

§ 995.16

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(e) CED or CEVAD shall notify all recipients of its products that its certification has been revoked, and that the product may no longer be valid for use.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

§ 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 § 995.10. It may also be revoked prior to the end of the term under the conditions described in § 995.15.

Subpart C—Requirements for Certified Distributors and Value Added Distributors of NOAA ENC Products

§ 995.20 General.

The requirements for certification as a "Certified NOAA ENC Distributor" (CED) and "Certified NOAA ENC Value Added Distributor" (CEVAD) are described in this subpart.

§ 995.21 Registry of data users.

(a) CED or CEVAD shall maintain a registry of customers receiving NOAA ENC data. CED or CEVAD shall provide said registry to NOAA on a biannual basis for internal NOAA planning and product evaluation use. NOAA agrees to treat such information as proprietary (if requested to do so by the CED or CEVAD).

(b)(1) The registry shall include, but not be limited to:

- (i) Which NOAA ENC® cells were provided to each customer;
- (ii) Edition number of each cell provided;
- (iii) Updates provided for each cell;
- (iv) Method of distribution for each customer.

15 CFR Ch. IX (1–14 Edition)

(2) The registry may also include information about the type and size of vessel that the NOAA ENC data has been provided for as well as an anonymous unique identifier for the vessel.

§ 995.22 Training of data users.

CED or CEVAD shall provide some form of product training and education materials to the customer to ensure that the end user has a sufficient level of information about the intended use of the derived product and what is needed to properly use it (e.g., requires certain equipment).

§ 995.23 Acquisition of data.

(a) CED or CEVAD shall obtain official NOAA ENC® files only by directly downloading them from an official NOAA ENC site on the Internet.

(b)(1) After downloading NOAA ENC files, CED or CEVAD shall uncompress the files and compute a CRC checksum value for each NOAA ENC file and verify that it matches the CRC checksum value contained in the CATALOG.031 file provided with the NOAA ENC files by NOAA. This is to ensure that no NOAA ENC files have been corrupted during the download process.

(2) In the event that said CRC checksum value does not match that in the CATALOG.031 file, CED or CEVAD agrees to:

- (i) Repeat the download process;
- (ii) In the event that said CRC checksum value for the repeat download does not match that in the CATALOG.031 file, immediately notify the NOAA ENC Production Manager at *enc.chartproduction@noaa.gov*, and;
- (iii) Not redistribute any NOAA ENC that does not have a valid CRC checksum.

§ 995.24 Distribution of data.

(a) *Distribution of data by CEDs*—(1) *Format of redistributed data*—(i) *General*. Except as listed in paragraphs (a)(1)(ii) and (iii) of this section, CED agrees to redistribute NOAA ENC data only in the original form provided by NOAA after uncompressing and shall not change the file format (S–57 Edition 3.1 ENC or other formats specified by NOAA), or contents, or alter the NOAA ENC data in any way.

(ii) *Compression.* The NOAA ENC files may be compressed using a lossless compression technique provided that CED makes the decompression software available to the end user as part of the redistribution service. Decompressed files must have the same CRC checksum value as the original files. The CED agrees to make the compression/decompression software and documentation available to NOAA for testing.

(iii) *Encryption.* The NOAA ENC files may be encrypted by CED, providing that the encryption/decryption process does not result in any information loss and that CED makes the decryption software available to the end user as part of the redistribution service. Decrypted files must have the same CRC checksum value as the original files. CED shall make the encryption/decryption software and documentation available to NOAA for testing.

(2) *Frequency of distribution.* CED shall make all current editions of NOAA ENC files and all updates to or new editions of NOAA ENC files available to its customers within five working days of the files or updates being posted by NOAA. Documentation shall be provided to the customer concerning any time delays that may occur between official release of a NOAA ENC or update, and CED providing same to end users.

(3) *Distribution report.* CED shall provide a bi-annual report on when NOAA ENC files were downloaded and when they were redistributed to end-users.

(4) *Additional data.* (i) If CED provides other data to customers in addition to NOAA ENC data (e.g., ENC data from other nations, raster chart data, privately produced data, etc.), CED shall provide a clear indication to the customer which files are official NOAA ENC data and which files are not. This may be accomplished through means such as package labeling, notifications in software, or other means.

(ii) Additionally, any data that is included with NOAA ENC data must not result in embarrassment to the Department of Commerce or NOAA. There must be no conflict with any trademark rights and the inclusion of non-NOAA data will not constitute any en-

dorsement of or favoritism toward the non-NOAA data or CED.

(5) *Identification of type and contents.* CED shall ensure that NOAA ENC® files provided to an end user are clearly identified as to the type (e.g., direct unaltered copies) and contents (cells, updates, and ancillary files) and authenticity of the exchange set. This may be accomplished through means such as package labeling, notifications in software, or other means.

(6) *Use of product.* CED shall provide a clear indication to the customer the purpose of its products; for example, indicating whether or not the product, and the data contained within it, is suitable for navigation and if it meets Federal chart carriage requirements. If only some of the files meet Federal carriage requirements, CED shall provide clear indication which files do and which files do not. This may be accomplished through means such as package labeling, notifications in software, or other means.

(b) *Distribution of data by CEVADs—(1) Frequency of distribution.* CEVAD shall make all current editions of NOAA ENC files and all updates to or new editions of NOAA ENC files available to its customers within five working days of the files or updates being posted by NOAA. Documentation shall be provided to the customer concerning any time delays that may occur between official release of a NOAA ENC or update, and CED providing same to end users.

(2) *Distribution report.* CEVAD shall provide a bi-annual report to NOAA on when NOAA ENC files were downloaded and when they were redistributed or made available to end users.

(3) *Additional data.* (i) If CEVAD provides products to customers that incorporate other data in addition to NOAA ENC data (e.g., ENC data from other nations, raster chart data, privately produced data, etc.), CEVAD shall provide a clear indication in the product which data are from official NOAA ENC data and which data are not. This shall be done in a way that allows the navigation system to give the end user an automatic notification or warning that particular data elements within the product are not from the official NOAA ENC. Any such data shall not

degrade the official NOAA ENC data or information.

(ii) Additionally, any data that is included with NOAA ENC data must not result in embarrassment to the Department of Commerce or NOAA. There must be no conflict with any trademark rights and the inclusion of non-NOAA data will not constitute any endorsement of or favoritism toward the non-NOAA data or CEVAD.

(4) *Identification of type and contents.* CEVAD shall ensure that data provided to an end user clearly identify which NOAA ENC® files are included in the product as to the type (e.g., NOAA ENCs in another form than that provided by NOAA without degradation to positional accuracy or informational content) and the contents (cells, updates, and ancillary files) and authenticity of the NOAA ENC files used. This may be accomplished through means such as package labeling, notifications in software, or other means.

(5) *Use of product.* CEVAD shall provide a clear indication to the customer of the purpose of its products; for example, indicating whether or not the product, and the data contained within it, is suitable for navigation and if it meets Federal chart carriage requirements. If only some of the files meet Federal carriage requirements, CEVAD shall provide clear indication which files do and which files do not. This may be accomplished through means such as package labeling, notifications in software, or other means.

§ 995.25 Quality management system.

(a) *Quality management system for CEVADs.* (1) CEVAD shall operate a quality management system, based on ISO 9001–2000 or equivalent, which embraces all elements of the process used to process and redistribute NOAA ENC files. The minimum requirements for such a quality management system are those defined in this part. The quality management system must ensure that the production process complies with all relevant requirements of this part.

(2) The quality management system must, at a minimum, include an adequate account of:

(i) The quality objectives and the organizational structure, responsibilities,

and powers of management with regard to production quality;

(ii) The techniques, processes, and systematic actions that will be used for quality management throughout the production process, including NOAA ENC conversion and the quality of the product being redistributed;

(iii) The examination and tests that will be carried out before, during, and after processes essential for the quality of the product, and the frequency with which they will be carried out;

(iv) The quality records, such as inspection records and test data, qualification reports of personnel concerned resulting from the program specified herein; and

(v) The means for monitoring the achievement of the required quality of the product and the effective operation of the quality management system.

(3) Design and development changes shall be reviewed, verified, and validated as appropriate and approved by the ISO 9001 certification authority (or equivalent if another quality management system is used) before implementation.

(4) If the type approved conversion software is maintained by a third party, CEVAD shall ensure that no changes made to the conversion software render the type approval of the conversion software invalid, and shall evaluate the effects of such changes on the end users of the product.

(5) CEVAD shall analyze both internal information and that received from external parties in order to continually monitor and improve the production process and the product being redistributed.

(6) CEVAD shall ensure that personnel performing work affecting the production process are competent with regard to appropriate education, training, skills, and expertise.

(7) CEVAD shall conduct internal audits at planned intervals to determine whether the quality management system conforms to the requirements of this part and is effectively implemented and maintained. The audit program shall take into consideration the individual processes' importance in relation to the product quality, as well as results of previous audits. Selection of auditors and conducting of audits