

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1450

S.P. 496

In Senate, March 22, 2005

An Act To Amend Water Quality Standards

Submitted by the Department of Environmental Protection pursuant to Joint Rule 204.
Reference to the Committee on Natural Resources suggested and ordered printed.

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

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MARTIN of Aroostook.
Cosponsored by Senators: BRYANT of Oxford, RAYE of Washington, Representatives:
CLARK of Millinocket, HOTHAM of Dixfield, PATRICK of Rumford, PERRY of Calais.

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

2
3 **Sec. 1. 38 MRSA §465, sub-§3, ¶B**, as enacted by PL 1985, c.
4 698, §15, is amended to read:

6 B. The dissolved oxygen content of Class B waters shall ~~may~~
7 ~~not~~ be ~~not~~ 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~~ not be less
12 than 9.5 parts per million and the 1-day minimum dissolved
13 oxygen concentration shall ~~may~~ not be less than 8.0 parts
14 per million in identified fish spawning areas. Between May
15 15th and September 30th, the number of Escherichia coli
16 bacteria of human and domestic animal origin in these waters
17 may not exceed a geometric mean of 64 per 100 milliliters or
18 an instantaneous level of 427 ~~236~~ per 100 milliliters. In
19 determining human and domestic animal origin, the department
20 shall assess licensed and unlicensed sources using available
21 diagnostic procedures.

22
23 **Sec. 2. 38 MRSA §465, sub-§4, ¶B**, as amended by PL 2003, c.
24 664, §1, is repealed and the following enacted in its place:

25 B. The dissolved oxygen content of Class C water may be not
26 less than 5 parts per million or 60% of saturation,
27 whichever is higher, except that in identified salmonid
28 spawning areas where water quality is sufficient to ensure
29 spawning, egg incubation and survival of early life stages,
30 that water quality sufficient for these purposes must be
31 maintained. In order to provide additional protection for
32 the growth of indigenous fish, the following standards apply.

33 (1) The 30-day average dissolved oxygen criterion of a
34 Class C water is 6.5 parts per million using a
35 temperature of 22 degrees centigrade or the ambient
36 temperature of the water body, whichever is less, if:

37 (a) A license or water quality certificate other
38 than a general permit was issued prior to March
39 16, 2004 for the Class C water and was not based
40 on a 6.5 parts per million 30-day average
41 dissolved oxygen criterion; or

42 (b) A discharge or a hydropower project was in
43 existence on March 16, 2005 and required but did
44 not have a license or water quality certificate
45 other than a general permit for the Class C water.

2 This criterion for the water body applies to licenses
3 and water quality certificates issued on or after March
4 16, 2004.

5 (2) In Class C waters not governed by subparagraph
6 (1), dissolved oxygen may not be less than 6.5 parts
7 per million as a 30-day average based upon a
8 temperature of 24 degrees centigrade or the ambient
9 temperature of the water body, whichever is less. This
10 criterion for the water body applies to licenses and
11 water quality certificates issued on or after March 16,
12 2004.

13 Between May 15th and September 30th, the number of
14 Escherichia coli bacteria of human and domestic animal
15 origin in Class C waters may not exceed a geometric mean of
16 126 per 100 milliliters or an instantaneous level of 236 per
17 100 milliliters. In determining human and domestic animal
18 origin, the department shall assess licensed and unlicensed
19 sources using available diagnostic procedures. The board
20 shall adopt rules governing the procedure for designation of
21 spawning areas. Those rules must include provision for
22 periodic review of designated spawning areas and
23 consultation with affected persons prior to designation of a
24 stretch of water as a spawning area.

25 **Sec. 3. 38 MRSA §465-B, sub-§2, ¶B,** as enacted by PL 1985, c.
26 698, §15, is amended to read:

27 B. The dissolved oxygen content of Class SB waters shall
28 must be not less than 85% of saturation. Between May 15th
29 and September 30th, the numbers of enterococcus bacteria of
30 human and domestic animal origin in these waters may not
31 exceed a geometric mean of 8 per 100 milliliters or an
32 instantaneous level of 54 per 100 milliliters. In
33 determining human and domestic animal origin, the department
34 shall assess licensed and unlicensed sources using available
35 diagnostic procedures. The numbers of total coliform
36 bacteria or other specified indicator organisms in samples
37 representative of the waters in shellfish harvesting areas
38 may not exceed the criteria recommended under the National
39 Shellfish Sanitation Program ~~Manual of Operations, Part I,~~
40 ~~Sanitation of Shellfish Growing Areas,~~ United State
41 Department of States Food and Drug Administration.

42 **Sec. 4. 38 MRSA §465-B, sub-§3, ¶B,** as enacted by PL 1985, c.
43 698, §15, is amended to read:

44 B. The dissolved oxygen content of Class SC waters shall
45 must be not less than 70% of saturation. Between May 15th

2 and September 30th, the numbers of enterococcus bacteria of
4 human and domestic animal origin in these waters may not
6 exceed a geometric mean of 14 per 100 milliliters or an
8 instantaneous level of 94 per 100 milliliters. In
10 determining human and domestic animal origin, the department
12 shall assess licensed and unlicensed sources using available
14 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 ~~Manual of~~
~~Operations, Part I, Sanitation of Shellfish Growing Areas,~~
United States Food and Drug Administration.

16 SUMMARY

18 The bill amends the bacteria standard for class B, C, SB and
20 SC waters and removes a reference to an out-of-date manual, upon
the recommendation of the Department of Marine Resources.

22 The bill makes corrections to and clarifies changes in the
24 dissolved oxygen standard that was enacted in the previous
session.