



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

DEPARTMENT OF WATER AND SEWERAGE SERVICES  
1600 SECOND AVENUE, NORTH  
NASHVILLE, TENNESSEE 37208-2206

Operational Division Policy No. 2004 - 01

Metro Water Services  
Fats, Oils and Grease Management Policy  
(FOG Program)

**RATIONALE:**

1. MWS needs to prevent sewer system blockages and obstruction in its sewer system caused by the collection of fats, oils and greases.
2. MWS has prepared an enforcement guide to assist in the enforcement of the Metropolitan Code of Laws relative to the concentration of fats, oils and grease that can be discharged into the sewer.
3. The management of an effective FOG Program with the food service establishments, commercial facilities and industrial facilities will prevent sewer system overflows and reduce the operational costs of MWS.

**RECOMMENDATION:**

1. MWS will implement the Fats, Oils and Grease Management Policy as part of its industrial pretreatment program.
2. The "Food Services Establishment Enforcement Response Guide" part of the policy was approved by the Wastewater Hearing Authority at its October 7, 2004 meeting.

Policy:

1. The attached Fats, Oils and Grease Management Policy is adopted for Metro Water Services.

Effective Date: November 1, 2004

Recommended:

David M. Tucker, Assistant Director Date: 10/25/04  
David Tucker

Approved as to legality of form:

Paul J. Lee, Metropolitan Attorney Date: 10/25/04

Approved:

Scott Potter, Director Date: 26 Oct 04  
Scott Potter

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# FOOD SERVICE ESTABLISHMENT ENFORCEMENT RESPONSE GUIDE

Authorization Date: \_\_\_\_\_ November 1, 2004

This Food Service Establishment Enforcement Response Guide (F SE-ERG) was developed to ensure a consistent response to all food service establishments that cause, or have the potential to cause, interference, obstruction, sanitary sewer overflows, bypasses, or stormwater inflow to Metro Water Services' collection system and WWTPs. Food Service Establishments are nondomestic users and are monitored by the Metro Water Services Environmental Compliance Section. This FSE-ERG is intended to be used for food service establishments only. Refer to *MWS's Fats, Oils & Grease Management & Control Guidance Document* for additional information on the MWS's FOG management program.

## **SIGNIFICANT NONCOMPLIANCE OF WASTEWATER DISCHARGE LIMITS**

The E.P.A. has defined "significant noncompliance" as violations that meet one or more of the following criteria:

- (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 during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- (2) Technical Review criteria (TRC) violations, defined here as those in which thirty-three (33%) percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily average maximum limit, or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH). The following compatible pollutants are exempt from TRC consideration if they exceed the surcharge level but do not exceed upper ceiling: BOD, TSS, FOG;
- 3) Any other violations of a pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass-through (including endangered the health of POTW personnel or the general public);
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- (5) Failure to meet within 90 days after the schedule date a compliance schedule milestones contained in a local control mechanism or enforcement order for starting construction, completing construction, and attaining final compliance;
- (6) Failure to provide, within 30 days after the due date, required reports, such as baseline monitoring reports, 90-days compliance reports, periodic self monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance;
- (8) Any other violation or group of violations that the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

Generally, an isolated instance of noncompliance or a Category 0 violation can be met with an informal response or a Notice of Violation (NOV). Any Category 1 to Category 4 violations should be responded to with an enforceable order that requires a return to compliance by a specific deadline.

## **NOTICE OF VIOLATION (NOV)**

Generally issued by the inspector/field personnel, the Notice of Violation (NOV) is an official communication from the Department to the non-compliant user that informs the user that the pretreatment violation has occurred. The NOV is issued for relatively minor or infrequent violations of pretreatment standards and requirements and should be issued within five (5) working days of the identification of a violation. A NOV does not contain assessment of penalties or cost recovery. The NOV provides the user with an opportunity to correct the noncompliance on its own initiative rather than according to a schedule of actions determined by the Department. The NOV documents the initial attempts of the Department to resolve the noncompliance. Authenticated copies of NOV's may serve as evidence in judicial proceedings.

## **SCHEDULE OF COMPLIANCE**

A Schedule of Compliance is a detailed list of the steps to be taken by a non-compliant industry whereby compliance with all pretreatment regulations will be achieved. This schedule shall contain increments of progress 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 (e.g. hiring an engineer, completing preliminary plans, executing contracts for components, commencing construction, etc.).

## **ADMINISTRATIVE PENALTIES**

An administrative penalty is a monetary penalty assessed by the Department for violations of pretreatment standards and requirements. Administrative penalties are to be used as an escalated enforcement action and are punitive in nature and are not related to a specific cost born by the Department. Instead, the amount of the penalty should recapture any economic benefit gained by noncompliance and/or deter future violations. An Administrative Order is to be used to assess an administrative penalty.

## **ADMINISTRATIVE ORDERS**

Administrative Orders (AO) are to be issued by the Industrial Waste Coordinator, or the Director. Administrative Orders are enforcement documents that direct users to undertake and/or to cease specified activities. Administrative Orders are to be used as the first formal response to significant noncompliance, and may incorporate compliance schedules, administrative penalties, assessments for costs incurred during investigation and/or enforcement, attorney's fees, assessments for damages and termination of service. The Department has adopted four (4) general types of AOs: Compliance Orders, Show Cause Orders, Cease and Desist Orders, and Agreed Orders.

### **COMPLIANCE ORDER**

A Compliance Order directs the User to achieve or restore compliance by a specified date and is the primary means of assessing penalties and costs. The Compliance Order will document the noncompliance and state required actions to be accomplished by specific dates and is issued by the Director.

### **SHOW CAUSE ORDER**

An Order to Show Cause directs the User to appear before the Department, explain its noncompliance, and show cause why more severe enforcement action should not be pursued. The hearing is open to the public and may be formal (i.e. conducted according to the rules of evidence, with verbatim transcripts and cross-examination of witnesses) or informal. The results of all hearings, along with any data and testimony (recorded by tape machine or stenographer) submitted as evidence, are available to the public and may serve as evidentiary support for future enforcement actions.

### CEASE and DESIST ORDER

A Cease and Desist Order directs a noncompliant User to cease illegal or unauthorized discharge immediately or to terminate discharge altogether. To preserve the usefulness of this order in emergency situations, penalties should not be assessed in this document. A Cease and Desist order will be used in situations where the discharge is causing interference, pass through, environmental harm, or otherwise creating an emergency situation. The order may be issued immediately upon discovery of an emergency situation or following a hearing. In an emergency, the order to cease and desist may be given by telephone with a subsequent written order to be served by the Department before the close of business on the next working day. If the User fails to comply with the order, the Department may take independent action to halt the discharge.

### AGREED ORDER

The Agreed Order is an agreement between the Department and the User. The Agreed Order normally contains three elements: (1) compliance schedules with specific milestone dates; (2) stipulated penalties, damages, and/or remedial actions; and (3) signature by the Director and the User representative. An Agreed order is appropriate when the User assumes the responsibility for its noncompliance and is willing (in good faith) to correct the causes.

### PENALTY ASSESSMENT

Determining a penalty amount that reflects the violation's significance is extremely important. If the penalty is too small, its deterrent value is lost and the User may regard the amount as a tax or nominal charge to pollute. If the penalty is too great, it could bankrupt the industry (making necessary investment in pretreatment equipment impossible or potentially forcing unnecessary closure). The Department has categorized the various types of violations, and assigned a penalty range to each category. Penalty categories are determined by using the Enforcement Response Table (attached). All penalty assessments will be approved and signed by the Director or his designee. Penalty amounts are considered to be an economic deterrent to the illegal activity. Penalty ranges have been designed to recover any economic benefit gained by the violator through non-compliance.

CATEGORY 0 = NO PENALTY

CATEGORY 1 = \$1.00 to \$500.00

CATEGORY 2 = \$1.00 to \$1,000.00

CATEGORY 3 = \$1.00 to \$10,000.00

CATEGORY 4 = DIRECT LEGAL ACTION - Any penalties and/or costs to be assessed at the maximum penalty allowable by applicable law and included as part of the legal action.

Assessments for damages or destruction of the facilities of the POTW, and any penalties, costs, and attorney's fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcement, are not part of this penalty assessment procedure.

## Metro Water Services' Food Service Establishment Enforcement Response Guide

<u>Incident</u>	<u>Category Level</u>	<u>Action Taken</u>
1. Grease Interceptor structural failure (baffle wall collapsed, walls deteriorated, tank leaking, infiltration/inflow in tank)		
<b>A. Initial Notification</b> – Notification in writing by POTW of treatment system failure.	0	Issue NOV- 30 day deadline
<b>B. Second Notification</b> – Failure to comply with NOV. Issue \$500 AO and 30 additional days to comply.	2	\$500 & 30 additional days
<b>C. Third Notification</b> – Failure to comply with 2 <sup>nd</sup> NOV. Issue \$250 / day after the 2 <sup>nd</sup> notification deadline.	3	AO - \$250/day
2. Facility contributing FOG to downstream manhole, SPS, or WWTP. Classify degree of impact for appropriate response:		
<b>A. Slight FOG impact</b> (slight coating of FOG in POTW, less than 1/4” coverage - Y2 of pipe)	1	Issue NOV- 30 day deadline
<b>Moderate FOG impact</b> (moderate coating FOG in POTW, less than Y2” coverage - Y2 of pipe)	2	Reimburse cleaning costs to MWS
<b>B. Heavy FOG impact</b> (heavy coating FOG in POTW, causing obstruction and/or interference in sewer line)	3	Reimburse cleaning costs to MWS & AO - \$1,000
<b>C. Heavy FOG impact</b> (facility’s discharge caused bypass or sanitary sewer overflow)	4	Direct Legal Action
3. Failure to install Grease Control Equipment		
<b>C. Initial Notification</b> – Notification in writing by POTW of no treatment system.	0	Issue NOV- 30 day deadline
<b>D. Second Notification</b> – Failure to comply with NOV. Issue \$500 AO and 30 additional days to comply.	2	\$500 & 30 additional days
<b>C. Third Notification</b> – Failure to comply with 2 <sup>nd</sup> NOV. Issue \$250 / day after the 2 <sup>nd</sup> notification deadline.	3	AO - \$250/day
4. Failure of new facility, or an existing facility that upgrades their facility, to notify MWS, or submit <i>Grease Control Equipment Inquiry</i> information	0	Issue NOV & require GCE Inquiry inform.
5. Failure to install effluent T on interceptor within 30 days after notification.	1	AO - \$100/day

**Metro Water Services’ Food Service Establishment Enforcement Response Guide**

<u>Incident</u>	<u>Category Level</u>	<u>Action Taken</u>
6. Grease Control Equipment not maintained (pumped or cleaned) *Interceptor has > 25% FOG and solids *Trap cleaned > monthly		
A. 1 Incident within 24 month period	0	GM Class
B. 2 Incidents within 24 month period	1	GM Class - \$100
C. 3 Incidents within 24 month period	2	GM Class - \$500
D. 4 Incidents within 24 month period	3	SC - \$1000
7. Failure to respond to any notification letter within 30 days		Escalation of Enforcement
8. No records of grease control equipment maintenance or cleaning at facility		
A. 1 Incident within 24 month period	0	GM Class
B. 2 Incidents within 24 month period	1	GM Class - \$100
C. 3 Incidents within 24 month period	2	GM Class - \$500
D. 4 Incidents within 24 month period	3	SC - \$1000
9. Failure to allow access for MWS inspectors to adequately assess grease control equipment		Show Cause
10. Safety hazard at grease control equipment area (i.e. missing manhole cover, manhole cover damaged or not made of material of suitable strength)		Notify MHD/Codes
11. Facility in violation of numerical FOG limit		
A. FOG concentration in excess of limit but less than 2x of limit	1	GM Class -\$100
B. FOG concentration between 2x to 4x of limit	1	GM Class - \$250
C. FOG concentration in excess of 4x of limit	2	GM Class – min. \$300-\$500
12. Facility using additives or chemicals that emulsify or otherwise cause FOG to be discharged to MWS sewer system		Show Cause

***Abbreviations:***

- AO: Administrative Order
- FOG: Fats, oils and grease
- FSE: Food Service Establishment
- GCE: Grease Control Equipment
- GM Class: Grease Management Class
- MWS: Metro Water Services
- POTW: Publicly Owned Treatment Works
- SC: Show Cause
- SPS: Sewerage Pumping Station
- WWTP: Wastewater Treatment Plant