



ORGANIZACION HIDROGRAFICA INTERNACIONAL

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26 de Septiembre del 2005.

REGLA FINAL DE LA NOAA PARA LA DISTRIBUCIÓN DE ENC<sub>s</sub>

Estimado Director,

Se llama su atención sobre la información que sigue a continuación, que hemos recibido del Capitán de Navío Roger L. PARSONS, Director de la Oficina de Levantamientos Costeros, NOAA, EE.UU..

El 6 de Septiembre del 2005, la "National Oceanic and Atmospheric Administration" (NOAA) de Estados Unidos publicó su regla final sobre los *Requerimientos de Certificaciones para Distribuidores de Cartas Electrónicas de Navegación / Productos Hidrográficos de la NOAA* (ver <http://www.ihp.shom.fr/ECDIS/NOAA-ENC-Rule-Sept-05.pdf>). Esta regla especifica las normas para los solicitantes que deseen distribuir Cartas Electrónicas de Navegación de la NOAA (ENC<sub>s</sub> de la NOAA) como datos oficiales. Se proponen dos tipos de certificación:

1. **Distribuidor Certificado de ENC<sub>s</sub> de la NOAA (CED)** - permite bajar ENC<sub>s</sub> de la NOAA, hacer copias exactas y redistribuir dichas copias.
2. **Distribuidor Certificado de Valor Añadido de ENC<sub>s</sub> de la NOAA (CEVAD)** - permite reformatear las ENC<sub>s</sub> de la NOAA en Cartas Electrónicas de Navegación Funcionales (SENC) utilizando programas homologados, y la distribución de dichas SENC<sub>s</sub>.

Ambos tipos de certificación permiten, pero no requieren, la compresión, codificación y embalaje con otros datos. Como los datos de ENC<sub>s</sub> de la NOAA son la principal preocupación de esta regla, y que es obligatorio para la certificación que las ENC<sub>s</sub> oficiales de la NOAA sigan inalteradas para la exactitud de las posiciones y el contenido informativo, la NOAA está certificando, en efecto, que los productos de un CED o CEVAD contienen datos oficiales de ENC<sub>s</sub> de la NOAA y, así pues, que cumplen los requerimientos de transporte de cartas.

La NOAA pretende, mediante esta regla, asegurarse de que, aunque sean redistribuidos, los datos oficiales de ENC<sub>s</sub> de la NOAA se proponen al público como apoyo de una navegación segura en aguas americanas. Se describen los procedimientos de certificación en la Subparte B de la Regla adjunta.

Deben dirigirse las solicitudes a:

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

En nombre del Comité Directivo  
Atentamente,

Contralmirante Kenneth BARBOR  
Director

Anexo: Subparte B de la Regla de ENC<sub>s</sub> de la NOAA (*Inglés únicamente*).

**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.