



**METROPOLITAN SEWERAGE DISTRICT OF
BUNCOMBE COUNTY, NORTH CAROLINA**

**EDUCATION AND ENFORCEMENT PROGRAM
FOR FATS, OILS AND GREASE (FOG)**

I. Introduction

The Collection System Permit (“Permit”) issued to the Metropolitan Sewerage District (“the District”) by the North Carolina Department of Environmental Quality (“NCDEQ”) requires the District to maintain an educational and enforcement program requiring the proper operation of all grease traps connected to the wastewater collection system. This document has been prepared to meet the requirements of the Permit and as a control mechanism for the build-up of FOG. The purpose of the Enforcement Response Plan (ERP) is to provide guidelines for anticipated situations. In general, enforcement actions will be taken in accordance with this plan, however, the actions listed herein are not exclusive, and the District reserves the right to take other enforcement actions available to it.

A major cause of sewer blockages and Sewer System Overflows (SSO) is fats, oils, and grease (FOG) entering the system and building up in the pipes. The grease is generated from restaurants and domestic users. Domestic users include apartment complexes, housing developments (neighborhoods), and individual residents. FOG is generated from improper disposal after cooking, allowing it to enter the system and adhere to the sides of sewer pipes. The build-up of FOG continues until the pipe is completely blocked.

To prevent sewer blockages and SSO's, the District has developed a Pretreatment FOG Program to provide education, regulate discharges and reduce FOG in wastewater discharged to the District Wastewater System. The District offers educational tools for restaurant management, workers, homeowners, and the general public. The most effective method for controlling FOG is to prevent its introduction into the sewer system, and this is best accomplished through education. The District’s education program consists of Power Point presentations to Civic Groups, schools, Plumbers Associations, Homeowner’s Associations, brochures, and media coverage. The FOG Program also provides enforcement of the FOG regulations through inspections, review of maintenance records, consent orders, administrative orders, and civil penalties.

II. Enforcement Actions Available to the District

The District is authorized by North Carolina General Statutes 143-215.6A and the Sewer Use Ordinance (SUO) to take a variety of enforcement actions. The following is a list of those actions.

Action	SUO Section	N.C. General Statutes
Notice of Violation	9.1(a)	162A-81
Consent Orders	9.1(b)	162A-81
Administrative Orders	9.1(d)	162A-81
Emergency Suspensions	9.1(e)	162A-81
Civil Penalties	9.2	143-215.6A, 162A-81
Show Cause Hearing	11	162A-81
Injunctive Relief	12	162A-81

In addition to the actions listed above, a User who violates the provisions of NCGS 143-2156.B may be referred by the General Manager to the District Attorney for possible criminal prosecution.

In determining the amount of a Civil Penalty, the General Manager may consider the following:

- a. The degree and extent of the harm done to the natural resources of the State, to the public health, or to public or private property as a result of the violation;
- b. The duration and gravity of the violation;
- c. The effect on ground or surface water quality, or air quality;
- d. The cost of repairing the damage to the Sewerage System, to property and to the natural resources of the State;
- e. The amount of money saved, if any, due to noncompliance, including the cost of continuing to discharge in noncompliance instead of stopping operations;
- f. Whether the violation was committed negligently, grossly negligent, willfully or intentionally;
- g. The prior record of the User in complying or failing to comply with the conditions of the grease regulations, the District's Sewer Use Ordinance, or other environmental laws of this State and EPA;
- h. The cost to the District, including attorney's fees, sampling costs, cost of additional laboratory analysis, cost of engineering and consulting fees necessary, in the opinion of the District, to determine the nature and extent of damage, prevent further damage and repair any damage.

III. Investigation of Noncompliance

The Staff of the District will generally investigate User compliance with the grease regulations and the SUO in the following ways:

- a. On-site inspections of the User including scheduled and unscheduled visits;
- b. Review of work order data base maintained by System Services which identifies grease blockages downstream of the User;

IV. Types of Violation

The following is a list of different types of violations, by category. This list is not exclusive but serves as a general list of anticipated types of noncompliance. The District's SUO, State and Federal laws and regulations serve as additional references for requirements.

- a. Build-up of FOG in Sewer System: Users must prevent the build-up of FOG in the sewer system. This is to be accomplished through using a FOG removal system and preventing FOG from being put into the sewer system.
- b. Failure to install a FOG Removal System: User fails to install a FOG removal system at the request of The District.
- c. Unauthorized Installation or modification of FOG Removal System: Users must obtain written authorization from The District before installing or modifying a FOG collection system.
- d. Failure to have Final Installation Inspection: The FOG removal system is to have a final installation inspection conducted by The District before the food establishment can open.
- e. Failure to Maintain FOG Collection System: The FOG collection system shall be maintained in good working order and properly operated in accordance with the 25% Rule by the owner or user at his cost and expense.

- f. Failure to Maintain Records: The owner or user shall have maintenance records available for inspection and to document cleaning and repair of the FOG removal system.
- g. Incorrect Installation of FOG Removal System: The FOG removal system is to be correctly installed with the influent waste stream going into the influent chamber, not the effluent chamber.
- h. Failure to meet Regulatory Requirements: The failure to meet the requirements of a NOV (Notice of Violation), milestone dates of Consent Order or Administrative Order shall be considered a violation. Each day a User is not in compliance may be considered a separate violation.
- i. Falsification of Records: Records that have been altered to show cleaning or repairs to the FOG removal system that have not occurred.
- j. Inadequate Hydraulic Retention Time: The FOG removal system has become hydraulic overloaded and the unit can no longer effectively remove FOG from the waste stream.
- k. Structural Failure of Trap/Interceptor: The treatment/removal of FOG has been diminished by the failure of baffles or sanitary tees that are allowing FOG to be released to the sewer system.

V. Enforcement Matrix

Type of Non-Compliance	First Occurrence	Second Occurrence	Third Occurrence	Fourth Occurrence
Minor Violation : Failure to maintain FOG collection system; failure to maintain records or cleaning logs not available or accessible; use of solvents to clean trap/interceptor;	Tier 1	Tier 2	Tier 3	Tier 4
Intermediate Violation : Incorrect installation of FOG removal system; structural failure of trap/interceptor; inadequate hydraulic retention time; failure to respond to correspondence or phone messages; failure to have final inspection; unauthorized installation of FOG removal system;	Tier 2	Tier 3	Tier 4	Tier 5
Major Violation : FOG build up in sewer system; failure to install trap/interceptor; falsification of records' failure to meet regulatory requirements;	Tier 3	Tier 4	Tier 5	Tier 6
Sanitary Sewer Overflows : FOG Accumulation in collection system causing a sewer overflow;	Tier 4	Tier 5	Tier 6	Tier 7

VI. Enforcement Tier Levels

The Enforcement Tier structure is a seven Tier system and will be based on a rolling 12-month period. The User will step up a Tier each time the same violation occurs within a 180 day-period. In cases where there is harm or potential harm to the District, public health or the environment or in other extraordinary cases, one or more tiers may be skipped in order to bring the User into compliance.

Tier	Administrative Penalty
Tier 1	No Civil Penalty; Notice of Violation (NOV)
Tier 2	Up to \$250 Civil Penalty; NOV
Tier 3	\$250 to \$1,000.00 Civil Penalty; NOV; Consent Agreement;
Tier 4	\$1,000.00 to \$3,000.00 Civil Penalty; NOV; Consent Order or Administrative Order
Tier 5	\$3,000.00 to \$10,000.00 Civil Penalty; NOV; Administrative Order; Public Notice
Tier 6	\$10,000.00 to \$25,000.00 Civil Penalty; NOV; Show Cause Order; Public Notice; Possible Termination of Services
Tier 7	\$10,000.00 to \$25,000.00 Civil Penalty; NOV; Show Cause Order; Public Notice; Termination of Services
SSO	In addition, to the civil penalties stated above the District may recover any operational cost associated with the removal and cleanup of an SSO. If any penalties or fines are assessed against the District by the State of North Carolina or EPA as a result of a SSO, the penalties or fines may be passed along to the perpetrator.

These penalties are in addition to assessed reimbursement costs as specified in Section 9.2(c) of the Sewer Use Ordinance for legal fees, equipment repair or replacement, any additional monitoring the District is required to do, and any penalties assessed to the District resulting from the subject violation.

VII. Termination of Service

1. In determining whether service should be terminated, the General Manager may consider compliance history, interference with and impact on the Sewerage System including costs incurred by the District. If the General Manager decides to terminate service, he will issue written notice of the proposed termination to the User. The notice shall be sent by regular mail and certified mail, return receipt requested.
2. Prior to termination of service, the User shall be afforded an opportunity to appear in person or through Counsel to present reasons why service should not be terminated. The User shall present his case to the District Board or to a Committee appointed by the Board. Should the User desire an opportunity to present his case to the District Board or a Committee appointed by the Board, he shall submit a request in writing to the General Manager within fifteen days of receipt of the Notice of Termination. The request shall state plainly the reasons the User feels that service should not be terminated.
3. The District Board or a Committee appointed by the Board Chairman may conduct a hearing and take testimony from the user and witnesses on his or her behalf, the District’s staff and others. The User may be represented by counsel and may cross examine the District’s staff and witnesses testifying. The District may be represented by counsel and the District staff may cross examine the User and others testifying on his behalf. The Committee may choose to consider the matter on written material submitted by the User and the District. The District Board or a Committee appointed by the Board Chairman shall have sixty days from their

appointment to render a decision.

4. Following the Hearing, or following consideration of the written record, if there is no hearing, the Board or Committee shall make a decision as to whether or not service should be terminated and make a recommendation to the full Board.
5. Service may be suspended during the pending of any decision under this section.

VIII. Domestic Grease Blockages

Blockages of the sewer system caused by FOG in residential areas shall be classified as domestic FOG blockages. The District will address these blockages in the following manner:

First Occurrence

1. The District shall send a letter and FOG brochure to the residents of the surrounding area advising of the blockage and problems it caused.
2. Contact the local Homeowner's Association or owner(s) of the housing complex and educate them on the importance of FOG removal.

Second Occurrence

1. Have a community meeting with the residents and educate them on the importance of FOG removal.
2. Meet with the Homeowner's Association or owner(s) of the housing complex to review the FOG removal program and advise the District may issue civil penalties on the next occurrence.

Third Occurrence

1. Send out letters to the residents about the three blockages and the problems it has caused the District and the environment, including the cost of the clean-ups.
2. The District may issue civil penalties to the owner(s) of the housing complex to recover operational costs.

IX. Enforcement Response Guide

This guide further outlines types of violations, the nature of the violation, enforcement responses, and the District personnel involved. The guide is considered a part of the District's Enforcement Response Plan. The abbreviations utilized are defined as follows:

CO	Consent Order
CA	Consent Agreement
AO	Administrative Order
NOV	Notice of Violation
NOC	Notice of Concern
FSE	Food Services Establishment
FOG	Fats, Oils & Grease
GM	General Manager of the District

IWC	Industrial Waste Coordinator
SNC	Significant Non-Compliance
IWS	Industrial Waste Section

Responses to violations affecting the operation of the District, resulting in the District's NPDES Permit and/or Collection System Permit violations, or resulting in environmental harm or endangerment to human health will be taken immediately or as soon as possible following discovery.

X. Enforcement Responses

1. Phone calls and Verbal warnings may to be used immediately upon the recognition of a violation to expedite the correction of the violation at the lowest level possible. These actions shall be documented in the User's file.
2. Notices of Violation are to be used for violations, which in the discretion of the General Manager and IWS, impact the operation of the sewer system.
3. Conferences are to be used where NOV's, Phone Calls or Verbal Warnings do not obtain results. They shall be held at the District office with the User, Director of Operations and Pretreatment Personnel. The District's General Manager will be present when necessary.
4. Consent Agreements (CA's) are to be used as a tool in responding to significant or continued noncompliance. The terms and conditions of CA's may be negotiated depending upon circumstances involved.
5. Consent Orders are to be used as an escalated type of response to significant or continued noncompliance and/or failure to meet established milestones. Administrative Penalties, recovery of damages, assessments and extraordinary expenses will also be used as an enforcement tool.
6. Civil Penalties are to be used as a punitive deterrent to continued noncompliance and/or failure to meet established milestones. The recovery of damages, assessments and extraordinary expenses will also be used as an enforcement tool.
7. Administrative Orders (AO's) are to be used if compliance is not met through Consent Agreements or Consent Orders. The AO's will have established milestone dates and Administrative Penalties will be issued if the milestone dates are not met.
8. Administrative Orders will be issued to initiate actions leading to formal hearings in cases of continued significant noncompliance or where the General Manager determines that emergency enforcement actions are necessary.
9. Civil Action may be used in cases of continued significant noncompliance or where the General Manager determines that emergency actions are necessary.
10. Service Termination will be used in recurring Noncompliance or emergency cases where there is harm to the District's staff, the District's property, private property, public health, or the environment.

Domestic Grease Blockage & Education

First Occurrence

- 1) Send letter and brochure to residences in area via door hangers.
- 2) Contact landlord if housing complex or President of Homeowner's Association.

Follow-up inspection to show return to compliance

Second Occurrence

- 1) Have community meeting with all the residents.
- 2) Meet with landlord or Homeowner's Association to stress the importance of the grease program, and on the next occurrence the District will issue a civil penalty to recover costs.

Follow-up inspection to show return to compliance

Third Occurrence

- 1) Send out letter to residence about the three (3) blockages and problems it has caused the District and environment.
- 2) May issue civil penalty to owner(s) of the housing complex to recover the District's costs.

General Education of the following Groups to help combat Domestic Grease

- 1) Public Service Announcements on WLOS
- 2) Schools, elementary through college
- 3) Home Owners Associations
- 4) Plumber Association
- 5) Builder Association
- 6) Buncombe County Health Department and City of Asheville Plumbing Inspectors
- 7) Translate Grease Brochure into different languages
- 8) Educate Civic Groups and possibly enlist their help