

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## SECOND SPECIAL SESSION-2004

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Legislative Document

No. 1845

S.P. 690

In Senate, February 10, 2004

### **An Act To Amend the Bacteria Standard and Dissolved Oxygen Standard for Certain Waters**

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Reported by Senator MARTIN of Aroostook for the Joint Standing Committee on Natural Resources pursuant to Resolve 2003, chapter 39 and chapter 101, section 3.

Reference to the Committee on Natural Resources suggested and ordered printed under Joint Rule 218.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

**Be it enacted by the People of the State of Maine as follows:**

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4 **Sec. 1. 38 MRSA §465, sub-§3, ¶B,** as enacted by PL 1985, c. 698, §15, is amended to read:

6 B. The dissolved oxygen content of Class B waters ~~shall be~~  
7 may not be less than 7 parts per million or 75% of  
8 saturation, whichever is higher, except that for the period  
9 from October 1st to May 14th, in order to ensure spawning  
10 and egg incubation of indigenous fish species, the 7-day  
11 mean dissolved oxygen concentration shall ~~may~~  
12 may not be less than 9.5 parts per million and the 1-day minimum dissolved  
13 oxygen concentration shall ~~may~~  
14 may not be less than 8.0 parts  
15 per million in identified fish spawning areas. Between May  
16 15th and September 30th, the number of Escherichia coli  
17 bacteria of human and domestic animal origin in these waters  
18 may not exceed a geometric mean of 64 per 100 milliliters  
or an instantaneous level of ~~427~~ 236 per 100 milliliters.

20 **Sec. 2. 38 MRSA §465, sub-§4, ¶B,** as amended by PL 1989, c.  
21 890, Pt. B, §63 and affected by Pt. A, §40, is further amended to  
22 read:

24 B. The dissolved oxygen content of Class C water may be not  
25 be less than 5 parts per million or 60% of saturation,  
26 whichever is higher, except that in identified salmonid  
27 spawning areas where water quality is sufficient to ensure  
28 spawning, egg incubation and survival of early life stages,  
29 that water quality sufficient for these purposes must be  
30 maintained. Between May 15th and September 30th, the number  
31 of Escherichia coli bacteria of human and domestic animal  
32 origin in these waters may not exceed a geometric mean of  
33 ~~142~~ 126 per 100 milliliters or an instantaneous level of  
34 ~~949~~ 236 per 100 milliliters. The board shall ~~promulgate~~  
35 adopt rules governing the procedure for designation of spawning  
36 areas. Those rules must include provision for periodic  
37 review of designated spawning areas and consultation with  
38 affected persons prior to designation of a stretch of water  
as a spawning area.

40 **Sec. 3. 38 MRSA §465-B, sub-§2, ¶B,** as enacted by PL 1985, c.  
41 698, §15, is amended to read:

44 B. The dissolved oxygen content of Class SB waters ~~shall be~~  
45 may not be less than ~~85% of saturation~~ 6.5 parts per million  
46 as a one-day average and not less than 6.0 parts per million  
47 at any time. Between May 15th and September 30th, the  
48 numbers of enterococcus bacteria of human and domestic  
49 animal origin in these waters may not exceed a geometric  
50 mean of 8 per 100 milliliters or an instantaneous level of

2 54 per 100 milliliters. The numbers of total coliform  
3 bacteria or other specified indicator organisms in samples  
4 representative of the waters in shellfish harvesting areas  
5 may not exceed the criteria recommended under the National  
6 Shellfish Sanitation Program Manual of Operations, Part I,  
7 Sanitation of Shellfish Growing Areas, United States  
8 Department-of States Food and Drug Administration.

9 **Sec. 4. 38 MRSA §465-B, sub-§3, ¶B**, as enacted by PL 1985, c.  
10 698, §15, is amended to read:

11 B. The dissolved oxygen content of Class SC waters shall-be  
12 may not be less than 70%-of-saturation 5.5 parts per million  
13 as a one-day average and not less than 5.0 parts per million  
14 at any time. Between May 15th and September 30th, the  
15 numbers of enterococcus bacteria of human and domestic  
16 animal origin in these waters may not exceed a geometric  
17 mean of 14 per 100 milliliters or an instantaneous level of  
18 94 per 100 milliliters. The numbers of total coliform  
19 bacteria or other specified indicator organisms in samples  
20 representative of the waters in restricted shellfish  
21 harvesting areas may not exceed the criteria recommended  
22 under the National Shellfish Sanitation Program Manual of  
23 Operations, Part I, Sanitation of Shellfish Growing Areas,  
24 United States Food and Drug Administration.

## 25 SUMMARY

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29 **30** This bill, which is based on the recommendations of the  
30 Department of Environmental Protection pursuant to Resolve 2003,  
31 chapter 39, amends the bacteria standard for Class B and Class C  
32 waters. It also amends the dissolved oxygen standard for Class  
33 SB and Class SC waters.  
34