

**Side-by-Side Comparison of Proposed and Current MCWD Rules
Rule 7. Wetland Protection**

This side-by-side comparison has been prepared to aid in review of the proposed rule changes. The existing and proposed rules can be found on the MCWD website, along with the Guidance on Proposed Revised Rules which provides a detailed explanation of all substantive changes: <https://minnehahacreek.org/permits/permitting-rule-revisions/>

<p>Key: Blue & bold font - Key language that represents a substantive change from current language Grey shading - Revised rule language is a relocation, consolidation, clarification, and/or simplification of the current language (i.e. housekeeping) <i>Italics</i> - removed text</p>

Revised Section	Revised Language	Current Section	Current Language
1	<p>POLICY. It is the policy of the Board of Managers to:</p> <ul style="list-style-type: none"> a. Protect and enhance the quantity, quality and biological diversity of Minnesota’s wetlands by limiting direct and indirect impacts, requiring effective mitigation of impacts, and fostering the restoration of diminished or drained wetlands; b. Monitor mitigation and restoration actions of regulated parties so that high quality and diverse wetland resources are established and sustained; and c. Coordinate with local, state and federal governments, so that regulatory oversight of wetland resources is effective and efficient under the Minnesota Wetland Conservation Act (MnWCA), related state and federal laws, municipal ordinances, and these rules. 	1	<p>POLICY. It is the policy of the Board of Managers to:</p> <ul style="list-style-type: none"> (a) Achieve no net loss in the quantity, quality and biological diversity of Minnesota’s existing wetlands; (b) Increase the quantity, quality and biological diversity of Minnesota’s wetlands by restoring or enhancing diminished or drained wetlands; (c) Avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality and biological diversity of wetlands; (d) Minimize direct or indirect impacts from activities that destroy or diminish the quantity, quality and biological diversity of wetlands; (e) Rectify the impact of any such activity by repairing, rehabilitating, or restoring the affected wetland environment; (f) Reduce or eliminate the impact of such activity over time by preservation and maintenance operation during the life of the activity; (g) Compensate for the impact on the wetlands by restoring a wetland; (h) Compensate for the impact on the wetlands by replacing or providing substitute wetland resources or environments; and (i) Promote competent
2	<p>APPLICABILITY.</p> <ul style="list-style-type: none"> a. The MnWCA is administered by a local government unit (LGU), as that term is defined at Minnesota Statutes §103G.005, subdivision 10i. Within a given municipality, either the District or the municipality is the LGU. Where the District is the LGU, it will administer the MnWCA in accordance with Minnesota Statutes chapter 103G and Minnesota Rules chapter 8420, as amended, except as provided in subsection 2.c, below. b. Pursuant to Minnesota Rules 8420.0233 and its own authority, the District regulates certain excavation within wetland under section 3 of this rule, and imposes requirements for vegetated buffer adjacent to wetland and public waters wetlands under sections 4 through 6 of this rule. The District applies these sections of the rule throughout the watershed, and not only where the District is the MnWCA LGU. 	2	<p>REGULATION UNDER WCA AND WATERSHED LAW. The District regulates activity impacting wetlands pursuant to the WCA and the Watershed Law. A permit for activities impacting wetlands or requiring wetland buffers is required as follows:</p> <ul style="list-style-type: none"> (a) In municipalities where the District is the local government unit under the WCA, a permit is required from the District for any draining or filling of wetlands, or excavation in the permanently and semipermanently flooded areas of type 3, 4, or 5 wetlands, and in all wetland types if the excavation results in filling, draining, or conversion to nonwetland. The WCA, as amended, and its implementing rules as set forth in Minnesota Rules chapter 8420, as amended, specifically including sequencing requirements and all exemptions, are incorporated as a part of this rule. Work affecting a wetland that qualifies as no-loss under the WCA and work affecting an incidental wetland, as defined in the WCA, do not require a permit under this rule. Wetland replacement, where permitted, shall comply with section 3, Wetland Replacement, of this rule. (b) A permit is required from the District pursuant to the excavation and buffer provisions in sections 4, Excavation, and 5, Buffer, of this rule, which are adopted under the District’s watershed law authority and apply whether or not the District is the WCA local government unit. Pursuant

			to this authority and section 4, Excavation, the District requires a permit for excavation in any type of wetland, except where specifically exempted by the WCA or when the work meets no-loss criteria under the WCA. No permit under this rule is required for excavation in an incidental wetland, as defined in the WCA.
		5b	Buffer width will be determined in accordance with section 6, Buffer Width, of this rule.
2c	Notwithstanding replacement location provisions of the MnWCA, project-specific replacement for any wetland impact subject to District permitting under this rule must be sited in the following order of priority: (1) within the same District subwatershed as the affected wetland; (2) within the Minnehaha Creek watershed; (3) within the same eight-digit Hydrologic Unit Code watershed.	3	WETLAND REPLACEMENT. (a) Project-specific replacement wetland must be sited in the following order of priority, which replaces the siting priority in Minnesota Rules section 8420.0522, subpart 7, as it may be amended: (1) On site; (2) Within the same subwatershed as the affected wetland (see Appendix 1); (3) In the Minnehaha Creek watershed; (4) In the same eight-digit Hydrologic Unit Code watershed. (b) Pursuant to Minnesota Rules section 8420.0522, subp.7, as it may be amended, when reasonable, practical and environmentally beneficial replacement opportunities are not available in a siting priority area in subsection 3(a), providing replacement priority areas, the applicant may seek opportunities at the next level. When neither replacement opportunities nor privately banked credits are available in any priority area, the applicant may comply with this section through the purchase of banked credits from the District at the cost to the District to establish credits, so long as the District has determined that sufficient credits are available.
3a	EXCAVATION. As stated at Minnesota Rules 8420.0105, subpart 1, the MnWCA applies to excavation in the permanently and semipermanently flooded areas of type 3, 4, or 5 wetland, and in any wetland type if the excavation results in filling, draining, or conversion to nonwetland. Under this section 3, the District regulates all other excavation in wetland, except for incidental wetland as that term is defined at Minnesota Rules 8420.0105, subpart 2.D..	4a	EXCAVATION. Excavation in wetlands is subject to the following requirements. (a) Excavation is governed by the substantive and procedural standards, criteria and requirements set forth in the WCA, as amended, and the rules implementing the WCA as set forth in Minnesota Rules chapter 8420, as amended, including all exemptions, with the exception that replacement for excavation not subject to the WCA shall be at the ratio of 2:1. Excavation in incidental wetland is not subject to the requirements of this section. The priority siting requirements of section 3 of this rule, Wetland Replacement, apply to replacement of excavated wetland under this section.
3b	District regulation under subsection 3.a will be administered in accordance with Minnesota Rules chapter 8420, as amended, including no-loss and exemption standards. For the purpose of Minnesota Rules 8420.0522, subpart 4, the replacement ratio under subsection 3.a is two acres of replacement credit for each acre of wetland impacted.		
3c	Excavation subject to section 3 does not require replacement if the excavation is performed for public benefit and the applicant demonstrates that: (i) the wetland to be excavated is degraded; (ii) the activity would improve the wetland function and value; and (iii) the enhanced function and value are likely to be sustained. The demonstration is to be made using the Minnesota Routine Assessment Method (current version) or other method approved by the District. The excavation may not change wetland type, unless the applicant demonstrates that the public benefit otherwise cannot be achieved.	4b	Excavation of a wetland performed for public benefit, including excavation to remove or control invasive species, shall be deemed self-replacing if the applicant demonstrates that the wetland to be excavated is degraded; the proposed activity would increase the wetland's function and value, as determined using the current version of the Minnesota Routine Assessment Method or other method approved by the District; and the enhanced wetland function and value are likely to be preserved. Excavation must not result in a change of wetland type, unless the applicant demonstrates that public benefit is not obtainable absent such impact.
4a	VEGETATED BUFFER. A property owner must obtain a permit establishing a permanent vegetated buffer adjacent to wetland or public waters wetland in accordance with this section. a. A buffer is required as follows: 1. if an approval is issued under this rule for a wetland impact that requires replacement or if a permit is issued under the Waterbody Crossings and Structures rule for a new structure in a wetland or public water wetland, a buffer is required around the wetland; 2. If an activity requires a permit under the Stormwater Management rule, a buffer is required on that part of the wetland that is downgradient of the new or reconstructed impervious surface. 3. If a New Principal Residential Structure that increases site impervious surface is constructed, a buffer is required on that part of the wetland that is downgradient of the new or reconstructed impervious surface.	5a	BUFFER. (a) Any activity for which a permit is required under this Wetland Protection Rule, the Stormwater Management Rule or the District Waterbody Crossings and Structures Rule, and New Principal Residential Structure construction that increases the imperviousness of the subject parcel must provide for buffer adjacent to each wetland and public waters wetland. <i>To the extent the buffer requirement applies to a proposed New Principal Residential Structure, it will be applied in accordance with protections afforded a zoning nonconformity under state law so as not to unduly restrict the proposed action.</i> Buffer must be provided on that part of the wetland edge that is downgradient from the activity or construction and around each wetland that will be disturbed.

4b	Notwithstanding subsection 4.a, the District may approve a permit without a buffer requirement for an activity on public land: (i) that is subject to an equivalent conservation restriction; or (ii) where the buffer would conflict with a water-dependent recreational or educational public purpose served by the affected area. In either case, the District may impose reasonable conditions to secure equivalent wetland protection.	N/A	N/A
4c	Permanent wetland buffer monuments must be installed and maintained at the buffer edge. A monument must be placed at each lot line, with additional monuments placed at an interval of no more than 200 feet and as necessary to define a meandering boundary. If the land subject to monumentation is subdivided, additional monuments must be installed and maintained to meet this standard. Monument text will conform to District standard specifications and text, or receive written District approval. On public land or right-of-way, the monumentation requirement may be satisfied by the use of markers flush to the ground, breakaway markers of durable material, or a vegetation maintenance plan approved by the District in writing.	5d	A permanent wetland buffer monument shall be installed at each lot line where it crosses a wetland buffer, and where needed to indicate the contour of the buffer, with a maximum spacing of 100 feet. Language shall indicate the purpose of the buffer, restrictions, and the name and phone number of the Minnehaha Creek Watershed District. On public land, or right-of-way, the monumentation requirement may be satisfied by the use of a marker flush to the ground or breakaway markers of durable material. At the request of the applicant, the District shall provide wetland buffer monuments at production cost.
4d	As a condition of permit issuance, a property owner must file on the deed a declaration or other recordable instrument, in a form approved by the District, establishing the perpetual buffer. On public land or right-of-way, in place of a recorded declaration, the public owner may execute a written maintenance agreement with the District. The agreement will state that if land containing the buffer area is to be conveyed to a private party, the public owner must file on the deed a declaration conforming to this paragraph. The declaration or agreement will contain the Planting Plan required by section 6, below, as applicable.	5c	Buffers shall be documented by declaration or other recordable instrument approved by the District and recorded in the office of the county recorder or registrar before activity under the MCWD permit commences. A buffer on public land or right-of-way may be documented in a written agreement executed with the District in place of a recorded instrument. The agreement shall state that if the land containing the buffer is conveyed, the public body shall require the buyer to comply with this subsection.
		7b	For public land, right-of-way <i>or property held by a homeowner's association</i> , the applicant may comply with paragraphs 5(d), requiring buffer monumentation, 7(a), vegetation management, and section 10, Wetland Buffer Monitoring, of this rule by demonstrating that the buffer will be maintained in accordance with a written maintenance agreement with the District meeting the buffer monumentation, vegetation management and wetland buffer monitoring requirements in this rule, listing required elements of paragraph 9(h), the Wetland Buffer Maintenance Plan, including terms describing in detail the location of wetland buffer on the subject property and providing detailed protocols for buffer maintenance.
5a	<p>BUFFER WIDTH. Buffer width is based on the management class of the wetland, as established by the District's Functional Assessment of Wetlands, as updated. Alternatively, an applicant may determine management class by applying the Minnesota Routine Assessment Method (current version). A Base Width is established and may be reduced on the basis of favorable slope or soil condition, but not below the Base Width Minimum, each as follows:</p> <p>[See table in the proposed rule - widths are unchanged]</p> <p>The permitted width reductions are as follows: (i) For each five percent by which the average buffer slope is below 20 percent, the Base Width may be reduced by two feet. (ii) For each Hydrologic Soil Group grade above Type D by which the buffer soil is predominantly classified, the Base Width may be reduced by two feet.</p>	6a	<p>BUFFER WIDTH. The Base Buffer Width shall be determined by the management class of the wetland as evaluated by the District's Functional Assessment of Wetlands or by the current version of the Minnesota Routine Assessment Method (MnRAM). <i>Stormwater sensitivity parameters must be analyzed and results included in the evaluation, unless all stormwater flow to wetlands is managed in compliance with the bounce, inundation and runout-elevation control criteria in subsection 8(b) of the District's Stormwater Management Rule.</i></p> <p>[See table in the existing rule]</p>
		6b	(b) The Applied Buffer Width, the actual width of wetland buffer(s) required for a permitted project, shall be the Base Buffer Width as reduced by beneficial slope or soil conditions pursuant to the following formulas: (1) For every 5 percent decrease in average buffer slope from 20 percent, the Base Buffer Width may be reduced 2 feet. (2) For every grade of Hydrologic Soil Group above Type D for the predominant buffer soil condition, the Base Buffer Width may be reduced 2 feet. Reductions for beneficial slope or soil conditions shall not reduce the buffer width to less than the applicable Minimum Applied Buffer Width.
5b	An applicant is not obligated to acquire property to meet the applicable buffer width under this rule.	6e	(e) The Applied Buffer Width for Linear Reconstruction Projects shall be limited to the extent of available right-of-way. A buffer is not required for resurfacing of an existing road, sidewalk or trail that does not increase the area of impervious surface.

5c	Buffer width at any point may be reduced to no less than 50 percent of Base Width, provided total buffer area is maintained and the applicant demonstrates that the buffer will provide wetland and habitat protection at least equivalent to a buffer of uniform Base Width. In calculating total buffer area, buffer wider than 200 percent of Base Width is not considered.	6c	Buffer width may vary based on demonstrated site constraints, provided that a width of at least 50 percent of the Applied Buffer Width is maintained at all points, there is no reduction in total buffer area, and the buffer provides wetland and habitat protection at least equivalent to a buffer of uniform Applied Buffer Width. Buffer width averaging calculation will exclude any part of the buffer exceeding 200 percent of the Applied Buffer Width. The area of any path or trail allowed in the buffer will be added to the total area required by the Applied Buffer Width, except that construction of a trail or path of no more than 4 feet in width to provide riparian access through the buffer will not increase the required buffer area.
5d	The District may accept a shortfall in total buffer area if the applicant demonstrates that proposed buffer conditions will provide function and value equal to or greater than that which a buffer of required area would provide. The demonstration is to be made using the Minnesota Routine Assessment Method (current version) or other method approved by the District.	6d	The Applied Buffer Width may be further reduced by the District upon a demonstration by the applicant that the proposed buffer conditions clearly provide function and value equal to or greater than would be provided by a buffer of the applicable Applied Buffer Width, but may not be reduced to less than 50 percent of the applicable Applied Buffer Width.
5e	The buffer width for New Principal Residential Structures is 25 percent of the distance between the proposed structure at the point that it is nearest to the wetland and the wetland, or 25 feet, whichever is greater. Notwithstanding the foregoing, the required buffer will not exceed the Base Width or render a property unbuildable.	6f	The Applied Buffer Width for New Principal Residential Structures shall be limited to 25 percent of the distance between the existing structure at the point that it is nearest to the wetland and the wetland, or 25 feet, whichever is greater, provided that such a buffer shall not exceed the Base Buffer Width, and the buffer shall not render a property unbuildable.
6a	PROTECTING BUFFER SOIL AND VEGETATION. For buffer area not presently established with vegetation, the applicant will supply a Planting Plan in accordance with Section 7, below.	N/A	N/A
6b	Buffer vegetation may not be fertilized, mowed, cultivated, cropped, pastured or otherwise disturbed. No mulch, yard waste, fill, debris or other material may be placed within a buffer, temporarily or permanently. No excavation may occur in a buffer.	7a	WETLAND BUFFER VEGETATION. Buffer vegetation shall not be cultivated, cropped, pastured, mowed, fertilized, subject to the placement of mulch or yard waste, or otherwise disturbed, except for periodic cutting or burning that promotes the health of the buffer, actions to address disease or invasive species, mowing for purposes of public safety, temporary disturbance for placement or repair of buried utilities, or other actions to maintain or improve buffer quality, each as approved by District staff or when implemented pursuant to a written maintenance plan approved by the District. Pesticides and herbicides may be used in accordance with Minnesota Department of Agriculture rules and guidelines. No new structure or hard surface shall be placed within a buffer, except as provided in paragraph 6(c). No fill, debris or other material shall be excavated from or placed within a buffer.
6c	Notwithstanding paragraph 6.b: 1. pesticides and herbicides may be applied within a buffer in conformance with Minnesota Department of Agriculture rules and guidelines; 2. periodic cutting or burning to promote buffer health, action to address disease or invasive species, mowing for public safety, temporary disturbance to place or repair a utility, or other action to maintain or improve buffer quality is permitted if approved in writing by the District; 3. a road authority maintenance agreement may provide for mowing and brush cutting as required for public safety and inspection of drainageways, and may allow fertilizer and soil conditioning to address vegetation stress.		
6d	An applicant will not be required to remove an existing permanent structure or hard surface from the buffer area, if the structure or surface is in sound and functional condition. If feasible, buffer will be established upgradient of existing hard surface that is retained, to provide for the required width of vegetated land. No new structure or hard surface may be placed within a buffer, except that for access to the wetland, a path or trail of pervious or impervious surface, no more than four feet in width, may be located within a buffer and will be considered part of the buffer. The path or trail will reasonably minimize the loss of buffer area and will be designed to not concentrate or accelerate runoff to the wetland.	6c, 7a	[See sections 6c and 7a above]
6e	Before site disturbance, buffer area will be fenced to exclude construction operations and to prevent sediment movement into the buffer, unless the applicant demonstrates that it is necessary to work within the buffer and obtains District approval of a Planting Plan providing for establishment of native vegetation and conforming to section 7, below. The Planting Plan also must contain terms to control erosion and sediment and protect tree root zone during construction; minimize soil compaction; and provide for post-disturbance soil decompaction to a depth of 18 inches and incorporation of organic matter. The plan will specify that within tree drip line or critical root zone, or within 10 feet of a subsurface utility, the applicant will decompact solely by	7c	Buffer areas, or portions thereof, that are not vegetated or will be disturbed by grading or other site activities during construction shall be replanted and maintained according to the following standards: (1) Soils must be decompacted to a depth of 18 inches and organic matter must be incorporated into soils before revegetation. Decompaction shall be accomplished solely by incorporation of organic matter within the drip line or critical root zone of trees or within 10 feet of underground utilities. (2) Erosion/sediment control practices, including provisions of sections 5, Erosion Control Plan, and 9, Maintenance, of the District Erosion Control Rule, as appropriate,

	<p>incorporating organic material. Fencing and other protection measures must be removed when site vehicle and equipment operation is complete.</p>		<p>shall be used during buffer vegetation establishment. (3) Buffers shall be planted with a native seed mix and/or native plantings approved by the District. (4) Buffer maintenance and monitoring shall be performed in accordance with section 10, Wetland Buffer Monitoring, of this rule.</p>
7	<p>SUBMITTALS. The following are the elements of an application under this rule.</p> <p>a. If seeking a MnWCA approval, a completed Combined Joint Notification form. If not, a completed District standard application.</p> <p>b. A valid delineation report, conforming to MnWCA guidelines, for each wetland proposed to be disturbed, or that will be subject to a buffer under this rule. If the District is not the MnWCA LGU, the application must include the LGU decisions associated with the report. Where MnWCA does not require a delineation report, District staff may allow the report to be omitted, or limited to a part of the wetland boundary as needed for the permit decision.</p> <p>c. Site plan that shows and, by notation, describes:</p> <ol style="list-style-type: none"> 1. Lines and corners of contiguous tracts owned by applicant; 2. Delineation of site wetland; of areas of wetland to be disturbed, and of existing and proposed buffer; 3. Existing and proposed site elevation contours; 4. Proposed grading and other disturbance in wetland or buffer; 5. For wetland excavation, proposed location of spoils placement and specifications to stabilize and vegetate spoils; 6. Proposed buffer monument locations. <p>d. For impacts requiring replacement under this rule, a replacement plan conforming to Minnesota Rules chapter 8420.</p> <p>e. If required by section 6, above, a Planting Plan containing the following:</p> <ol style="list-style-type: none"> 1. Description and specification of seed and plant materials, including supplier and origin; 2. Bed preparation (for example, clearing, disking, raking, herbicide control, soil amendment or addition); 3. Seeding or planting method and application rate in pounds of seed per acre or plants per unit area; application rate must reflect if pure live seed (PLS) is to be used; 4. Measures for site protection and erosion prevention during establishment; 5. An inspection and maintenance schedule describing activities (watering, mowing, invasive species control, herbicide application, burning, etc.) for five years of establishment; 6. The criteria for buffer vegetation establishment. 	9	<p>REQUIRED EXHIBITS. The following exhibits shall accompany the Combined Joint Notification (CJN) form:</p> <p>(a) Complete delineation report, in accordance with the guidelines provided by the Board of Water and Soil Resources, for any wetland(s) that will be impacted or require a buffer. The report must be approved by the WCA Local Government Unit (LGU). The report must include a copy of the Notice of Decision for all projects occurring in cities where the District is not the LGU.</p> <p>(b) Site plan, one set - full size and one set - reduced to a maximum size of 11" x 17", showing:</p> <ol style="list-style-type: none"> (1) Property lines and corners and delineation of lands under ownership of the applicant; (2) Existing and proposed elevation contours; including the existing runoff elevation and flow capacity of the wetland outlet; (3) Boundaries of all wetlands on the property; (4) Boundaries of all existing or proposed buffers, along with proposed grading and other disturbance in existing or proposed buffers; (5) Proposed locations of buffer signage; and (6) Area of the wetland portion to be filled, drained, or excavated. <p>(c) Identification and area of the total watershed area presently contributing stormwater runoff to the wetland.</p> <p>(d) A replacement plan, if required, meeting all the requirements of Minnesota Rules chapter 8420, as amended. Replacement plans for wetland impacts not subject to the WCA must meet these same requirements.</p> <p>(e) For projects involving wetland excavation (including projects deemed self-replacing under paragraph 4(b)), the application shall identify spoils placement on upland and specify how the deposited materials will be stabilized and vegetated.</p> <p>(f) Information showing whether the subject wetland is protected by either the State or municipality or both.</p> <p>(g) Wetland Buffer Planting Plan, if required under section 7, Wetland Buffer Vegetation, including:</p> <ol style="list-style-type: none"> (1) Proposed seed mixes and other plant materials to be used; (2) Seed or plant supplier and origin of materials; (3) Seed/planting bed preparation (i.e. disking, raking, clearing, herbicide control, topsoiling, etc.); (4) Seeding and/or planting method (i.e. broadcast, drill, etc.); (5) Application rate in either pounds of seed per acre and/or the number of plants per unit area if using plugs or seedlings. Specify if using pure live seed (PLS). Higher application rates will be required if not using PLS; (6) Detailed erosion control plan for establishing wetland buffer. <p>(h) Wetland Buffer Maintenance Plan, if required under section 7, Wetland Buffer Vegetation, including:</p> <ol style="list-style-type: none"> (1) Schedule of establishment and maintenance activities for the first five years of establishment (i.e. watering, burning, mowing, herbicide control, etc.); (2) Identification of probable invasive species and steps that will be taken to control the spread of invasive species;

			(3) Inspection methods and schedule for monitoring invasive species and documenting native species germination and establishment.
8	<p>REPORTING.</p> <p>For five years after buffer is seeded or planted, before January 1 of each year, a property owner subject to a Planting Plan will submit an annual report to the District. An owner may request that the District perform the wetland buffer inspection and produce the report for a fee equal to the District's cost.</p> <p>a. The annual report will:</p> <ol style="list-style-type: none"> 1. Describe dominant plant species within the buffer, estimate their percent cover, and compare to the approved planting/seeding plan; 2. Include a site plan that delineates the buffer and shows areas of bare soil, erosion, invasive vegetation, disturbed vegetation or encroachment; 3. Describe management strategies to be used in the next growing season to make progress toward the establishment goal; 4. Include color photographs taken during growing season, with vantage points indicated on the site plan. <p>b. If, after the third annual report, the District finds that the buffer meets establishment standards and that further active monitoring and management are not necessary, it may in writing excuse the property owner from further inspection, maintenance and reporting.</p> <p>c. If, after the fifth annual report, the District finds that the buffer has not met establishment standards, it may extend inspection, maintenance and reporting obligations, and may require amendment of the declaration or agreement for that purpose.</p>	10	<p>WETLAND BUFFER MONITORING.</p> <p>For buffer areas required to be established or replaced under subsection 7(c), setting standards for buffer establishment and maintenance:</p> <p>(a) Upon final establishment, wetland buffers shall contain little or no bare soil and shall exhibit a dominance of native vegetation.</p> <p>(b) The applicant shall submit to the District an annual Wetland Buffer Inspection Report on or before January 1 of each year for five years. Alternatively, applicants may request that the District perform the Wetland Buffer Inspection and produce the report for a fee equal to the District's actual costs to perform the work.</p> <p>(1) The applicant may submit a written request to cease annual monitoring by year three if the wetland buffer is well established pending District approval.</p> <p>(2) If the wetland buffer is poorly established at the end of the five year monitoring period, the District may require continued monitoring and maintenance.</p> <p>(c) The annual Wetland Buffer Inspection Report shall include:</p> <p>(1) Site plan showing:</p> <ol style="list-style-type: none"> i. Location of permitted buffer area; ii. Areas of bare soil or erosion; iii. Areas of invasive vegetation; and iv. Location and type of any encroachments on the buffer (structures, unapproved mowing, trails, etc.) <p>(2) Color photos of the wetland buffer taken during the growing season. Vantage points for these photos shall be labeled on the site plan.</p> <p>(3) Description of buffer vegetation including:</p> <ol style="list-style-type: none"> i. List of dominant plant species and their estimated percent cover. ii. Comparison of the species present to the approved planting/seeding plan. <p>(4) A written narrative that identifies the management strategies that will be utilized during the upcoming growing season to manage invasive species, improve percent vegetative cover and species diversity, and mitigate any encroachments on the buffer.</p>
9	<p>FINANCIAL ASSURANCE.</p> <p>A bond, letter of credit or cash escrow in accordance with the District's Financial Assurances Rule is a condition of permit issuance.</p>	8	<p>FINANCIAL ASSURANCE. A performance bond, letter of credit or other financial assurance, consistent with the District Financial Assurance Rule, may be required for any project involving wetland replacement or replanting of wetland buffers. The financial assurance shall be maintained until the monitoring period has ended and District has approved the wetland replacement or establishment of the buffer.</p>