

8.0 WETLAND MANAGEMENT

8.1 Purposes and Policy. It is the policy of the District to:

- 8.1.1 Protect and improve the functions and diversity of the District's wetlands and lay the groundwork to improve these resources.
- 8.1.2 Educate property owners and the community on the value of water resources.
- 8.1.3 Limit altering the natural hydrology of wetland basins.
- 8.1.4 Utilize buffer strips of vegetation around wetlands as a management tool for protecting wetland systems.

8.2 Applicability. The District does not serve as the Local Government Unit (LGU) for administration of the Minnesota Wetland Conservation Act (WCA). Notwithstanding the above, the District, pursuant to its regulatory authority under watershed law and its BWSR-Approved CWPMP, will require permits under Rule 8.0 for wetland-altering activities regulated by the Wetland Conservation Act (WCA) and activities regulated by the District Wetland Management Plan. Municipalities have the option of implementing Rule 8.0 after adoption of a local water management plan approved by the District and adoption and implementation of local ordinances consistent with this rule and the standards of the District Watershed Management Plan.

8.2.1 WCA Regulated Activities. Draining or filling of wetlands, wholly or partially, and excavation in the permanently and semi-permanently flooded areas of type 3, 4, or 5 wetlands, and in all wetland types if the excavation results in filling, draining, or conversion to non-wetland.

8.2.2 District Wetland Management Plan Regulated Activities:

- (a) Excavation in all Management Category (1 through 4) wetlands.
- (b) Alteration of existing upland buffer associated with other activities regulated under this Rule.
- (c) Livestock access within all Management Category wetlands.
- (d) Water appropriation and/or dewatering of Management Categories 1, 2 and 3 wetlands.
- (e) Any other activity that alters the character or hydrology of a wetland.

8.3 Regulation. Before any activity described in section 8.2 commences, a wetland management plan shall be submitted to the District in conformity with the requirements of this Rule, and a permit shall be secured from the District. This Rule is written in recognition of WCA and shall serve as a supplement to this legislation. All current WCA rules and regulations not specifically modified under this Rule remain unchanged.

8.4 Wetland Delineations.

8.4.1 Delineation Method. Wetland Delineations must be performed according to the joint BWSR/Corps 1996 guidance document "Guidelines for Submitting Wetland Delineations in Wisconsin to the St. Paul District Corps of Engineers" (Public Notice, 96-01078-SDE, May 22, 1996). Applicants are encouraged to consult with the LGU prior to the wetland delineation, especially in atypical

situations, problem areas, and/or delineations based on inconclusive hydrology. It is incumbent upon the applicant to provide satisfactory documentation to support wetland boundaries, and that level of documentation is generally greater in atypical situations and/or seasonal wetlands, particularly relating to hydrology. The LGU will have final say as to the appropriate level of documentation.

8.4.2 Delineation Submittal Timing. Delineations should be submitted to the LGU with ample growing season remaining for review. This decision is at the discretion of the LGU, and therefore delineations MAY be reviewed outside of the official growing season if conditions allow for ample review of the data relevant to the wetland determination/delineation. The definition of “growing season” is as defined in the joint BWSR/Corps 1996 guidance document.

8.5 Wetland Impact Avoidance, Minimization & Replacement.

8.5.1 Impact Sequencing. Impacts to existing wetland areas must meet the sequencing requirements as outlined under Minnesota Rules 8420.0520 “Sequencing.” In addition, applicants must adequately explain and justify each individual area of wetland alteration in terms of impact avoidance and minimization alternatives considered.

8.5.2 De minimis. This exemption as set forth in Minnesota Rules 8420.0420 Subp. 8, is incorporated as part of this Rule with the following amendment:

(a) The maximum de minimis for District Wetland Management Category 1 and 2 wetlands, regardless of impact location and wetland type, is 20 square feet.

8.5.3 Location of Replacement. Replacement must be located within the District and as close as possible to the site of impact. Qualifying township, city, or county road impacts may be mitigated outside the District via the BWSR road replacement bank up to the ratios required by WCA. However, the balance of replacement required by sub-section 8.5.4 must be located within the District.

8.5.4 Replacement Ratios. Full replacement of all wetland functions is required at the following ratios (new wetland area: impacted wetland area):

- (a) 6:1 for impacts to wetlands in Management Category 1
- (b) 4:1 for impacts to wetlands in Management Category 2
- (c) 3:1 for impacts to wetlands in Management Category 3
- (d) 2:1 or minimum required by Minnesota Rules 8420.0522, whichever is greater for impacts to wetlands in Management Category 4

When wetland is impacted and replaced, the impacted existing upland buffer area must also be replaced via buffer establishment or by payment into the Restoration Fund at a 1:1 ratio if buffer establishment is not reasonably available.

8.5.5 Eligible Replacement Activities & Priorities. The following activities, listed in order of priority, are eligible for replacement credit. Applicant must first consider replacement of unavoidable impacts by restoring or, if wetland restoration opportunities are not reasonably available, creating replacement wetland areas having equal or greater function. Restoration and creation activities eligible for replacement credit include those detailed in Minnesota Rules 8420.0526 and listed (as prioritized per District local values) below:

- (a) Protection of wetlands previously restored via conservation easements
- (b) Restoration and protection of exceptional natural resource value
- (c) Restoration of completely drained or filled wetland areas
- (d) Restoration of partially drained or filled wetland areas
- (e) Upland buffer areas (established or preserved)
- (f) Vegetative restoration of farmed wetlands
- (g) Wetland creations

If the above activities are not reasonably available to satisfy the entire replacement required by sub-section 8.5.4, the following additional activities, where they protect or improve the functions of wetlands shall be considered for replacement that exceeds the minimum replacement required by WCA:

- (a) Specified activities from the Spring Creek Corridor & Lower St. Croix River Stewardship Plans, CMWD Natural Resource Inventory, and MWMO Natural Resource Inventory
- (b) Protection and restoration of Groundwater Dependent Natural Resource recharge areas
- (c) Protection of high-quality upland
- (d) Protection of landlocked basins
- (e) Protection and restoration of corridor connections

Those activities preserving wetland functions are eligible for 25% replacement credit on an area basis. Those activities restoring and preserving wetland functions are eligible for 50% replacement credit on an area basis.

If all above activities have been explored but are not reasonably available to meet, in full or in part, the replacement required by sub-section 8.5.4 that exceeds the minimum required by WCA, applicants must make payment into the Restoration Fund.

8.5.6 Restoration Fund. Landowners needing to replace wetland impacts that have exhausted exploration of the replacement credit activities of sub-section 8.5.5, may make a payment into the Restoration Fund to meet in full or part the replacement required by sub-section 8.5.4 that exceeds the minimum required by WCA. The Restoration Fund payment rate is determined and set by the Board of Managers by formal resolution.

Contributions to the Restoration Fund will be paid to, administered by, and held by the District, and will be used by the District for wetland restoration activities and other natural resource improvements that would restore, protect, and/or improve wetland function. Administration of the Restoration Fund is detailed in the District's Plan.

8.6 Buffer Standards.

8.6.1 Buffer Widths. Buffers are required around all preserved and replacement wetlands, with the average and minimum widths summarized in Appendix 8.1 or as required by WCA, whichever is greater.

8.6.2 Buffer Creation. Wetland shall not be filled merely for the purpose of buffer creation.

8.6.3 Buffer Delineation. A buffer shall be indicated by permanent markers at the buffer's upland edge, with a design and text approved by District staff in writing.

8.6.4 Recreation Standards. Existing trails used for landowner access to wetlands are allowed to remain per Rule 4.9.2. However, continued use of existing trails is not allowed if the trail is causing erosion or inhibiting the growth of vegetation. All new surfaces within the buffer zone must be pervious. Paved recreational trails must be located outside the buffer zone.

8.7 Required Exhibits. The following items, submitted in duplicate, shall accompany all permit applications submitted to the District pursuant to Rule 8.0:

8.7.1 Wetland Delineation report prepared in accordance with section 8.4.

8.7.2 Site Plan showing:

(a) Property lines and corners and delineation of lands under ownership of the applicant.

(b) Location of all onsite and adjacent wetlands and water features, including the Management Category for each wetland according to the District Wetland Management Plan.

(c) Existing and proposed elevation contours, including the existing overflow elevation and flow capacity of the wetland outlet, and spoil disposal areas.

(d) Area of existing wetland and upland buffer to be filled, drained, excavated, or otherwise altered.

(e) Location of all proposed wetland buffers and wetland replacement.

8.7.3 Wetland Assessment data for each wetland according to the District Wetland Management Plan. If these data do not exist, then a Functions and Values Assessment is required according to the protocol described in the District Wetland Management Plan.

8.7.4 Detailed explanation of the wetland buffer quality and buffer plans.

8.7.5 Replacement Plan, if required, outlining the steps followed for the sequencing process and including documentation supporting the proposed replacement plan.

8.7.6 Erosion Control Plan.

8.7.7 Detail plan for proposed replacement activities.

8.7.8 Detailed monitoring plan for proposed replacement activities.

8.8 Exceptions.

8.8.1 Normal maintenance of stormwater ponds, existing ditches and channels is exempt from the requirements of sub-section 8.5.4 if the maintenance activity meets the criteria of No Loss, per Minnesota Rules 8420.0415.

8.8.2 State roads and highways are exempt from Rule 8.0; however, the District strongly encourages MnDOT to comply with the conditions and intent of the District Wetland Management Plan.

8.8.3 Excavation in a Management Category 3 or 4 wetland may be allowed if the activity meets the criteria of No Loss, per Minnesota Rules 8420.0415.

8.8.4 Existing livestock access may continue as livestock access to the wetland, regardless of wetland Management Category.

8.8.5 New livestock access is not allowed in Management Categories 1, 2, and 3 wetlands. New livestock access to a Management Category 4 wetland is allowed so long as the function, value, and quality of the wetland are not degraded.

8.8.6 Any type of ongoing water appropriation and/or dewatering practice is not allowed in Management Categories 1, 2, and 3 wetlands. A variance for temporary dewatering impacts may be permitted if all other options have been exhausted.

8.8.7 An impervious surface, road, or utility in existence on March 1, 2010, its maintenance (including mill and overlay), reconstruction, and maintenance of its existing right-of-way are excepted from section 8.6.1 Buffer Widths unless the impervious surface area increases. Any increase in area of a surface, road or utility excepted under this sub-section is subject to the Rule. A public road or a utility may be located within a buffer zone on a finding that avoiding the buffer is infeasible and in accordance with the standards of section 4.8.

Appendix 8.1

Summary of Minimum Buffer Standards

Wetland Management Category	Average Buffer Width (feet)	Minimum Buffer Width (feet)
1	100	100
2	75	50
3	50	25
4	50	25