§465-B. Standards for classification of estuarine and marine waters

The department shall have 3 standards for the classification of estuarine and marine waters. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §66 (AMD).]

1. Class SA waters. Class SA shall be the highest classification and shall be applied to waters which are outstanding natural resources and which should be preserved because of their ecological, social, scenic, economic or recreational importance.

A. Class SA waters must be of such quality that they are suitable for the designated uses of recreation in and on the water, fishing, aquaculture, propagation and harvesting of shellfish, navigation and as habitat for fish and other estuarine and marine life. The habitat must be characterized as free-flowing and natural. [PL 2003, c. 227, §6 (AMD).]

B. The estuarine and marine life, dissolved oxygen and bacteria content of Class SA waters must be as naturally occurs, except that the number of enterococcus bacteria in these waters may not exceed a geometric mean of 8 CFU or MPN per 100 milliliters in any 90-day interval or 54 CFU or MPN per 100 milliliters in more than 10% of the samples in any 90-day interval. The number of total coliform bacteria or other specified indicator organisms in samples representative of the waters in shellfish harvesting areas may not exceed the criteria recommended under the National Shellfish Sanitation Program, United States Food and Drug Administration as set forth in its publication "Guide for the Control of Molluscan Shellfish" (2019 revision) or any successor publication. [PL 2021, c. 551, §14 (AMD).]

C. There may be no direct discharge of pollutants to Class SA waters, except for the following:

(1) Storm water discharges that are in compliance with state and local requirements if one or more of the following conditions are met:

(a) The storm water discharge existed prior to the waters' being classified as Class SA with a designation as an outstanding national resource as described in section 464, subsection 4, paragraph F, subparagraph (2), including storm water discharges that existed prior to designation of the waters as an outstanding national resource and are not licensed by the department or were not relicensed for some duration after the waters' designation as an outstanding national resource. This division does not authorize new or increased storm water discharge;

(b) For storm water discharges requiring a general permit for construction, the discharge is temporary and short term and does not permanently degrade water quality. For the purposes of this division, a discharge is temporary and short term if the discharge occurs only during the time necessary to construct a facility to make it operational. Best management practices must be used during such construction; or

(c) The Class SA water is not designated as an outstanding national resource as described in section 464, subsection 4, paragraph F, subparagraph (2) and section 469;

(2) Discharges of aquatic pesticides approved by the department for the control of mosquito-borne diseases in the interest of public health and safety using materials and methods that provide for protection of nontarget species. When the department issues a license for the discharge of aquatic pesticides authorized under this subparagraph, the department shall notify the municipality in which the application is licensed to occur and post the notice on the department's publicly accessible website;

(3) An overboard discharge licensed prior to January 1, 1986 if no practicable alternative exists; and

(4) Discharges of pesticides approved by the department that are:

(a) Unintended and an incidental result of the spraying of pesticides;

(b) Applied in compliance with federal labeling restrictions; and

(c) Applied in compliance with statute, Board of Pesticides Control rules and best management practices. [PL 2021, c. 503, §3 (AMD).]

[PL 2021, c. 503, §3 (AMD); PL 2021, c. 551, §14 (AMD).]

2. Class SB waters. Class SB waters shall be the 2nd highest classification.

A. Class SB waters must be of such quality that they are suitable for the designated uses of recreation in and on the water, fishing, aquaculture, propagation and harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation, navigation and as habitat for fish and other estuarine and marine life. The habitat must be characterized as unimpaired. [PL 2003, c. 227, §7 (AMD).]

B. Class SB waters must be of sufficient quality to support all estuarine and marine species indigenous to those waters without detrimental changes in the resident biological community. The dissolved oxygen content of Class SB waters may not be less than 85% of saturation. Except as provided in section 464, subsection 4, paragraph C, the pH of Class SB waters must fall within the 7.0 to 8.5 range. Between April 15th and October 31st, the number of enterococcus bacteria in these waters may not exceed a geometric mean of 8 CFU or MPN per 100 milliliters in any 90-day interval or 54 CFU or MPN per 100 milliliters in more than 10% of the samples in any 90-day interval. The number of total coliform bacteria or other specified indicator organisms in samples representative of the waters in shellfish harvesting areas may not exceed the criteria recommended under the National Shellfish Sanitation Program, United States Food and Drug Administration as set forth in its publication "Guide for the Control of Molluscan Shellfish" (2019 revision) or any successor publication. [PL 2025, c. 616, §6 (AMD).]

C. Discharges to Class SB waters may not cause adverse impact to estuarine and marine life in that the receiving waters must be of sufficient quality to support all estuarine and marine species indigenous to the receiving water without detrimental changes in the resident biological community. There may be no new discharge to Class SB waters that would cause closure of open shellfish areas by the Department of Marine Resources. For the purpose of allowing the discharge of aquatic pesticides approved by the department for the control of mosquito-borne diseases in the interest of public health and safety, the department may find that the discharged effluent will not cause adverse impact to estuarine and marine life as long as the materials and methods used provide protection for nontarget species. When the department issues a license for the discharge of aquatic pesticides authorized under this paragraph, the department shall notify the municipality in which the application is licensed to occur and post the notice on the department's publicly accessible website. [PL 2007, c. 291, §7 (AMD).]

[PL 2025, c. 616, §6 (AMD).]

3. Class SC waters. Class SC waters shall be the 3rd highest classification.

A. Class SC waters must be of such quality that they are suitable for the designated uses of recreation in and on the water, fishing, aquaculture, propagation and restricted harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation, navigation and as a habitat for fish and other estuarine and marine life. [PL 2025, c. 616, §7 (AMD).]

B. Class SC waters must be of sufficient quality to support all species of fish indigenous to those waters and to maintain the structure and function of the resident biological community. The dissolved oxygen content of Class SC waters may not be less than 70% of saturation. Except as provided in section 464, subsection 4, paragraph C, the pH of Class SC waters must fall within the 7.0 to 8.5 range. Between April 15th and October 31st, the number of enterococcus bacteria in these waters may not exceed a geometric mean of 14 CFU or MPN per 100 milliliters in any 90-

day interval or 94 CFU or MPN per 100 milliliters in more than 10% of the samples in any 90-day interval. The number of total coliform bacteria or other specified indicator organisms in samples representative of the waters in restricted shellfish harvesting areas may not exceed the criteria recommended under the National Shellfish Sanitation Program, United States Food and Drug Administration as set forth in its publication "Guide for the Control of Molluscan Shellfish" (2019 revision) or any successor publication. [PL 2025, c. 616, §8 (AMD).]

C. Discharges to Class SC waters may cause some changes to estuarine and marine life provided that the receiving waters are of sufficient quality to support all species of fish indigenous to the receiving waters and maintain the structure and function of the resident biological community. [PL 1985, c. 698, §15 (NEW).]

[PL 2025, c. 616, §§7, 8 (AMD).]

SECTION HISTORY

PL 1985, c. 698, §15 (NEW). PL 1989, c. 890, §§A40,B66 (AMD). PL 1999, c. 243, §10 (AMD). PL 2003, c. 227, §§6-8 (AMD). PL 2005, c. 409, §§3,4 (AMD). PL 2007, c. 291, §§6, 7 (AMD). PL 2009, c. 654, §7 (AMD). PL 2013, c. 193, §5 (AMD). PL 2017, c. 319, §§11-13 (AMD). PL 2021, c. 503, §3 (AMD). PL 2021, c. 551, §§14-16 (AMD). PL 2025, c. 616, §§6-8 (AMD).

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