

38 §465-B. STANDARDS FOR CLASSIFICATION OF ESTUARINE AND MARINE WATERS

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The department shall have 3 standards for the classification of estuarine and marine waters. [1989, c. 890, Pt. A, §40 (AFF); 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. [2003, c. 227, §6 (AMD).]

B. The estuarine and marine life, dissolved oxygen and bacteria content of Class SA waters shall be as naturally occurs. [1985, c. 698, §15 (NEW).]

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;

(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; and

(3) An overboard discharge licensed prior to January 1, 1986 if no practicable alternative exists. [2009, c. 654, §7 (AMD).]

[2009, c. 654, §7 (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. [2003, c. 227, §7 (AMD) .]

B. The dissolved oxygen content of Class SB waters must be not less than 85% of saturation. Between May 15th and September 30th, the numbers of enterococcus bacteria of human and domestic animal origin in these waters may not exceed a geometric mean of 8 per 100 milliliters or an instantaneous level of 54 per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures. The numbers 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. [2005, c. 409, §3 (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. [2007, c. 291, §7 (AMD).]

[2007, c. 291, §7 (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 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. [2003, c. 227, §8 (AMD).]

B. The dissolved oxygen content of Class SC waters must be not less than 70% of saturation. Between May 15th and September 30th, the numbers of enterococcus bacteria of human and domestic animal origin in these waters may not exceed a geometric mean of 14 per 100 milliliters or an instantaneous level of 94 per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures. The numbers 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. [2005, c. 409, §4 (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. [1985, c. 698, §15 (NEW) .]

[2005, c. 409, §4 (AMD) .]

SECTION HISTORY

1985, c. 698, §15 (NEW). 1989, c. 890, §§A40,B66 (AMD). 1999, c. 243, §10 (AMD). 2003, c. 227, §§6-8 (AMD). 2005, c. 409, §§3,4 (AMD). 2007, c. 291, §§6, 7 (AMD). 2009, c. 654, §7 (AMD).

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