

## **Report From Agency**

### REPORT TO LEGISLATURE

NR 5, Wis. Adm. Code  
Sound testing methods for airboats

Board Order No. LE-23-06  
Clearinghouse Rule No. 06-039

#### Basis and Purpose of the Proposed Rule

At the January 2006 Natural Resources Board meeting, the Board heard comments from the public who were concerned about the noise that airboats make and requested the department enforce noise laws on airboat-type watercraft.

The proposed rule establishes a new procedure for use of the J1970 or J34a Society of Automotive Engineers (SAE) noise level testing methods, requiring these tests to be conducted at a minimum of 100 feet from the boat being tested. When the J34a test is used at a distance of 100 feet, the officer will be required to add 2 decibels (dB) to the test results in order for the test to be comparable to a J34a test being conducted at a distance of 50 feet. Two new exemptions are created from the noise level restrictions found in state statute. One exemption applies to boats being used for search and rescue or that is being used while training for search and rescue operations while being operated under the direction or control of a governmental agency. The other exemption applies to boats used by an authorized agent of the federal, state or municipal government to carry out his or her official duty of enforcement, search and rescue, fire fighting or research programs.

#### Summary of Public Comments

During the public hearings and written comment period, there were a total of 117 comments on the proposed rule. Of these comments, 51 believed all motorboats regardless of type should be held to the 86 decibel (dB) level. Of the 36 people who appeared at the hearings, 9 were in favor of the rule as written, 7 were opposed, 14 were neutral and 6 did not indicate a position. Of the written comments, 23 suggested that all watercraft be regulated at 50 feet, not 300 feet. The primary issues of concern that were raised during the public hearings and comment period were:

- The distance at which the test was going to be conducted
- The decibel level conversion for tests conducted at distances greater than 50 feet
- A concern that the rule would put small business airboat operators in jeopardy
- How trappers, anglers and other recreational users of airboats may be affected
- How airboats and hovercraft used by or under the direction of governmental agencies will be affected

#### Modifications Made

The distance at which the test is to be conducted was reduced from 300 feet to 100 feet. Section NR 5.125(1)(e) and (6) were created. Section NR 5.125(1)(e) creates the requirement that the officer conducting the test shall add 2 decibels to the test results. Section 5.125(6) creates the two new exemptions from the noise level requirements.

Appearances at the Public Hearing

May 24, 2006 – Prairie du Chien

In support:

E. G. McLean, 14818 State Road 133, Woodman, WI 53827  
James C. Frazier, 15513 Richwood Estates Lane, Blue River, WI 53518  
Ken Lukaszewski, 15185 County Road 25, Rollingstone, MN 55969  
Dick Hobelsberger, 1719 Market Street, La Crosse, WI 54601  
Christopher M. Johnson, 130 Lake Street, Holmen, WI 54636

In opposition:

Eldon Beau, 317 N. Beaumont Road, Prairie du Chien, WI 53821  
Joe Frazier, Box 724, Muscoda, WI 53573  
Steve Winters, 52606 Coon Bluff, Reedsburg, WI 53959

As interest may appear:

Don Greenwood, P.O. Box 454, Spring Green, WI  
DuWayne Carlin, 602 E. LaGrand Street, Boscobel, WI 53805  
Jack Williams, 38637 Troy Drive, Prairie du Chien, WI 53821  
Paul F. Brandt, 4496 Highway 133E, Boscobel, WI 53805  
Rick Williams, 38637 Troy Drive, Prairie du Chien, WI 53821  
William H. Howe, 300 S. [street name illegible], Prairie du Chien, WI 53821  
Mark Cupp, Lower Wis. State Riverway Board, P.O. Box 187, Muscoda, WI 53573  
Tim Morgan, S1499 Sportsman Lane, Stoddard, WI 54658

May, 24, 2006 – La Crosse

In support:

Ken Lukaszewski, 15185 County Road 25, Rollingstone, MN 55969  
Dick Hobelsberger, 1719 Market Street, La Crosse, WI 54601  
Gary W. Gurske, S5814 Malphy Lane, DeSoto, WI 54624  
Russ H. Larson, 2300 West Avenue South, La Crosse, WI 54601  
Christopher M. Johnson, 130 Lake Street, Holmen, WI 54636  
Robert Mikunda, 7781 25<sup>th</sup> Street, Colfax, WI 54730  
Timothy Maier, W8291 County Road ZB, Onalaska, WI 54650  
William Brockman, 1736 Bainbridge, La Crosse, WI 54603  
Marion Maier, W8291 County Road ZB, Onalaska, WI 54650

In opposition:

Marvin Christianson, S6357 Christianson, Viroqua, WI 54665  
Ed Heberlein, 4490 CTH O, La Crescent, MN 55947  
Michael G. Leavitt, 11880 Gray Street, Trempealeau, WI 54661  
Tim Colgan, 2605 Del Ray Avenue, La Crosse, WI 54603

As interest may appear:

Mick Rockweiler, 1063 DeFreese Street, Viroqua, WI 54665  
William Scott, 22237 Bluebird Avenue, Warrens, WI  
Chris Jacobson, W8222 Woodview Drive, Onalaska, WI 54650  
Michael W. Lynch, W8026 CTH Z, Onalaska, WI 54650

Ray Heidel, W8043 Hwy. ZN, Onalaska, WI 54650  
John N. Hagen, 503 8<sup>th</sup> Avenue South, Onalaska, WI 54656  
Rose Smyrski representing Sen. Kapanke  
Joel Miller, W8666 Cty. Z, Onalaska, WI 54650  
William Gollon, 240 Dubay Avenue, Stevens Point, WI 54481  
Tim Morgan, 1499 Sportsman Lane, Stoddard, WI 54658  
Scott Brummond, DOT Bureau of Aeronautics, 4802 Sheboygan Avenue, Madison, WI 53707  
Benjamin Gollon, 2450 Torun Road, Stevens Point, WI 54481

June 1, 2006 – Madison

In support:

Dick Hobelsberger, 1719 Market Street, La Crosse, WI 54601  
Ken Lukaszewski, 15185 County Road 25, Rollingstone, MN 55969

In opposition:

Chris Cass, 470 Mohawk Road, Janesville, WI  
Kevin Isenring, P.O. Box 51, Sauk City, WI 53583

As interest may appear:

Jim Breunig, P.O. Box 231, Wisconsin Dells, WI  
David J. Kadinger, Sr., W235 S5923 Big Bend Road, Waukesha, WI 53189  
George Meyer, 201 Randolph Drive, Madison, WI 53717  
Tim Morgan, S1499 Sportsman Lane, Stoddard, WI 54658

June 1, 2006 – Teleconference

In support – none  
In opposition – none

As interest may appear:

James H. Tomczak, 3208 2<sup>nd</sup> Street East, Ashland, WI 54806  
Mike Herrmann, Sawyer County Rescue, 2100 Beaser Avenue, Ashland, WI 54806

#### Changes to Rule Analysis and Fiscal Estimate

The analysis was changed to reflect the modifications made to the rule. The fiscal estimate did not change.

#### Response to Legislative Council Rules Clearinghouse Report

The recommendations were accepted.

#### Final Regulatory Flexibility Analysis

The Department determined that the proposed rule will not have a significant economic impact on small businesses. Therefore, a final regulatory flexibility analysis was not required.