



City of Biddeford, Maine

Environmental Code Office / Industrial Pretreatment Program

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MEMORANDUM

To: Mayor Twomey, Council President Mills & Members of the City Council

CC: John Bubier, City Manager
Keith Jacques, City Solicitor

From: Brian S. Phinney, ECO/IPC

Date: September 14, 2010

Subject: Proposed Clarifications, Corrections & Amendments
Pretreatment Program – Revised Code of Ordinances Chapters 70 & 71

The rules governing the industrial pretreatment program appear in two sections of the Revised Code of Ordinances: *Chapter 70 - Utilities, Article II Wastewater System* and *Chapter 71, Industrial Pretreatment Program*. Chapter 70 was codified in 1975 with portions amended in 1995, 2000, 2001, and 2006. In 2009, Chapter 71 was codified by order 2009.46 to specifically address the industrial pretreatment program (IPP). A review of Chapter 70 and Chapter 71 indicates that several conflicts exist between the two chapters. It appears that the original language in Chapter 70 dealing with IPP was never removed or updated. State and federal rules also require that local limits be amended periodically. The last update was in 2007 with acceptance by the MeDEP in December of 2009. The revised local limits will be incorporated in Chapter 71 as part of this review. The proposed clarifications, corrections, and amendments are intended to resolve the conflicts and streamline the codes.

The Policy Committee reviewed the draft amended chapters on September 13 and voted unanimously to forward the revisions to the city council with amendments as follows:

- Correction of a grammatical error at Sec. 70-86 (b)(4) – “my” to “may”
- Correction of mathematical errors as identified by ECO/IPP at Sec 6.4.C(3) – correct arsenic reference in column 2 from “0.06” to “0.62” and column 3 from “0.00062” to “0.0062”

For the most part the proposed changes are administrative, meaning they are meant to clarify applicability, resolve conflicts, and streamline the codes for the benefit of the IPP and the regulated community. A summary of the proposed changes is provided below with detailed changes referenced in the respective council orders. The proposed changes are identified by a vertical line in the left margin of the page and are presented as ~~strikeout~~ for deletions and underline for insertions. Although there are a number of pages involved, the majority of pages simply reflect the full text of each section so that each change can be view in context.

Summary of Changes to Chapter 70

§70-26. Definitions

The only change to this section is the insertion of the definition of Local Limits. This definition comes directly from Chapter 71. This change allows for the deletion of IPP-specific language in Chapter 70 that is now codified in Chapter 71.

§70-30. Powers and Authority of Inspectors; Confidential Information

Subsection (c) has been amended to indicate that facilities subject to the IPP rules found in Chapter 71 will be governed by the confidentiality rules found in that Chapter. This resolves any question arising from a facility that is governed by both Chapter 70 and Chapter 71.

§70-31. Enforcement of Article; Violation and Penalties

Subsections 1 and 2 are amended to clarify that the wastewater director will oversee any administrative complaints. This is consistent with Chapter 71, and since Chapter 70 applies to entities that may not be governed by Chapter 71, complaints under Chapter 70 need not involve the pretreatment coordinator unless assigned by the director.

Subsection 11 has been added as clarification to resolve any conflict between Chapter 70 and 71 for facilities that may be regulated under both Chapter 70 and Chapter 71.

§70-32. User Fees

Subsection (f) has been amended to clarify that facilities also subject to Chapter 71 (IPP) need only comply with the reporting and data requirements of that chapter.

§70-59. Permit Classes; Application; Fees.

The last paragraph of the section has been amended by referring readers to Chapter 71 for IPP permit requirements. This is intended to assist readers in finding codes that may apply to an operation.

§70-61. Permit for Connection into Public Sewer.

Subsection (b) has been amended to reference Chapter 71, again as a clarification for facilities that may require compliance with both chapters.

§70-86. Prohibited Discharges.

This section is a duplication of the prohibited discharges section of Chapter 71 but since readers of Chapter 70 may not fall under the applicability criteria of the IPP in Chapter 71 it is best to have the prohibitions listed in each section. The changes are designed to assure that the prohibitions are the same in both sections.

Subsection (a)(5) is amended to reflect the discharge temperature limit of 140 F, a correction to the 150 F listed.

Subsection (b)(1) is amended to reflect the revised local limit of 200 mg/L at 140 F.

Subsection (b)(4) is amended to allow for the publication of local limits as they may be revised in Chapter 71 without having to amend Chapter 70.

Subsection (b)(7)(a) is amended by deleting reference to the duplicate local limits table in Chapter 70.

Subsection (b)(10) is amended to clarify the applicability of local limits and to allow for the deletion of the duplicate local limits table.

§70-87. Additional Limitations Authorized.

This section is amended to reference Chapter 71, again as clarification for facilities that may require compliance with both chapters.

§70-89. Dilution of Discharge.

This section is amended to reference Chapter 71, again as clarification for facilities that may require compliance with both chapters.

§70-90. Protection from Accidental Discharge of Prohibited Material; Notification Requirements

Subsection (e) has been added for clarification related to facilities subject to the IPP.

§70-91. Discharge Limitations; Enforcement of Unlawful Discharges.

Subsection (a), (a)(2), and (a)(4) are amended to reference the applicability of local limits and to facilitate the deletion of the duplicate local limits table.

Subsection (b) is amended to remove the duplicate and outdated local limits table.

§70-92. Pretreatment or Equalization Requirements; Approval Required for Discharge of Beryllium, Mercury, Arsenic or Selenium.

This section is amended to update and clarify the applicability of IPP compliance with regard to the discharge of metals. The original language is a remnant from the 1975 Code.

§70-97. Industrial Discharge Permit System.

Subsection (a) is amended to update the code and direct readers to Chapter 71 for rules applicable to the IPP.

Subsections (b) through (f) are deleted as these sections are now codified in Chapter 71 as of the 2009 council order.

§70-98. Administration.

Subsection (b) is amended to direct readers to Chapter 71 for rules applicable to industrial dischargers.

Subsections (b)(1) through (g) are deleted as these sections are now codified in Chapter 71 as per the 2009 council order.

§70-101. Fees

Since a facility may be subject to Chapter 70 and Chapter 71, subsection (a) is amended to direct readers to the appropriate fee schedule for the IPP now that the IPP is codified separately.

§70-102. Industrial Wastewater Monitoring and Reporting.

This section is a remnant of the 1975 code and is no longer applicable. Subsections (a) through (c) are deleted and reference is made to Chapter 71 to direct readers to the applicable code.

§70-103. Miscellaneous Provisions.

Subsections (a) and (b) have been deleted because they duplicate authority provided in Chapter 71 specific to the IPP.

Subsection (d) includes a blanket statement about inconsistencies, applicability, and repealed sections. With the addition of “applicability” references to Chapter 71 now in Chapter 70 a caveat has been added to retain the original language “unless otherwise noted”.

Subsections (c) and (d) have been redesignated as subsections (a) and (b).

Summary of Changes to Chapter 71

The name of the ordinance has been added to page 1.

§2.4 Local Limits

The local limits table of subsection B is amended to reflect the revised local limit for arsenic (from 2007, approved in 2009) and general list formatting.

§6.4 Periodic Compliance Reports

Subsection 6.4.A. is amended to clarify the reporting requirements for semi-annual reports. Currently reports are due by June 15 (for Jan-Jun) and Dec 15 (for Jul-Dec). Several facilities rely on water bills for flow data and all facilities have until June 30 or Dec 31 to complete applicable monitoring.

The requirement for the submission of reports prior to the end of the applicable reporting period results in the submission of incomplete reports for several facilities and necessitates subsequent submittals when flow and analytical data become available. Adjusting the due dates from June 15 to August 15 and December 15 to February 15 will provide the regulated facilities with sufficient time to obtain all the data needed to submit a complete report. This will reduce the burden on the regulated facilities and the IPC.

Subsection C.(3) is amended to revise the headworks loading for arsenic based on the 2007 revised local limits.

§6.14 Certification Statements

Subsection A is revised to correct a reference error. The original text incorrectly references “section 4.7” when it should be “section 4.6”.

§10.3 Show Cause Hearing

The section is amended to remove brackets left behind presumably during the original editing of the document.

§13.2 Prohibited Discharge Standards

The section is amended to correctly cite all the specific prohibitions listed in Section 2.1(B) related to an affirmative defense.