

**Milwaukee Metropolitan  
Sewerage District**

**Discharge Regulations**

**And**

**Enforcement Procedures**

**MMSD Rules, Chapter 11**

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## Chapter 11

# Discharge Regulations and Enforcement Procedures

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## **Subchapter I – General Provisions**

### **11.100 Purpose**

The purpose of this chapter is to:

- (1) Promote the best results from the construction, operation, and maintenance of the sewerage system;
- (2) Prevent:
  - (a) damage to the sewerage system from misuse,
  - (b) injury to employees,
  - (c) surcharging of all or part of the sewerage system, and
  - (d) interference with the process of sewage treatment or disposal;
- (3) Ensure compliance with all applicable State and Federal statutes and regulations;
- (4) Promote pollution prevention and waste minimization in the region served by the District; and
- (5) Establish an administrative procedure for review of District decisions under this chapter.

### **11.101 Applicability**

This chapter applies to all users of the sewerage system.

### **11.102 Definitions**

In addition to the definitions set forth in Chapter 1, the following definitions apply to the terms used in this chapter:

- (1) “Blowdown” means the discharge of recirculating water to prevent concentrations of materials in amounts exceeding best engineering practice.
- (2) “Bulkhead” means any method or device that prevents a discharge to the sewerage system.
- (3) “Bypass” means the diversion of wastewater from any portion of the user’s treatment facility.

- (4) “Categorical pretreatment standard” means a regulation promulgated under 33 U.S.C. secs. 1311 or 1317 by the U.S. Environmental Protection Agency and set forth in 40 CFR parts 405 to 471 or promulgated under sec. 281.13, Wis. Stats., by the Wisconsin Department of Natural Resources and set forth in Chapters NR 221 to 297, Wisconsin Administrative Code.
- (5) “Centralized waste treater” means a user that:
- (a) treats wastes generated by activities located at sites other than where the treatment occurs.
  - (b) is owned by a person different from the owner of the site where the wastes were generated, and
  - (c) treats wastes from more than one location.
- (6) “CFR” means Code of Federal Regulations.
- (7) “Commencement of construction” means either:
- (a) The beginning, as part of a continuous on-site construction program, of:
    - 1. The placement, assembly, or installation of facilities or equipment; or
    - 2. Significant site preparation work, such as clearing, excavation, or the removal of existing buildings, structures, or facilities when their removal is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - (b) The entrance into a binding contractual obligation for the purchase of facilities or equipment that the purchaser intends to use as a new source within a reasonable time. Entrance into the following contracts does not constitute a commencement of construction: Options to purchase, contracts that may be terminated without substantial loss, or contracts for feasibility, engineering, or design studies.
- (8) “Compliance schedule” means a schedule of remedial measures that includes an enforceable sequence of events for the commencement or completion of actions leading to compliance with a pretreatment standard or requirement.
- (9) “Department” means the Wisconsin Department of Natural Resources.
- (10) (a) “Discharge” means to release pollutant from or through:
- 1. Pipes;
  - 2. Conduits;

3. Pumping stations;
4. Ditches;
5. Tank trucks;
6. The ground through defective pipes, pipe joints, or walls;
7. Roof leaders;
8. Cellar, yard, or area drains;
9. Foundation drains;
10. Drains from springs and wetlands;
11. Manhole covers;
12. Cross-over pipes from storm sewers and combined sewers;
13. Catch basins;
14. Storm sewers;
15. Surface run-off;
16. Street wash waters; or
17. Other drainage.

(b) “Release” includes to spill, leak, dump, pump, dispose, deposit, inject, place, and abandon.

(11) “District” means the Milwaukee Metropolitan Sewerage District.

(12) “Domestic waste” means human waste and other wastes related to personal or residential sanitation.

(13) “Domestic wastewater” means wastewater that contains only domestic waste.

(14) “Existing source” means any building, structure, facility, or installation that is discharging or that may discharge pollutants to the sewerage system and that is not a new source.

- (15) “Flow proportioned composite sample” means a combination of individual samples of equal volume taken at equal intervals of flow without consideration of the time between individual samples.
- (16) “Grab sample” means a sample taken on a one-time basis without consideration for flow or time.
- (17) “Hauled waste” means waste that is collected from sources not located at the point of discharge and that is discharged to the sewerage system from a tank truck or other conveyance.
- (18) “Interference” means a condition prohibited by sec. 11.201(2).
- (19) “Laboratory method detection limit” means the method detection limit determined by a specific laboratory for a specific sample matrix according to the procedure provided in 40 CFR 136, Appendix B.
- (20) “New source” means any building, structure, facility, or installation:
- (a) That is discharging or that may discharge pollutants to the sewerage system; and
  - (b) For which the commencement of construction occurred after the publication of proposed categorical pretreatment standards that would be applicable to the source if promulgated; and
  - (c)
    - 1. that is constructed at a site at which no other source is located,
    - 2. that totally replaces the process or production equipment that causes the discharge of pollutants at an existing source, or
    - 3. that has process or production equipment substantially independent from the equipment of an existing source at the same site, based upon factors such as the extent to which the new facility is integrated with the existing source or is engaged in the same type of activity as the existing source.
- (21) “Non-contact cooling water” means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (22) “Pass through” means a condition prohibited by sec. 11.201(3).
- (23) “Pollutant” means domestic waste, industrial waste, agricultural waste, solid waste, chemical waste, wrecked or discarded equipment, biological materials, heat, garbage, refuse, dredged spoil, incinerator residue, sewage, oil, sewage sludge, munitions, radioactive substances, rock, sand, and cellar dirt.



- (24) (a) “Pollution prevention” means, except as provided in par. (b), any equipment and technology modifications, process or procedure modifications, reformulation or redesign or products, substitution of raw materials, improvements in housekeeping, maintenance, training, or inventory control, or any other practice that:
1. Reduces the amount of a pollutant entering a waste stream or released to the environment, including fugitive emissions, before recycling, treatment or disposal; and
  2. Reduces the hazards to public health and the environment associated with the release of the pollutant.
- (b) Pollution prevention does not include any practice that alters the physical, chemical, or biological characteristics or the volume of a pollutant through a process or activity that is not integral to and necessary for the production of a product or the providing of a service.
- (25) “Pretreatment” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties before or instead of discharging the pollutants to the sewerage system.
- (26) “Pretreatment standard or requirement” means any substantive or procedural requirement of this chapter, a categorical pretreatment standard, or a wastewater discharge permit.
- (27) “Process wastewater” means:
- (a) any water that, during manufacturing or processing, directly contacts or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product;
  - (b) wastewater from personal washing, if a categorical pretreatment standard explicitly applies or if the concentration of any pollutant exceeds half of a limit established in sec. 11.203(1);
  - (c) contaminated storm water, surface water, or groundwater, if this wastewater is not prohibited by sec. 11.202(10)(a); and
  - (d) wastewater that results from chemical, physical, or biological testing or analysis, except for non-contact cooling or other non-contact water.
- (28) “Sewerage system” means:
- (a) The facilities of the District for collection transportation, storage, pumping, treatment, and final disposition of sewage;
  - (b) The sewerage facilities of any municipality served by the District;

- (c) All private laterals and connections; and
  - (d) Any temporary connection authorized by the District.
- (29) “Significant industrial user” means a user designated as a significant industrial user according to sec. 11.103.
- (30) “Slug” means any non-routine batch discharge, including but not limited to discharges resulting from a spill.
- (31) “Time composite sample” means a combination of individual samples of equal volume taken at equal intervals of time, without consideration of the volume or rate of flow.
- (32) “Upset” means an incident at a user’s facility that:
- (a) is exceptional, unintentional, and temporary;
  - (b) is caused by factors beyond the reasonable control of the user; and
  - (c) results in non-routine discharges to the sewerage system.
- (33) “User” means any person who discharges or may discharge to the sewerage system.
- (34) “Waste minimization” means a reduction of the amount or toxicity of pollutants requiring disposal, including but not limited to:
- (a) pollution prevention,
  - (b) using a waste from one process as an ingredient in the same or another process,
  - (c) processing a waste to recover resources, and
  - (d) treating the waste to reduce its mass, volume, or toxicity.
- (35) “Wastewater” means any water that contains pollutants.
- (36) “Wastewater discharge permit” means a permit issued according to subch. III of this chapter.
- (37) “WPDES Permit” means a Wisconsin Pollutant Discharge Elimination System permit issued by the Wisconsin Department of Natural Resources that authorizes the discharge of pollutants to waters of the state.

### **11.103 Significant Industrial User Designation**

- (1) The District shall designate as a significant industrial user every user subject to a categorical pretreatment standard.
- (2) Unless the District makes a finding that a user has no reasonable potential to adversely affect the sewerage system, the District shall designate as a significant industrial user any user that:
  - (a) Discharges an average of 25,000 gallons per day or more of process wastewater to the sewerage system; or
  - (b) Discharges process wastewater that is 5% of more of the average dry weather hydraulic or organic capacity of the sewerage system.
- (3) The District may designate as a significant industrial user any user that has a reasonable potential to adversely affect the operation of the sewerage system or to violate any pretreatment standard or requirement.
- (4) Within 30 days after the District determines that a user is a significant industrial user, the District shall notify the user of the District's determination and the particular regulations that apply as a result of this determination.
- (5) The District shall maintain a list of significant industrial users. The District shall provide this list to the Department and shall notify the Department of changes to the list and the reasons for the changes.

### **11.104 Compliance with State and Federal Requirements**

- (1) In addition to complying with this chapter, users shall comply with all applicable pretreatment standards and requirements established by the U.S. Environmental Protection Agency and the Department that Supplement or supersede this chapter.
- (2) The District shall enforce all applicable pretreatment standards and requirements according to the requirements of 33 U.S.C. sec. 1342(b)(8); sec. 283.31(4)(f)(2), Wis. Stats; 40 CFR 403.8(f)(1); ch. NR 211.22, Wis. Adm. Code; and the District's WPDES Permits.

### **11.105 Fees**

- (1) The District may establish adequate and reasonable fees for the activities necessary to administer pretreatment standards and requirements or any other State or Federal regulations. Fees may include, but are not limited to, fees for reviewing notices of intent, issuing waste haulers licenses, reviewing applications for removal credits according to 40 CFR 403.7, reviewing any request that may be a substantial modification according to 40 CFR

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403.18 (c), or reviewing any other request for a modification of a pretreatment standard or requirement.

(2) The District shall set forth any fee established according to sub. (1) in the District's *Cost Recovery Procedures Manual*.

## **Subchapter II – Discharge Regulations**

### **11.201 General Prohibitions**

#### **(1) Compliance with Rules**

Users may not discharge to the sewerage system except in compliance with this chapter.

#### **(2) Interference**

Users may not discharge any pollutant to the sewerage system in a quantity or concentration that, alone or in conjunction with other discharges:

- (a) inhibits or disrupts the sewerage system or its sludge processes; and
- (b)
  - 1. causes a violation of the District's WPDES permits or air pollution control permits;
  - 2. increases the magnitude or duration of a violation;
  - 3. prevents the use or disposal of sewage sludge in compliance with any applicable local, state or federal statutes, ordinances regulations, permits, or other requirements; or
  - 4. inhibits the marketing of treated sewage sludge.

#### **(3) Pass Through**

Users may not discharge to the sewerage system any pollutant in a quantity or concentration that, alone or in conjunction with other discharges, is a cause of a discharge from the sewerage system to waters of the state that violates the District's WPDES permits or increases the magnitude or duration of a violation.

### **11.202 Prohibited Discharges**

Users may not discharge to the sewerage system:

- (1) pollutants that create a fire or explosion hazard in the sewerage system, including but not limited to pollutants that result in wastewater with a closed cup flashpoint of less than 140 F or 60C;
- (2) pollutants that will cause corrosive structural damage to the sewerage system, including but not limited to discharges with a pH lower than 5.0 s.u.;

- (3) solid or viscous pollutants that will obstruct the flow in the sewerage system, including, but not limited to, grease that reduces the capacity or interferes with the operation of any sewer, pump, sampling device, or flow measurement equipment;
- (4) heat in amounts that will cause interference by inhibiting the biological activity in the treatment plant, including but not limited to heat in an amount that causes the influent of the treatment plant to exceed 40 C (104 F);
- (5) used motor vehicle anti-freeze, motor oil, brake fluid, transmission fluid, hydraulic fluid, oil-based paint, and paint thinners if the material is in a collectable and recyclable quantity or if the discharge would result in a violation of the oil and grease limit set forth in sec. 11.203(1);
- (6) pollutants that result in the presence of toxic gases, vapors, or fumes within the sewerage system in a quantity that may cause acute worker health and safety problems, including, but not limited to, pollutants that cause a vapor-phase hydrogen sulfide concentration equal to or greater than 10 ppmv in any part of the sewerage system;
- (7) (a) hauled waste, except for hauled waste that:
  1. consists only of domestic wastewater, and
  2. is discharged at a point designated by the District.(b) This prohibition does not apply to wastewater hauled:
  1. to facilities not owned by the District, or
  2. to the South Shore Water Reclamation Facility and added to anaerobic digesters to increase gas production;
- (8) any substance that will cause the sewerage system's treatment residues, sludge, or scum to be unsuitable for reclamation and reuse, that causes interference with the reclamation process, or that inhibits the marketing of treated sewage sludge;
- (9) any wastewater that contains radioactivity in amounts greater than a drinking water standard established by the U.S. Environmental Protection Agency or the Department;
- (10) at any site that is either served by a separate storm water conveyance system or riparian to waters of the state:
  - (a) storm water, surface water, or groundwater, except when a remedial action undertaken according to the requirements of the Department or the U.S. Environmental Protection Agency requires the removal of this type of water and a direct discharge to waters of the state would impose unreasonable costs or delays;
  - (b) roof runoff;

- (c) subsurface drainage;
- (d) single-pass cooling water, cooling tower blowdown, or reverse osmosis concentrate, except as provided in subpar 1 and 2:
  - 1. If a storm sewer is not available, then a user may discharge cooling tower blowdown and reverse osmosis concentrate from December 1 to March 31 and any other period when necessary to protect the public health, welfare, or safety.
  - 2. Users may discharge single-pass cooling water from small-scale bench-top condensers, except as provided in par. (e)(2).
- (e) from sources constructed after May 1, 2005:
  - 1. condensate from compressed air or process steam systems, and
  - 2. single-pass cooling water from small-scale bench-top condensers; or
- (f) any other wastewater for which the Department has issued a general WPDES permit;
- (11) any non-domestic wastewater before the District has approved a *Notice of Intent* submitted according to sec. 11.401;
- (12) any mass, concentration, or volume of a substance in excess of the amount allowed in the user's Wastewater Discharge Permit;
- (13) (a) the following pollutants, except as provided in pars. (b), (c), and (d):

Acrolein	Furans
Alkylated lead	Heptachlor
Benzo(a)pyrene	Hexachlorobenzene
Chlordane	Lindane (BHC)
Dieldrin	Mirex
Dioxins	Pentachlorobenzene
3,3'-Dichlorobenzidine	Polybrominated biphenyl ethers
4,4'-Dichlorodiphenyltrichloroethane (DDT)	Polychlorinated biphenyls (PCBs)
Endosulfan	1,2,4,5-Tetrachlorobenzene
Endrin	Toxaphene
Fluoranthene	2,4,6-Trichlorophenol

- (b) amounts allowed by an applicable categorical pretreatment standard;
- (c) amounts occurring in landfill leachate after implementation of the best available treatment technology economically achievable, according to a limit established in a wastewater discharge permit;

(d) amounts caused by sources beyond the reasonable control of the user, such as contamination in the water supply, air deposition, or raw materials; and

(14) pollutants that cause, either alone or in conjunction with other discharges, the sewerage system to release foam or disruptive odors.

### 11.203 Local Limits

(1) (a) Users may not discharge into the sewerage system any process wastewater containing concentrations of pollutants greater than the following limits, except as provided in sec. 11.213 and sec. 11.214(12):

<b>Pollutant</b>	<b>Limit (mg/L)</b>
Arsenic, total	0.6
Cadmium, total	1.5
Chromium, total	64
Copper, total	6.0
Lead, total	2.0
Mercury, total	0.0026
Molybdenum, total	12
Nickel, total	4.0
Silver, total	5.8
Zinc, total	8.0
Cyanide, total	2.9
Hexane extractable materials <sup>(1)</sup>	300

(1) This limit applies to results obtained using Method 1664, as established by 40 CFR 136.

(b) As an alternative to the hexane extractable materials limit set forth in par. (a), the District may establish in a wastewater discharge permit a limit of 100 mg/L for silica gel treated hexane extractable materials, using Method 1664, with no limit for total hexane extractable materials. The alternative limit is subject to the following conditions:

1. The user applies for the alternative limit in writing;
2. The user provides information regarding the user's products, processes, and operations that shows that the hexane extractable materials discharged by the user are predominantly the types of compounds removed by silica gel;



3. Oil and grease in the user's discharges is not visible, free, or floating at 50 F at any time;
  4. The user has sampling facilities that allow for both visual inspection of the user's discharge and, if requested by the District, using the sampling equipment necessary for collecting samples according to *Standard Methods for the Examination of Water and Wastewater*, Method 2530;
  5. Oil and grease in the user's discharge is not related to past instances of obstruction, interference, or pass through, as prohibited by secs. 11.202(3), 11.201(2), and 11.201(3), respectively;
  6. Users subject to the alternative limit shall continue to operate and maintain grease traps and any other oil and grease separation and treatment equipment and shall continue all existing practices that reduce discharges of oil and grease;
  7. If the District determines that a user subject to the alternative limit has caused, alone or in conjunction with other discharges, obstruction, interference, or pass through, as prohibited by secs. 11.201(3), 11.201(2), or 11.202(3), then the user shall comply with the limit set forth in par (a) or another appropriate limit establish by the District in the user's wastewater discharge permit; and
  8. Any other appropriate conditions set forth in the user's wastewater discharge permit.
- (c) The limits established by par. (a) are 24 hour flow-weighted average concentrations, except as provided in subpars. 1 and 2.
1. The limits for hexane extractable materials and total cyanide are an absolute maximum, unless a wastewater discharge permit establishes a protocol for collecting multiple samples using a specified time interval and then averaging the sample results.
  2. If collecting a 24 hour flow proportioned composite sample is not practical, then the limit is a 24 hour time-weighted average. The number of samples collected to represent the 24 hour period shall be appropriate for the circumstances.
- (d) For sites discharging contaminated groundwater, the District may establish a limit of 5 mg/L total organic contamination or another appropriate limit, in addition to the limits established by par. (a). The limit shall apply to the sum of the concentrations of detected compounds, using analytical methods for compounds reasonably likely to be present. This limit shall be an absolute maximum.

- (2) If a pollutant is regulated by both a categorical pretreatment standard and this section, then the more stringent standard applies.
- (3) Persons may seek modification of the standards set forth in this section only by a petition to the Commission for rule making. Any person may petition the Commission for modification of the limits set forth in this section. In a petition, the petitioner shall provide facts and arguments showing that modified limits will not conflict with the purposes set forth in sec. 11.100. Any modification of the limits set forth in this section shall be a substantial modification to the District's pretreatment program according to 40 CFR 403.18, requiring the approval of the Department.

#### **11.204 [Reserved]**

#### **11.205 Garbage Grinder Wastes**

A user may discharge to the sewerage system ground garbage or wastewater from a garbage grinder only if the garbage grinder is used exclusively for the disposal of food preparation wastes.

#### **11.206 Dilution Prohibition**

Unless authorized to do so by an application pretreatment standard or requirement, users may not increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with any applicable pretreatment standard or requirement. The District may impose mass limits on users that are using dilution to meet the applicable pretreatment standards or requirements on in any other case where mass limits are appropriate.

#### **11.207 Bypass Prohibition**

- (1) Intentional bypass is prohibited.
- (2) Users shall report bypasses according to sec. 11.409.

#### **11.208 New Source Compliance**

Before beginning to discharge, new sources shall install, have in operating condition, and be prepared to start-up all pollution control equipment needed to meet the applicable pretreatment standards and requirements. Within the shortest feasible time, not to exceed ninety days, new sources shall meet all applicable pretreatment standards and requirements.

### **11.209 Categorical Pretreatment Standards**

- (1) Existing sources shall comply with any applicable categorical pretreatment standard within three (3) years from the date that the standard is effective unless a shorter compliance date is specified in the standard.
- (2) Existing sources that become users after promulgation of an applicable categorical pretreatment standard shall comply with the categorical pretreatment standards for existing sources on the commencement of discharge to the sewerage system.
- (3) Limits in a categorical pretreatment standard apply to the effluent from the process regulated by the standard regardless of the site of effluent discharge.

### **11.210 Converting Production-Based Limits to Mass per Day or Concentration Limits**

- (1) When the limits in a categorical pretreatment standard are expressed only in terms of mass pollutant per unit of production, the District may convert the limits to equivalent limits expressed either as mass of pollutant discharged per day or effluent concentration.
- (2) The District shall calculate equivalent mass-per-day limits by multiplying the limits in the standard by the user's average rate of production. The average rate of production shall be based upon a reasonable measure of the user's actual long-term daily production, such as the average daily production during a representative year. For new sources, projected production may be used.
- (3) The District shall calculate equivalent concentration limits by dividing the mass limits derived according to sub. (2) by the average daily flow rate of the user's regulated process wastewater. This average daily flow rate shall be based upon a reasonable measure of the user's actual long-term average flow rate, such as the average daily flow rate during a representative year.
- (4) If the District calculates equivalent limits according to this section, the District shall calculate both an equivalent daily maximum limit and an equivalent long-term average limit for the same averaging period as used in the applicable categorical pretreatment standard, such as a monthly, 30-day or 4-day average. The District shall use the same production and flow rates to calculate the equivalent maximum limit and the equivalent monthly, 30-day, or 4-day average limit.
- (5) A user subject to limits calculated according to this section shall be subject to those limits until the user has notified the District in writing of a change in production according to sec. 11.410.

## 11.211 Combined Wastestreams

(1) The following definitions apply to the terms used in this section:

- (a) “Wastestream” means wastewater from a particular process.
- (b) “Regulated Stream” means wastewater from a particular process that is subject to a categorical pretreatment standard.
- (c) “Combined Wastestream” means any combination of regulated streams and wastestreams not subject to a categorical pretreatment standard.
- (d) “Combined Treatment Facility” means the equipment and processes used to reduce the mass or concentration of pollutants in a combined wastestream before discharge to the sewerage system.

(2) When a regulated stream is mixed before treatment with other wastewater, the District may calculate alternative limits for the combined wastestream using either of the following equations:

Where:

$C_i$  = The categorical pretreatment standard concentration limit for a pollutant in regulated stream  $i$ ;

$C_T$  = The alternative concentration limit for the combined wastestream;

$M_i$  = The categorical pretreatment standard mass limit for a pollutant in regulated stream  $i$ ;

$M_T$  = The alternative mass limit for a pollutant in the combined wastestream;

$N$  = The total number of regulated streams;

$F_i$  = The average daily flow over at least 30 days of stream  $i$  to the extent that it is regulated for the pollutant;

$F_T$  = The average daily flow over at least 30 days through the combined treatment facility;

$F_D$  = The average daily flow over at least 30 days from:

- (a)
    1. Boiler blowdown streams, non-contact cooling water, stormwater streams, and demineralizer backwash streams, except as provided in Subpar. 2;
    2. The District may exclude a wastestream listed in Subpar. 1 from  $F_D$  if the user has requested the change in classification and provided engineering data, production data, monitoring results, or other information demonstrating that the waste-stream contains a significant amount of a pollutant and the combination of the wastestream before treatment with regulated streams will result in a substantial reduction of that pollutant;
  - (b) Domestic wastewater when this wastewater is not regulated by a categorical pretreatment standard; or
  - (c) Wastestreams exempted from categorical pretreatment standards for one or more of the following reasons:
    1. The pollutants of concern are not detectable in the effluent from the user;
    2. The pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects;
    3. The pollutants of concern are present in quantities too small to be effectively reduced by technologies known to the District; or
    4. The wastestream contains only pollutants that are compatible with the sewerage system.
- (3) When deriving alternate limits, the District shall calculate both an alternative maximum limit and an alternative long-term average limit.
- (4) The user shall comply with the alternative limits until the District modifies the limits.
- (5) A user shall immediately report to the District any significant changes in the values to calculate the alternative limits. The District shall make any necessary changes to the alternative limits within 30 days after the user reports the changes.
- (6)
  - (a) When wastewater's are combined before treatment at a centralized waste treater, alternative discharge limits shall be derived according to sub. (2), except as provided in par. (b).
  - (b) The District may impose alternative discharge limits determined by the District's best professional judgment when:
    1. The District determines that the calculation of alternative discharge limits according to this section is not practicable and

2. The Department has approved the alternative limits.

- (7) When necessary to ensure that neither dilution nor mixing is used instead of treatment to achieve compliance with the applicable limits, the District shall require segregated treatment of wastestreams or other measures.

### **11.212 Adjusting Categorical Pretreatment Standards to Account for Pollutants in the Water Supply**

- (1) The District may adjust categorical pretreatment standards to account for pollutants in a user's water supply if:
- (a) The user has applied to the District for adjusted standards;
  - (b) The user demonstrates that the water supply is drawn from the same body of water as that into which the District discharges, unless the District finds that noncompliance with this requirement will not cause environmental degradation; and
  - (c)
    - 1. The user has demonstrated that the control system it uses or proposes to use would meet the standards if the pollutants were not in the water supply; or
    - 2. The applicable categorical pretreatment standards indicate that they may be adjusted.
- (2) The District may make adjustments for generic pollutants such as biochemical oxygen demand, totals suspended solids, or oil and grease only if:
- (a) The user demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of the generic measure in the water supply or
  - (b) Appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
- (3) The District may make adjustments only to the extent necessary to meet the applicable categorical pretreatment standard, up to a maximum value equal to the concentration of the pollutant in the water supply.
- (4) The District may impose special monitoring requirements to determine eligibility for adjusted standards and to ensure compliance with the adjusted standards.

### **11.213 Adjusting Local Limits**

- (1) A user may discharge a pollutant prohibited by sec. 11.202(13) if simultaneous sampling of the user's water supply and discharge to the sewerage system shows that the only source of a pollutant is the user's water supply and the user does not discharge the pollutant in excess of the amount of the pollutant in the water supply.
- (2) A user may discharge a pollutant in the amount equal to the sum of the limit set forth in sec. 11.203(1) and the concentration of the pollutant in the water supply if the user simultaneously samples the water supply and discharges to the sewerage system.
- (3) The District may not make adjustments according to Subs. (1) or (2) in excess of any applicable drinking water or groundwater quality standard established by the U.S. Environmental Protection Agency or the Department.

### **11.214 Amalgam Management at Dental Offices**

- (1) This section applies to any dental office that places or removes amalgam. If work in a dental office is limited to work that does not involve placing or removing amalgam, such as orthodontics, periodontics, oral and maxillo-facial surgery, endodontics, or prosthodontics, then this section does not apply.
- (2) All dental offices shall implement best management practices for amalgam as established by the Wisconsin Dental Association.
- (3) Within the shortest reasonable time, but not later than February 1, 2008, every vacuum system where amalgam is placed or removed shall include an amalgam separator that meets the criteria of the International Standards Organization (ISO 11143). Dental offices shall install, operate, and maintain the amalgam separator according to instructions provided by the manufacturer. The amalgam separator shall have a design and capacity appropriate for the size and type of vacuum system.
- (4) On or before February 1, 2005, each dental office shall submit a report that certifies the implementation of the management practices required by sub. (2) and identifies the contractors used to remove amalgam waste within the last twelve months.
- (5) On or before February 1, 2006, each dental office shall provide a schedule for the installation of the amalgam separator required by sub. (3).
- (6) On or before February 1, 2007, each dental office shall provide a report providing the following information.
  - (a) If installation of the amalgam separator is complete, then the report shall identify the installation date, the manufacturer, and the model name.
  - (b) If installation of the amalgam separator is incomplete, then the report shall briefly explain the delay, provide an installation schedule, and identify the manufacturer and the model name of the amalgam separator that will be installed.

- (7) If a dental office has provided a report according to sub. (6)(b), then the dental office shall notify the District of the completion of installation within five days after completion.
- (8) The District shall provide forms for reporting the information required by subs. (4), (5), (6), and (7).
- (9) From the contractors used to remove amalgam waste, dental offices shall obtain records for each shipment showing: the volume or mass of amalgam waste shipped; the name and address of the destination; and the name and address of the contractor. Dental offices shall maintain these records for a minimum of five years. Dental offices shall make these records available to the District for inspection and copying upon request from the District.
- (10) Dental offices shall allow the District to inspect the vacuum system, amalgam separator, and amalgam waste storage areas.
- (11) Inspections shall occur during the normal operating schedule of the dental office. The District shall inspect dental offices according to appointments made in advance, as long as this advanced notice does not impede enforcement of this section.
- (12) If a dental office is implementing the management practices required by sub. (2) and is operating and maintaining the amalgam separator required by sub. (3), then any numerical discharge limit for mercury established in any other section of this chapter does not apply.



## **Subchapter III – Wastewater Discharge Permits**

### **11.301 Users That Need Permits**

The following users may not discharge wastewater to the sewerage system without a wastewater discharge permit:

- (1) A user that is a significant industrial user and
- (2) Any other user for which the District determines that a wastewater discharge permit is necessary.

### **11.302 Permit Elements**

Wastewater discharge permits shall include:

- (1) The user's name and address;
- (2) A description of the processes and operations to which the permit applies;
- (3) Applicable federal, state, and local pretreatment standards and requirements;
- (4) Sampling, reporting, notification, and record keeping requirements, including the pollutants to be monitored, sampling location, sampling frequency, sample collection techniques, and analytical requirements;
- (5) The duration of the permit;
- (6) A statement indicating that the permit is not transferable to any other person unless the new user applies to the District for a transfer of the permit before the user takes possession or control of the processes or operations to which the permit applies;
- (7) A statement regarding the applicable civil and criminal penalties for violating pretreatment standards and requirements, such as the penalties set forth in sec. 283.91, Wis. Stats.; 33 U.S.C. sec. 1319; and 18 U.S.C. sec. 1001;
- (8) Any applicable compliance schedule, but wastewater discharge permits may not contain compliance schedules that extend past an applicable federal deadline;
- (9) Requirements for notification to the District of any new wastewater constituents or any change in long-term production rates or wastewater flow rates of 20% or more;
- (10) Requirements for the installation and maintenance of sampling and monitoring facilities;

- (11) Requirements for retaining and preserving records relating to the wastewater discharges and for allowing the District access to these records;
- (12) A statement that the user consents to inspection and sampling by the District; and
- (13) Any other appropriate requirements.

### **11.303 Permit Duration**

The District may not issue wastewater discharge permits for periods longer than 5 years.

### **11.304 Permit Modification**

The District may modify any wastewater discharge permit at any time to reflect changes in federal, state, or local law, to incorporate the terms of an order, or to reflect changed circumstances.

### **11.305 Permit Reissuance**

- (1) A user shall submit to the District an application for reissuance at least 60 days before the expiration date of a permit.
- (2) An application for reissuance shall consist of:
  - (a) a written request for reissuance of the permit,
  - (b) a statement indicating whether the user is in compliance with all of the conditions of the existing permit and this chapter, and
  - (c) a description of any circumstances that have changed since the permit was issued or modified.
- (3) A person who satisfies the criteria of sec. 11.417 shall sign and swear to the truth of the application for reissuance.

### **11.306 Permit Transfer**

Wastewater discharge permits are issued to a specific user for specific processes and operations at a specific location. Wastewater discharge permits are not transferable to another person, process, operation, or location without prior approval from the District. Before taking possession or control of the processes or operations to which a permit applies, the person taking possession or control shall apply to the District for a transfer of the wastewater discharge permit.

Created: August 18, 1982; Amended: September 22, 1983; Repealed and recreated: June 22, 1992; Amended: December 16, 1996; Amended January 26, 1998; Amended January 26, 2004; Amended April 25, 2005; Amended April 30, 2007; Amended January 25, 2010; Amended December 21, 2015

### **11.307 Permit Revocation**

The District shall revoke permits according to the procedures set forth in Subchapter VIII.

## **Subchapter IV – Reporting**

### **11.400 Applicability**

This subchapter applies to all users other than centralized waste treaters.

### **11.401 Notice of Intent**

(1) At least 60 days before commencing or changing a discharge, the following persons shall submit a Notice of Intent with the District:

- (a) a person proposing to discharge any non-domestic wastewater not previously reported to the District;
- (b) a person taking possession or control of an existing facility that discharges or may discharge process wastewater into the sewerage system;
- (c) a person constructing a new facility that will discharge process wastewater into the sewerage system;
- (d) a person changing the physical size or operations at a facility to the extent that wastewater volume or content is substantially changed, including but not limited to a change in the long-term discharge flow rate of 20% or more; and
- (e) a person commencing or modifying a discharge of hazardous wastes that requires reporting under sec. 11.412.

(2) The Notice of Intent shall:

- (a) be submitted in writing on a form provided by the District;
- (b) include sufficient information to allow the District to evaluate the effect of the proposed discharge on the District's facilities and operations and to assure compliance with this chapter.
- (c) contain the certification set forth in sec. 11.416 and be signed according to sec. 11.417,
- (d) also be submitted to the municipality where the wastewater will be discharged, and
- (e) be accompanied by a payment of any fees established by the District.

## **11.402 Baseline Monitoring Report**

- (1) If a user discharges wastewater from a process that is regulated by a categorical pretreatment standard, then the user shall submit to the District a baseline monitoring report within 180 days after the promulgation of the categorical pretreatment standard. This report shall include all of the information required by sub. (3).
- (2) New sources subject to categorical pretreatment standards and existing sources that become users after the promulgation of an applicable pretreatment standard shall submit to the District a baseline monitoring report at least 90 days before the commencement of discharge. This report shall contain the information required by Sub. (3) (a) to (g). New sources shall also discuss the method of pretreatment after the source intends to use. New sources shall estimate the information required in sub. (3)(e) and (g).
- (3) Baseline monitoring reports shall include the following information:
  - (a) the name, address, and location of the user and the names of the owners and operators;
  - (b) a list of environmental control permits held by or for the facility;
  - (c) a description of production processes and products, the rate of production, the standard industrial classification, and a schematic diagram of the facility that indicates where processes regulated by a categorical pretreatment standard discharge to the sewerage system;
  - (d) the applicable categorical pretreatment standards;
  - (e) the average and maximum flows to the sewerage system from each process regulated by a categorical pretreatment standard and from any other stream used in the combined wastestream formula set forth in sec. 11.211;
  - (f)
    1. except as provided in subpar. 2, the results of sampling and analysis that identify the nature and concentration or mass of regulated pollutants in the discharge from each regulated process. Both a daily maximum and a monthly, 4-day or 30-day average values shall be reported. The samples shall be representative of daily operations. Sampling and analysis shall be done according to subch. VI;
    2. representative historical data may be used if approved by the District
  - (g) the time, date and place of sampling and the method of analysis;

- (h) a certification that the data is representative of normal work cycles and discharges to the sewerage system;
  - (i) a discussion of whether the applicable pretreatment standards and requirements are being met on a consistent basis. If the applicable pretreatment standards and requirements are not being met, the report shall include a discussion of the changes to operations, maintenance procedures, or equipment necessary to achieve compliance, including pollution prevention and waste minimization opportunities;
  - (j) if changes to operations, maintenance procedures, or equipment are needed to achieve compliance, the report shall include the shortest possible implementation schedule. The completion date may not be after the compliance date for the applicable categorical pretreatment standard. The schedule shall specify the dates of commencement and completion of major events. The time between any two major events shall be less than 3 months; and
  - (k) any other information required by the District.
- (2) Baseline monitoring reports shall contain the certification set forth in sec. 11.416 and be signed according to sec. 11.417.

### **11.403 Progress Reports**

- (1) Within 14 days after any of the dates in a schedule required by sec. 11.402(3)(j), the user shall submit to the District a written progress report. At a minimum, this report shall state whether the required event was completed by the specified date. If the required event is not completed, the report shall give the reason for the delay, the efforts made to return to the schedule, and the date when the required event will be completed.
- (2) Progress reports shall be signed according to sec. 11.417.

### **11.404 90-Day Reports**

- (1) If a user is subject to a categorical pretreatment standard, the user shall submit to the District a 90-day report that includes the information required by sec. 11.402(3)(d) to (j). If a user is subject to equivalent mass or concentration limits calculated according to sec. 11.210, then the user shall include a reasonable measure of the industrial user's long term production rate. If a user's categorical pretreatment standards are expressed in production based standards or another measure of operation, this report shall include the user's actual production during the sampling period.
- (2) Users shall submit the 90-day report within 90 days after the compliance date for the applicable categorical pretreatment standard. New sources shall submit the report within 90 days after the commencement of discharge to the sewerage system.

- (3) 90-day reports shall contain the certification set forth in sec. 11.416 and be signed according to sec. 11.417.

### **11.405 Baseline, Progress, and 90-Day Reports From Users Not Subject to Categorical Pretreatment Standards**

If a user is not subject to categorical pretreatment standards but the District has designated that user as a significant industrial user according to sec. 11.103, then the District may require the user to submit reports substantially similar to the baseline monitoring reports required by sec. 11.402, the progress reports required by sec. 11.403, or the 90-day reports required by sec. 11.404. The District shall adjust its requirements for these reports according to the circumstances of the user.

### **11.406 Periodic Compliance Reports**

- (1) Any user with a wastewater discharge permit shall submit to the District periodic compliance reports according to the schedule in the user's wastewater discharge permit.
- (2) Periodic compliance reports shall include all of the information required by the user's wastewater discharge permit. At a minimum, these reports shall include:
- (a) The name, mailing address, and street address of the user;
  - (b) The wastewater discharge permit number;
  - (c) Self-monitoring information according to the requirements of the user's wastewater discharge permit, such as analytical results, sample type, sample date, and sample location. The periodic compliance report shall include analytical results from samples collected independently from any District sampling at the user; and
  - (d) Other information required by sec. 11.419(1).
- (3) (a) Except as provided in Par. (b), the periodic compliance report shall include the following certification:

*To the best of my knowledge, my facility does not store, use, or create the pollutants prohibited by sec. 11.202 (13), MMSD Rules, in any process, activity, or operation. My knowledge is based upon a visual inspection of my facility, information supplied by material safety data sheets, and my understanding of the processes, activities, and operations at my facility. This certification does not apply to polychlorinated biphenyls.*

*I have no reason to believe that polychlorinated biphenyl's are discharged by my facility to the sewerage system.*

- (b) If a user stores, uses, or creates a pollutant prohibited by sec. 11.202(13), the user shall make appropriate modifications to the certification set forth in par. (a). In addition, the periodic compliance report shall include either sample results for the pollutant or the following certification:

*My facility has developed a management plan for (pollutant) to prevent the discharge of (pollutant) to the sewerage system. This management plan is being fully and effectively implemented. Therefore, I have no reason to believe that (pollutant) is discharged by my facility to the sewerage system.*

- (4) If a user monitors any pollutant more frequently than required by the District, using the sampling and analysis procedures required by this subchapter, then the user shall include the results of that monitoring in the periodic compliance report.
- (5) For any wastewaters subject to categorical pretreatment standards that have been shipped off-site for disposal, periodic compliance reports shall include the category manufacturing process, volume, destination, and hauler.
- (6) Users shall report sample results before the last day of the month following the month in which the sample was collected.
- (7) Periodic compliance reports shall contain the certification set forth in sec. 11.416 and be signed according to sec. 11.417.

#### **11.407 [Reserved]**

#### **11.408 Report of Violation and Resampling**

If sampling performed by a user indicates a violation, the user shall:

- (1) notify the District within 24 hours of becoming aware of the violation,
- (2) provide a written report with sample results to the District within 5 days after becoming aware of the violation, and
- (3) repeat the sampling and analysis and submit the results of the repeat analysis to the District within 30 days after becoming aware of the violation.



### **11.409 Bypass Reports**

- (1) If a user knows in advance of the need for a bypass, then the user shall notify the District at least ten days before the bypass, if possible, or otherwise immediately.
- (2) If a user has a bypass that causes a violation of a pretreatment standard or requirement and the user did not anticipate the bypass, then the user shall:
  - (a) orally notify the District of the bypass within 24 hours of becoming aware of the bypass, and
  - (b) provide a written notification within 5 days after becoming aware of the bypass that describes:
    1. The bypass and its cause,
    2. The date and time of when the bypass began and the date and time of either the end of the bypass, if the bypass has ceased, or the expected end of the bypass, if the bypass has not ceased; and
    3. The steps taken or planned to prevent reoccurrence of the bypass.
- (3) The report required by Sub. (2) shall contain the certification set forth in sec. 11.416 and be signed according to sec. 11.417.

### **11.410 Reports Of Changed Production Levels**

- (1) If a user's wastewater discharge permit incorporates equivalent mass or concentration limits and if the user's long-term production rate will change by 20% or more, then the user shall notify the District within 2 days after determining that the production level will change.
- (2) This notification shall contain the certification set forth in sec. 11.416 and be signed according to sec. 11.417.

### **11.411 Reporting of Upsets, Spills, Other Slugs, and Emergencies**

- (1) Users shall immediately notify the District of an upset, spill, or other slug that has a reasonable potential to cause a violation of any applicable pretreatment standard or requirement.
- (2) The report required by sub. (1) shall include:
  - (a) the location, date, and time of the discharge;

- (b) the character and volume of the discharged material; and
  - (c) containment or other corrective action taken by the user.
- (3) Within 5 days after the report required by Sub. (1), the user shall submit to the District a written report describing the cause of the discharge, the duration of the discharge, and the measures to be taken by the user to prevent similar discharges in the future.
- (4) The report required by Sub. (3) shall contain the certification set forth in sec. 11.416 and be signed according to sec. 11.417.
- (5) Users shall immediately notify the District at 414-282-7200 (24 hours per day, 7 days per week) of any emergency that may affect the sewerage system.

### **11.412 Hazardous Waste Report**

- (1) A user shall submit a hazardous waste report to the District if the user discharges to the sewerage system:
- (a) any amount of substances that if otherwise disposed would be acutely hazardous substances according to 40 CFR 261.30(d) or 40 CFR 261.33(e); or
  - (b) substances that:
    - 1. if otherwise disposed would be a listed or characteristic hazardous waste according to 40 CFR Part 261, and
    - 2. are discharged in quantities of 15 kilograms or more per month.
- (2) (a) Hazardous waste reports shall include:
- 1. the name of the hazardous waste;
  - 2. the hazardous waste number;
  - 3. whether the discharge is batch, continuous, or another type; and
  - 4. a certification that the user has a program in place to reduce the volume and toxicity of hazardous wastes generated to the greatest economically practicable.
- (b) If the user discharges to the sewerage system more than 100 kilograms per month of substances that if otherwise disposed would be a hazardous waste, then the hazardous

waste report shall include the following information to the extent that it is known to the user:

1. the hazardous constituents contained in the waste,
2. the mass and concentration of the hazardous constituents in the wastestream discharged during each month, and
3. the mass of hazardous constituents the user expects to discharge during the next 12 months.

(3) Users shall submit the hazardous waste report:

- (a) before February 19, 1991, if the user is currently subject to the section;
- (b) within 180 days after the commencement of discharge of any listed or characteristic hazardous waste in quantities that make the user subject to this section; or
- (c) within 90 days after new federal or state regulations define as a hazardous waste substances that the user discharges in quantities that make the user subject to this section.

(4) Only one (1) report is required for each hazardous waste discharged to the sewerage system. Users shall report changes to the quantity or frequency of the discharge according to sec. 11.401.

(5) If other reports under this subchapter have included the information that would be in the hazardous waste report, then a hazardous waste report is not required.

(6) Hazardous waste reports shall contain the certification set forth in sec. 11.416 and be signed according to sec. 11.417.

### **11.413 [Reserved]**

### **11.414 Review of Proposed Treatment Facilities**

(1) If a user is planning to install or modify treatment facilities or operations to comply with a categorical pretreatment standard, a pretreatment standard set forth in sec. 11.203, a permit condition, or an order of the District, then the user shall provide the District with plans, specifications, and operating procedures for the proposed facilities. The District may approve, conditionally approve, or disapprove the plans, specifications, and operating procedures. A user may not begin discharging from the treatment facilities until the user has satisfied the requirements of the District and the Department.

- (2) The Department has separate requirements for the review of plans, specifications, and operating procedures of proposed pretreatment facilities. The user shall comply with these requirements before commencing discharges to the sewerage system.

### **11.415 Other Reports**

In addition to the reports required by secs. 11.401 to 11.413, the District may require that users submit other reports, management plans, or other information whenever the District finds that such a requirement is necessary to fulfill the District's responsibilities under this chapter or any other local, state, or federal law.

### **11.416 Certification Requirement**

The reports required by secs. 11.401 to 11.412 shall contain the following certification:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

### **11.417 Signatory Requirements**

- (1) The reports required by secs. 11.401 to 11.412 shall be signed according to this section.
- (2) If the user submitting a report is a corporation, the report shall be signed by a person who has actual operational control at the user and is a:
  - (a) President,
  - (b) Secretary,
  - (c) Treasurer,
  - (d) Vice-President in charge of a principal business function,
  - (e) Person who performs similar policy-making functions for the Corporation,
  - (f) Manager of one or more manufacturing, production, or operating facilities, if:

1. The manager is authorized to make management decisions which govern the operation of the facility, including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to assure long term compliance with environmental laws and regulations;
  2. The manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit requirements; and
  3. Authority to sign documents has been assigned or delegated to the manager according to corporate procedures; or
- (g) Representative of one of the persons listed in pars. (a) to (f) if the representative is authorized according to sub. (5).
- (3) If the user submitting the reports is a partnership, the reports shall be signed by a general partner or a representative authorized according to sub (5).
- (4) If the user submitting the reports is a sole proprietorship, the reports shall be signed by the proprietor or a representative authorized according to sub. (5).
- (5) (a) A representative may sign a report if:
1. The representative has written authorization to sign the report from a person described in subs. (2), (3), or (4);
  2. The authorization specifies either an individual or a position having responsibility for the overall operation of the user or having overall responsibility for environmental matters for the user; and
  3. The written authorization is submitted to the District.
- (b) If the authorization submitted according to par. (a) becomes inaccurate, the user shall submit a new authorization before or together with the next report.

### **11.418 Reporting Address**

Users shall submit reports required by this subchapter to the District at the following address:

Industrial Waste Department  
Milwaukee Metropolitan Sewerage District  
260 West Seeboth Street  
Milwaukee, Wisconsin 53204-1446

### **11.419 Record Keeping Requirements**

- (1) For each sample taken to satisfy the requirements of this chapter, users shall record the following information:
  - (a) the exact place, date, and time of the sampling
  - (b) the type of sample;
  - (c) the names of the person taking the sample, the person doing the analysis, and the laboratory where the analysis was done;
  - (d) the dates the analyses were performed;
  - (e) the analytical techniques used; and
  - (f) the results of all required analyses.
- (2) Users shall retain and preserve for no less than 5 years all records relating to monitoring, sampling, and chemical analyses made by or on behalf of the user. If a record pertains to matters that are the subject of an order, litigation, or other enforcement action, then the user shall retain and preserve the record until all enforcement activities have concluded and all periods of limitations for appeals have expired. Users shall make these records available upon request to the District for inspection and copying.

### **11.420 Public Information**

All written information submitted to the District shall be available without restriction to any person upon request, according to sec. 19.35, Wis. Stats., unless:

- (1) The user provides, at the time the user submits the information, a written notice to the District that the user claims that all or part of the information is exempt from disclosure according to sec. 19.36 (5), Wis. Stats.; and
- (2) The user demonstrates to the District's satisfaction that the information is a trade secret according to sec. 134.90 (1) (c), Wis. Stats.

## **Subchapter V – Monitoring and Reporting Requirements for Centralized Waste Treaters**

### **11.501 Initial Report**

At least 180 days before the commencement of discharge, a new centralized waste treater shall provide the District with the following information:

- (1) name, location, mailing address, and the names of the owner and operator;
- (2) a description of the treatment equipment and processes, a schematic diagram, and a discussion of performance capabilities;
- (3) the types of waste the centralized waste treater intends to treat, identified by industrial category and manufacturing process, and estimated volumes for each type of waste;
- (4) a description of the waste acceptance procedures developed according to sec. 11.503 for incoming waste;
- (5) a description of effluent monitoring plans developed according to sec. 11.504; and
- (6) any other information requested by the District.

### **11.502 New Waste Report**

At least 60 days before accepting wastes from an industrial category or manufacturing process not included in the report required by sec. 11.501, a centralized waste treater shall submit to the District the following information for the new type of waste:

- (1) a description of the waste, including industrial category and manufacturing process;
- (2) estimates for the volume of the waste; and
- (3) the equipment and processes that will be used for treatment.

### **11.503 Waste Acceptance Procedures**

Each centralized waste treater shall implement waste acceptance procedures sufficient to ensure that wastes accepted for treatment are within the centralized waste treater's treatment capabilities and have no characteristics that could prevent compliance with the applicable pretreatment standards and requirements. These acceptance procedures shall include sampling and analysis, treatability studies, and any other procedures necessary to identify the source and character of the waste.

### **11.504 Effluent Monitoring**

Sampling and analysis of the effluent shall be sufficient to ensure consistent compliance with the applicable pretreatment standards and requirements.

### **11.505 Periodic Compliance Reports**

On a schedule specified by the District, each centralized waste treater shall provide to the District the following information for all wastes treated since the previous report:

- (1) the name and address of each customer;
- (2) the volume, date of arrival, and the transporter of each shipment;
- (3) the applicable pretreatment standards;
- (4) the generator's production data if production based standards apply;
- (5) effluent volume and effluent sampling and analysis reports; and
- (6) any other information requested by the District.

### **11.506 Other Requirements**

- (1) Centralized waste treaters shall submit reports to the District according to secs. 11.407 and 11.412.
- (2) The reports required by this subchapter shall contain the certification set forth in sec. 11.416 and be signed according to sec. 11.417.
- (3) Centralized waste treaters shall maintain records according to sec. 11.419 and be subject to the public information provisions of sec. 11.420.



## **Subchapter VI – Sample Collection and Analysis**

### **11.601 Sampling**

- (1) Reports required by this chapter shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report. This data shall be representative of conditions occurring during the reporting period. The monitoring frequency shall be sufficient to show whether the user is in compliance with all applicable pretreatment standards and requirements.
- (2)
  - (a) Users shall collect grab samples for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, users shall collect flow proportioned composite samples collected over 24 hours or the duration of the discharge if the duration of the discharge is less than 24 hours. However, the District may waive flow proportional composite sampling requirements if the user demonstrates to the District's satisfaction that flow proportioned sampling is not feasible. In such cases, users may use time proportioned composite samples, grab samples, or another type of sample that will provide a representative sample and has been approved by the District.
  - (b) For baseline monitoring reports required by sec. 11.403 and 90-day reports required by sec. 11.404, users shall collect a minimum of four grab samples for the pollutants for which the user collects grab samples.
  - (c) If a user's discharge is a batch or is highly variable and if either flow proportioned composite sampling is not the appropriate sample collection technique or is not feasible, then the District may establish in the user's wastewater discharge permit a sampling protocol necessary to ensure a sample representative of the user's daily discharge. This sampling protocol may involve time composite sampling, compositing multiple grab samples, or other appropriate techniques.
  - (d) The District may require continuous pH monitoring when a categorical pretreatment standard includes pH limits or when the District determines that the pH of a user's discharge has a potential to be highly variable.

### **11.602 Sample Collection, Preservation, and Analysis**

- (1) To evaluate compliance with this chapter, the District and users shall:
  - (a) collect, preserve, and analyze samples using techniques that provide sufficient precision and accuracy to measure the regulated pollutants at or below the applicable limit to a reasonable degree of scientific certainty, using analytical methods included in 40 CFR Part 136, ch. NR 219, Wis. Adm. Code, or other methods approved by the Department; and

- (b) use a laboratory certified or registered by the Department, according to ch. NR 149, Wis. Adm. Code, for the parameter being analyzed.
- (2) For discharges to the sewerage system from remedial actions related to leaking underground storage tanks or other sources of contaminated groundwater, the District may require analyses using the methods set forth in Wisconsin Department of Natural Resources, Methods for Determining Gasoline Range Organics, PUBLSW-140, Method for Determining Diesel Range Organics, PUBL-SW-141, and Leaking Underground Storage Tank Analytical Guidance, PUBL-SW-130 92 REV (April 1992). When appropriate, the District may require alternative or additional analyses.

### **11.603 Monitoring Locations, Facilities, and Equipment**

- (1) If any pretreatment standard or requirement requires sampling or flow measurement by a user or if any local, state, or federal regulation requires the District to sample or measure flows at a user, then the user shall provide monitoring facilities that will be accessible and that will provide representative samples of the process wastewater.
- (2) Users shall locate, construct, and maintain monitoring facilities and equipment according to the following requirements.
  - (a) Users shall provide facilities that allow the collection of flow proportioned composite samples, except as provided in par. (f). Users may use any type of open channel or full-pipe device that is appropriate for the flow rate, velocity, and any other relevant characteristics of the discharge. Examples of open channel devices are flumes and weirs. Full-pipe devices may be mechanical, magnetic, ultrasonic, or other technologies. Before the construction, installation, or use of any sampling facility or equipment, users shall submit descriptive information and technical specifications for review, according to sub. (3).
  - (b) The monitoring location may be either inside or outside the building containing the operations that produce process wastewater.
  - (c) If a manhole is being used for sampling, then the opening shall be at least 32 inches in diameter.
  - (d) In addition to providing a primary device, users may provide a flow meter, sampler, or both for both self-monitoring and District sampling.
  - (e) If a user is providing the flow meter for use with District sampling equipment, then the meter shall have output signals compatible with District sampling equipment.
  - (f) The District may accept sampling limited to grab samples if:

1. the user shows that discharges will have a certain and limited frequency, duration, and volume, such as once per day, less than one hour, and no more than 5,000 gallons; or
  2. the pollutant of concern is cyanide, hexane extractable materials, sulfide, volatile organic compounds, or any other pollutant that requires a grab sample to obtain accurate results.
- (3) Users shall submit to the District plans and specifications for construction or modification of monitoring facilities or equipment at least 30 days before the proposed commencement of construction or modification. For any proposed device, users shall provide design criteria for the device and a description of discharge characteristics sufficient to show that the device is appropriate for the discharge. If a user constructs or modifies monitoring facilities or equipment before District approval or without inspection during construction and the District determines that the monitoring facilities are unacceptable, then the user shall reconstruct or modify the monitoring facilities or equipment according to the requirements of the District.
- (4) The user shall maintain monitoring facilities in a safe, operating condition at all times.
- (5) The user shall allow the District access to all monitoring facilities according to the requirements of sec. 11.804.

#### **11.604 Monitoring Location for Combined Wastestreams**

- (1) When a wastewater regulated by a categorical pretreatment standard is combined before treatment with other wastewaters, a user may monitor either the segregated wastestreams or the combined wastestreams for purposes of determining compliance with the applicable pretreatment standard.
- (2) If the industrial user chooses to monitor the segregated wastestream, the user shall apply the applicable categorical pretreatment standard.
- (3) If the user monitors the combined wastestream, the user shall apply an alternative limit calculated according to the combined wastestream formula of sec. 11.211.
- (4) A user may change monitoring locations only after receiving approval from the District. The District shall ensure that any change in a user's monitoring location will not allow the user to substitute dilution for adequate treatment.

#### **11.605 Techniques Used by the District to Evaluate Compliance**

For evaluating compliance with any pretreatment standard or requirement, the District may use any sampling location from which samples will either directly or indirectly represent an

industrial user's discharge. If a sampling location includes dilution, such as domestic wastewater, infiltration, inflow, or storm water, and if samples at this location violate an applicable limit, then the District may conclude that process wastewater discharged at an upstream location was the cause of the violation. The District may use sample collection techniques or analytical methods that bias sample results low as a basis for enforcement action, such as composite samples for pollutants for which grab samples are normally used. When an industrial user has a wastewater discharge permit, the District may use sampling locations, sample collection techniques, or analytical methods other than those required by the wastewater discharge permit for use by the industrial user.

## Subchapter VII – Hauled Waste

### 11.701 Discharge Conditions

Hauled waste may be discharged to the sewerage system only under the following conditions, unless the District is adding the hauled waste to anaerobic digesters to increase gas production:

- (1) The hauled waste:
  - (a) consists only of domestic wastewater,
  - (b) is discharged at a location and time designated by the District,
  - (c) is discharged from a disposal unit with a Waste Hauler's License issued by the District according to sec. 11.702,
  - (d) is reported according to the requirements of the District, and
  - (e) meets any other applicable conditions imposed by the District; and
- (2) The disposal unit operator cooperates completely with District personnel supervising the discharge of the hauled waste.

### 11.702 Waste Hauler's License

- (1) To obtain a Waste Hauler's License, a person shall submit a written application to the District. This application shall contain the name and address of the applicant, the make, model year, vehicle license number, and capacity of the disposal unit, and the number of the Wisconsin Sanitary License issued to the applicant by the Department according to Ch. NR 113, Wis. Admin. Code. The application shall indicate whether any publicly owned treatment works has refused permission to discharge to the applicant within the past 5 years. If this has occurred, then the application shall indicate the reasons given by the treatment works for refusal.
- (2) The license application fee established by the District shall accompany the license application.
- (3) Each disposal unit shall have a separate license.
- (4) The license or a copy shall be kept with the disposal unit at all times.
- (5) Licenses are nontransferable, except when the disposal unit for which the license was issued is replaced.

(6) Licenses expire at midnight on the last regular business day of the calendar year in which the license was issued.

(7) The District shall mail license applications to holders of existing licenses on or before December 1 of each year.

### **11.703 Licensee Responsibilities**

(1) The licensee shall ensure that disposal unit operators are informed of and comply with all applicable provisions of this chapter.

(2) The licensee is responsible for all acts and omissions of disposal unit operators.

### **11.704 License Stickers**

The District shall provide a license sticker to each licensee. This sticker shall be affixed to the rear of the disposal unit in a clearly visible location.

### **11.705 Identifying Septic Tank and Holding Tank Wastes**

All hauled wastes discharged to the sewerage system shall be identified as either septic tank waste or holding tank waste. Hauled waste shall be identified as septic tank waste if BOD is greater than 2,500 mg/l or TSS is greater than 5,000 mg/l. All other wastes shall be identified as holding tank waste.

### **11.706 Waste Hauler's Report**

For each shipment of hauled waste, a licensee shall complete and submit to the District the following form or other form specified by the District:

WASTE HAULER'S REPORT

---

Waste Hauler Information

Name of Waste Hauler \_\_\_\_\_

Waste Hauler's License Number \_\_\_\_\_

Name of Disposal Unit Operator \_\_\_\_\_

---

Waste Origin Information

Name	Address	Volume	Date	Time
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Type of Waste: (Check One)

Septic Tank \_\_\_\_\_

Holding Tank \_\_\_\_\_

---

Discharge Information

Date \_\_\_\_\_

Time \_\_\_\_\_

Total Volume \_\_\_\_\_

---

I certify that this information is true, accurate, and complete. I am aware that both my employer and I may be subject to penalties for submitting false information, including fines or imprisonment for knowingly submitting false information.

Signature of Disposal Unit Operator

Date

---

.....

To be completed by the District: Received by

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### **11.707 Disposal Unit Inspection and Sampling**

The District may inspect any licensed disposal unit and its contents and may sample the contents of a disposal unit at any time before or during discharge to the sewerage system.

### **11.708 Enforcement**

(1) In addition to the actions under Subchapter VIII, the District may take the following enforcement actions in the following situations:

#### **(a) Suspicious Discharges**

If the inspection of a disposal unit or its contents or any other circumstances causes the District to suspect that the discharge consists of non-domestic wastes, is a greater volume than the waste hauler has reported to the District, or is otherwise inconsistent with the Waste Hauler's Report or the requirements of this chapter, then District personnel supervising the discharge may order a disposal unit operator not to begin discharging or to cease discharging.

#### **(b) Failure to Cooperate**

If a disposal unit operator has failed to allow the District to inspect or sample or has otherwise failed to cooperate with District personnel, then the District may:

1. Prohibit all discharges from any disposal unit operated by that particular disposal unit operator, or
2. Immediately suspend the Waste Hauler's License.

#### **(c) Misrepresentation of Wastes**

If a licensee has reported a discharge as holding tank waste but analysis of a waste sample by the District identifies BOD greater than 2,500 mg/l or TSS greater than 5,000 mg/l and if this occurs 3 times in any twelve month period, then the District may:

1. Revoke the Waste Hauler's License,
2. Prohibit the licensee or any successor in interest from doing any business with the District for a period of up to 3 years, or
3. Bill the licensee for any costs the licensee avoided by misrepresenting the waste and for sample collection and analysis costs.



(d) Metals or Prohibited Substances in the Wastes

If the District identifies any metal regulated under sec. 11.203 in a concentration greater than 0.5 mg/l, any other substance in a concentration that violates a pretreatment standard established in sec. 11.203, or any substance prohibited under sec. 11.202, then the District may take the following actions against the licensee who discharged the wastes:

1. Revoke the licensee's Waste Hauler's License, or
2. Prohibit the licensee or any successor in interest from doing any business with the District for a period of up to 3 years.

(2) The District shall notify the licensee in writing of any decision under sub. (1) (b) and (d). This notification shall include the reasons for the decision and indicate the procedures for administrative review under ch. 6, MMSD Rules.

## **Subchapter VIII – Enforcement**

### **11.801 Introduction**

- (1) The District shall undertake the enforcement actions necessary to promote the purposes set forth in sec. 11.100 (1) to (4). The District has the primary responsibility for enforcing all applicable pretreatment standards and requirements. However, users may also be subject to citizen suits under 33 U.S.C. 1365 or enforcement actions by the Department or the U.S. Environmental Protection Agency.
- (2) The District may take any enforcement action at any time as appropriate to the circumstances of the case. The District is not required to take enforcement actions in the order in which they are presented in this subchapter.

### **11.802 Enforcement Response Plan**

- (1) The District shall develop and implement an enforcement response plan. This plan shall contain procedures for investigating and eliminating noncompliance with pretreatment standards or requirements. At a minimum, the plan shall discuss:
  - (a) how the District will investigate instances of noncompliance;
  - (b) the various types of enforcement responses used by the District, the violations for which the responses will be used, and the timing of these responses; and
  - (c) the persons responsible for each response.
- (2) The enforcement response plan provides only explanatory material and is merely informational in nature. The enforcement response plan does not create legal rights or obligations and does not limit the enforcement discretion of the District.

### **11.803 District Surveillance of Users**

- (1) The District shall sample and analyze effluent from users and conduct other surveillance activities as often as necessary to identify occasional and continuing noncompliance with any applicable pretreatment standard or requirement.
- (2) The District shall inspect the premises of and sample the effluent from each significant industrial user at least once per year.
- (3) Users shall pay fees to the District for the costs of sample collection, preparation, and analysis:

- (a) when the District performs routine, periodic sampling at the user; and
  - (b) when the District samples at a user in response to a reasonable suspicion that the user is violating a pretreatment standard or requirement.
- (4) The District's *Cost Recovery Procedures Manual* shall set for the amount of the fees that the District may charge for sample collection, preparation, and analysis.

#### **11.804 Significant Industrial User Inspection and Sampling**

- (1) After District personnel, representatives, or officials from other governmental agencies assisting the District have exhibited their credentials, a significant industrial user shall allow:
- (a) entry to the user's premises at any reasonable time for the purposes of inspection, sampling, or examining records;
  - (b) access to the user's monitoring facilities as necessary to obtain representative samples;
  - (c) the use of any devices necessary for collecting samples or measuring flows.
- (2) Before sample collection begins, the person apparently in charge of a facility shall disclose whether production activities and discharges are representative of normal operations.
- (3) Inspection of sampling of significant industrial users shall be performed according to an annually established schedule. The schedule shall be established based upon the user's compliance history, production schedule, and the volume and nature of the user's wastewater. The schedule shall provide for at least one inspection per year and three sampling events per year, unless the applicable federal and state regulations allow a reduced schedule and the user's compliance history, discharge schedule, mass of discharged pollutants, or other factors make a reduced schedule appropriate. The schedule shall provide for additional inspection and sampling if the District has reason to believe that the user is in noncompliance with a pretreatment standard or requirement. The District shall keep this schedule confidential. The custodian of records may not release the schedule except to authorized representatives of superior governments when they are auditing the District's activities under this chapter.
- (4) Areas subject to inspection are limited to the processes, equipment, and operations that result in wastewater discharged to the sewerage system; any area with floor drains or other connections to the sewerage system; and any storage areas that may release materials to the sewerage system. The scope of an inspection is limited to determining whether the user is complying with all applicable pretreatment standards and requirements. For the purposes of inspection, a reasonable time is any time when the user is operating any process, equipment, or operation that results in wastewater or when the facility is discharging wastewater to the sewerage system.

- (5) A significant industrial user shall allow access to and copying of records required by any pretreatment standard or requirement. For the purposes of examining records, a reasonable time is during the user's regular business hours.

### **11.805 Inspection and Sampling Warrants**

If the District has a reasonable belief that a user has discharged or may discharge wastewater to the sewerage system in violation of this chapter, the user's wastewater discharge permit or any other applicable provision of local, state, or federal law, then the District may apply to an appropriate circuit court for:

- (1) a special inspection warrant under sec. 66.0119, Wis. Stats.;
- (2) a search warrant under sec. 968.12, Wis. Stats.; or
- (3) other appropriate judicial order or writ.

### **11.806 [Reserved]**

### **11.807 Notice of Noncompliance**

- (1) If the District has determined that a user has violated or is violating this chapter, the user's wastewater discharge permit, or any other applicable local, state, or federal law, then the District may issue to the user a Notice of Noncompliance.
- (2) A Notice of Noncompliance shall identify the violation and the consequences of further violation.
- (3) As appropriate to the circumstances, the Notice of Noncompliance may:
  - (a) require description of the nature and cause of the violation,
  - (b) require a description of the remedy,
  - (c) require the submission of certain information before a date set forth in the Notice of Noncompliance,
  - (d) provide notice that the District will be increasing its surveillance of the user, or
  - (e) contain other provisions that promote a return to compliance.

### **11.808 Notice of Violation**

- (1) If the District has determined that a user has violated or is violating this chapter, the user's wastewater discharge permit, or any other applicable local, state, or federal law or has failed to respond to a Notice of Noncompliance, then the District may issue to the user a Notice of Violation.
- (2) Any Notice of Violation issued by the District shall:
  - (a) be written;
  - (b) be either hand delivered or delivered by certified mail, return receipt requested;
  - (c) state the nature of the violation;
  - (d) if the District has determined that the user meets the criteria set forth in sec. 11.810, indicate that the District intends to publish the user's name according to sec. 11.810; and
  - (e) describe the administrative procedures that are available to review the District's determination.
- (3) A Notice of Violation may require the user to:
  - (a) attend a meeting with the District;
  - (b) submit a remedial action plan and compliance schedule;
  - (c) take other action to identify the nature of the violation, the cause of the violation, or a remedy for the violation.

### **11.809 Remedial Action Plans and Compliance Schedules**

- (1) A user may submit to the District a remedial action plan in response to any noncompliance. The remedial action plan shall contain a compliance schedule.
- (2) The District shall review the remedial action plan and compliance schedule to determine whether they are sufficient to achieve consistent compliance within a reasonable time.
- (3) The District may approve, conditionally approve, or disapprove the remedial action plan and compliance schedule.

- (4) The District may defer further progressive enforcement action if the user implements the remedial action plan according to the approved compliance schedule. If the user fails to implement an approved remedial plan according to the compliance schedule or if the implementation of an approved remedial action plan fails to achieve compliance, then the District shall take further appropriate enforcement action.

### **11.810 Publication of the Names of Users in Significant Noncompliance**

- (1) As often as the District finds necessary but at least once per year, the District shall publish the names of the users that were in one or more of the following states of noncompliance at any time since the period covered by the previously published list:

(a) Chronic Violations

66% or more of all the measurements taken during a 6 month period exceed by any magnitude the daily maximum limit or the average limit for any one pollutant;

(b) Technical Review Criteria Violations

33% or more of all the measurements taken during a 6 month period for a particular pollutant equal or exceed the product of the daily maximum limit or the average limit for that pollutant multiplied by:

1. 1.4, for BOD, TSS, and hexane extractable materials;
2. 1.2, for all other pollutants except pH; or
3. 1 for pH;

(c) Other Violations Causing Pass Through or Interference

Any violation that has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of District personnel or the general public;

(d) Hazardous Discharges

A discharge of a pollutant has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the exercise of District's emergency authority to halt or prevent a discharge;

(e) Failure to Follow a Compliance Schedule

Failure to start construction, complete construction, or attain compliance after the date contained in a compliance schedule;

(f) Failure to provide, within 45 days after the due date, any required report, such as a baseline monitoring report, a 90-day report, a periodic compliance report, or a progress report;

(g) Inaccurate Reporting

Failure to accurately report noncompliance; or

(h) Failure to Collect or Analyze Samples

Failure to collect samples according to the requirements established by an applicable wastewater discharge permit or to analyze samples using a method set forth in 40 CFR Part 136 or Ch. NR 219, Wis. Adm. Code, or a method specifically required by an applicable categorical pretreatment standard.

(2) The District shall publish the list required by sub. (1) in a newspaper of general circulation in the District.

### **11.811 Orders**

(1) If the District has determined that a user has violated or is violating this chapter, the user's wastewater discharge permit, or any other applicable local, state, or federal law, then the Director of Water Quality Protection may order the user to take certain action before a certain time.

(2) An order under sub. (1) shall:

(a) be written;

(b) state the reasons for the order;

(c) describe the administrative procedures that are available to review the District's determination; and

(d) be hand delivered or delivered by certified mail, return receipt requested.

(3) In addition to orders under sub. (1), users may also be subject to special orders of the Commission according to sec. 200.45(2), Wis. Stats.

### **11.812 Permit and License Revocation**

- (1) The District may revoke a user's wastewater discharge permit or waste hauler's license for any of the following reasons:
  - (a) failure to accurately report wastewater constituents or other characteristics of the discharge;
  - (b) failure to report significant changes in wastewater constituents or other characteristics;
  - (c) failure to submit timely reports;
  - (d) failure to allow the District or its representatives reasonable access to the user's premises or disposal unit for inspection or monitoring;
  - (e) discharging any substance prohibited by this chapter;
  - (f) discharging a substance in excess of the amount allowed in the wastewater discharge permit or in excess of the amount reported by a waste hauler;
  - (g) failure to pay the costs imposed upon the user by the District; or
  - (h) any other violation of the wastewater discharge permit, waste hauler's license, this chapter, an order of the District, a judicial order, or any other applicable local, state, or federal law.
- (2) After a user has received notice that the District has revoked the user's waste hauler's license or wastewater discharge permit, the user shall immediately cease all discharges to the sewerage system from the disposal unit to which the license applied or the facility to which the permit applied.

### **11.813 Bulkheads**

- (1) The Executive Director or a designee may issue a written order the insertion of a bulkhead in a user's sewer connection if the Executive Director or a designee has determined that:
  - (a) The user has failed to adequately respond to a notice of noncompliance or a notice of violation for discharging prohibited substances or toxic pollutants; or
  - (b) The user has discharged or will imminently discharge a prohibited substance or toxic pollutant in an amount likely to harm the environment, the sewerage system, or the public.



- (2) Before the District may insert a bulkhead, the District shall deliver to the user a written notice describing the reason for the bulkhead order. The District shall make a reasonable attempt to deliver the notice to the person who appears to be in control of the user's facility.
- (3) After delivery of the notice, the District may immediately insert the bulkhead.
- (4)
  - (a) Except as provided in par. (b), no person may remove or tamper with a bulkhead.
  - (b) A user may remove a bulkhead after the user has received written permission from the District.

### **11.814 [Reserved]**

### **11.815 Effectiveness of District Decisions During Review**

During the pendency in any forum of any challenge to a District decision, a user affected by the decision shall comply with the decision.

### **11.816 Subpoenas**

- (1) The Executive Director, a designee, any chairperson of any committee of the Commission, or an administrative law judge in a hearing under sec. 6.05, MMSD Rules, may issue a subpoena to require the attendance of a witness or the production of documents or other materials at a hearing called by the Commission or to assist an investigation undertaken by the District.
- (2) A subpoena issued under sub. (1) shall be in the form set forth in sec. 885.02, Wis. Stats., or a substantially similar form and shall be served according to sec. 885.03, Wis. Stats.

### **11.817 Judicial Proceedings**

- (1) If the District has determined that a user has failed to comply with this chapter, the user's wastewater discharge permit, any other applicable local, state, or federal law, or a notice of violation or order issued by the District, then the District may commence judicial proceedings for appropriate relief.
- (2) Any party to a hearing under sec. 6.05, MMSD Rules, including the District, may seek judicial review of the decision. A party shall seek review by certiorari within 30 days after receiving the decision, according to sec. 68.13, Wis. Stats.

## **11.818 Remedies, Penalties, and Cost Recovery**

- (1) The District may obtain any remedy allowed by law for any violation of any pretreatment standard requirement.
- (2) The District may seek injunctive relief.
- (3) The District may seek the imposition of civil penalties
  - (a) Except as provided in Par. (b), the District may seek up to \$10,000 per day for each violation of any pretreatment standard or requirement.
  - (b) In an action under 33 U.S.C. 1365, the District may seek up to \$25,000 per day for each violation of any pretreatment standard or requirement
  - (c) The following rules apply to counting violations:
    1. A separate violation occurs for each pollutant that exceeds an applicable pretreatment standard;
    2. Each day on which a violation occurs is a separate violation;
    3. If a user is in noncompliance with any pretreatment standard that is a monthly average, 30-day average, or 4-day average, then the user has one violation on each day of the averaging period;
    4. If for any period a user has violated both a maximum and an average pretreatment standard for a particular pollutant, then the total number of violations is the sum of the days on which the maximum standard was violated and the days in the averaging period; and
    5. One violation occurs on each day that a report is late and each day after an action required to be completed is not completed.
  - (d) An appropriate penalty under this subsection shall be determined according to the U.S. Environmental Protection Agency's civil penalty policy considering factors such as:
    1. the number and seriousness of the violations;
    2. any economic benefits resulting from the violations,
    3. the deterrent effect of the penalty,
    4. the user's compliance history

5. the user's good faith efforts to comply or recalcitrance to compliance,
  6. the economic impact of the penalty on the user, and
  7. any other factors that justice may require.
- (4) If any person willfully or negligently violates any pretreatment standard or requirement, knowingly makes a false statement, representation or certification, or knowingly falsifies, tampers with, or renders inaccurate any monitoring device or analytical method, then that person may be subject to prosecution under the criminal laws of the State of Wisconsin or the United States, in addition to actions for civil remedies.
- (5) If a user's discharge obstructs, damages, or impairs the sewerage system, then the user shall be liable to the District for the costs of cleaning, repairing, or replacing the affected components.
- (6) In any enforcement action, the District may recover from the user subject to the enforcement action the District's costs for sampling, analysis, other surveillance measures, and time devoted to the action by the District's legal counsel, engineering staff, administrative staff, or other personnel.
- (7) A user shall be liable to the District for a penalty or other costs incurred by the District if:
- (a) the user has violated any pretreatment standard or requirement;
  - (b) the user's violation has caused the District to violate any requirement to which it is subject or increased the magnitude or duration of a violation; and
  - (c) an enforcement action against the District by the Department, the U.S. Environmental Protection Agency, or any other person resulted in the penalty or other costs being imposed upon the District.
- (8) The District may seek an order requiring the user to develop and implement a pollution prevention and waste minimization plan.

### **11.819 Public Nuisance**

Every violation of this chapter is a public nuisance.

## 11.820 Affirmative Defenses

### (1) Local Limit Compliance – Unchanged Discharge Defense

If the District brings an action against a user alleging a violation of secs. 11.201(2), 11.201(3), 11.202(3), 11.202(4), 11.205(5), 11.202(6) or 11.202(7), then the user may assert as an affirmative defense that:

- (a) The user did not know or have reason to know that its discharge, alone or in combination with discharges from other sources, would cause pass through or interference; and
- (b) Either:
  - 1. A local limit designed to prevent pass through or interference was developed and the user was in compliance with the local limit immediately before and during the pass through or interference, or
  - 2. A local limit was not applicable and immediately before and during the pass through or interference the user's discharge did not substantially change in volume or constituents from the user's previous discharges when the District was in compliance with its WPDES permit and all applicable requirements for sludge use or disposal.

### (2) Upset Defense

A user shall have an affirmative defense to an action brought for noncompliance with a categorical pretreatment standard if:

- (a) The user demonstrates, through properly signed, contemporaneous operating logs or other evidence:
  - 1. the cause of the noncompliance;
  - 2. that the noncompliance was unintentional and temporary;
  - 3. that the facility was being operated in a prudent manner in compliance with all applicable operation and maintenance procedures; and
  - 4. that the noncompliance was caused by factors beyond the reasonable control of the user and not caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation; and
- (b) The user reports the noncompliance according to sec. 11.411.

### (3) Bypass Defense

A user shall have an affirmative defense to an action brought for noncompliance with sec. 11.207 if the user demonstrates that:

- (a)
  1. The bypass did not cause a violation of any pretreatment standard or requirement, and
  2. The bypass was essential for maintenance necessary to ensure efficient operation; or
- (b)
  1. The bypass was unavoidable to prevent loss of life, personal injury, substantial physical damage to property, damage to treatment facilities that would cause them to become inoperable, or substantial and permanent loss of natural resources, but not merely economic loss caused by delays in production.
  2. The user had no alternative to the bypass, such as using auxiliary treatment facilities, retention of untreated wastewater, or maintenance during normal periods of equipment downtime;
  3. If the bypass occurred during normal periods of equipment downtime or equipment maintenance, reasonable engineering judgement indicates that back-up equipment was not justified; and
  4. The user submitted the reports required by sec. 11.409.

### **11.821 Effect of District Approval of Plans, Specifications, or Operating Procedures**

District approval of plans, specifications, or operating procedures does not entitle a user to relief from enforcement actions if the treatment facilities do not achieve compliance with the applicable pretreatment standards and requirements.

### **11.822 Protecting Informants**

- (1) If the District receives a request under ch. 19, Wis. Stats., for records that indicate, either explicitly or implicitly, the identity of an informant, then the Custodian of Records may deny access to the records upon finding that:
  - (a) The District made a pledge of confidentiality to the informant,
  - (b) The pledge of confidentiality was made to obtain information from the informant for the District's law enforcement activities.

(c) The pledge of confidentiality was necessary to obtain the information from the informant, and

(d) Disclosure of the informant's identity would harm the District's present or future law enforcement activities more than disclosure would benefit the public.

(2) If the Custodian of Records denies access to the records, then the Custodian of Records shall provide to the requestor specific reasons for denial.

### **11.823 Slug Control Plans**

(1) Within one year after significant industrial user designation and within one year after each permit renewal, the District shall determine the need for a slug control plan.

(2) At the District's request, a user shall prepare a slug control plan containing the following elements:

(a) A description of discharge practices, including non-routine batch discharges;

(b) A description of stored chemicals;

(c) Procedures for immediately notifying the District of slug discharges, including written notification within five days; and

(d) Any necessary procedures for preventing adverse impacts from accidental spills, such as:

1. inspection and maintenance of storage areas;
2. improvements to materials handling, transfer, loading, or unloading operations;
3. control of plant site runoff;
4. worker training;
5. containment structures or equipment;
6. measures for containing organic pollutants, such as solvents; or
7. procedures and equipment for emergency response.