



Dossier du BHI N° S3/8151/CHRIS

LETTRE CIRCULAIRE No. 95/2005
26 septembre 2005

REGLE FINALE DE LA NOAA CONCERNANT LA DISTRIBUTION DES ENC

Madame la Directrice, Monsieur le Directeur,

Nous attirons votre attention sur les informations ci-dessous qui ont été reçues du capitaine de vaisseau Roger L. Parsons, Directeur de l'Office of Coast Survey de la NOAA des USA.

Le 6 septembre 2005, la NOAA (National Oceanic and Atmospheric Administration) des Etats-Unis a publié sa règle finale sur **les exigences de certification pour les distributeurs de cartes de navigation électronique et de produits hydrographiques de la NOAA** (voir <http://www.iho.shom.fr/ECDIS/NOAA-ENC-Rule-Sept-05.pdf>). Cette règle spécifie les normes pour les candidats à la distribution de cartes de navigation électroniques de la NOAA (ENC de la NOAA) en tant que données officielles. Deux types de certification sont proposés :

1. **Distributeur certifié d'ENC de la NOAA (CED)** – autorise le téléchargement d'ENC de la NOAA, leur fidèle reproduction et la redistribution de ces reproductions.
2. **Distributeur à valeur ajoutée certifié d'ENC de la NOAA (CEVAD)** – autorise le reformatage des ENC de la NOAA dans des cartes électroniques de navigation fonctionnelles (SENC) à l'aide d'un logiciel homologué, et permet également la distribution des SENC.

Les deux types de certification permettent mais ne nécessitent pas la compression, le chiffrement et l'assemblage avec d'autres données. Etant donné que les données ENC de la NOAA constituent la principale préoccupation de cette règle, et qu'il est obligatoire pour la certification que les ENC officielles de la NOAA demeurent inchangées en ce qui concerne l'exactitude de leur position et le contenu de l'information, la NOAA certifie, en effet, que les produits CED ou CEVAD contiennent des données officielles sur les ENC de la NOAA, et qu'elles correspondent donc aux exigences relatives à l'emport de cartes.

La NOAA souhaite, au moyen de cette règle, s'assurer que, bien qu'elles soient redistribuées, les données officielles des ENC de la NOAA soient mises à la disposition du public dans l'intérêt de la sécurité de la navigation dans les eaux des USA. Les procédures de certification sont décrites dans la sous-partie B annexée à la Règle en pièce jointe. Les demandes doivent être faites à l'adresse suivante :

NOAA/Office of Coast Survey
Chief, Marine Chart Division
jim.gardner@noaa.gov

Veillez agréer, Madame la Directrice, Monsieur le Directeur, l'assurance de ma haute considération,

Pour le Comité de direction,

Contre-amiral Kenneth BARBOR
Directeur

Annexe : Sous partie B de la règle concernant les ENC de la NOAA (*anglais uniquement*)

Subpart B of NOAA's ENC Rule

[Taken from US Federal Register / Vol. 70, No. 171 / Tue., Sept. 6, 2005 / Rules and Regulations]

Subpart B--Certification and Procedures

Sec. 995.10 Correspondence and applications.

(a) Distributors or value-added distributors desiring certification from **NOAA** shall provide a written request and application for certification to the Office of Coast Survey, Attention: Distribution Certification, N/CS, 1315 East West Highway, Silver Spring, Maryland 20910. Such a distributor or value-added distributor is hereafter referred to as Applicant. The Office of Coast Survey (OCS) is the approving office for certification under these requirements.

(b) Applicant shall provide an application for certification that describes how each element in the applicable sections of this part has been met. The application will also contain an acknowledgment, signed by a company principal, of all terms and conditions described in this part.

(c) Applicant shall use the appropriate template provided in Appendix A to subpart C of this part to prepare their request for certification.

(d) Applicant shall provide, with its application, a point of contact with mailing address, phone number, and e-mail address. Applicant shall immediately notify **NOAA**, through the Office of Coast Survey, of any changes to point of contact information. Failure to do so will be considered a violation of this part and may lead to termination of certification.

Sec. 995.11 Government review and approval.

(a) An application will be reviewed by **NOAA** within 90 days of receipt. If all requirements, as defined by this part, are adequately addressed, certification will be granted. If for any reason **NOAA** will be unable to process the application for certification within the 90-day time frame, Applicant will be notified and a revised date will be provided for a decision on the request.

(b) (1) **NOAA** will determine if the request for certification is complete and that it demonstrates that Applicant has met all of the applicable requirements described in this part.

(2) In the event that a request is incomplete or does not demonstrate that Applicant has met all of the applicable requirements, **NOAA** will consider the application unacceptable. **NOAA** will notify the Applicant of the deficiencies in writing. Applicant may re-submit a revised application within 90 days of receipt of **NOAA**'s denial notice. **NOAA** will review applications received within the 90-day resubmission period in the time frame described in paragraph (a) of this section. After the second review, if the application is still unacceptable, Applicant will be again notified of the deficiencies in writing and the process continues as stated in this section.

Sec. 995.12 Certification designation.

An Applicant that has been certified by **NOAA** as a CED may use the phrase "Certified **NOAA** ENC Distributor" on products and marketing materials. An Applicant that has been certified by **NOAA** as a CEVAD may use the phrase "Certified **NOAA** ENC Value Added Distributor" on products and marketing materials. Use of these phrases must include labeling to identify the product's contents and suitable use. (See Sec. 995.24(a)(4), (5) and (6) and (b)(3), (4) and (5)). Use of the **NOAA** emblem is described in Sec. 995.28 and is not automatically granted with certification.

Sec. 995.13 Transfer of certification.

A CED or CEVAD may not transfer its certification to another entity. If it is transferred the existing certification will be terminated.

(a) If prior to certification it is known that another entity will be assisting the entity applying for certification in the production or redistribution of the data, that other entity must be documented in the application process. Listed entities will be considered as falling under the umbrella of the parent company's certification. The name of the entity and its duties should be included as part of the application.

(b) If, subsequent to certification, a CED or CEVAD wishes to add another entity to assist it, a request in writing with the name of the entity and its duties shall be provided to the Office of Coast Survey, **NOAA** for acceptance. The Office of Coast Survey, **NOAA** will provide written notification of acceptance to the CED or CEVAD within 30 days of receipt of the request.

Sec. 995.14 Auditing.

NOAA reserves the right to audit CED or CEVAD to ensure that the certification requirements are being met. Such an audit may consist of: visits to the production facilities, product testing, confirmation of ISO 9001 certification, or confirmation of type approval for conversion software, and so forth.

Sec. 995.15 Termination of certification.

(a) In the event that **NOAA** determines that a CED or CEVAD is not meeting the requirements described in this part, the Office of Coast Survey, **NOAA** (OCS) will provide initial written notification of potential termination to the CED or CEVAD. OCS/**NOAA** will state in its notification to CED or CEVAD that termination of certification is under consideration.

(b) The initial notification of potential termination will be provided in writing by OCS to the CED or CEVAD, and shall state the reason for the potential termination. Reasons for termination may include, but are not limited to:

(1) CED or CEVAD contracts or in any way seeks to transfer the production or redistribution of all or part of the **NOAA** official data in the product to another entity.

(2) CED or CEVAD fails to, or is unable (in the opinion of **NOAA**) to carry out its responsibilities as described in this part.

(c) CED or CEVAD may submit written comments to OCS within 30 days of receipt of the OCS's initial written notification of potential termination, explaining why CED or CEVAD's certification should not be terminated.

(1) The written comments shall be submitted to: Director, Office of Coast Survey, National Ocean Service, **NOAA** (N/CS), 1315 East West Highway, Silver Spring, MD 20910.

(2) The written comments shall contain at least:

(i) Identification and contact information of the CED or CEVAD;

(ii) A statement that CED or CEVAD is responding to an initial written notification of potential termination by OCS; and

(iii) A thorough but concise argument as to why CED or CEVAD believes that its certification should not be terminated.

(d) The Director of OCS will take all timely written comments into account before taking final action, and in no case will the Director take final action until at least 45 days after CED or CEVAD's receipt of the initial written notification. A decision to terminate by the Director of OCS will state the reasons for termination and respond to all timely written comments submitted. Any final action taken by OCS constitutes final agency action on the matter.

(e) CED or CEVAD shall notify all recipients of its products that its certification has been revoked, and that the product may no longer be valid for use. In addition, the CED or CEVAD shall provide the dates of non-compliance.

Sec. 995.16 Term of certification.

The term of certification is five years from the date of issuance. At the end of the certification term, the process must be re-certified by the distributor or value added distributor submitting a request for certification as described in Sec. 995.10. It may also be revoked prior to the end of the term under the conditions described in Sec. 995.15.