

Coast Guard is faulted in Lady D sinking

Water taxi carried too much weight to resist waves, wind, safety panel says; 5 were killed

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WASHINGTON // The National Transportation Safety Board concluded yesterday that a cascading series of errors by the Coast Guard permitted the water taxi Lady D to carry too much weight to withstand wind and waves when it capsized in Baltimore Harbor in March 2004.

Five people died in the accident, and a girl, now 10, suffered what could be permanent brain damage.

NTSB officials questioned yesterday whether the Coast Guard is moving fast enough to remedy its errors. A top investigator told the board that it might take "another accident" to get the Coast Guard to move quickly to correct an outdated passenger weight standard that contributed to the overloading.

Rob Henry, associate director of the Office of Marine Safety, made his comment as the NTSB met to approve its findings regarding the factors that contributed to the accident, which dumped 25 passengers and crew members into the frigid harbor as the water taxi made its run between Fort McHenry and **Fells Point**.

The findings also include criticism of the National Weather Service for its failure to give mariners a timely warning of the line of thunderstorms approaching the harbor on March 6, 2004. But the board found that the weather service has taken steps to address the shortcomings that delayed its warning until about seven minutes after the Lady D capsized.

During the five-hour hearing, the board was critical of the Coast Guard for failing to act on some of its previously released findings about the accident, including its December 2004 warning that the average body-weight standards used by marine inspectors to determine vessel capacity are still decades out of date.

The average weight of those aboard the Lady D was 168 pounds, but the standards assume an average weight of 140, a figure investigators traced back to 1942.

The Coast Guard has yet to revise those standards, saying it needs to study the issue and determine the economic impact on the marine industry.

Henry told the NTSB members that the board's staff is concerned "that the Coast Guard is not taking immediate action to address this out-of-date standard."

"What will it take for them to move a bit more expeditiously?" acting Chairman Mark V.

Rosenker asked Henry.

"What will it take? Another accident," Henry replied.

Rosenker replied that waiting for another accident would be "unacceptable."

Angela McArdle, a Coast Guard spokeswoman, said yesterday that the weight standard has not been officially changed and that she could not give a timetable for the agency's rulemaking process.

McArdle said the Coast Guard always takes the NTSB's recommendations into account. "We'll be looking at those seriously as we decide how to move forward," she said.

The board found that the probable cause of the Lady D accident was a lack of stability that left it unable to remain upright amid the gusts and waves that struck it in the Northwest Harbor just before 4 p.m. that Saturday.

It said the pontoon boat's instability was caused by overloading resulting from a combination of mistakes, noting that:

- In the early 1990s, the Coast Guard performed a stability test on the pontoon boat **Fells Point Princess** using criteria appropriate only for monohull boats, resulting in an inflated capacity rating permitting 25 people to be aboard that boat.
- The Coast Guard inappropriately treated the Lady D and two other pontoon boats as "sister" vessels to the **Fells Point Princess**, even though it was built by a different maker and had a significantly different design. Because of its sister status, the Lady D's capacity rating was based on the original boat's capacity, waiving the requirement for an independent stability test.

"They weren't sisters. They didn't even have the same parents," said board member Deborah A.P. Hersman. She said the improper certification of the **Fells Point Princess** as a sister to other vessels allowed mistakes to be repeated.

- The Coast Guard used an "inaccurate" average passenger weight of 140 pounds in calculating capacity. The board found that when the Lady D capsized, it was carrying 25 people weighing 4,210 pounds, far more than the 3,500 pounds assumed by the Coast Guard standards and a reflection of the increase in Americans' average weight. As a result, the boat lacked the buoyancy it needed to keep it from heeling to the right when hit by gusts of up to 50 mph.

The NTSB said that in addition to new weight standards, boat operators need a simple means of determining when a boat is overloaded because of a heavier-than-average group of passengers. It suggested putting lines on hulls to mark the point at which boats are too heavy.

- Even where they are properly applied, the Coast Guard's stability tests for pontoon vessels do not adequately account for "dynamic" forces of water and wind.

McArdle said that since the accident, local Coast Guard officials have been changing pontoon boat capacities case by case. She also said the Coast Guard has "tightened standards for determining when vessels are substantially similar."

Yesterday's meeting concluded the NTSB's investigation. A full report will be issued in several weeks.

In the summary released yesterday, the NTSB found little to second-guess about the performance of Seaport Taxi, the now-closed operator of the Lady D, or that of its parent, Living Classrooms Foundation.

Neither did it find fault with the crew, though some NTSB members questioned the decision of the captain, Francis Deppner, to cast off with a fully loaded boat while thick clouds were building over the harbor.

"It was not the conservative approach that was chosen," board member Ellen Engleman Connors said.

Seven months after the accident, Living Classrooms reached a confidential financial settlement in a lawsuit brought by the surviving passengers, the estates of those killed and the mate of the Lady D.

Living Classrooms and its insurers are suing the Coast Guard in an attempt to recover the money it paid in the settlement, alleging many of the same errors identified by the NTSB.

The NTSB had nothing but praise for the rescue efforts of Navy Reserve members and Baltimore police and firefighters who responded to the accident, saying their "timely and effective" actions probably saved lives.

The investigators also concluded that it was a stroke of good luck that the passengers did not have time to put on life jackets. Had they put on the vests while in the enclosed deckhouse, more would have been trapped and probably killed, they concluded.

Dr. George Bentrem, a Lady D survivor whose 6-year-old son, Daniel, was among those killed, said from his home in Harrisonburg, Va., that he agrees with that finding. "That would have been just fumbling around," he said.

Among those present at the NTSB's headquarters yesterday was Thomas Pierce of Vineland, N.J., who survived the accident but whose wife, Jo Ann, 60, and daughter, Lisa, 34, were killed.

Pierce, 62, expressed disappointment that the board didn't place more emphasis on the sudden shift of weight that occurred when the passengers were thrown to one side of the boat as the wind hit for the last time.

"It's just like two people in a canoe leaning the same way," Pierce said. He doesn't consider the case closed, he said.

Bentrem, 41, whose 10-year-old daughter suffered severe brain damage after nearly drowning in the accident, compared the sequence of events to that in the 1991 sinking of a fishing boat that was detailed in the book *The Perfect Storm*.

"Sometimes these things happen in life," he said, adding that his family plans no further legal action.

"We're trying to move on at this point," he said.

In addition to Daniel Bentrem and Pierce's wife and daughter, those killed were Andrew M. Roccella and Corinne J. Schillings, both 26, a couple who lived in the Washington area.