

APPENDIX: ERAC-2016-B5

GUIDANCE: Documenting Alcohol or Drug Involvement as a Contributor in Recreational Boating Accidents

The information that comes from examining boating accident reports drives the Recreational Boating Safety Program and helps us better understand accident causes and contributing factors. To make sound decisions and develop responsive enforcement, safety campaigns and other program efforts, we need high quality report data. Accurate and consistent coding of accident details is an important first step. One area where we would benefit from having more information and more consistent reporting is on the involvement of alcohol and drugs in recreational boating accidents.

According to the national recreational boating accident statistics, “alcohol use” is the **leading known contributing factor** in fatal boating accidents and has been for many years. However, are we in our boating safety programs getting consistent data on alcohol and drug involvement in accidents? Is alcohol and drug involvement in accidents being sufficiently and consistently documented as a contributing factor when an operator or passenger’s use of one or both played a role in the accident?

The guidance outlined here is intended to assist officers and investigators in the process of determining and accurately recording alcohol or drug involvement as a contributing factor to an accident (with or without physical evidence), as legal impairment (BUI, OUI, etc.), or as a result of reasonable suspicion without physical evidence.

Alcohol and Drugs as Contributing Factors to a Recreational Boating Accident: Making the Selection on the Accident Report

Alcohol: *In the investigating officer's judgment, use of alcohol by the operator or vessel's passengers contributed to the accident. This does not necessarily indicate legal intoxication, only that alcohol consumption contributed to the accident.*¹

Drug(s): *In the investigating officer's judgment, use of legal or illegal drug(s) by the operator or vessel's passengers contributed to the accident. This does not necessarily indicate legal intoxication, only that use of drug(s) contributed to the accident.*²

Special note: *There may be instances where a person has consumed both alcohol and drugs. The investigating officer should use what is applicable to their state report as to how to notate the relevant contributing factor(s). The multiple use should be explained in the accident report narrative.*

¹ The term labels and definitions for “Alcohol” and “Drug(s)” are presented as revised in the Contributing Factors/Causes list accepted by NASBLA membership as part of the [Accident Reporting Terms & Definitions Project](#), 2012. Current fields in the Boating Accident Report Database (BARD) are presented as “Alcohol Use” and “Drug Use,” respectively.

² See footnote 1.

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The key to making the selection of a contributing factor(s) is to consider the totality of circumstances surrounding the recreational boating accident and what contributed to its occurrence.

- When considering alcohol or drugs as a contributing factor to the accident, keep in mind that selecting “Alcohol” or “Drug(s)” on the accident report does **not** necessarily mean the operator was under the influence and subject to legal ramifications.
- Selecting “Alcohol” or “Drug(s)” **does** mean that *in some way* those substances may have influenced how the accident came to be. For example, the operator may have delayed movements or otherwise delayed action, made inappropriate choices, or may not have recognized and remedied a situation.
- Any type of controlled substance, prescription legal or illicit, should be taken into account when deciding whether to select “Drug(s)” as a contributing factor to the accident.
- Below are some questions about the operator that can be referred to when considering alcohol or drugs as a contributor to the accident. Remember that answering “yes” to one or more of these could qualify for the selection of “Alcohol” or “Drug(s)” on the report as a contributing factor to the accident.

Operator observations/information references:

- Was the operator drinking or using drugs?
- Was the operator exhibiting signs of impairment or influence, of alcohol or drugs?
- Were sobriety tasks performed?
- Was an arrest made?
- Were there witness statements of alcohol or drug use by the operator?
- Were alcohol or drugs onboard and accessible? Keep in mind the mere presence of alcohol or drugs alone would **not** be considered a contributor unless someone was consuming or using them.

But remember that considering the totality of the circumstances surrounding the accident means looking beyond what the operator did or did not do. The operator does not have to be the only reason for having an alcohol or drug contributor.

- When you are considering alcohol or drugs as a contributing factor, keep in mind that vessel occupants or other persons involved in the accident and who were drinking or using drugs, may have performed some action that contributed to the accident.

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- Below are some questions about the occupants or other persons involved in the accident that can be referred to when considering alcohol or drugs as a contributor. Remember that answering “yes” to one or more of these could qualify for the selection of “Alcohol” or “Drug(s)” on the report as a contributing factor to the accident.

Occupant observations/information:

- Were the occupants drinking or using drugs?
- Did they distract the operator in some way? If so, how?
- Were the occupants doing something to affect the stability or operation of the vessel?
- Did an occupant fail to perform a task or duty that caused the accident and had they consumed alcohol or drugs? For example, did the occupant fail to be the look-out or safety observer? Did the occupant fail to assist in docking, loading, or some other task?
- Was the occupant drinking or using drugs and doing something to cause injury to themselves or others?
- Were there swimmers or other persons who had been drinking or using drugs and who injured themselves or others and a vessel was involved in the accident?

Additional Guidance for States that Also Record Alcohol or Drugs as “Present,” “Available for Use,” “Use Unknown,” or “Involved”

Many states value tracking and collecting data on accidents where alcohol and drugs were used, onboard, or accessible for use. Direction should be given to officers and investigators who also collect information on and document the presence or availability of controlled substances on their states’ report forms. The guidance should be clear that this indication is for a lesser threshold and is **not** associated with contributing factors for the causation of the accident. This selection may also be used in circumstances involving missing persons and where the use of controlled substances is unknown.