitted Water Uses in excess of the Base Condition Water Use as soon as practicable and in no case more than 20 years from the effective date of this rule For benefits of offset project(s) to be considered, the offset project(s) must be calculated and incorporated into the permittee’s consumptive use permit. If the permittee ceases operation of an offset project, or the project does not achieve the anticipated benefit, an equivalent replacement offset must be provided, or the allocation must be reduced to address the permittee’s impacts to the MFL Compliance Points.

**Plan Submittal and Requirements**

Permittees shall submit to the District a plan for review and approval that demonstrates how the permittee will offset their proportionate share of the recovery from their Base Condition Water Use and 100 percent of their impacts from water use above the Base Condition Water Use in accordance with the following schedule:

|  |  |
| --- | --- |
| Impact | Plan Due Date |
| 0.1 cfs or greater at any MFL Compliance Points | No later than July 1, 2025, or upon modification, renewal, or 10-year compliance review, whichever is sooner |
| Less than 0.1 cfs at any MFL Compliance Points | Upon modification, renewal, 10-year compliance review, or within 10 years of the effective date of this rule, whichever is sooner |

At a minimum, the plan shall include:

1. A description of the projects or strategies that the permittee intends to implement to offset their proportionate share of the recovery from the permittee’s Base Condition Water Use;
2. A description of the projects or strategies that the permittee intends to implement to offset impacts in excess of the Base Condition Water, as applicable;
3. An estimate of the benefits of the projects to the MFL Compliance Points with all necessary supporting information used to calculate those benefits and a proposed method for ensuring the project achieves the anticipated benefit;
4. A schedule for implementation of the projects and strategies including a start and completion date, the latter of which should be as soon as practicable and in no case more than 20 years of the effective date of this rule. The schedule should also include notable milestones, such as permitting, design, bidding, etc.

Upon approval by the District, the plan shall be made part of the permit.

**New Uses**

Applications that request allocations from the Floridan aquifer must provide reasonable assurance of the elimination or complete offset of potential impacts to the MFL Compliance Points for the requested allocation.