

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Statewide Online Special Certificate Agent for
Motorboat Registration and Titling
(LAC 76:I.328)

In accordance with the emergency provisions of R.S. 49:962 and under the authority of R.S. 34:851.37 and R.S. 56:6(21), the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopt LAC 76:I.328 providing for regulations governing electronic vessel and motor registration and titling.

The commission, through its secretary, has authority to designate and consign to special licensing or certificate agents, the issuance of recreational licenses, permits, motorboat registration certificates, and the collection of fees therefor. R.S. 34:851.37 specifically authorizes the Department of Wildlife and Fisheries to establish a system of special certificate agents to receive and process applications related to registration and titling of vessels and outboard motors, collect associated fees and taxes, and issue registration certificates and decals. The law also provides for special certificate agents to contract with the department for the administration of an electronic system to permit the recording of vessel and outboard motor registration information.

The department had previously contracted with a vendor for the development of vessel and motor registration/titling system. That agreement became the subject of a formal contract controversy. The state and the vendor mutually agreed to settle the contract controversy and release one another for the claims therefrom. The result of this settlement agreement was that the vendor would develop and provide the department access to a vessel and outboard motor registration/titling system in exchange for being allowed to serve as the exclusive online special certificate agent. This Emergency Rule establishes rules governing electronic special certificate agents and authorizes the department to enter into contracts with vendors to perform online motorboat registration and titling functions and authorizes the special certificate agent to collect and retain convenience fees on a transactional basis.

Failure to adopt a Rule providing a mechanism for the state to uphold its obligations under the aforementioned settlement agreement may result in a breach of the agreement and potentially subject the state to exposure of liability arising to imminent peril to the public welfare.

This Emergency Rule is effective November 20, 2022 and shall remain in effect for the maximum period allowed by law (180 days), unless rescinded or modified by the secretary, or until promulgation of a final Rule regulations governing electronic vessel and motor registration and titling, whichever occurs first.

Title 76

WILDLIFE AND FISHERIES

Part I. Wildlife and Fisheries Commission and Agencies Thereunder

Chapter 3. Special Powers and Duties Subchapter H. Electronic Licenses Issuance

§328. Electronic Vessel and Motor Registration and Titling

A. The secretary shall have authority to enter into contracts to acquire electronic methods to register and title vessels and outboard motors within the state purchasing regulations.

B. Such functions may be included as a component of the recreational hunting and fishing license point of sale system and performed by the same vendor, or may be contracted as an electronic certificate system specific for vessels and outboard motors separate from the recreational licensing platform.

C. The electronic collection of vessel or outboard motor certificate applications and fees collected pursuant thereto shall be in addition to the ability to apply for such certificates in person at the Baton Rouge headquarters, or via U.S. mail. In addition to any electronic special certificate agent contract, the secretary may contract with other special certificate agent brick-and-mortar facilities throughout the state, as he deems necessary to perform registration and titling for vessels and outboard motors.

D. The secretary may authorize, by contract, a transactional convenience fee for each online certificate transaction conducted by the electronic special certificate agent to be retained by the electronic special certificate agent. Such fee shall not exceed \$12 per certificate. The convenience fee shall be in addition to any registration or title certificate fees collected and shall be retained by the electronic special certificate agent.

E. Prior to collection of any applications for registration or title and any associated fees, the electronic special certificate agent shall execute and furnish to the Department a good and sufficient surety bond with a surety company qualified to do business as a surety in Louisiana. The sum of the bond shall be determined by the Secretary, but shall be not less than \$10,000, but shall not exceed \$100,000. The bond shall be in the name of the Department of Wildlife and Fisheries as obligee and remain in full force and effect for the entire term of the contract. If the electronic special certificate agent timely files all applications delivered to such certificate agent for filing and remits all fees and taxes collected, then the obligation of the surety shall be void. Should the electronic special certificate agent fail to timely file certificate applications, remit fees or taxes collected, or otherwise fail to meet the conditions of the contract, the department may file a claim against the bond for all costs associated with the claim, including any actual investigatory costs or attorney fees incurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:851.37 and R.S. 56:6(21).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 49:

Joe McPherson
Chairman