

Existing Development Rule Implementation Initiative

For Consideration at the February 20, 2013 Board Meeting

This Summary reviews alternatives for achieving a more reasonable schedule for the effective implementation of the Existing Development Requirements under Stage I of the Falls Lake Rules.

Background: The current Falls Lake Existing Development Rule for Stage I require DWQ to develop and the EMC to approve Jurisdictional Loads (JLs) for each affected local government within the Falls Lake Watershed by July of 2013. Additionally, the DWQ must develop a “Model Program” (MP) as a framework for meeting these JLs and submit the MP to the EMC for approval the MP by July of 2013. The current list of approved BMP/practices with nutrient credits established is very limited. This situation makes the implementation of the Stage I Existing Development Rule under the existing schedule more difficult, less flexible and limits the effectiveness of local programs.

Regulatory Requirements:

- A. Local jurisdictions submit an inventory of existing development sources, including 7 specific categories, along with a characterization of the load reduction potential “to the extent that accounting methods allow” by January, 2013;
- B. DWQ submits a Stage 1 model local program to the EMC by July 2013 “that embodies the criteria described in Items (3)(a) and (4) of this Rule” after it has worked with the affected local governments in its development;
- C. The DWQ Stage 1 model local program must include at least 5 sets of information including “methods to account for load reduction credits from various activities” with 15 categories of load reduction activities itemized in (4)(l) of the Rule;
- D. The DWQ Stage 1 model program [July 2013] includes the accounting tool to be used by local governments to calculate the nutrient loading from existing development by the local jurisdictions and the reductions required for Stage 1[(4)(f)];
- E. The EMC approves the model program (no timeline set for this action);
- F. The local governments submit and begin implementation of their conforming local program “[w]ithin six months of the Commission’s approval of the Stage 1 model local program [January 2014 +];
- G. Within 20 months of its approval of the Stage 1 model local program, DWQ makes recommendation to the EMC on to the local programs which have been implemented for the prior 14 months [August 2015 +];
- H. EMC approves local programs, or requests changes.
- I. Stage 1 Existing development reductions are achieved by 2020. [(3)(a)]

Technical Issues: Key technical and administrative issues with this schedule are:

- The ability of DWQ to develop acceptable JDs for the jurisdictions in the established timeframe,
- The lack of a comprehensive list of nutrient reduction practices that would provide realistic and acceptable nutrient credits for the development of a flexible and effective MP for use by the local governments,
- DWQ's limited resources (including the Nutrient Scientific Advisory Board) to provide a comprehensive package of nutrient reduction practices,
- Insufficient nutrient credit information to allow local governments to develop flexible and effective local programs, and
- An inconsistent approval process for local programs

Proposed UNRBA Actions:

Based on the issues related to the current implementation schedule, the following actions are proposed:

1. Through administrative action or legislative change seek modification to the implementation schedule that delays implementation of the Stage I Existing Development Rule by at least 18 months
2. Work with DENR/Legislature to achieve this schedule revision and to identify specific resources and funding to secure the development of a more complete list of approved nutrient reduction practices and credits for use in the development of local programs
3. Provide funding within the FY 2014 budget to support the development of an expanded nutrient reduction practices and credits framework