

## Chapter 3

# Management, Operations, and Maintenance of Tributary Sewers

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## **Subchapter I - General**

### **3.101 Purpose**

The purpose of this chapter is to ensure that all sewers tributary to the District's sewerage system, including all public and private sewers and all connections to them, are managed, operated, and maintained to:

- (1) maximize the efficiency and effectiveness of conveyance and treatment facilities;
- (2) minimize the probability, duration, and magnitude of overflows; and
- (3) reduce the exposure of the public to pathogens carried by wastewater.

### **3.102 Applicability**

This chapter applies to any person or governmental unit who owns or operates a sewer tributary to the District's sewerage system or any connection to a tributary sewer.

### **3.103 Definitions**

- (1) "2020 Facilities Plan" means the facilities plan completed by the District, as accepted by the Department, for the period up to the year 2020.
- (2) "Building sewer" has the meaning established by sec. COMM 81.01(44), Wis. Adm Code. A "building sewer" is also known as a "lateral sewer," according to sec. 1.15, MMSD Rules.
- (3) "Department" means the Wisconsin Department of Natural Resources.
- (4) "Facilities plan" means a plan prepared according to sec. NR 110.09, Wis. Adm. Code.
- (5) "Local sewer system plans" means plans prepared according sec. 2.202, MMSD Rules.
- (6) "Private interceptor main sewer" has the meaning established by sec. COMM 81.01(193), Wis. Adm. Code.
- (7) "Sanitary metershed" means the geographical area served by a system of building sewers, private interceptor main sewers, and public sanitary sewers that drain to a common monitoring point.
- (8) "Sanitary sewershed" means the geographical area served by a system of building sewers, private interceptor main sewers, and public sanitary sewers that drain to a common outlet.

- (9) “Technical Advisory Team” means a group organized by the District consisting of technical staff from governmental units within the District’s service area, the Department of Natural Resources, and the Southeastern Wisconsin Regional Planning Commission, and the District.
- (10) “WPDES” means the Wisconsin Pollutant Discharge Elimination System, as established by ch. 283, Wis. Stats.

### **3.104 Preservation of Local Authority**

- (1) The preemptive effect of this chapter is limited to requirements that directly conflict with this chapter. Governmental units may establish requirements that are more stringent or more detailed, that provide greater environmental protection, or that improve the level of service provided by the sewerage system. Governmental units may seek any penalty authorized by law in addition to the minimum penalties established in this chapter.
- (2) Governmental units retain discretion for the operation and maintenance of the tributary sewers that they own or operate, as required by sec. 200.33, Wis. Stats. Governmental units are solely responsible for compliance with all applicable WPDES permits, regulations, and any other relevant provisions of local, state or federal law. The District’s responsibilities are limited to the regulatory activities necessary to achieve the regional goals established by sec. 3.101.

### **3.105 Capacity Assurance, Management, Operations, and Maintenance Programs**

- (1) No later than June 30, 2009, governmental units shall establish systematic and proactive programs for capacity assurance, management, operation, and maintenance for their sewerage systems. Governmental units shall:
- (a) maintain local sewer system plans for all public sanitary sewers and private interceptor main sewers.
  - (b) maintain records of the physical attributes and the condition of all public sanitary sewers and ancillary facilities.
  - (c) pro-actively clean public sanitary sewers and ancillary facilities and remove accumulations of debris.
  - (d) pro-actively assess the condition and performance of public sanitary sewers and ancillary facilities, using the system established by the *Pipeline Assessment and Certification Program Reference Manual* (National Association of Sewer Service Companies (2001)), unless the District has approved an alternative system.

- (e) pro-actively repair, replace, and rehabilitate public sanitary sewers and ancillary facilities, based upon condition and performance.
- (f) provide sufficient personnel, such as engineering, operations, maintenance, inspection, planning, geographic information systems, budget, accounting, and finance, and provide these personnel with adequate information, equipment, and training.
- (g) adopt, implement, and enforce an inflow prevention ordinance, as required by sec. 3.109.
- (h) develop and implement a program management plan, which shall include: a mission statement, goals, objectives, strategies, performance measures, data types and sources, personnel, budget, and chains of command.
- (i) develop and implement overflow response and emergency response plans. The overflow response plan shall include procedures for identifying local overflows, mitigating their duration and volume, identifying their cause, determining the actions necessary to prevent their recurrence, and notifying the District. The emergency response plan shall include procedures for identifying the location and type of an emergency, notifying appropriate personnel, mitigating adverse affects, and implementing corrective action. Emergencies to be covered include, but are not limited to, basement flooding, chemical spills, and equipment failure during dry weather.
- (j) develop and implement a communications plan, which shall indicate when, how, and by whom the governmental unit will provide information regarding the work required by this chapter to both internal stakeholders, such as the governmental unit's employees and governing bodies, and external stakeholders, such as the District. This plan shall provide for an annual report, which shall describe progress towards the objectives identified in the management plan. This plan shall also provide for any reports required by local, state, or federal law.
- (k) develop and implement an audit plan, which shall provide for rigorous periodic evaluation of the actions required by this chapter at least once every five years, including input from internal and external stakeholders.
- (l)
  - 1. prepare a system evaluation and capacity assurance plan, if hydraulic information is necessary to evaluate a sewer design decision or understand sewer performance. The plan shall estimate peak flows, estimate the capacity of critical system components, identify hydraulic deficiencies, evaluate alternatives for corrective action, prioritize corrective action, and establish an implementation schedule.
  - 2. If the Department has required a governmental unit to provide a system evaluation and capacity assurance plan, according to sec. NR 210, Wis. Adm. Code, then the governmental unit shall submit a copy to the District within 30 days after submission of the plan to the Department.

- (m) develop and implement an infiltration and inflow management plan for a five year period or other period identified by the District. The plan shall:
1. identify specific goals, such as maintaining or reducing peak flow rates and volumes or reducing overflows and basement flooding.
  2. provide detailed information regarding how the governmental unit will identify and correct existing sources of infiltration and inflow and prevent new sources of infiltration and inflow.
  3. describe the activities the governmental unit will perform to achieve the designated goals, such as:
    - A. inspection of sewers under construction;
    - B. inspection of existing public sewers, public and private manholes, private interceptor main sewers, building sewers, and sewer connections;
    - C. implementation and enforcement of the local inflow prevention ordinance;
    - D. flow monitoring;
    - E. capital improvements; and
    - F. storm water runoff and floodplain management.
  4. describe existing sewer maintenance programs and any planned improvements.
  5. describe the personnel and budget associated with the planned activities.
- (n) implement any other action necessary to comply with sub. (2).
- (2) (a) These programs shall achieve infiltration and inflow rates and peak flow rates less than or equal to the rates occurring as of year 2000, except as provided in par. (b).
- (b) If development has occurred, then rates may increase by the amounts determined when District plan approval occurs, according to sec. 2.211, MMSD Rules.

### **3.106 District Review**

- (1) Governmental units shall submit to the District for review the program management, overflow response, communications, audit, sewer system evaluation and capacity assurance,

and infiltration and inflow management plans required by sec. 3.105, according to a schedule established by the District and provided to the governmental unit.

- (2) (a) The District may approve, conditionally approve, or disapprove a plan. If the District does not respond after 60 calendar days, then a plan is approved, except as provided in par. (b).
- (b) If the review of a plan will require more than 60 calendar days, then the District shall notify the governmental unit of the date when the District will complete its review. If the District does not respond before this date, then the plan is approved.

### **3.107 Prohibited Connections**

The following connections are prohibited, except where explicitly authorized by Chapter COMM 82, Wis. Adm. Code:

- (1) The connection of any of the following drains to a sanitary sewer: artesian wells, cistern overflow, door well, roof, subsoil, unroofed basement excavation, window well, yard, or other drains from areas exposed to rain, melting snow, surface water, or groundwater, including certain foundation drains, according to sec. 3.108;
- (2) (a) The connection of any of the following drains to a combined sewer from any site that is either served by a separate storm water conveyance system or is riparian to waters of the state, except as provided in par. (b): artesian wells, cistern overflow, door well, roof, subsoil, unroofed basement excavation, window well, yard, or other drains from areas exposed to rain, melting snow, surface water, or groundwater, including certain foundation drains, according to sec. 3.108.
- (b) If a roof drain was connected to a combined sewer before the construction of a storm sewer that serves the property, then the roof drain may remain connected to the combined sewer, unless a governmental unit requires disconnection to reduce inflow.

### **3.108 Foundation Drains**

- (1) In any area served by sanitary sewers, foundation drain sump pumps shall discharge to: surface drainage, a storm sewer, the waters of the state, a storm water detention or retention basin, or any other location that is approved by the governmental unit and is not a sanitary sewer or tributary to a sanitary sewer, except as provided in sub. (3).
- (2) A foundation drain sump pump may not discharge to a combined sewer at any site that is either served by a separate storm water conveyance system or riparian to waters of the state, except as provided in sub. (3).
- (3) Foundation drains connected to a sanitary or combined sewer before 1954 may remain connected, unless a governmental unit requires disconnection to reduce inflow. If a

foundation drain was connected to a combined sewer before the construction of a storm sewer that serves the property, then the foundation drain may remain connected to the combined sewer, unless a governmental unit requires disconnection to reduce inflow.

- (4) For structures constructed after October 4, 1998, foundation drain sump pumps shall discharge through a verifiable external pipe.

### **3.109 Inflow Prevention Ordinances**

- (1) Every governmental unit shall adopt an inflow prevention ordinance.
- (2) Inflow prevention ordinances shall implement secs. 3.107, 3.108, 3.110, 3.111, 3.112 and 3.113.
- (3) Within 30 days after adopting or amending an inflow prevention ordinance, a governmental unit shall provide a copy of the ordinance to the District.
- (4) Governmental units shall effectively enforce their inflow prevention ordinances.

### **3.110 Inspections**

- (1) A governmental unit shall conduct inspections for prohibited connections whenever the governmental unit has a reasonable suspicion that:
  - (a) Prohibited connections are likely to be causing or contributing to excessive inflow in a particular sanitary sewershed, or
  - (b) A particular prohibited connection is connected contrary to the requirements of this chapter or local law.
- (2) For inspections occurring according to sub. (1)(a), a governmental unit shall develop a systematic plan and schedule. As appropriate for the circumstances, the plan and schedule may include: inspecting, within a certain time, every structure within a particular sewershed or a representative sample of these structures; inspecting structures at the time of sale; or inspecting structures as a condition of receiving a building permit.
- (3) Before inspections occur, governmental units shall provide effective notice to both the owners and the occupants of the structures to be inspected. This notice shall indicate the range of dates and times when the inspection may occur and the reasons for the inspection.
- (4) The scope of the inspection shall be limited to determining whether connections comply with secs. 3.107 and 3.108 and any other related requirements of the governmental unit.
- (5) The owner or occupant of any structure shall allow a governmental unit to inspect sewer connections and any related piping at any reasonable time after receiving notice from the

governmental unit of its plans to perform inspections, according to the requirements of this section and any other applicable law.

### **3.111 Prohibited Connection Enforcement**

- (1) If a governmental unit possesses any credible evidence showing that a connection violates secs. 3.107 or 3.108, then the governmental unit shall notify both the owner and the occupant of the structure of the violation and require remedial action.
- (2) Local inflow prevention ordinances shall authorize a minimum penalty of at least \$100 per month of prohibited connection after:
  - (a) the due date for remedial action established by a notice from the governmental unit or
  - (b) a reasonable time for remedial action has passed and the owner or operator of the connection knows or should have known that the connection was prohibited.
- (3) If the owner or occupant of a structure does not consent to an inspection undertaken according to the requirements of sec. 3.208, then a governmental unit shall cease providing sewer service or other municipal services to that structure or take other effective action. Governmental units shall terminate these services according to any applicable requirements of the Public Service Commission and any other applicable requirements.

### **3.112 Submerged Manholes**

If a sanitary sewer manhole is in a 100-year floodplain or is submerged for significant periods by storm water runoff, then the manhole shall have a solid and non-vented cover and the portion subject to freeze and thaw cycles shall be sealed to effectively prevent infiltration.

### **3.113 Draining Surface Water to Sanitary Sewers**

No public safety official, other agent of a governmental unit, or any other person may open a sanitary sewer manhole cover in a flooded street or take any other action that drains flooded areas into sanitary sewers.

### **3.114 Debris from Sewer and Street Cleaning**

- (1) For the purpose of this section, “debris” means any solid material that has the ability to reduce the hydraulic capacity of any local or regional sanitary or combined sewer or pump station, either alone or in conjunction with other materials, including, but not limited to: bricks, cobble, gravel, grease, grit, paper, plastic, rock, roots, rubber, sand, and wood.

- (2) When cleaning tributary sanitary or combined sewers, governmental units may not discharge debris to District sewers. Governmental units shall remove the debris before the tributary sewer connects to a District sewer.
- (3) During the cleaning of streets, storm sewers, or storm water catch basins connected to storm sewers, governmental units shall prevent the discharge of drainage from the removed materials to a sanitary sewer to the maximum extent practicable.
- (4) If debris from the cleaning of streets, sewers, or storm water catch basins is transported to a centralized location for drainage of water before disposal, then the drainage may discharge to the sewerage system only under the following conditions:
  - (a) A governmental unit shall own or operate the discharge location and the governmental unit shall limit usage of the location to itself or other governmental units approved by the District.
  - (b) The discharge location may not be exposed to rain, melting snow, or other surface runoff.
  - (c) Settling, filtration, skimming, or other techniques shall be implemented to minimize the amount of solids and oil discharged. Solids, sludge, oil, grease, or any other captured materials shall be removed at a frequency sufficient to ensure continuing effectiveness.
  - (d) The discharged wastewater may not have a visible sheen.
  - (e) All discharges shall comply with the prohibitions of sec. 11.202, MMSD Rules, and the limits of sec. 11.203(1), MMSD Rules.
  - (f) Governmental units shall develop and implement management procedures to prevent improper use of the discharge location, such as use of the site by sources other than approved governmental units and use of the site for anything other than drainage from sewers, street cleaning, or catch basin cleaning.
  - (g) Governmental units shall implement techniques for measuring or estimating the volume of wastewater discharged per day. Governmental units shall maintain a log on site indicating the days when discharge occurred.
  - (h) The District shall have access to the site for inspection and sampling at any time the site is operating.
  - (i) Discharge is prohibited during rain and within twenty-four hours after the site has received one-half inch of rain or more.
  - (j) Before the commencement of discharge, governmental units shall submit plans and specifications to the District, submit the fee required by the *Cost Recovery*

*Procedures Manual* for a notice of intent to discharge, and construct the facility as approved by the District; and

- (k) Governmental units shall pay any annual fee established for this type of operation by the *Cost Recovery Procedures Manual*.

### **3.115 Technical Advisory Team Consultation**

- (1) The District or any governmental unit may consult with the Technical Advisory Team for purposes of interpreting, implementing, or enforcing this chapter.
- (2) The District shall notify the Technical Advisory Team of requests to amend the maximum allowable infiltration and inflow rates established by this chapter and the District's proposed decision. The District shall provide opportunity for members of the Technical Advisory Team to comment regarding the proposed decision.

### **3.116 Other Action**

Governmental units shall take appropriate and effective action to achieve compliance whenever the governmental unit identifies any sewer, connection, or type of discharge that is contrary to a District requirement; an applicable local or state requirement; or *The Standard Specifications for Sewer and Water Construction in Wisconsin* (Public Works Industry Improvement Program), as applied by sec. 2.501(2), MMSD Rules.

**Note:** Polychlorinated biphenyls (PCBs) are persistent, bioaccumulating, toxic chemicals. The federal government has established a comprehensive regulatory program for PCBs. The relevant law is the Toxic Substances Control Act (TSCA) and its implementing regulations for PCBs, 40 CFR 761. Unlike clean water, clean air, and hazardous waste programs, the federal government has not delegated authority to implement TSCA regulatory programs to the State of Wisconsin. Therefore, for the District's service area, the Chicago office (Region 5) of U.S. Environmental Protection Agency (USEPA) is the preeminent regulatory authority.

For materials in sewers, a PCB concentration of 50 mg/kg (ppm) is the threshold for USEPA jurisdiction. If a sewer has material with a PCB concentration greater than 50 mg/kg, then the owner must become familiar with TSCA regulatory requirements. These requirements apply to issues such as sampling and disposal. For example, disposal must occur at either an incinerator or a landfill with a permit under TSCA.

Although USEPA is the ultimate regulator, collaboration with the District is important to ensure that characterization, remedial action, decontamination, or other work is consistent with District goals. The District may require more stringent requirements than TSCA when necessary to protect the District's biosolids products or other interests.

While the TSCA regulations are the most important, they are not the only relevant regulations. Discovery of PCBs in a sewer is knowledge of: (1) a release to the environment, according to the TSCA and the Comprehensive Environmental Response, Compensation, and Liability Act; (2) a spill of hazardous substances under sec. 292.11, Wis Stats; (3) the discharge of a pollutant to a publicly owned treatment works that is not authorized under a Wisconsin Pollutant Discharge Elimination System permit, issued according to ch. 283, Wis. Stats; and (4) a discharge prohibited by the District's discharge regulations, sec. 11.202(13), MMSD Rules.

### **3.117 PCBs in Sewers to be Cleaned**

#### **(1) Purpose**

The purpose of this section is to:

- (a) prevent the re-release of previously deposited PCBs in amounts that will interfere with the goal of a total PCB concentration less than 1 mg/kg in biosolids;

(b) establish a duty to:

1. make all appropriate inquiries regarding the presence of PCBs in sewers that will be affected by sewer cleaning or other projects; and
2. manage materials containing PCBs to maximize environmental protection and minimize the risk of harm to the District; and

(c) promote compliance with 40 CFR 761, *Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions*, when the total PCB concentration is greater than 50 mg/kg, and ch. NR 157, Wis. Adm. Code, *Management of PCBs and Products Containing PCBs*.

(2) Definitions

The following definitions apply to this section:

- (a) “PCBs” means polychlorinated biphenyls.
- (b) “Total PCB concentration” means the aggregated concentrations of all PCBs present, as determined by methods authorized by 40 CFR 761.272, typically the detected concentrations of Aroclors 1016, 1221, 1232, 1242, 1248, 1254, and 1260.

(3) Applicability

This section applies to any person or governmental unit cleaning any public sewer, private interceptor main sewer, or ancillary facility. This section does not apply to the cleaning of building sewers, as defined in sec. 3.103(2), MMSD Rules.

(4) Evaluating PCB Risk

- (a) Governmental units shall produce a map indicating the PCB risk within their sewerage systems. The map shall classify areas as either having a PCB risk or a negligible PCB risk, according to the factors identified in pars. (b). The map shall classify areas as having a PCB risk, unless an evaluation of all relevant factors indicates a negligible PCB risk.
- (b) When evaluating PCB risk, governmental units shall consider the following factors: the age of the sewers, the configuration of the sewers, historical and current land use in the tributary area, any information obtainable by reasonable effort from governmental or other databases regarding the use or release of PCBs within the tributary area, the frequency and aggressiveness of past cleaning, any available sample results, and any other relevant information.
- (c) Conditions that support a finding of negligible PCB risk include, but are not limited to:

1. Sewer use began after 1979 in the surrounding and upstream areas.
2. The surrounding and upstream areas have no history of industrial activities or commercial waste disposal activities.
3. All historical sample results show total PCB concentrations less than 2 mg/kg.
4. Cleaning records show that past cleaning has completely removed any long-term accumulation of solid material.

(d) Governmental units shall submit an initial map to the District before March 31, 2008 for review. Governmental units shall provide their reasoning for how areas were classified. Governmental units shall supplement the original the map as sample results or other information becomes available.

(5) District Review of Cleaning in Areas of PCB Risk

(a) If sewer cleaning will occur in an area where a map shows PCB risk, then the person or governmental unit cleaning the sewer shall submit the following information to the District before cleaning:

1. the upstream and downstream termini;
2. the history of the sewer, such as the original construction date, rehabilitation dates, and past sewer cleaning;
3. the surrounding and tributary land uses;
4. the length to be cleaned;
5. the cleaning techniques to be used;
6. starting and ending dates for the cleaning;
7. the techniques that will be implemented to collect and remove the material from the sewerage system or otherwise prevent the release of the material to District facilities or the environment; and
8. any other information requested by the District.

(b) As a condition of approval, the District may require additional plans, reports, opportunities to inspect, or any other action necessary to ensure compliance with this section.

(6) Sampling before Cleaning

- (a) If the District’s review of proposed cleaning confirms the PCB risk, then the District shall notify the person or governmental unit cleaning the sewer that sampling is required. The person or governmental unit shall sample according to this subsection, determine the total PCB concentration in each sample, and submit the results to the District before cleaning.
- (b) Sampling shall occur according to Table 3.2.

**Table 3.2**

<b>Project Length</b>	<b>Number of Samples</b>	<b>Location</b>
500 feet or less	2	Upstream terminus Downstream terminus
>500 feet to 1,000 feet	3	Upstream terminus Downstream terminus Central <sup>(1)</sup>
>1000	3 plus 1 per each increment of 1,000 feet or less beyond the first 1,000 feet <sup>(2)</sup>	Upstream terminus Downstream terminus Additional samples as regularly spaced as practical

(1) “Central” means a practical location between the upstream and downstream termini. It does not need to be exactly in the middle. If no location is available, then the District may waive this requirement.

(2) For example, a project of 4,300 feet would require seven samples, three in response to the first 1,000 feet and four for the remaining 3,300 feet. If insufficient access or other circumstances make this sampling impractical, then the District may accept a different number of samples, according to a sampling plan approved by the District.

- (c) If material at the sampling location is heterogeneous, then the sample shall be a composite of the materials present.
- (d) Sample collection, preservation, and analysis shall provide sufficient precision and accuracy to measure the regulated pollutants at or below the applicable regulatory criteria to a reasonable degree of scientific certainty. Analyses shall use methods authorized by 40 CFR 761 or ch. NR 219, Wis. Adm. Code, whichever is appropriate. A laboratory certified or registered for PCB analysis by the Department of Natural Resources, according ch. NR 149, Wis. Adm. Code, shall analyze the samples required by this section.
- (e) If necessary to completely evaluate PCB risk, then the District may require additional sampling, physical measurements of the material, or other action.

(7) Cleaning in General

- (a) In any area with a PCB risk, cleaning any public sewer, private interceptor sewer, or ancillary facility is prohibited until after notice to the District according to sub. (6) and approval in writing from the District, except when an obstruction creates an imminent risk of basement flooding, sewer overflows, or other endangerment to public health or welfare.

(b) Persons and governmental units shall minimize the amount of PCBs released to the sewerage system during cleaning.

(c) No person or governmental unit may release PCBs in an amount that will interfere with or pass through the sewerage system, as prohibited by sec. 11.201(2) and (3).

(8) Cleaning when the Total PCB Concentration is Greater Than 2 mg/kg

If the total PCB concentration is greater than 2 mg/kg for any sample, then the person or governmental unit cleaning the sewer shall:

(a) completely remove the PCB-contaminated material from the sewerage system or take other action that will achieve the purpose of this section, as established in sub. (1)(a) and (b); and

(b) implement techniques to capture and remove all solids mobilized by cleaning, such as installing a dam, weir, filter, vacuum inlet, or other barrier that will prevent solids from bypassing solids removal equipment.

(9) Cleaning when the Total PCB Concentration is Greater Than 50 mg/kg

If the total PCB concentration is greater than 50 mg/kg for any sample, then the person or governmental unit cleaning the sewer shall:

(a) comply with the characterization, remedial action, transportation, and disposal requirements of 40 CFR 761 as implemented by the U.S. Environmental Protection Agency; and

(b) Provide the District an opportunity to:

1. review and comment regarding the characterization, remedial action, transportation, and disposal plans as they are developed by the person or governmental unit cleaning the sewer and the U.S. Environmental Protection Agency; and

2. inspect remedial action activities.

(10) Wastewater Sampling During Cleaning

The District may sample wastewater during cleaning to evaluate compliance with this section. If this sampling identifies violations, then the District may bill the person or governmental unit cleaning the sewer for sample collection and analytical costs.

(11) Other requirements

In addition to compliance with this section, persons and governmental units shall comply with sec. 3.114(2), MMSD Rules.

## Subchapter II – Peak Flow Rate Reduction

### 3.201 Metersheds Where Peak Flow Rate Reduction is Required

- (1) If the peak hourly flow rate for a sanitary metershed is greater than the maximum allowable peak hourly flow rate identified in Table 3.1, then a governmental unit shall reduce the peak hourly flow rate according to sec. 3.202, except as provided in subs. (2) and (3).

**Table 3.1**

Sanitary Metershed Area (acres)	Maximum Allowable Peak Hourly Flow Rate (gallons per acre per day)
Less than 250	22,000
250 to 499	21,000
500 to 999	19,000
1,000 to 2,499	15,500
2,500 to 5,000	11,000
Greater than 5,000	4,000

- (2) At the written request from a governmental unit, the District shall calculate a maximum peak hourly flow rate for a specific metershed using Formula 3.1. If the District calculates a maximum peak hourly flow rate using Formula 3.1, then the calculated rate shall apply, instead of the rate in Table 3.1.

**Formula 3.1**

$$Q = e^{(9.258 + (-0.000231A) + 0.7723)}$$

Where:

Q = Maximum allowable peak hourly flow rate in gallons per acre per day

A = Metershed area in acres

e = Base of the natural logarithm, approximately 2.718

- (3) If flow monitoring data from wet weather events shows that the actual peak hourly flow rate is less than the maximum allowable peak hourly flow rate established by subs. (1) or (2), then peak hourly flow rate reduction is not required. Flow monitoring data used for this purpose shall be accurate and representative, according to guidance established by the District. Governmental units requesting a finding under this section shall submit a technical analysis of flow monitoring data.

### 3.202 Peak Hourly Flow Rate Reduction Program

- (1) If the District finds that peak hourly flow reduction is necessary, according to sec. 3.201, then the District shall notify the governmental unit and require the governmental unit to develop and implement a peak hourly flow rate reduction program. The notice shall describe the

basis for the District's conclusion. The notice shall establish a date for when a program plan is due.

- (2) Peak hourly flow rate reduction program plans shall describe the actions the governmental unit will take to investigate and reduce sources of infiltration and inflow or to otherwise reduce peak hourly flow rates. The program shall include investigating sources of infiltration and inflow on both public and private property. Governmental units shall consider reducing private sources, along with reducing public sources.
- (3) If a governmental unit shows that a rate established by sec. 3.201 is not reasonably achievable for a particular sewershed or a group of sewersheds and if the governmental unit has proposed in writing an alternative rate that represents the lowest achievable rate, considering technical issues, cost, and any other relevant information, then the District may implement the alternative rate.
- (4) Governmental units may implement local storage to reduce peak hourly flow rates. Governmental units shall implement local storage according to sec. 2.210, MMSD Rules.
- (5) If reductions in infiltration or inflow or if local storage in another metershed tributary to the same connection to a District interceptor sewer will produce an equal or better peak hourly flow rate reduction and be more cost effective, then governmental units may take action in the other metershed, after receiving written approval from the District. The other metershed may be in a different governmental unit.
- (6) The program shall achieve the applicable maximum allowable peak hourly flow rate, within the shortest reasonable time, considering the type of work planned, its cost, and any other relevant factors.
- (7) Governmental units shall implement programs as approved by the District.

## **Subchapter III - Reports**

### **3.301 Annual Report**

- (1) Before March 1 of each year, every governmental unit within the District's service area shall submit an annual report to the District. This report shall summarize actions occurring in the preceding calendar year.
  - (a) For new sewers, the report shall include the location and length of public sewers and private interceptor main sewers inspected during construction.
  - (b) For existing sanitary sewers, the report shall include:
    1. the number of manholes inspected, the number and type of defects identified, and the actions taken to correct these defects;
    2. the length of public sewer and private interceptor main sewers inspected, the length of inspected sewer needing rehabilitation, and the length of sewer rehabilitated or relayed;
    3. the length of building sewer inspected, the length of inspected sewer needing rehabilitation, and the length of sewer rehabilitated or relayed;
    4. investigations of prohibited connections and the actions taken to eliminate these connections;
    5. a description of where flow monitoring occurred and an analysis of flow monitoring results; and
    6. costs for the management, operations, and maintenance activities required by this chapter.
  - (c) The report shall provide sufficient information to evaluate whether the governmental unit is implementing the plans required by sec. 3.105, as approved by the District. The report shall describe any changes to plans previously approved by the District.
  - (d) If the governmental unit is operating a site that discharges drainage from debris collected during sewer or street cleaning, then the report shall include the number of days when discharge occurred and the total volume discharged.
  - (e) If the governmental unit has completed a capital improvement project or a storm water or floodplain management project that will significantly reduce infiltration or inflow, then the report shall describe the project and the amount of infiltration or inflow eliminated.

- (2) Governmental units shall submit this report electronically, using forms and procedures established by the District. If a governmental unit shows that reporting electronically imposes an unreasonable hardship, then the District may allow a governmental unit to submit the report on paper.

### **3.302 Compliance Maintenance Annual Report**

If a WPDES permit requires a governmental unit to submit a Compliance Maintenance Annual Report to the Department according to sec. NR 208, Wis. Adm. Code, then the governmental unit shall submit a copy to the District within 30 days after submission of the report to the Department.

## **Subchapter IV – District Enforcement**

### **3.401 Types of Enforcement Actions**

- (1) For any violation of this chapter, the District may take any appropriate enforcement action authorized by sec. 200.45(1)(e), Wis. Stats., including, but not limited to, seeking injunctive relief or penalties up to \$10,000 per day of violation.
- (2) Any violation of this chapter is a public nuisance.

### **3.402 Orders**

The District may order a governmental unit to take appropriate remedial action whenever a governmental unit has failed to:

- (1) manage infiltration, inflow, or peak flows as required by this chapter;
- (2) submit complete and accurate reports;
- (3) complete work according to an approved schedule;
- (4) adopt or effectively enforce a local inflow prevention ordinance; or
- (5) perform any other action required by this chapter.

### **3.403 Sewer Extension Moratorium**

The District may withhold approval for any new public sewer or private interceptor main sewer system or ancillary facility or hold in abeyance any District plans for additional capacity to serve a governmental unit whenever the governmental unit has failed to:

- (1) manage infiltration, inflow, or peak flows as required by this chapter;
- (2) submit complete or accurate reports;
- (3) complete work according to an approved schedule;
- (4) adopt or effectively enforce a local inflow prevention ordinance;
- (5) perform any other action required by this chapter; or
- (6) comply with an order issued according to sec. 3.402.

### **3.404 Fees for Excessive Infiltration, Inflow, or Peak Flows**

- (1) The District may establish fees due from a governmental unit when a governmental unit has failed to manage infiltration, inflow, or peak flows as required by secs. 3.105 or 3.201, failed to implement a peak flow reduction program as required by sec. 3.202, or failed to comply with an order issued according to sec. 3.402.
- (2) When establishing this fee, the District may consider the costs that a governmental unit is avoiding, the conveyance and treatment costs the District would avoid if excessive infiltration and inflow was reduced, or any other factor allowed by sec. 17.211(2), MMSD Rules.
- (3) The District shall include any fee established according to this section in the *Cost Recovery Procedures Manual*.

### **3.405 Special Provisions Related to Draining Surface Water to Sanitary Sewers**

The following principles apply to the enforcement of the requirements of sec 3.113:

- (1) A governmental unit shall be liable for the actions of its employees and agents.
- (2) The following circumstances are not a defense:
  - (a) an inadequately designed storm water conveyance system,
  - (b) leaves or other debris in the storm water conveyance system, or
  - (c) street flooding.
- (3) For repetitive violations at the same location, the minimum penalty shall be at least \$2,500 for the second offense, \$5,000 for the third offense, and, for each additional offense, the number of violations multiplied by \$5,000, except when justice requires a different minimum penalty.

### **3.406 Administrative Review**

Any person or governmental unit aggrieved by a District decision under this chapter may request that the District review its decision, according to the procedures established by ch. 6, MMSD Rules.