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National Transportation Safety Board

Washington, D.C. 20594

Safety Recommendation

Date: April 7, 1986
In reply refer to: M-86-32

Governors/Legislative Leaders of Puerto Rico,
the U.S. Virgin Islands, Guam, the Northern
Mariana Islands, and American Samoa
(see attached list)

The National Transportation Safety Board has long been concerned about the role of alcohol in the many recreational boating accidents, fatalities, and injuries that occur annually. More than 1,000 people die each year in recreational boating accidents, and many more are injured. A large percentage of these accidents are alcohol involved. Yet, few States or territories have enacted laws which effectively address the problem of intoxicated boat operators. The Safety Board expressed concern about this problem in a 1983 study which found that alcohol was suspected to be a factor in many recreational boating fatalities. 1/ Safety Board investigations of recreational boating accidents have revealed that the problem is continuing.

For example, about 1:45 a.m. on October 28, 1984, the operator of the recreational motorboat WHISKEY RUNNER embarked on a cruise from a restaurant in Huntington Harbor, California, where he had been since about midnight. Aboard the WHISKEY RUNNER were eight passengers, two of whom said that they all had been drinking alcoholic beverages. About 2:50 a.m., while turning into the entrance of Anaheim Bay from San Pedro Bay on a calm clear night with no moon, the WHISKEY RUNNER struck a U.S. Navy mooring buoy nearly head-on at a speed of about 30 mph, demolishing the port bow. It sank moments later. Of the nine persons onboard the boat the operator and one passenger were seriously injured, two passengers received minor injuries, and five passengers died. 2/

A test of a blood sample taken from the operator 3 1/2 hours after the accident revealed that he had a blood alcohol concentration (BAC) of 0.11 percent. The Safety Board estimated that, given a normal rate of metabolism and elimination of alcohol from the body, the operator had a BAC of 0.16 percent at the time of the accident. California's motor vehicle laws set a BAC of 0.10 percent as the threshold for highway drivers to be considered legally drunk. The Safety Board determined that the probable cause of the accident was the significant impairment of the operator by reason of having consumed alcohol and his operation of the boat at excessive speed outside the prescribed channel through a danger zone.

1/ For more detailed information, read Safety Study--"Recreational Boating Safety and Alcohol" (NTSB/SS-83/02).
2/ See Marine Accident/Incident Summary Report--"Anaheim Bay, California, October 28, 1984" (NTSB/MAR-85/01/SUM).

Two other accidents also demonstrate the problem of intoxicated boat operators. On July 27, 1983, two recreational boats, one 17 feet long and one 30 feet long, collided on the Severn River near Annapolis, Maryland, killing four persons. The 30-foot boat went through the hull and then over the small vessel. All four persons killed were on the small vessel. There was evidence that considerable amounts of alcohol had been consumed by the persons in the 17-foot boat, and the operator of the boat had a BAC of 0.21 percent. In a similar occurrence on August 31, 1983, a 26-foot recreational boat collided with the 95-foot dinner vessel DANDY on the Potomac River in Washington, D.C. The DANDY has a 200-passenger capacity. Fortunately, none of the dinner guests were injured when the recreational boat struck the bow of the DANDY. The operator of the recreational boat, who was killed, had a BAC of 0.23 percent. In both of these cases, the BAC was more than twice the generally accepted BAC of 0.10 percent established by the National Highway Traffic Safety Administration, the Congress, and most States as the level at which highway drivers are considered to be driving while intoxicated.

During its 1983 study of the role of alcohol in recreational boating accidents, fatalities, and injuries, the Safety Board found that the U.S. Coast Guard and State boating law authorities suspect alcohol use to be a major factor in the high number of recreational boating fatalities. However, representative and credible national statistics are not available. Several factors affect the national statistics issued by the Coast Guard, including:

- Not all accidents are reported to the States or to the Coast Guard.
- Only in the approximately 25 percent of the fatal accidents investigated by the Coast Guard is there any assurance or verification of injuries, property damage, or definitive primary and secondary causes.
- Compliance with reporting requirements varies from location to location and is influenced by Coast Guard and State enforcement practices and programs.
- Boating accident reports are usually completed by the person involved in the accident or next of kin, who may not provide accurate and objective information about the accident.

Nationally, there are no uniform reporting requirements or guidelines for collecting information on the use of alcohol in recreational boating accidents, fatalities, and injuries. For example, in 1984, the Coast Guard received reports on 5,700 recreational boating accidents which resulted in 1,063 fatalities, 2,709 injuries, and $19.2 million in property damage. Based on data available to the Coast Guard only 194 of these recreational boating accidents involved alcohol, resulting in 109 fatalities, 81 injuries, and property damage of $165,000. This amounts to 3.4 percent of the accidents, 10.25 percent of the fatalities, 3.0 percent of the injuries, and less than 1 percent of the property damage. However, based on some State data it is evident that the use of alcohol and its effects in recreational boating accidents, fatalities, and injuries appear to be grossly underreported. A December 1985 study by the California Department of Natural Resources found that alcohol was a factor in approximately 59 percent of fatal

boating accidents studied in a 2-year period. 3/ In two other States, information received indicated that 35 to 38 percent of the persons killed in recreational boating accidents were "legally drunk" at the generally accepted BAC of 0.10 percent. Additionally, one State indicates that as high as 80 percent of the fatalities in 1 year were alcohol involved, and in another State 75 percent of the accidents over a 3-year period were alcohol involved.

Enforcement efforts for recreational boating are now primarily the responsibility of the States. A survey completed by the International Association of Chiefs of Police (IACP) in 1985 revealed that all States except Hawaii and Idaho have laws specifically prohibiting operation of watercraft while under the influence of alcohol. However, only 14 jurisdictions have an objective definition of intoxication or impairment (in terms of BAC). Further, only 14 States and one territory (Virgin Islands) have implied consent provisions or legal authority to request a chemical test of those persons suspected of operating a watercraft while under the influence of alcohol.

The IACP survey also included Puerto Rico and the Virgin Islands, both of which have laws making boating under the influence of alcohol a criminal offense punishable by imprisonment and/or a fine. In both territories the law applies to both motor and sailing vessels. However, the IACP found that neither law provides for a specific BAC definition of intoxication applicable to recreational boating. Only the Virgin Islands had an implied consent provision that imposed sanctions for refusal to submit to a chemical test. (The Virgin Islands implied consent statute is the same as that governing motor vehicles).

As a result of its study, in November 1983 the Safety Board recommended that various States and the District of Columbia enact legislation to provide a comprehensive legal framework for addressing the problems of alcohol-involved recreational boating accidents. 4/ The Safety Board's recommendations contained three components:

- Establish a defined level of intoxication to strengthen and improve State marine programs to handle alcohol-involved incidents and accidents. Each State should consider using the same level as that set for driving a motor vehicle while intoxicated. Some States have levels as low as a 0.08 BAC, but most States have the generally accepted level of 0.10 percent BAC.

- Provide for chemical testing requirements to determine alcohol involvement in the event a recreational boat operator either is suspected of being intoxicated or is involved in an accident.

- Require toxicological tests in the event of a recreational boating fatality. Without these tests, it is very difficult for State boating law officials to obtain conclusive and objective information on the true impact of alcohol use in recreational boating accidents, fatalities, and injuries.

3/ "Boating Safety Report, A Study of Alcohol Related Accidents, Youth Operator Accidents, Repeat Offenders," State of California, The Resources Agency, Department of Boating and Waterways, December 1985, p. 3.
4/ Safety Recommendations M-83-76, -77, -78.

Ten States have enacted legislation addressing the problem of alcohol-involved recreational boating accidents since the Safety Board's study and recommendations were published. Numerous other States have measures under consideration or are planning legislation in 1986. The Safety Board believes that the territories of the United States also should enact legislation to address this problem. Therefore, the National Transportation Safety Board recommends that the Governor and Legislative Leaders of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa:

> Adopt comprehensive legislation addressing the problem of alcohol-involved recreational boating accidents including but not limited to a clear definition of intoxication in terms of the level of blood alcohol concentration for recreational boat operators, a provision allowing a chemical test of blood or breath if a recreational boating operator is suspected of being intoxicated, and a provision requiring toxicological tests of operators and of all persons fatally injured in a recreational boating accident. (Class II, Priority Action) (M-86-32)

The National Transportation Safety Board is an independent Federal agency with the statutory responsibility ". . . to promote transportation safety by conducting independent accident investigations and by formulating safety improvement recommendations" (Public Law 93-633). The Safety Board is vitally interested in any actions taken as a result of its safety recommendations and would appreciate a response from you regarding action taken or contemplated with respect to the recommendation in this letter. Please refer to Safety Recommendation M-86-32 in your reply.

BURNETT, Chairman, GOLDMAN, Vice Chairman, and LAUBER, Member, concurred in this recommendation.

By: Jim Burnett
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