

- (14) Any medical wastes, except as specifically authorized by the director of water utilities in a wastewater discharge permit;
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- (17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than two hundred (200) mg/L, or any congealing liquids;
- (18) Wastewater causing two (2) readings on an explosion hazard meter at the point of discharge into the collection system or POTW, or at any point in the POTW, of more than five (5) percent or any single reading over ten (10) percent of the lower explosive limit of the meter.
- (19) Any material or substance defined as hazardous waste under 40 CFR part 261. Certain exceptions shall be granted by the city if provisions contained in subsections 17-408.4.(a) and (b) and [section]17-408.43 are met.
- (20) Any discharge or slug load at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 20-158 or any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.
- (21) Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.
- (22) The term "TTO" shall mean total toxic organics as per 40 CFR 433.11 specialized definitions. Compliance shall be interpreted as TTO 2.13 mg/L.

• **Sec. 17-408.5. - Federal categorical pretreatment standards.**

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

- (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director of Water Utilities may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director of water utilities may impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).

(3)

A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(4)

A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

- **Sec. 17-408.6. - Local limits.**

The following pollutant limits are established to protect against pass-through and interference. No person shall discharge wastewater containing in excess of the following daily maximum allowable discharge limits:

Arsenic	0.16959 mg/L
Cadmium	0.036663 mg/L
Chromium	3.824410 mg/L
Copper	1.524165 mg/L
Cyanide	0.419664 mg/L
Lead	0.4688 mg/L
Mercury	0.025004 mg/L
Zinc	9.541229 mg/L
Silver	0.174537 mg/L

Nickel	0.964352 mg/L
Oil and Grease	200.00 mg/L

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal concentrations unless indicated otherwise. The director of water utilities may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

- **Sec. 17-408.7. - Dewey's right of revision.**

The City of Dewey reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW, where such standards are required to conform to the intent of section 17-408.2, purpose and policy.

- **Sec. 17-408.8. - Dilution.**

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. Limitations may be imposed on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

- **Subdivision C. - Pretreatment of Wastewater**

- **Sec. 17-408.9. - Pretreatment facilities.**

Users shall provide wastewater treatment as necessary to comply with this division and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in section 17-408.4 within the time limitations specified by EPA, the state, or the director of water utilities, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the director of water utilities for review, and shall be acceptable to the director of water utilities before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City of Dewey under the provisions of this division.

- **Sec. 17-408.10. - Additional pretreatment measures.**

(a)

Whenever deemed necessary, the director of water utilities may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this division.

(b)

Grease, oil, and sand interceptors shall be provided, when it is found that an existing user does not comply with provisions of [subsection 17-408.4.(b)(3) and/or (17) or for new construction, when necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand per city plumbing code. All interception units shall be of type and capacity to be in accord with plumbing codes and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, as needed, by the user at their expense. Such interceptors shall not be required for residential users.

(c)

Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(d)

At no time shall two (2) readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, be more than five (5) percent nor any single reading over ten (10) percent of the lower explosive limit (LEL) of the meter.

- **Sec. 17-408.12. - Accidental discharge/slug control plans.**

At least once every two (2) years, the director of water utilities shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan or other action to control slug discharges. For industrial users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006; additional significant industrial users must be evaluated within one (1) year of being designated a significant industrial user. For purposes of this subsection, a slug discharge is any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through, or any other way violate the POTW's regulations, local limits or permit conditions. The results of such activities shall be available to the approval authority upon request. Significant industrial users are required to notify the POTW immediately of any changes at its facility affecting the potential for a slug discharge. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum the following elements:

(1)

Description of discharge practices, including non-routine batch discharges;

(2)

Description of stored chemicals;

(3)

Procedures for immediately notifying the director of water utilities of any accidental or slug discharge, as required by section 17-408.32 of this division; and

(4)

Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

- **Sec. 17-408.13. - Hauled wastewater.**

(a)

Septic tank waste may be introduced into the POTW only at locations designated by the director of water utilities, and at such times as are established by the director of water utilities. Such waste shall not violate subdivision C of this division or any other requirements established by the City of Dewey. The director of water utilities may require septic tank waste haulers to obtain wastewater discharge permits and performance bonding as provided in section 17-408.60.

(b)

The director of water utilities shall require haulers of industrial waste to obtain wastewater discharge permits. The director of water utilities may require generators of hauled industrial waste to obtain wastewater discharge permits. The director of water utilities also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this division.

(c)

Industrial waste haulers may discharge loads only at locations designated by the director of water utilities. No load may be discharged without prior consent of the director of water utilities. The director of water utilities may collect and/or require analysis of samples of each hauled load to ensure compliance with applicable standards. The director of water utilities may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d)

Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

- **Subdivision D. - Wastewater Discharge Permit Application**

- **Sec. 17-408.14. - Wastewater survey.**

When requested by the director of water utilities, a user must submit or update information on the nature and characteristics of its wastewater within thirty (30) days of the request and/or prior to commencing user discharge. The director of water utilities is authorized to prepare a survey form for this purpose and may periodically require current users to update their information. Failure to complete the survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of this division.

- **Sec. 17-408.15. - Wastewater discharge permit requirement.**

(a)

No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the director of water utilities, except that a significant industrial user that has filed a timely application pursuant to section 17-408.29 may continue to discharge for the time period specified therein.

(b)

The director of water utilities may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this division.

(c)

The city retains the right to initiate headworks loading distribution. This distribution shall be allocated on an interim basis, not to exceed three hundred sixty-five (365) days, on a case-by-case basis when it is demonstrated that a special need exists and that it can also be technically demonstrated that spare capacity exists.

The city would utilize this headworks loading distribution to assist new industries to quickly come into compliance and to assist existing industries when making significant plant modifications, increasing capacity or making major repairs to return to compliance within the time allotted.

In order for an industry to be granted this special allocation, said industry would have to petition the city and show cause why an emergency need exists for this special dispensation. Then the industry would be required to present detailed plans using best available technology as to how this temporary situation would be resolved. Authorization of temporary headworks loading distribution shall only be granted by action of city council.

(d)

The city may at its discretion grant an industry up to three (3) years from approval date of this division to come into compliance with the new limits. The industry would have to demonstrate on a yearly basis sufficient reduction of discharges of pollutant(s) to meet compliance in the allotted time frame. The industry could choose one (1) of the following schedules: Three (3) years, thirty-three and one-third (33 1/3) percent reduction per year, two (2) years, fifty (50) percent reduction per year, or one (1) year, one hundred (100) percent reduction at year end.

- **Sec. 17-408.16. - Wastewater discharge permitting: existing connections.**

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this division and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the director of water utilities for a wastewater discharge permit in accordance with section 17-408.19, and shall not cause or allow discharges to the POTW to continue after one hundred and eighty (180) days of the effective date of this division except in accordance with a wastewater discharge permit issued by the director of water utilities. In the case that a hardship can be shown by the user, he may petition city council through the director of water utilities for a reasonable extension to the provisions of this section.

- **Sec. 17-408.17. - Same: new connections.**

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of

such discharge. An application for this wastewater discharge permit, in accordance with section 17-408.19, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

- **Sec. 17-408.18. - Wastewater dischargers permitting extra jurisdictional industrial users.**

(a)

Any existing significant industrial user located beyond the city limits shall submit a wastewater discharge permit application, in accordance with section 17-408.19 below, within ninety (90) days of the effective date of this division. Where practical, new significant industrial users located beyond the city limits shall submit such applications to the director of water utilities one hundred and eighty (180) days prior to any proposed discharge into the POTW.

(b)

Alternately, the city may enter into an agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against said industrial user.

- **Sec. 17-408.19. - Wastewater discharge permit application contents.**

All users required to obtain a wastewater discharge permit must submit a permit application. The director of water utilities may require all users to submit as part of an application the following information:

(1)

Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

(2)

Number and type of employees, hours of operation, and proposed or actual hours of operation;

(3)

Each product produced by type, amount, process or processes, and rate of production;

(4)

Type the amount of raw materials processed (average and maximum per day);

(5)

Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location and elevation, and all points of discharge;

(6)

Time and duration of discharges; and

(7)

Any other information as may be deemed necessary by the director of water utilities to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

- **Sec. 17-408.20. - Application signatories and certification.**

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

"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."

- **Sec. 17-408.21. - Wastewater discharge permit decisions.**

The director of water utilities will evaluate the data furnished by the user and may require additional information. Within ninety (90) days of receipt of a complete wastewater discharge permit application, the director of water utilities will determine whether or not to issue a wastewater discharge permit. The director of water utilities may for good cause deny any application for a wastewater discharge permit.

- **Subdivision E. - Wastewater Discharge Permit Issuance Process**

- **Sec. 17-408.22. - Wastewater discharge permit duration.**

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the director of water utilities. Each wastewater discharge permit will indicate a specific date upon which it will expire.

- **Sec. 17-408.23. - Wastewater discharge permit contents.**

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the director of water utilities to prevent pass-through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(1)

Wastewater discharge permits must contain:

a.

A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years.

- b. A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with section 17-408.18, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- c. Effluent limits applicable to the user based on applicable standards in federal, state, and local law;
- d. Self monitoring, sampling, reporting, notification, and recordkeeping requirements shall be contained in the permit. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and
- e. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.
- f. Requirements to control slug discharges, if determined by the director of water utilities to be necessary.

(2)

Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- a. Limits on the average and/or maximum rate of discharge, flow or pollutants, time of discharge, and/or requirements for flow regulation and equalization;
- b. Requirements for the installation or use of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- c. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
- d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
- f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- g. Requirements for installation and operation of online monitoring equipment;

h.

A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

i.

Other conditions as deemed appropriate by the director of water utilities to ensure compliance with this ordinance, and state and federal laws, rules, and regulations.

• **Sec. 17-408.24. - Wastewater discharge permit appeals.**

The city shall provide public notice of the issuance of a wastewater discharge permit in the city's largest local daily newspaper. Any person, including the user, may petition the director of water utilities to reconsider the terms of a wastewater discharge permit within thirty (30) days of final notice of its issuance.

(1)

Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(2)

In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(3)

The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(4)

If the director of water utilities fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(5)

Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the appropriate court of jurisdiction within state statute of limitations.

The filing of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater permit condition.

• **Sec. 17-408.25. - Wastewater discharge permit modification.**

The director of water utilities may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1)

To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

- (2) To address significant alterations or additions to the user's operation, processes or wastewater volume or character since the time of wastewater discharge permit issuance;
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat to Dewey's POTW, persons operating or maintaining the POTW, or the receiving waters;
- (5) Violation of any terms or conditions of the wastewater discharge permit;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- (8) To correct typographical or other errors in the wastewater discharge permit; or
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator.

- **Sec. 17-408.26. - Wastewater discharge permit transfer.**

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives advance notice to the director of water utilities and the director of water utilities approves the wastewater discharge permit transfer. The notice to the director of water utilities must include a written certification by the new owner or operator which:

- (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (2) Identifies the specific date on which the transfer is to occur; and
- (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

- **Sec. 17-408.27. - Wastewater discharge permit revocation.**

- (a) Wastewater permits may be revoked for the following reasons:

- (1) Failure to notify the director of water utilities of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the director of water utilities of changed conditions pursuant to section 17-408.26;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (4) Falsifying self-monitoring reports;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the director of water utilities timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this division.

(b) Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

• **Sec. 17-408.28. - Wastewater discharge permit reissuance.**

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with section 17-408.19 a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit.

- **Sec. 17-408.29. - Continuation of expired permits.**

An expired permit will continue to be effective and enforceable until the new permit is issued if:

- (1)
The industrial user has submitted a complete application at least ninety (90) days prior to the expiration date of the users existing permit.
- (2)
The failure to reissue the permit, prior to the expiration of the previous permit, is not due to any act or failure to act on the part of the industrial user.

- **Subdivision F. - Reporting Requirements**

- **Sec. 17-408.30. - Reporting requirements.**

The objectives of the industrial baseline self monitoring report are as follows; Require the user to obtain a representative periodic laboratory analysis of its wastewater discharge. Require a responsible person to observe the quality and quantity of the wastewater discharge. The responsible person shall generate, sign, and forward under their direction, the baseline self monitoring report to the city. Baseline self monitoring reports and sample collection shall comply with provisions in this section including the following items:

- (1)
Be at a frequency determined by the city and specified in the users discharge permit or some other mechanism.
- (2)
A representative sample collected at a location(s) and method(s) (grab, composite as time or flow proportional) as specified by the users permit.
- (3)
Include pollutants specified by the users permit, and preserved in accordance with 40 CFR 136 as a minimum.

- **Sec. 17-408.31. - Periodic compliance reports.**

- (a)
All significant industrial users shall, at a frequency determined by the discharge permit but in no case less than twice per year, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with section 17-408.20.
- (b)
All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(c)

If an industrial user subject to the reporting requirements in this section monitors any regulated pollutant at an appropriate sampling location, more frequently than required by the control authority, using procedures prescribed in section 17-408.40, the results of this monitoring shall be included in the report.

- **Sec. 17-408.32. - Reports of changed conditions.**

Each user shall notify the director of water utilities of any planned significant changes to the industrial user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

(1)

The director of water utilities may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 17-408.19.

(2)

The director of water utilities may issue a wastewater discharge permit under section 17-408.22 or modify an existing wastewater discharge permit under section 17-408.25 in response to changed conditions or anticipated changed conditions.

(3)

No industrial user shall implement the planned changed condition(s) until and unless the director of water utilities has affirmatively responded to the industrial users notice.

(4)

For purposes of this requirement, flow increases of twenty (20) percent or greater than thirty thousand (30,000) gallons per day, or the discharge of any previously unreported pollutants, shall be deemed significant.

- **Sec. 17-408.33. - Reports of potential problems.**

(a)

In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the director of water utilities of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b)

Within five (5) days following such discharge, the user shall, unless waived by the director of water utilities, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this division.

(c)

A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (a),

above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(d)

Each failure to notify the city of potential problem discharges shall be deemed a separate violation of this division.

(e)

At the time of a known potential problem discharge, the user shall do the following:

(1)

Obtain a grab sample of the discharge;

(2)

Comply with informational requirements of section 17-408.32;

(3)

Notify the city that a sample has been obtained.

• **Sec. 17-408.34. - Determination of noncompliance.**

The director of water utilities may use a grab sample(s) to determine noncompliance with pretreatment standards.

• **Sec. 17-408.35. - Baseline self-monitoring reports.**

(a)

Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the director of water utilities a report which contains the information listed in paragraph (b), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the director of water utilities a report which contains the information listed in paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b)

Users described above shall submit the information set forth below:

(1)

Identifying information. The name and address of the facility, including the name of the operator and owner.

(2)

Environmental permits. A list of any environmental control permits held by or for the facility.

(3)

Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4)

Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(5)

Measurement of pollutants.

a.

The categorical pretreatment standards applicable to each regulated process.

b.

The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the director of water utilities, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 17-408.39.

c.

Sampling must be performed in accordance with procedures set out in section 17-408.40 of this division.

(6)

Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7)

Compliance schedule. If additional pretreatment facilities and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment facilities and/or O&M shall be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 17-408.35.

(8)

Signature and certification. All baseline monitoring reports must be signed and certified in accordance with section 17-408.35

• **Sec. 17-408.36. - Compliance schedule progress reports.**

The following conditions shall apply to the compliance schedule required by subsection 17-408.34(b)(7):

(1)

The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(2)

No increment referred to above shall exceed nine (9) months;

(3)

The user shall submit a progress report to the director of water utilities no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(4)

In no event shall more than nine (9) months elapse between such progress reports to the director of water utilities.

- **Sec. 17-408.37. - Reports on compliance with categorical pretreatment standard deadline.**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the director of water utilities a report containing the information described in subsections 17-408.34(b)(4)—(6). For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 17-408.20.

- **Sec. 17-408.38. - Reports from unpermitted users.**

The city shall retain the right to require any industrial user whether permitted or not to meet the same compliance schedule requirements as listed for permitted industries. Specifically, section 17-408.30, reporting requirements industrial baseline self-monitoring reports. At the city's discretion, this schedule will continue until a determination is made by the city regarding the need for permitting. At that time the industry will be dropped from the list or permitted.

- **Sec. 17-408.39. - Notice of violation/repeat sampling and reporting.**

If sampling performed by an industrial user indicates a violation, the user shall notify the control authority within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within thirty (30) days after becoming aware of the violation.

Where the control authority has performed the sampling and analysis in lieu of the industrial user, the control authority must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Resampling is not required if:

(1)

The control authority performs sampling at the industrial user at a frequency of at least once per month, or

(2)

The control authority performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the control authority receives the results of this sampling.

- **Sec. 17-408.40. - Analytical requirements.**

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or desired quantitative analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

- **Sec. 17-408.41. - Sample collection.**

The reports required in sections 17-408.30, 17-408.34, and 17-408.36 must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The control authority shall require that the frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, twenty-four-hour composites samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the control authority. Where time-proportional composite sampling or grab sampling is authorized by the control authority, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four-hour period may be composited prior to analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures, as documented in the approved EPA methodologies, may be authorized by the control authority as appropriate.

For sampling required in support of baseline monitoring and ninety-day compliance reports required in sections 17-408.34 and 17-408.36, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities which historical sampling data do not exist; for facilities which historical data is available, the control authority may authorize a lower minimum. For the reports required by section 17-408.30, the control authority shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.

(1)

Except as indicated in subsections (2) and (3), below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the director of water utilities may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being

discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(2)

Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(3)

The discharger shall obtain a grab sample of effluent at the time of a known unusual discharge.

- **Sec. 17-408.42. - Timing.**

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

- **Sec. 17-408.43. - Recordkeeping.**

(a)

For each sample taken to satisfy the requirements of this section, users shall record the following information:

(1)

Date, exact place, method and time of sampling, the names of the person(s) taking the samples;

(2)

The person who performed the analysis and the laboratory where the analysis was done;

(3)

The dates the analyses were performed;

(4)

The analytical techniques/methods used;

(5)

The results of analysis.

(b)

Industrial users shall retain, and make available for inspection and copying, all records and information required to be retained under this division. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning compliance with this division, or where the industrial user has been specifically notified of a longer retention period by the director of water utilities.

- **Sec. 17-408.44. - Notification of the discharge of hazardous waste.**

(a)

Any industrial user who commences the discharge of hazardous waste shall notify the director of water utilities, the EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing by certified mail, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set for the in 40 CFR

Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than ten (10) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months, and anticipated impact to the POTW of the discharge. All notifications must take place prior to the discharge commencing. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under section 17-408.31. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of sections 17-408.34, and 17-408.36, above.

(b)

Dischargers are exempt from the requirements of paragraph (a) of this section during a calendar month in which they discharge no more than five (5) kilogram of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than five (5) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification.

Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

(c)

In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d)

In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e)

This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this division, a permit issued thereunder, or any applicable federal or state law.

- **Subdivision G. - Compliance Monitoring**

- **Sec. 17-408.45. - Right of entry: inspection and sampling.**

(a)

The city shall inspect the premises of and sample the effluent from each significant industrial user at least once per year.

(b)

The city shall have the right to enter the premises of any user, during reasonable hours, to determine whether the user is complying with all requirements of this division and any wastewater discharge permit or order issued hereunder. Users shall allow the director of water utilities or his representative prompt access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(1)

Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the director of water utilities or a pre-arranged representative, state, and EPA will be permitted to enter without delay for the purposes of performing specific responsibilities.

(2)

The city shall have the right to set up on the user's property, and/or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(3)

The city may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated periodically to ensure their accuracy.

(4)

Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the director of water utilities and shall not be replaced. The costs of clearing such access shall be born by the user.

(5)

Unreasonable delays in allowing the director of water utilities access to the user's premises shall be a violation of this division.

(6)

The user, upon request of the director of water utilities, shall provide an approved discharge sampling location.

• **Sec. 17-408.46. - Search warrants.**

If the city has been refused access to a building, structure, or property, or any part thereof, and if the director of water utilities has demonstrated probable cause to believe that there may be a violation of this division or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City of Dewey designed to verify compliance with this division or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Dewey City Attorney shall petition the court of jurisdiction to issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the director of water utilities in the company of a uniformed police officer of the City of Dewey. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

- **Subdivision H. - Confidential Information**

- **Sec. 17-408.47. - Confidential information.**

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from facility site inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the director of water utilities, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES/OPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 and 40 CFR 403.14 will not be recognized as confidential information and will be available to the public without restriction.

- **Subdivision I. - Significant Noncompliance**

- **Sec. 17-408.48. - Significant noncompliance.**

The director of water utilities shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

(1)

Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

(2)

Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC= 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

- (3) Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3(l) daily maximum, long-term average, instantaneous limit, or narrative standard that the POTW determines has caused, alone or in combination with other discharges, interference or pass-through, (including endangering the health of POTW personnel or the general public);
- (4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the director of water utility's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation(s) which the director of water utilities determines will adversely affect the operation or implementation of the local pretreatment program.

- **Subdivision J. - Administrative Enforcement Remedies**

- **Sec. 17-408.49. - Notification of violation.**

When the director of water utilities finds that a user has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director of water utilities may serve upon that user a written notice of violation. Within fourteen (14) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the director of water utilities. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director of water utilities to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

- **Sec. 17-408.50. - Agreements.**

The City of Dewey may enter into agreements with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as

the administrative orders issued pursuant to sections 17-408.52 and 17-408.53 and shall be judicially enforceable.

- **Sec. 17-408.51. - Show cause hearing.**

The director of water utilities may order a user which has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the director of water utilities and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least seven (7) days prior to the hearing. Such notice may be served on any authorized representative of the user. All results of actions from show cause hearings shall be appealable to the Dewey City Council. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user including but not limited to law suit for recovery of costs.

- **Sec. 17-408.52. - Compliance orders.**

When the director of water utilities finds that a user has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director of water utilities may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

- **Sec. 17-408.53. - Cease and desist orders.**

When the director of water utilities finds that a user has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the director of water utilities may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(1)

Immediately comply with all requirements; and

(2)

Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

- **Sec. 17-408.54. - Emergency suspensions.**

The director of water utilities may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The director of water utilities may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(1)

Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director of water utilities may take such steps as deemed necessary, including immediate severance of all services, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director of water utilities may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director of water utilities that the period of endangerment has passed, unless the termination proceedings in section 17-408.55 are initiated against the user.

(2)

A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the director of water utilities prior to the date of any show cause or termination hearing under Sections 17-408.51 or 17-408.55.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

- **Sec. 17-408.55. - Termination of discharge.**

In addition to the provisions in section 17-408.27 any user who violates the following conditions is subject to discharge termination:

(1)

Violation of wastewater discharge permit conditions;

(2)

Failure to accurately report the wastewater constituents and characteristics of its discharge;

(3)

Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

(4)

Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

(5)

Violation of the pretreatment standards in section 17-408.4.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 17-408.51 why the proposed action should not be taken. Exercise of this option by the director of water utilities shall not be a bar to, or a prerequisite for, taking any other action against the user.

- **Subdivision K. - Judicial Enforcement Remedies**

- **Sec. 17-408.56. - Injunctive relief.**

When the director of water utilities finds that a user has violated, or continues to violate, any provision of this division, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the city may petition the appropriate court through the City of Bartlesville's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this division on activities of the user. The city may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

- **Sec. 17-408.57. - Civil penalties.**

(a)

The City may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement or remediation activities, including but not limited to, sampling and monitoring expenses, and the cost of any actual damages incurred by the City of Bartlesville.

(b)

In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(c)

Filing a suit for civil penalties shall not be a bar against, or a prerequisite for taking any other action against a user.

- **Sec. 17-408.58. - Criminal prosecution.**

(a)

Any user that willfully or negligently violates any provision of this division, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be punishable by fine of not more than five hundred dollars (\$500.00) per day per violation and/or imprisonment.

(b)

Any user that willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be subject to a penalty of up to five hundred dollars (\$500.00) per violation. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(c)

Any user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this division, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this division shall, upon conviction, be punishable by a fine of not less than five hundred dollars (\$500.00) per violation per day and/or imprisonment.

(d)

Each day on which a violation shall occur shall be deemed a separate and distinct offense.

- **Sec. 17-408.59. - Remedies nonexclusive.**

The remedies provided for in this division are not exclusive. The city may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city may take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one (1) enforcement action against any noncompliant user.

- **Subdivision L. - Supplemental Enforcement Action**

- **Sec. 17-408.60. - Performance bonds.**

The director of water utilities may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this division, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the City of Dewey, in a sum not to exceed a value determined by the director of water utilities to be necessary to achieve consistent compliance.

- **Sec. 17-408.61. - Water supply severance.**

Whenever a user has violated or continues to violate any provision of this division, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement including, but not limited to, endangerment of health and welfare, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

- **Sec. 17-408.62. - Public nuisances.**

A violation of any provision of this division, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the director of water utilities. Any

person(s) creating a public nuisance shall be subject to the provisions of the City Code governing such nuisances, including reimbursing the City of Dewey for any costs incurred in removing, abating, or remedying said nuisance.

Subdivision M. - Affirmative Defenses to Discharge Violations

- **Sec. 17-408.63. - Upset.**

(a)

For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b)

An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (c), below, are met.

(c)

A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1)

An upset occurred and the user can identify the cause(s) of the upset;

(2)

The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(3)

The user has submitted the following information to the director of water utilities within twenty-four (24) hours of becoming aware of the upset if this information is provided orally, a written submission must be provided within five (5) days:

a.

A description of the indirect discharge and cause of noncompliance;

b.

The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

c.

Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(d)

In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(e)

Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(f)

Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

- **Sec. 17-408.64. - Prohibited discharge standards.**

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in subsection 17-408.4(a) or the specific prohibitions in subsections 17-408.4 (b)(3) through (21) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction discharges from other sources, would cause pass through or interference and that either:

(1)

A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass-through or interference; or

(2)

No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City of Dewey was regularly in compliance with its NPDES/OPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

- **Sec. 17-408.65. - Bypass.**

(a)

For the purposes of this section:

(1)

"Bypass" means the intentional diversion of waste streams from any portion of a user's treatment facility.

(2)

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b)

A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (c) and (d) of this section.

(c)

(1)

If a user knows in advance of the need for a bypass, it shall submit prior notice to the director of water utilities, at least ten (10) days before the date of the bypass, if possible.

(2)

A user shall submit oral notice to the director of water utilities of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The director of water utilities may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d)

(1)

Bypass is prohibited, and the director of water utilities may take an enforcement action against a user for a bypass, unless:

a.

Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b.

There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c.

The user submitted notices as required under paragraph (c) of this section.

(2)

The director of water utilities may approve an anticipated bypass, after considering its adverse effects, if the director of water utilities determines that it will meet the three (3) conditions listed in paragraph (d)(1) of this section.

- **Subdivision N. - Severability**

- **Sec. 17-408.66. - Severability.**

If any provision of this division is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

Adopted 10/03/2016 Ordinance No. 2016-1553

Section 17-409: Sewer Rates Outside City Limits

Sewer services furnished and delivered to residential, commercial, governmental, and industrial customers at locations outside the corporate limits of the City of Dewey shall have sewer rates set at one and one-half ($1 \frac{1}{2}$) times that of rates charged to customers within the corporate limits of the City of Dewey.

Section 17-410: Department of Environmental Quality Water Pollution Control Facility Construction Standards

The Dewey Public Works Authority shall require all wastewater systems within the City of Dewey corporate limits to be constructed in accordance with Title 252. Department of Environmental Quality, Chapter 656. Water Pollution Control Facility Construction Standards.

CHAPTER 5

SANITATION

Section 17-500	Sanitation Policy
Section 17-501	Receptacles and Materials
Section 17-502	Placement - Collection
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Section 17-500: Sanitation Policy

The Dewey Public Works Authority hereby institutes a sanitation policy which sets forth regulations for maintaining the health, safety and welfare of the City. The policy delineates the receptacles and materials, collection, service fees and penalty clause for non-conformance.

Section 17-501: Receptacles and Materials

- A. Every person using or occupying any building, house or structure within the City shall provide and maintain, in good order and repair, garbage or trash receptacles of sufficient number to contain the garbage or trash that will accumulate on the premises except where Authority container collection service is provided.
- B. No person other than a duly authorized employee of the Authority shall collect or remove any garbage or trash from garbage and trash receptacles used in the regular Authority collection service or from any container utilized in the Authority container collection service.
- C. All collections from residential premises shall be limited to a maximum of three (3) cans or six (6) bags or any combination thereof two (2) bags equal one (1) can. In limited circumstances and where an undue burden is not placed on the collection crews, this limitation may be waived by the sanitation department. The limits are doubled on the first collection day for any route following a holiday as where collection was not made on its regular date due to holiday.
Receptacles used for storage of refuse materials shall be watertight and meet the following specifications. The trash cans shall be of a durable grade of galvanized metal or other suitable material from twenty to forty-two gallon capacity and weighing less than twenty-five pounds empty or seventy-five pounds fully loaded with normal refuse. They shall be provided with two lifting handles on opposite sides. If larger containers are utilized, the collection crews shall not be required to lift the container nor remove any loose debris from the bottom of the receptacle. It shall be the duty of every occupant of a residential property or commercial property, with can service to place all refuse in acceptable plastic or other hydrocarbon flexible bags not exceeding 40 gallons in capacity; such bags shall be securely fastened at the opening to prevent spillage of such refuse prior to collection. Refuse bags made of heavy, multiple-ply paper designed for outdoor storage may be used. Bags must be securely tied or sealed to prevent emission of odors, be of a material so liquids and grease will not be able to penetrate through the material, and be of sufficient thickness and strength to contain the refuse enclosed without tearing or ripping under normal handling. (Amended 9/2/14 Ordinance #2014-1533)
- D. Damaged receptacles or ones which have deteriorated to the extent that they have jagged or sharp edges capable of causing injury to refuse collectors is declared a nuisance and shall be condemned. If such receptacles are not removed within five days after notice of such condition to the owner or user, then such receptacle shall be confiscated.

Section 17-502: Placement - Collection

- A. Garbage and trash receptacles shall be placed at the alley for regular collection service where the premises has access to the alley. In no case shall refuse or refuse containers project more than two feet into the alley or right-of-way.
- B. If it is not practical to collect and remove garbage and trash through alley collection, the owner, occupant or lessee of the premises shall place the receptacles at such point as the route supervisor finds and designates to be most accessible for collection and removal.
- C. In the business districts served by city container service, the route foreman will designate the area for placement of the containers for removal.

- D. For garbage and trash receptacle, placed at the curbside, the receptacle cannot be placed at the curbside before 4:00 p.m. the day prior to the regular scheduled pickup, and the receptacle must be removed from the area by 10:00 p.m. on the day of the pickup. Garbage and trash receptacles cannot be stored within the front setback of any residence, nor can they be stored upon a porch or entrance way to the residence.

Section 17-503: Bulky Materials

- A. If trash is of such nature that it cannot be placed in the required trash receptacles, it shall be carefully placed beside the trash receptacle in bundles less than fifty pounds in weight. Trash such as paper cartons or wood boxes that cannot be placed in a receptacle shall be prepared for collection by placing smaller cartons and boxes in the larger boxes and cartons. Cartons and boxes shall not be larger than thirty-six inches along any side so they can be placed in regular collection trucks.
- B. Brush, long stems or bushes, tree limbs and cuttings will be cut into four foot lengths and tied securely into bundles weighing not more than fifty pounds. All brush shall be collected from the regular collection point with consideration that its placement does not block or hinder passage of or damage to vehicles.

Section 17-504: Materials not to be Placed in Receptacles

Materials not to be placed in receptacles include: dead animals, feces, materials impregnated with urine, poisons, explosives, dangerous or corrosive chemicals, clothing taken from persons with infectious diseases, heavy metals or metal paint, lumber, dirt, rock, brick, concrete blocks, tires, crates and other refuse from construction or remodeling shall not be placed in receptacles used for regular City collection service.

Section 17-505: Unauthorized Use

Unauthorized use is defined by:

- A. No person shall place, or permit another to place, any garbage or trash in any receptacle at any refuse collection point or in any refuse container used in the Authority container collection unless the refuse is from the premises served by the container or from the premises of which the receptacle or collection point is located.
- B. Authority service containers at several points in City areas are provided for refuse from apartment house areas, businesses and institutions within the city limits, and refuse from outside the city limits shall not be placed in the Authority service containers.
- C. No person shall place or deposit, or permit another to place or deposit, prohibited refuse in Authority service containers or to put anything on the ground at these locations.
- D. The owner or occupant of any building, house, structure or land shall cause to be removed all refuse items of the nature which are prohibited to the regular collection service, and which are located, owned or deposited on the property or on the public right-of-way adjacent to the

property, and the existence of refuse or any item on the property, or the adjacent public right-of-way shall be prima facie evidence that such owner or occupant failed to remove, as provided by this chapter, at his own expense, the refuse or other item or items so stored or located thereon. Removal within three days of notice by the City is required.

Section 17-506: Collection of Bulky Items Prohibited

The regular collection service shall not remove items such as fire debris, crates, refrigerators, stoves, air conditioners, sofas, chairs, pipe, auto parts, matters, tree limbs, trees and shrubbery cuttings (unless these cuttings can be placed in covered receptacles or bundled as described in Section 4, No. B) and other like items. The owner or occupant of any building, house, structure or land shall have these prohibited items removed and deposited in the Authority disposal area or other approved disposal area to his own expense within three days.

Section 17-507: Frequency of Service

- A. Regular residential city collection service shall be provided two times per week. Such service shall not be on successive days.
- B. Authority container collection service shall be provided on the basis of a multilevel fee schedule which prescribes the amount and frequency of Authority service.

Section 17-508: Damaging Property of the City.

No person shall damage, either willfully or through negligence, any property of the Authority used in the Authority container service.

Section 17-509: Service Fees - Residential

Service fees for residential customers shall be \$18.40 per month for twice a week service. This service will be provided in accordance with the aforementioned regulations. This fee may be amended by resolution adopted by the Public Works Authority. Residential accounts shall be allowed, on occasion, to place a maximum of six (6) bags of grass clippings, leaves for pickup with their nonnal residential collection, (Amended Ord. #2004-1441, approved 6/21/04)(Amended Ord.#2009-1489, Amended 4/20/2009, Amended Ord. #2014-1527; 4/07/2014, Amended Ord. #2019-1756 11/18/19)(Amended 7/06/2021 Ord.#2021-1592)

Section 17-510: Service Fees• Dumpsters

Service fees for dumpster service and provision of a dumpster shall be based on a multi-level service fee schedule which may be amended by resolution adopted by the Public Works Authority. Collections will not be made from inside structures or enclosures. The Authority will make determination of the type of receptacle (can or dumpster) that will be used. The fees for \ calendar month, for such classifications, shall be as follows:

TABLE I - MONTHLY FEES FOR CONTAINER COLLECTION SERVICE

CONTAINER SIZE	1 PICKUP PER WEEK	2 PICKUPS PER WEEK	3 PICKUPS PER WEEK	4 PICKUPS PER WEEK	5 PICKUPS PER WEEK
3 Yard	\$60.00	\$98.00	\$154.00	\$203.00	\$231.00

A monthly fee of \$28.50 will be charged for twice a week service for up to a maximum of two cans. Commercial users utilizing three or more trash cans will be converted to a trash dumpster provided by the Public Works Authority as part of the charge to the said user.(Amended Ord.#2003-1429 Adopted 2/18/2003)(Amended Ord. #2009-1489, Amended 4/20/2009, Amended Ord. #2014-1527; 4/07/2014)(Amended Ord. #2021-1592

Section 17-511: Penalty Clause

- A. Except *as* otherwise provided by state law, whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in the code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any provision of this code or of any ordinance, upon conviction, shall be punished by a fine of not exceeding One Hundred Dollars (\$100). Each day or any portion of a day during which any violation of this code or of any ordinance shall continue shall constitute a separate offense.
- B. Any person who shall aid, abet or assist in the violation of any provision of this code or any other ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished as provided in this section. (Ord. No. 83-1316, 10/17/83)