

# MAINE STATE LEGISLATURE

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# Report Back Provided to the Joint Standing Committee on Inland Fisheries & Wildlife



## **REPORT BACK ON: Airboat Operation and Noise Levels**

**Provided By:** The Department of Inland Fisheries & Wildlife

**Presented On:** January 19, 2022

### **Table of Contents:**

- Introduction - Pg. 1
- Legislative Directive for Report Back - Pg. 1
- Stakeholder Meetings Overview- Pg. 3
- Airboat Decibel Level Testing & Training -Pg. 4
- Options to Reduce Airboat Noise -Pg. 8
- Stakeholder Group Suggestions to Legislative Committee -Pg. 9
- [Appendix #1: Report of Wisconsin Natural Resource Officer Mike Neal](#) -Pg.11

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## **INTRODUCTION:**

Good morning Senator Dill, Representative Landry and honorable members of the Inland Fisheries and Wildlife Committee. I am Lt. Jason Luce of the Maine Warden Service and I am here along with Sgt. Wesley Dean who is a Marine Patrol Officer for the Department of Marine Resources (MDMR). We are here to provide an overview and answer questions on the airboat stakeholder meetings, the airboat testing and training provided by Wisconsin Natural Resource Officer Mike Neal and offer final suggestions resulting from the stakeholder group efforts.

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## **Legislative Directive for Report Back on Airboat Operation and Noise Levels**

**PUBLIC LAW 2021 CHAPTER 166** - (LD 114) **An Act To Address Airboat Operation in the State**

*(Effective: October 18, 2021)*

This law does the following:

- Repeals current law requiring IFW to establish noise level limits for airboats by rule and replaces it with a provision establishing temporary airboat noise limits. It sets a noise limit of 90 decibels as measured in a stationary sound level test as prescribed by the Society of Automotive Engineers (SAE) in standards J-2005.
- Between the hours of 7 p.m. and 7 a.m. the operational noise limit is 75 decibels as measured by the shoreline test, except to the extent necessary to achieve headway speed when leaving a boat launch or to get off a tidal flat.

# Report Back Provided to the Joint Standing Committee on Inland Fisheries & Wildlife



- After 7 a.m. and before 7 p.m. the operational noise limit is 90 decibels as measured by the shoreline test, except to the extent necessary to achieve headway speed when leaving a boat launch or to get off a tidal flat.
- This statutory provision establishing noise limits is repealed September 30, 2022;

**Stakeholder group on airboat noise issues.** The Commissioner of Marine Resources and the Commissioner of IFW, shall convene a stakeholder group on issues related to airboat noise.

**1. Formation.** The stakeholder group must include a marine patrol officer and a game warden appointed by the commissioners and the following members to serve as part of the stakeholder group:

- 3 commercial marine shellfish harvesters who operate airboats;
- 3 resident coastal property owners;
- 2 municipal marine shellfish officers; and
- 2 coastal municipal administrators. The commissioners or the commissioners' designees serve as cochairs of the stakeholder group. The cochairs shall call and convene the first meeting of the stakeholder group no later than 30 days following the effective date of this section.

**2. Duties.** The stakeholder group:

- A.** Shall examine and determine airboat mechanical systems and adjustments that result in the lowest practically achievable airboat decibel levels;
- B.** Shall examine and determine available federal or other funding to assist airboat owners in addressing any identified deficiencies in their airboat mechanical systems to achieve the results determined under paragraph A; and
- C.** May examine any related issues that the stakeholder group determines appropriate, including but not limited to establishing and restoring shellfish harvester access to coastal tidal areas, airboat operational techniques to allow for lower decibel levels and appropriate training and equipment for state and municipal law enforcement officers.

**3. Staff; information.** The commissioners shall provide necessary staffing services to the stakeholder group. Within existing resources, the commissioners shall arrange for input from experts in airboat noise. The commissioners shall also ensure that local sound data related to airboat use on inland and coastal waters using SAE standards J-1970, SAE standards J-34 and SAE standards J-2005 testing procedures is gathered and provided to the stakeholder group. For the purposes of this subsection, "SAE standards" means technical standards adopted by the Society of Automotive Engineers.

# Report Back Provided to the Joint Standing Committee on Inland Fisheries & Wildlife



**4. Report.** By January 15, 2022, the commissioners shall report to the Joint Standing Committee on Marine Resources and the Joint Standing Committee on IFW the findings and recommendations of the stakeholder group, including any recommended legislation. After receiving the report, the Joint Standing Committee on IFW may report out a bill relating to airboats to the 130<sup>th</sup> Legislature.

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## **STAKEHOLDER MEETINGS OVERVIEW:**

### **August 9, 2021 Stakeholder Meeting:**

On **August 9<sup>th</sup>** there was a stakeholder meeting at the Brunswick Town Hall. The following people were present and served as representatives of the stakeholder group: two facilitators, Lieutenant Jason S. Luce (MWS) and Sergeant Wesley Dean (MMP), Sergeant Michael Joy (MWS), Brunswick Shellfish Warden Daniel Sylvain, Commercial Clam Harvester Abden Simmons, Commercial Clam Harvester Chris Green, Commercial Clam Harvester Dale Sawyer, Property Owner Spike Haible, Property Owner Dave Cox, Property Owner/Attorney Dan Walker, Freeport Town Manager Peter Joseph, Representative Melanie Sachs, Representative Jay McCreight and Marine Resources Assistant Melissa Macaluso (present to take meeting minutes). The group met to begin discussions about how to offer some solutions to airboat noise that may be palatable for the majority of the stakeholder group.

This stakeholder group was convened in response to Public Chapter Law 166 that went into effect in October 2021. The group is made up of 3 citizens, 3 commercial clam harvesters, the Freeport Shellfish Officer, a Freeport Town Official, the Brunswick Shellfish Officer, and a Brunswick Town Official. A game warden and a marine patrol officer were present to facilitate the meetings. The legislative direction was to seek input from experts in airboat noise so the State hire a professional to teach Maine Game Wardens and Maine Marine Patrol Officers how to measure airboat decibel levels using the SAEJ1970 test. This professional is Warden Mike Neal from Wisconsin who was hired to fly to Maine and provide training to MWS and DMR staff and conduct field testing of airboats.

The group talked about creating a new law to require airboats to have a muffler, it was later determined that this was already required in law.

The group created an agenda for Wisconsin Conservation Officer Mike Neal that included the types of testing he would do while he was in Maine. It was clear that transparency in this process was very important. Everyone was invited to be present for the airboat testing and decibel level training.

# Report Back Provided to the Joint Standing Committee on Inland Fisheries & Wildlife



## **Airboat Decibel Level Testing & Training**

On **August 16<sup>th</sup>** Game Wardens, Marine Patrol Officers and Brunswick Shellfish Warden Daniel Sylvain met at the Brunswick Police Department for decibel level training. Warden Neal of Wisconsin trained the group to properly use the decibel meters issued by their departments.

### **August 17, 2021 Airboat Testing Conducted:**

On August 17<sup>th</sup> the group went to Wharton's point to test airboats. Two separate tests were done on the airboats operated by the commercial harvesters. A stationary sound test, identified as SAE J2005 and a 100' shoreline test, identified as SAE J1970 were conducted by Warden Neal of Wisconsin. This was a very informative day for all parties involved. Potential for mechanical changes were discussed to help lessen the sound produced.

### **August 18, 2021 Airboat Testing Conducted:**

On August 18<sup>th</sup> the group went to Mere Point (the property of Dave Cox) and conducted testing on airboats as they went to the clam flats. This provided real world sound levels from the home of one of the stakeholders who has been impacted by the noise.

### **August 19, 2021 Airboat Testing Conducted:**

More testing was done on August 19<sup>th</sup> to gather real world noise levels. Due to the weather, harvesters did not go out. Warden Neal was able to use some of this time to conduct testing on other sources of noise. On this day Maine Warden Service staff were unavailable due to another meeting but Marine Patrol staff were in attendance.

# Report Back Provided to the Joint Standing Committee on Inland Fisheries & Wildlife



## PHOTOS OF WISCONSIN CONSERVATION OFFICER MIKE NEAL TRAINING MAINE

### OFFICERS ON AIRBOAT NOISE TESTING



# Report Back Provided to the Joint Standing Committee on Inland Fisheries & Wildlife



# Report Back Provided to the Joint Standing Committee on Inland Fisheries & Wildlife



## September 22, 2021 Stakeholder Meeting:

- On September 22<sup>nd</sup> the next meeting was held at the Freeport Town Hall with the stakeholder group. Warden Neal attended the meeting via a “TEAMS” call. Warden Neal presented some of the data he had recorded to the stakeholder group as well as provided recommendations on how to deal with issues or concerns (see attached report from Warden Neal Pg. 11 [Appendix #1: Report of Wisconsin Natural Resource Officer Mike Neal](#)).



# Report Back Provided to the Joint Standing Committee on Inland Fisheries & Wildlife



## **Options to Reduce Airboat Noise:**

Warden Neal recommended the following options to help reduce or mitigate the sound emissions for airboats:

- 1) Change the pitch of the airboat propellers or add more propellers (typically an airboat with more propellers is quieter).
- 2) Add an engine muffler or change the style of muffler.
- 3) Add extra rollers to the airboat trailers to lower the engine noise while loading the airboat.
- 4) Change the angle of the airboat engine to ensure that the boat is using minimal effort to push the airboat forward.
- 5) Educate the airboat operators on ways to operate their airboats so that they are not operating at an excessive decibel level.

## **October 26, 2021 Stakeholder Meeting:**

On October 26, 2021 we had another stakeholder meeting at the Freeport Town Hall. At this meeting we went over a “rough draft” report that Warden Neal prepared. Warden Neal later provided an approved copy of the report (see attached). The stakeholder group discussed the report and the findings.

## **December 1, 2021 Stakeholder Meeting:**

On December 1<sup>st</sup> the stakeholder group again met at the Freeport Town Hall. The original reason for this meeting was to go over recommendations that could be reported back to the legislature. This did not happen due to several key members of the stakeholder group not being present.

## **December 7, 2021 Stakeholder Meeting:**

On December 7<sup>th</sup> another meeting took place at the Freeport Town Hall. At this meeting all members of the stakeholder group were present to vote on items to recommend to the legislature.

The first question posed to the group was if they would recommend that the sunset date of the current legislation be extended to 09/30/2023. The group was asked to either support or oppose the recommendation. Brunswick Shellfish Officer Daniel Sylvain and the representative from the Town of Brunswick, Daniel Deveraux both opposed the recommendation on the basis they did not like setting levels that they thought were not reasonable. There

# Report Back Provided to the Joint Standing Committee on Inland Fisheries & Wildlife



was some debate on the issue, and they stayed opposed to the recommendation based solely on the decibel levels.

The second recommendation that was posed to the group was to do away with the noise level exemption for municipal/governmental airboats, with an exception for emergencies. There was one person in opposition to this recommendation. Brunswick Shellfish Officer Daniel Sylvain left the meeting before this was voted on, so we do not know if he supported or opposed the recommendation.

The third recommendation that the group voted on was to continue to secure funding for boat access sites through sources such as Land for Maine's Future. It was also recommended that harvesters identify traditional access points that have been lost over the years. The group talked about approaching the landowners and possibly coming up with incentives for the landowners to allow access. The group voted unanimously in favor of this recommendation.

The fourth recommendation that the group voted on was to ask the legislature to come up with funding to help offset the cost of associated upgrades to make the currently registered airboats compliant with the decibel levels set by the current law, all airboats purchased or registered after a set date would need to operate in compliance. The group voted unanimously in favor of this recommendation.

The fifth recommendation was to have an educational approach to the new law. Law enforcement would take an educational approach when dealing with airboat operators who were operating boats that were not in compliance with the current regulations. There would also be a social media campaign via the Department of Inland Fisheries and Wildlife and Department of Marine Resources social media platforms and emails to all license and registration holders. The group voted unanimously in favor of this recommendation.

## **Stakeholder Group Suggestions to Legislative Committee:**

A vote by stakeholder members were made to identify which recommendations were supported by the majority of the stakeholder group, not as a formal voting process.

In summary, the majority of the group would ask that the following recommendations be considered by the legislature:

- 1) Extend the "sunset date" of the current law to 09/30/2023. This will give more time to determine if the law is having the desired outcome. This was not unanimous, but 8 stakeholders voted in favor and 2 stakeholders voted in opposition.

# Report Back Provided to the Joint Standing Committee on Inland Fisheries & Wildlife



- 2) Do away with the sound exemption for municipal/government airboats while still leaving the use for emergency purposes in place. This was not unanimous, but 8 voted in favor and 1 voted in opposition. There were only 9 stakeholders voting because Brunswick Shellfish Officer Daniel Sylvain left the meeting.
- 3) To continue to attempt to secure funding for boat access sites through sources such as Land for Maine's Future. It was also recommended that harvesters identify traditional access points that have been lost over the years, reach out to the landowners and possibly provide some incentives to allow access once again. There was unanimous support from the stakeholder group.
- 4) To come up with a funding source to help offset upgrades to current airboats so that they can come into compliance with the current laws. There was unanimous support from the stakeholder group.
- 5) To have an educational approach to the new law and explain the reason behind the law change. Law enforcement would take an educational approach when dealing with airboat operators who were operating boats that were not in compliance with the current regulations. There would also be a social media campaign from the Department of Inland Fisheries and Wildlife and the Department of Marine Resources social media platforms and emails to all license and registration holders. There was unanimous support from the stakeholder group on this proposal.

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## POSSIBLE STATUTORY RECOMMENDATIONS:

### §13068-A. Operating watercraft; prohibitions

**10. Operating motorboat that exceeds noise limits.** The following provisions govern noise limits.

A. A person may not operate a motorboat in such a manner as to exceed:

- (1) A noise level of 90 decibels when subjected to a stationary sound level test with and without cutouts engaged and as prescribed by the commissioner; or
- (2) A noise level of 75 decibels when subjected to an operational test measured with and without cutouts engaged and as prescribed by the commissioner.

As used in this paragraph, "motorboat" does not include an "airboat," which has the same meaning as in paragraph A-2.

A-1. [PL 2021, c. 166, §1 (RP).]

A-2. (TEXT EFFECTIVE UNTIL ~~9/30/22~~ **9/30/2023**) (TEXT EFFECTIVE REPEALED ~~9/30/22~~ **9/30/2023**) A person may not operate an airboat:

# Report Back Provided to the Joint Standing Committee on Inland Fisheries & Wildlife



- (1) If the noise level of the airboat exceeds 90 decibels as measured in a stationary sound level test as prescribed by SAE standards J-2005;
- (2) Between the hours of 7 p.m. and 7 a.m. in such a manner as to exceed a noise level of 75 decibels on the "A" scale as measured by the SAE standards J-1970, referred to in this paragraph as "the shoreline test," except to the extent necessary to achieve headway speed when leaving a boat launch or to move the airboat from a stationary position on a tidal flat; or
- (3) After 7 a.m. and before 7 p.m. in such a manner as to exceed a noise level of 90 decibels as measured by the shoreline test, except to the extent necessary to achieve headway speed when leaving a boat launch or to move the airboat from a stationary position on a tidal flat.

For purposes of this paragraph, "airboat" means a flat-bottomed watercraft propelled by an aircraft-type propeller and powered by either an aircraft engine or an automotive engine and "SAE standards" means technical standards adopted by the Society of Automotive Engineers.

This paragraph does not apply to the operation of an airboat by a marine patrol officer appointed under section 6025, subsection 1, a game warden or a municipal law enforcement officer.

This paragraph is repealed on ~~September 30, 2022~~ September 30, 2023.

B. The following penalties apply to violations of this subsection.

- (1) A person who violates this subsection commits a civil violation for which a fine of not less than \$300 nor more than \$500 may be adjudged.
- (2) A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

C. This subsection does not apply to motorboats that are operating in a regatta or race approved by the commissioner under section 13061.

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## **APPENDIX #1- : Report of Wisconsin Natural Resource Officer Mike Neal**



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Airboat Noise CSR.pdf