


# Water Vessel Operator Safety Program

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 <b>DEPARTMENT OF HEALTH</b>	<b>Louisiana Department of Health (LDH)</b>	
	<b>Policy Number</b>	127.1
	<b>Content</b>	LDH Water Vessel Operator Safety Program Policy
	<b>Effective Date</b>	January 30, 2019
	<b>Inquiries to</b>	Office of Management and Finance Safety and Security 628 N. 4 <sup>th</sup> Street Baton Rouge, Louisiana 70821-9030 (225) 342-3501 FAX (225) 342-2467

## I. STATEMENT OF POLICY

It is the policy of the Louisiana Department of Health (LDH) to establish and administer a Water Operator Vessel Safety Program that will provide uniform procedures for management and control of state owned/leased/hired water vessels as required by La.R.S. 39:1543. The LDH Water Vessel Operator Safety Program is a segment of the General Safety and Loss Prevention Program and is required by Louisiana Administrative Code Title 37.

## II. PURPOSE

The State of Louisiana, through the Office of Risk Management (ORM), devised a self-insurance program for its water vessels. The Water Vessel Operator Safety Program is designated to increase accountability and safety awareness among operators and crews of water vessels, control use of these water vessels, and reduce the state's exposure to loss and expense.

### III. LDH COMMITMENT AND PROGRAM COMPONENTS

LDH hereby declares its commitment to fulfill its responsibility as a Department in owning and operating water vessels through implementation of a Water Vessel Operator Safety Program in compliance with the Loss Prevention and Safety Guidelines established by the Office of Risk Management.

This policy provides for the identification, authorization, and performance/safety training of LDH employees whose jobs and responsibilities require the operation of a water vessel.

This policy also identifies reporting requirements related to the operation of water vessels and the roles of the individuals responsible for implementing and monitoring LDH's Water Vessel Operator Safety Program.

### IV. DEFINITIONS

Authorization/Operator History Form (DA 2066): This form shall be maintained by the agency on each employee who operates a vessel on a regular basis. The form displays when an employee was authorized, the type of vessel the employee may use, and information on the vessel operator's record.

Boating Accident – A boating/water vessel accident is defined as a collision, accident, or other casualty involving a state water vessel, other vessel, or individual. A water vessel is considered to be involved in a boating accident whenever the occurrence results in damage by, or to, the water vessel or its equipment, in injury or loss of life to any person, or in the disappearance of any person from on board under circumstances that indicate the possibility of death or injury. A boating accident also includes, but is not limited to, capsizing, foundering, flooding, fire, explosion, and the disappearance of a water vessel other than by theft.

Capsizing – When a vessel overturns and the bottom becomes uppermost, except in the case of a sailboat. If a sailboat overturns, it will normally lie on its side.

Careless Operation – Operation of any watercraft in a careless or heedless manner so as to be grossly indifferent to the person, or property of other persons, or operation at a rate of speed greater than will permit exercise of reasonable care to bring a watercraft to a stop within an assured clear distance ahead.

Commercial Vessel – Any vessel engaged in commercial trade, or that carries passengers for hire.

Flooding – Filling with water, regardless of the method of ingress, but retaining sufficient buoyancy to remain upon the surface.

National Association of State Boating Law Administrators (NASBLA) Course – This is a mandatory initial course and certification required for all Louisiana citizens who operate a watercraft under the jurisdiction of Louisiana Department of Wildlife and Fisheries (LDWF) and whose birth year falls in 1984, or thereafter. It is also required within ninety (90) days of discovery for any employee deemed "high-risk" by the agency. The classroom course is approved by LDWF and the NASBLA and allows Louisiana boaters to get their safe boating certification at no cost. To register for the classroom training please go to <http://www.wlf.louisiana.gov/boating/courses>. Once you complete the NASBLA

course, the refresher course (to be taken every three (3) years) can be found at <http://riskmgmtboatcourse.wlf.louisiana.gov>.

Navigable Water – A body of water deep and wide enough for a vessel to pass without obstruction.

Negligent Homicide – Operation of any watercraft at an immoderate rate of speed, or in a careless, or negligent manner causing the death of another.

Reckless Operation – Operation of any watercraft in such a manner as to endanger the life, limb or property of any person.

Refresher Course – This is a mandatory course for all employees to be taken once every three years after having taken the initial boating course. It is offered free of charge on-line at: <http://riskmgmtboatcourse.wlf.louisiana.gov>.

State-owned/leased/hired Vessel – Any water vessel owned, leased, and/or rented by the State of Louisiana.

Water Operator Record (WOR) – Record containing history of boating violations and accidents maintained by the LDW -Enforcement Division on each operator in the State of Louisiana.

Water Vessel – Every type of watercraft, other than a seaplane, used on the water or capable of being used as a means of transportation. Private vessels commandeered in an emergency situation will be included in the definition of a water vessel.

## **V. WHO MAY OPERATE LDH WATER VESSELS**

Only authorized LDH employees may operate an LDH owned/leased/hired water vessel. An operator may only operate the type(s) of water vessel for which he/she is properly authorized and trained.

LDH Employees not authorized to operate a water vessel may take over operation of a vessel in an immediate emergency such as in a boating accident, or injury to the authorized operator.

An employee in training may operate a water vessel, but then only while accompanied by and under the direct supervision of an authorized water vessel operator.

## **VI. AUTHORIZATION**

Before an employee can be authorized to operate an LDH water vessel, the following requirements must be satisfied:

- A. The employee must have a supervisor-identified business need to operate a water vessel to perform his/her LDH job responsibilities;
- B. The employee must have on file a fully completed Vessel Authorization/Operator History form (DA 2066);

- C. The employee must sign an Acknowledgment of Responsibility to document understanding of his/her responsibilities as an authorized water vessel operator;
- D. The employee's water operating record (WOR) and official driving records (ODR) for the past twelve (12) months must be reviewed to ensure the employee is not a high risk operator (see Section VII below);
- E. The employee must attend and satisfactorily complete the Louisiana Mandatory Boater Education classroom safety training and required refresher course every three (3) years; and
- F. The employee must demonstrate proficiency and satisfy performance standards in operating a water vessel.

On-the-job training and evaluation of the employee's ability to safely operate a water vessel will be provided during the employee's first ninety days of employment, upon determining an existing employee's business need to operate a water vessel, or upon assessment of the need for additional training.

Authorization to operate a water vessel will be effective for a period of one year upon satisfaction of the foregoing requirements.

## **VII. HIGH RISK OPERATORS**

Employees designated as high risk operators shall not be authorized to operate an LDH owned/leased/hired water vessel. Employees designated "high-risk" shall be notified in writing that they are not authorized to operate such vessels for a minimum of twelve months from the date of discovery, and that they are required to retake the initial Boat U.S. course (or other NASBLA-approved) within ninety days of discovery. Additionally, the high risk operator's immediate supervisor, Safety Coordinator, and LDH Safety & Security Manager shall be notified in writing that the employee shall not be given authority to operate a water vessel to conduct official State (LDH) business.

A high risk operator is an employee:

- A. Having three or more convictions, guilty pleas and/or nolo contendere pleas for moving violations within a twelve month period; or
- B. Having a single conviction, guilty plea or nolo contendere plea for operating a vehicle/water vessel while intoxicated/under the influence, hit and run driving, vehicular negligent injury, vehicular homicide, careless operation, reckless operation or similar violation within the previous twelve month period.

The Safety Coordinator, in collaboration with the LDH Safety & Security Manger, Assistant Secretary/Division Director, and the Human Resources Division, shall determine when an employee should be designated as a high risk operator. This shall be determined upon hiring, during annual reviews, or upon receipt of information identifying the aforementioned convictions or pleas.

## **VIII. AUTHORIZATION RENEWAL REQUIREMENT**

LDH will conduct an annual review of all authorized water vessel operators' water operating and official driving records. If an employee's status has changed to that of a high risk operator, renewal of his/her authorization to operate a water vessel shall be denied. Similarly, if an employee cannot

safely operate a water vessel due to a medical condition, or medication, renewal of his/her authorization shall be denied.

Authorized water vessel operators must retake and satisfactorily complete the Louisiana Boater Education Training every three years.

## **IX. REPORTABLE EVENTS**

The following events or circumstances are to be reported immediately upon occurrence or knowledge through the supervisory chain of command.

- A. All water vessel accidents, regardless of fault, injury, or property damage, occurring in an LDH owned/leased/hired water vessel;
- B. All citations and/or arrests for any violation of law while operating an LDH owned/leased/hired water vessel;
- C. All arrests, pleas, and convictions for driving while intoxicated/under the influence, whether on or off-duty and irrespective of whether such occurs while operating an LDH, or personally owned vehicle or water vessel;
- D. All pleas and convictions for moving violations, hit and run driving, vehicular homicide, vehicular negligent injury, careless operation, reckless operation, or similar violations;
- E. Diagnosis of any physical, mental, or other medical condition which impairs the ability to safely operate a water vessel\*;
- F. Use of medications which cause drowsiness or impair the ability to safely operate a water vessel\*; and
- G. All conditions which cause the water vessel to be unsafe to operate, including the absence or non-functioning of required safety equipment.

*\*This information will be reported to the Human Resources Division and handled with appropriate concern for confidentiality and in compliance with prevailing privacy laws.*

## **X. ACCIDENT INVESTIGATION AND REPORTING**

All water vessel accidents, regardless of fault, injury or property damage, occurring in an LDH owned/leased/hired water vessel must be reported. Incidents or occurrences which result in damage by or to a water vessel or its equipment, injury or loss of life to any person, capsizing, foundering, flooding, fire, explosion and disappearance of a water vessel other than by theft must also be reported.

All such accidents and incidents shall be reported through the supervisory chain of command immediately, but in no event later than the day of occurrence. As required by La.R.S. 34:851.10, all accidents involving a water vessel resulting in death, or bodily injury must be reported to the Louisiana Department of Wildlife and Fisheries within forty-eight (48) hours, and to the United States Coast Guard utilizing form CG-2692 within five (5) days, and accidents resulting in property damage in excess of \$500.00 must also be reported within five (5) days to the Louisiana Department of Wildlife and Fisheries.

For all water vessel accidents, a LDWF Operator Boating Incident Report (DWF-BIR-010-OP) shall be completed and timely submitted through the supervisory chain of command and, if required, to

LDWF. The operator's supervisor shall review and ensure the completeness of the report and assist the operator, if necessary, in completing the report.

## **XI. POST ACCIDENT DRUG TESTING**

As per LDH Employee Drug Testing Policy #48, any employee directly involved in an on-duty accident or incident, and whose action or inaction may have been a causative factor for same, shall be required to immediately submit to drug and alcohol testing if:

- A. Reasonable Suspicion: Circumstances give rise to a reasonable suspicion of the employee's drug or alcohol use or impairment; or
- B. Fatality: The accident or incident resulted in a fatality; or
- C. Hazardous Materials Release: The accident or incident resulted in or caused the release of hazardous waste as defined in La.R.S. 32:1502(5).
- D. Rehabilitation Monitoring: Any employee who is participating in a substance abuse after-treatment program, or who has a rehabilitation agreement with the LDH following an accident involving substance abuse shall be required to submit to random drug testing.

*Note: Employees should be aware of the legal presumption of impairment under La.R.S. 23:1081 if an employee refuses, after being directed, to submit to drug or alcohol testing as a result of an on-duty accident or incident. As a consequence of such refusal, benefits under the Worker's Compensation laws of the State of Louisiana may be denied.*

## **XII. RESTRICTIONS ON USE OF VESSELS**

LDH owned/leased/hired water vessels shall be used to conduct official LDH business activities only. Use of such vessels for personal reasons is strictly prohibited.

Persons not engaged in conducting business with or for LDH shall not operate nor be transported in a LDH owned/leased/hired water vessel(s).

News media personnel may accompany LDH employees on vessels with prior approval of the LDH Undersecretary or their designee.

## **XIII. WATER VESSEL INSPECTIONS**

An authorized LDH Water Vessel Fleet Manager, on all water vessels, regardless of size, shall perform a monthly inspection, and corrective action for all identified deficiencies shall be performed and documented. Items to be inspected shall include, but are not limited to:

- Fire extinguishers
- Signaling devices
- Damage to a vessel
- Lighting
- Personal floatation devices
- Flares
- Communication devices
- Trailers

## **XIV. CORRECTIVE/DISCIPLINARY ACTION**

For safety and accountability, the disciplinary process authorized by the Civil Service Rules will be used to address non-compliance with the requirements of this policy. Disciplinary action will be imposed only after a full and complete investigation. In addition to corrective action, an employee may be required to undergo additional training operating a water vessel.

In the event an employee cannot achieve or maintain proficiency in operating a water vessel or is designated a high-risk operator, termination of the employment relationship may be the course of action taken unless an alternative position is available that does not require operation of a water vessel.

## **XV. PROPERTY AND GENERAL LIABILITY CLAIMS REPORTING**

The State of Louisiana, through the Office of Risk Management, may provide insurance coverage for bodily injury and/or property damage caused by operation of an LDH owned/leased/hired water vessel. For this reason, property damage and/or general liability claims must be timely submitted in writing to ORM. A completed copy of the Operator Boating Incident Report, Authorization/Operating History Form (DA 2066) and Water Operator Record (WOR) shall be submitted with the claim to ORM as soon as possible while carbon copying the employees' agency's regional Safety Coordinator, LDH Safety & Security Manager, and agency Property Control liaison.

All claims, demands, notices, citations, summons, lawsuits or other legal documents filed against LDH by a third party shall immediately be forwarded to ORM's Claims Unit for handling.

## **V. ROLES AND RESPONSIBILITIES**

### **Agency Assistant Secretaries**

- Require and implement the LDH's Water Vessel Operator Safety Program.
- Stress the importance of water vessel safety to all employees.
- Ensure that only state owned/leased/hired water vessels are used to conduct LDH business.
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### **Supervisors**

- Identify and authorize the employees required to operate water vessels to perform customary job duties.
- Allow only authorized employees to operate LDH owned/leased/hired water vessels.
- Provide time for each authorized water vessel operator to attend/complete the NASBLA classroom safety-training course and refresher courses.
- Ensure that all vessels, equipment, supplies and required safety devices are functional and in good operating condition.
- Ensure that all water vessel policies and procedures are followed.
- Ensure the accuracy and timely submission of required reports.
- Assist in conducting accident investigations.
- Recommend that an employee's authorization to operate a water vessel be withdrawn for negligence, reckless operation, safety violations or citations, or due to medical reasons.

- Recommend disciplinary action for operators violating this policy.

**Safety Coordinators and Fleet Managers**

- Responsible for planning, organizing, and monitoring LDH’s Water Vessel Operator Safety Program

	SAFETY COORDINATOR	FLEET MANAGER
Policies and procedures are established and implemented	X	
Training courses are conducted and documented		X
Official Driving Records (ODR’s) from the Office of Motor Vehicles and Water Operator Records (WORs) from the Department of Wildlife and Fisheries are reviewed and maintained		X
Authorization/Operating History forms (DA 2066) are annually signed by the agency Assistant Secretary or their designee		X
National Association of State Boating Law Administrators safety training and required refresher courses are timely taken by authorized operators		X
Accidents are reported, investigated and properly documented	X	X
Employees satisfy all requirements before being authorized to operate a water vessel	X	X

**VI. QUESTIONS**

Questions regarding the interpretation, application, or requirements of this policy should be directed to the agency’s Water Vessel Fleet Manager or the LDH Safety & Security Manager (225-342-3501).

**VII. REVISION HISTORY**

January 30, 2019	Policy created
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