

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Diana Hynek
Departmental Paperwork Clearance Officer
Office of the Chief Information Officer
14th and Constitution Ave. NW.
Room 6625
Washington, DC 20230

05/06/2005

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for approval of a new information collection received on 11/09/2004.

TITLE: Application and Certification Requirements for
Distributors of NOAA Electronic Navigational Charts

AGENCY FORM NUMBER(S): None

ACTION : APPROVED WITHOUT CHANGE
OMB NO.: 0648-0508
EXPIRATION DATE: 05/31/2008

BURDEN:	RESPONSES	HOURS	COSTS(\$,000)
Previous	0	0	0
New	278	535	31
Difference	278	535	31
Program Change		535	31
Adjustment		0	0

TERMS OF CLEARANCE: None

OMB Authorizing Official	Title
Donald R. Arbuckle	Deputy Administrator, Office of Information and Regulatory Affairs

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request	2. OMB control number b. <input type="checkbox"/> None a. _____ - _____
3. Type of information collection (<i>check one</i>) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested (<i>check one</i>) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
7. Title	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
8. Agency form number(s) (<i>if applicable</i>)	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
9. Keywords	
10. Abstract	
11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. ___ Individuals or households d. ___ Farms b. ___ Business or other for-profit e. ___ Federal Government c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government	12. Obligation to respond (<i>check one</i>) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>) a. ___ Application for benefits e. ___ Program planning or management b. ___ Program evaluation f. ___ Research c. ___ General purpose statistics g. ___ Regulatory or compliance d. ___ Audit	16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission) Name: _____ Phone: _____

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

SUPPORTING STATEMENT
(Application and Certification Requirements for
Distributors of NOAA Electronic Navigational Charts)

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

The National Oceanic and Atmospheric Administration (NOAA) Nautical Charting Program is authorized by the Coast and Geodetic Survey Act of 1947 (33 U.S.C. §§ 883a-b) to provide nautical charts and products for safe maritime commerce for U.S. and territorial waters to the limits of the U.S. Exclusive Economic Zone. The Hydrographic Service Improvement Acts of 1998/2002 reiterate this purpose. And, in August 2002, the United States Coast Guard issued a statement of policy stating its intent to amend its regulations in titles 33 and 46 of the Code of Federal Regulations, to agree with the International Maritime Organization amended chapter V of the International Convention for the Safety of Life at Sea, 1974, (SOLAS). These amendments, in part, allow an electronic chart display and information system (ECDIS) to be accepted as meeting the chart carriage requirements of chapter V.

Related to these amendments, NOAA recently began offering for free over the Internet, NOAA Electronic Navigational Charts (NOAA ENC®) that may be used in a type-approved ECDIS to meet the federal nautical chart carriage regulations. The certification information and related reporting requests establishes requirements by which entities may be certified to download, redistribute, repackage, or in some cases reformat, official ENCs, while retaining their official status for meeting chart carriage regulations. No other processes result in redistributed NOAA ENC products that meet chart carriage regulations. Entities and individuals without certification may continue to download official ENCs and use, alter, and/or distribute that data, but the result does not meet federal nautical chart carriage regulations.

NOAA developed these certification requirements to satisfy directives contained in Section 104 of the Hydrographic Services Improvement Act Amendments of 2002, codified in 33 U.S.C. § 892b(b)(1). The Act states that the Administrator of NOAA shall develop and implement a quality assurance program that is equally available to all applicants, under which the Administrator may certify hydrographic products that satisfy the standards promulgated by the Administrator under the Hydrographic Services Improvement Act. Hydrographic products are defined as “any publicly or commercially available product produced by a non-Federal entity that includes or displays hydrographic data.”

Because this process grants distributors the right to offer a product that is considered official NOAA ENC data (required for meeting chart carriage regulations), it is essential NOAA monitor all certified distributors to assure quality maintenance. As per OMB Circular A-130, NOAA reserves the right to request reports from certified distributors of NOAA ENC data to “ensure that information is protected commensurate with the risk and magnitude of the harm that would result from the loss, misuse, or unauthorized access to or modification of such information from harm should the data be misused.”

At present, four companies have expressed an interest in such certification, which cannot occur until these standards are promulgated. Certification of privately produced navigational products will allow the public a wider variety of specialized products that are considered official NOAA data for regulatory purposes as well as insuring that these products have the latest navigational information from NOAA incorporated into them.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

All requirements for information, reports, and the certification process itself, are requested to assure the quality of NOAA's official hydrographic data delivered to the public meets the minimum standards necessary for safe navigation.

All information requested as a part of certification will be collected by email, fax, or through the mail by NOAA's Office of Coast Survey (OCS). The frequency and the purpose of the information collection are detailed below (1-5). The section numbers and description of the type of information NOAA will request, correspond to the section numbers listed in the associated Federal Register proposed rule document.

- 1) The certification requirements request in Section 995.10 (Correspondence and Applications) that applicants desiring certification from NOAA shall provide a written request and application for certification to the Office of Coast Survey one time to determine if said applicant meets the standards necessary to be certified as an ENC distributor.
- 2) The certification requirements request in Section 995.21 (Registry of data users) that a CED or CEVAD maintain and provide to NOAA a registry of customers receiving NOAA ENC data on a biannual basis for internal NOAA planning and product evaluation use to better serve the needs of the public.
- 3) The certification requirements request in Section 995.23 (Acquisition of data) that a CED or CEVAD immediately notify the NOAA ENC Production Manager in the event that the CRC checksum value does not match that value in the CATALOG.031 file. This is to ensure that no NOAA ENC files have been corrupted during the download process. The distributor will report this error to NOAA for navigation safety reasons, when and if it occurs.
- 4) The certification requirements request in Section 995.24(a)(1)(ii) (Compression) that a CED agrees to make the compression/decompression and encryption/decryption software and documentation available to NOAA for testing. Providing documentation to OCS will occur one time for testing, to assure the quality of the data and maintain safe navigation.
- 5) The certification requirements request in Section 995.24(a)(1)(iii) (Encryption) that a CED or CEVAD provide, upon request, a distribution report on when NOAA ENC files were downloaded and when they were distributed to end users to assure data timeliness and quality for safety reasons and to best serve the needs of the public.
- 6) The certification requirements request in Section 995.24(a)(3) and (b)(2) (Distribution report) that a CED shall, on request, provide a report on when NOAA ENC files were downloaded and when they were distributed to end users is to assure the timeliness of the data to best meet the requirements of the public.
- 7) The certification requirements request in Section 995.24(a)(4)(i) and (b)(3)(i) (Additional data) that a CED or CEVAD provide a clear indication in the product which data are

NOAA ENC's and which are not, shall be provided as needed by the distributor to negate the harm from misrepresentation of the data for legal purposes.

8) The certification requirements request in Section 995.26(a)(3) (Error reporting) that a CEVAD immediately report any errors detected during the conversion process that apparently originate in the NOAA ENC files for NOAA quality assurance reasons.

The collection complies with all applicable Information Quality Guidelines. The information requested will not be disseminated to the public or used to support information that will be disseminated to the public. The disclosure of propriety information will be held in confidentiality as regulated under the Trade Secrets Act. NOAA will not violate that Act's prohibitions against unauthorized agency disclosures of trade secrets or other confidential business information.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The collection of information involves filling out a form, which can be obtained from the NOAA website <http://nauticalcharts.noaa.gov/mcd/enc/index.htm>. The collection of any records by NOAA may involve electronic means via email if the distributor so chooses.

4. Describe efforts to identify duplication.

The collection of records associated with distributing ENC's is not duplicative because only NOAA produces official ENC's in NOAA's geographic area of responsibility. In addition, no other federal entity has the authority to certify distributors of NOAA ENC data. Therefore, since there are no duplicative products, and no duplicative certification program, there will be no duplicate collection of information about that distribution.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

This certification process is voluntary and is obtained through self-certification. Only those applicants who wish to distribute ENC data with the phrase "Certified NOAA ENC Distributor" or "Certified NOAA ENC Value Added Distributor" on products and marketing materials need apply.

ENC's are free to obtain and are available at any time to download from the NOAA website: <http://nauticalcharts.noaa.gov/mcd/enc/index.htm>. An application template has been provided to insure the certification goes through the first time assuming the criteria is met. And, the duration of certification is five years from the date of issuance. The recurring report information collection burden was designed to be limited, typically 32 hours per year per distributor, in order to not burden small businesses.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

NOAA is mandated to set up this procedure to certify distributors under the authority of 33 U.S.C. 892b.304(b)(1). NOAA must set forth these standards for the public who wish to be official NOAA ENC distributors. The program will not be adversely affected if the record keeping is not collected. These collections are for the benefit of the public to provide a variety of desired products and to insure safe navigation.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

There are no circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A proposed rule is in submission for public comments.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payment or gifts will be provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

NOAA is stating that the information requested by NOAA will not be disseminated to the public or used to support information that will be disseminated to the public. Any disclosure of proprietary information will be held in confidentiality as regulated under the Trade Secrets Act. NOAA will not violate that Act's prohibitions against unauthorized agency disclosures of trade secrets or other confidential business information. Furthermore, NOAA will not share confidential information under the authority of OMB Circular No. A-130. The OMB Circular states that: "Agencies will: Limit the sharing of information that identifies individuals or contains proprietary information to that which is legally authorized, and impose appropriate conditions on use where a continuing obligation to ensure the confidentiality of the information exists."

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

There are no questions of a sensitive nature on either the certification information or the record information.

12. Provide an estimate in hours of the burden of the collection of information.

The total estimate of burden hours annually for all 9 distributors is 535 hours (the additional 2 hours responsible from the Value Added Distributors is included in this total, detail below). The total estimate of burden hours per distributor is approximately 60 hours a year.

The total estimated cost for all 9 distributors for the hour burden total of 535 hours is \$16,050 dollars a year (the \$20 for the Value Added Distributor is included in this total, detail below). The total estimated cost per distributor is approximately \$5,228 dollars a year.

The burden per distributor should not vary. It is believed much of the information requested by NOAA the distributors keep as part of customary and usual business practices for its own best economic interests and safety.

The maximum number of respondents expected for certification is 9 over three years (PRA approval duration). This number is based on the number of distributors already distributing charts, interested parties, and what the market will bear. Because the applicants expected are few, the maximum number of 9 is used for annual calculations.

Currently, the estimated number of times a customer might desire updated files would be monthly and NOAA has used that number in its calculations.

Five years is the duration of certification; this number was used for any request that occurs only once over the 5 years in order to annualize the total.

The estimated numbers, shown below, were arrived at through reference to the certification document (see attached). CED stands for "Certified NOAA ENC Distributor" and CEVAD stands for "Certified NOAA ENC Value Added Distributor."

The total number of hours for all 9 distributors, annually is as follows:

1) Section 995.10 Correspondence and Applications- Distributors or value-added distributors desiring certification from NOAA shall provide a written request and application for certification.

29 hrs- Application: 16 hours once per distributor (16 hrs x 9 distributors/ 5 years, one time).

2) Section 995.21 Registry of data users- CED/CEVAD shall maintain a registry of customers.

7 hrs- Set up registry: 4 hours once per distributor (4 hrs x 9/ 5 years, one time)

216 hrs- Maintain registry: 2 hours a month per distributor (2 hrs x 9 x 12, monthly)

3) Section 995.23 Acquisition of data - In the event that said CRC checksum value for the repeat download does not match that in the CATALOG.031 file, CED/CEVAD shall immediately notify the NOAA ENC Production Manager at enc.chartproduction@noaa.gov...

9 hrs- Notify: 1 hour annually per distributor (1 hr x 9, occasional/once each year, estimate)

4) Section 995.24 (a)(1)(ii) Compression- The CED agrees to make the compression/decompression software and documentation available to NOAA for testing.

1 hr- Send software and documentation to NOAA: 30 minutes once per distributor to burn disk and mail (30 x 9 = 4.5 hrs, rounded up to 5 hours/ 5 years, one time)

5) Section 995.24 (a)(1)(iii) Encryption- CED shall make the encryption/decryption software and documentation available to NOAA for testing.

1 hr- Send software and documentation to NOAA: 30 minutes once per distributor to burn disk and mail (30 x 9 = 4.5 hrs, rounded up to 5 hours/ 5 years, one time)

6) Section 995.24 (a)(3) and (b)(2) Distribution report - CED/CEVAD shall provide a quarterly report on when NOAA ENC files were downloaded and when they were distributed to end-users.

54 hrs- Provide report: 1.5 hours a quarter per distributor (1.5 hrs x 9 x 4, quarterly)

7) Section 995.24 (a)(4)(i) and (b)(3)(i) Additional data- CED/CEVAD 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.

216 hrs- Label files: 2 hours a month per distributor (2 hrs x 9 x 12, monthly)

Note: NOAA does not anticipate a high number of Value Added applicants and is using the estimate of 2 distributors for accounting purposes for the following:

8) Section 995.26 (a)(3) Error Reporting- Any errors detected during the conversion process shall be logged and investigated prior to releasing the data in which the errors occurred. Any errors that apparently originate in the NOAA ENC files shall be immediately reported to NOAA.

2 hrs- Error report: 1 hour annually per distributor (1 hr x 2, occasional/once each year, estimate)

535 total hours for 9 distributors yearly or approximately 60 hours per distributor yearly

The estimated annualized cost for the hour burden total of 535 hours a year for all 9 distributors is based on the wage of one cartographer at \$20 per hour, plus one office clerk at \$10 per hour. NOAA believes there is not a high enough demand to warrant further staff for the information required. All wages were obtained from the Bureau of Labor and Statistics Occupational Employment Statistics survey of 2002.

\$16,050 total annual cost burden- 535 hrs x 20 dollars + 535 hrs x 10 dollars, annual.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

It is estimated that the system life cycle for hardware is about 3 years, meaning that the computers should be upgraded every three years to increase performance. The costs of the computers are based on the average price of an off-the-shelf computer from any retail store. Cost estimates are not expected to vary widely.

A) Total startup costs are \$1,666.66 annually per distributor (for all 9 distributors = \$14,999.94, rounded up to **\$15,000**).

Startup costs include:

\$833.33 annually, per distributor, for the cost of one desktop computer (estimated at \$2,500/3 years). The cost is for one computer, with the necessary suite of software needed to collect and maintain the data and provide the requested reports.

\$833.33 annually, per distributor, for the cost of a new server to backup information for storage (estimated at \$2,500/3 years).

B) Total recurring costs are \$1,801.84 annually per distributor (for all 9 distributors the cost is approximately \$16,216.56, rounded down to **\$16,000**)

Recurring costs include:

\$75 annually, per distributor, for the cost of a two-year onsite service contract (\$150.00/ 2). This estimate is based on a survey of costs online for desktop computers.

\$833.33 annually, per distributor, for the cost of upgrading to a new server to backup information for storage after 3 years (\$2,500/3). The price is based on average price of an off-the-shelf server from any retail store.

\$833.33 annually, per distributor, for the cost of upgrading to a new computer after 3 years (\$2,500/3). The price is based on the 2004 price of an off-the-shelf computer from any retail store.

\$36.33 annually, per distributor, for the cost of upgrading the software associated with the report requirement (\$109/ 3 years). This should only need to be done once over the term of certification based on experience. The cost was determined from online price quote of an upgrade to Microsoft Excel or Access.

\$20.00 annually, per distributor, for the cost of labels. It is \$18.59 for a box of 40 and the maximum should be 3 boxes per year if the distributor needs to send out monthly updates to the estimated number of 10 customers. The cost was determined from an office supply store price.

\$3.85 one time, per distributor, for the cost of mailing the certification document to NOAA by Priority Mail through the U.S. Postal Service. The cost was determined from the exact cost of sending a priority envelope, weighing less than one pound, through the U.S. mail.

All other report information may be emailed to NOAA at no cost to the distributor.

All other associated costs of equipment associated with producing the product are considered as part of customary and usual business of private practices.

14. Provide estimates of annualized cost to the Federal government.

It is estimated that the cost to the Federal government would be \$ 100,000.00, which equates to the salary of one GS-13 full time Federal employee in the D.C. area, any associated travel, and processing equipment and supplies necessary to complete the certification process for the customer.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

This is a program change for new collection.

16. For collections whose results will be published, outline the plans for tabulation and publication.

There are no plans to publish any of the results.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Not seeking any exceptions.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

Not seeking any exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

The collection will not employ statistical methods.

COPIES:

1) The following are the application forms requested by NOAA for every applicant (only one of the forms is necessary, not both):

OMB Control # _____ Expires _____

Application for Certification as “Certified NOAA ENC Distributor”

Company Name
Company Address
Company Phone Number
Company Fax Number
Company E-Mail Address

Point of Contact
Point of Contact Address
Point of Contact Phone Number
Point of Contact Fax Number
Point of Contact E-Mail Address

This is a request for the above named company (hereinafter referred to as Distributor to be certified as a “Certified NOAA ENC Distributor” (CED). This document describes how each of the requirements for certification is being met. Descriptive titles after each number in parenthesis correspond to section titles in the rule.

(1) Registry of data users.

Include a description of the data user registry, including:

- a) What data elements it contains, specifically showing how the required elements are included;
- b) A hardcopy sample of the report that will be periodically submitted to NOAA;
- c) A short description of how the registry is maintained.

(2) Training of data users

Include a description of any training and a copy of any documentation provided to users that is intended to meet this requirement.

(3) Acquisition of data

Distributor asserts that all procedures described in this requirement for the acquisition of NOAA ENC[®] data for distribution are being followed.

(4) Distribution of data/General

Distributor asserts that all NOAA ENC[®] data distributed will be in the format described by this requirement.

(5) Distribution of data/Compression

Distributor shall indicate if data compression techniques are used. If Distributor uses data compression techniques, Distributor asserts that the process meets the requirements of this section.

(6) Distribution of data/Encryption

Distributor shall indicate if data encryption techniques are used. If Distributor uses data encryption techniques, Distributor asserts that the process meets the requirements of this section.

(7) Distribution of data/Frequency of distribution

Distributor asserts that any updates will be transmitted to their users within the time constraints described by this requirement.

(8) Distribution of data/Distribution report

Distributor shall provide an example of the distribution report described by this requirement.

(9) Distribution of data/Additional data

Distributor shall indicate if additional data is to be distributed with the NOAA ENC[®] data. If so, Distributor shall provide examples of how the data users will be informed as to the official and unofficial contents of the data as described in this requirement.

(10) Distribution of data/Identification of contents

Distributor shall provide examples of how the contents of the NOAA ENC[®] files will be identified to the users.

(11) Use of NOAA emblem

Distributor acknowledges that a separate request for the use of the NOAA emblem must be submitted according to the procedure described in § 995.28.

(12) Limitation on Endorsements

Distributor acknowledges that NOAA does not automatically, directly, or indirectly endorse any product or service provided, or to be provided, by Distributor, its successors, assignees, or licensees. Distributor shall not in any way imply that this certification is an endorsement of any such product or service without separate, written permission.

(13) Correspondence and Applications/Requests for Certification

Distributor acknowledges and agrees to all procedures and requirements described pertaining to the certification process.

(14) Correspondence and Applications/Point of contact

Distributor agrees to immediately notify the Government of any changes to point of contact information.

(15) Auditing

Distributor acknowledges that NOAA reserves the right to audit Distributor to ensure that these requirements are being met.

(16) Termination of certification

Distributor acknowledges the conditions leading to and procedures for the termination of certification as described in the requirements.

(17) Term of certification

Distributor acknowledges that the duration of certification is five years from the date of issuance.

(18) Liability

By signing this request for certification, Distributor pledges to indemnify and hold harmless the U.S. Government for any loss, claim, damage, or liability of any kind, the extent caused by the negligence of Distributor or its employees, arising out of the use by the Distributor, or any Party acting on its behalf or under its authorization, of NOAA ENC[®] data.

Signature of this request constitutes an acknowledgement by Distributor of ALL applicable terms and conditions described in the certification requirements.

Signed:

Title:

Date:

OMB Control # _____ Expires _____

Application for Certification as

“Certified NOAA ENC Value Added Distributor”

Company Name

Company Address

Company Phone Number

Company Fax Number

Company E-Mail Address

Point of Contact

Point of Contact Address

Point of Contact Phone Number

Point of Contact Fax Number

Point of Contact E-Mail Address

This is a request for the above named company (hereinafter referred to as Value Added Distributor) to be certified as a “Certified NOAA ENC Value Added Distributor” (CEVAD). This document describes how each of the requirements for certification is being met. Descriptive titles after each number in parenthesis correspond to section titles in the rule.

(1) Registry of data users.

Include a description of the data user registry, including:

- a) What data elements it contains, specifically showing how the required elements are included;
- b) A hardcopy sample of the report that will be periodically submitted to NOAA;
- c) A short description of how the registry is maintained.

(2) Training of data users

Include a description of any training and a copy of any documentation provided to users that is intended to meet this requirement.

(3) Acquisition of data

Value Added Distributor asserts that all procedures described in this requirement for the acquisition of NOAA ENC[®] data for distribution are being followed.

(4) Quality Management System

Value Added Distributor shall provide a copy of the ISO 9001-2000 certification or certification of compliance with an equivalent program of quality management that covers the processes described in this section of the requirements.

(5) Conversion of NOAA ENC[®] files to other formats

Value Added Distributor asserts that all NOAA ENC[®] content and accuracy are preserved during the conversion process as described in this section of the requirements.

(6) Conversion of NOAA ENC[®] files to other formats/Software certification

Value Added Distributor shall provide a copy of the type approval certificate for the software used to convert the NOAA ENC[®] files to the Value Added Distributor's format.

(7) Conversion of NOAA ENC[®] files to other formats/Error reporting Value Added Distributor asserts that they shall log and report any errors in the NOAA ENC[®] data detected during the conversion process. Value Added Distributor shall provide an example of the report format that they will use.

(8) Conversion of NOAA ENC[®] files to other formats/Format check

Value Added Distributor asserts that all data shall be checked for conformance with Value Added Distributor's own format specifications and shall test load the converted data as described in this section of the requirements.

(9) Distribution of data/Frequency of distribution

Value Added Distributor asserts that any updates will be transmitted to their users within the time constraints described by this requirement.

(10) Distribution of data/Distribution report

Value Added Distributor shall provide an example of the distribution report described by this requirement.

(11) Distribution of data/Additional data

Value Added Distributor shall indicate if additional data is to be distributed with the NOAA ENC[®] data. If so, Value Added Distributor shall provide examples of how the data users will be informed as to the official and unofficial contents of the data as described in this requirement.

(12) Distribution of data/Identification of contents

Value Added Distributor shall provide examples of how the contents of the NOAA ENC[®] files will be identified to the users.

(13) Format validation software testing

The validation software used by Value Added Distributor shall be tested according to this requirement and the results stated in this section of the request for certification.

(14) Use of NOAA emblem

Value Added Distributor acknowledges that a separate request for the use of the NOAA emblem must be submitted according to the procedure described in § 995.28.

(15) Limitation on Endorsements

Value Added Distributor acknowledges that NOAA does not automatically, directly, or indirectly endorse any product or service provided, or to be provided, by Value Added Distributor, its successors, assignees, or licensees. Value Added Distributor shall not in any way imply that this certification is an endorsement of any such product or service without separate, written permission.

(16) Correspondence and Applications/Requests for Certification

Value Added Distributor acknowledges and agrees to all procedures and requirements described pertaining to the certification process.

(17) Correspondence and Applications/Point of contact

Value Added Distributor agrees to immediately notify the Government of any changes to point of contact information.

(18) Auditing

Value Added Distributor acknowledges that NOAA reserves the right to audit Value Added Distributor to ensure that these requirements are being met.

(19) Termination of certification

Value Added Distributor acknowledges the conditions leading to and procedures for the termination of certification as described in the requirements.

(20) Term of certification

Value Added Distributor acknowledges that the duration of certification is five years from the date of issuance.

(21) Liability

By signing this request for certification, Value Added Distributor pledges to indemnify and hold harmless the U.S. Government for any loss, claim, damage, or liability of any kind, the extent caused by the negligence of Value Added Distributor or its employees, arising out of the use by the Value Added Distributor, or any party acting on its behalf or under its authorization, of NOAA ENC[®] data.

Signature of this request constitutes an acknowledgement by Value Added Distributor of ALL applicable terms and conditions described in the certification requirements.

Signed:

Title:

Date:

2) The following are copies of statutes referenced in Section A, Question 1:

33 U.S.C. §§ 883a-b:

TITLE 33 > CHAPTER 17 > SUBCHAPTER II > Sec. 883a.

Sec. 883a. - Surveys and other activities

To provide charts and related information for the safe navigation of marine and air commerce, and to provide basic data for engineering and scientific purposes and for other commercial and industrial needs, the Secretary of Commerce is authorized to conduct the following activities:

- (1) Hydrographic and topographic surveys;
- (2) Tide and current observations;
- (3) Geodetic-control surveys;
- (4) Field surveys for aeronautical charts;
- (5) Geomagnetic, seismological, gravity, and related geophysical measurements and investigations, and observations for the determination of variation in latitude and longitude.

Sec. 883b. - Dissemination of data; further activities

In order that full public benefit may be derived from the operations of the National Ocean Survey by the dissemination of data resulting from the activities herein authorized and of related data from other sources, the Secretary of Commerce is authorized to conduct the following activities:

- (1) Analysis and prediction of tide and current data;
- (2) Processing and publication of data, information, compilations, and reports;
- (3) Compilation and printing of nautical charts;
- (4) Distribution of nautical charts and related navigational publications.

The Hydrographic Service Improvement Acts and 33 U.S.C. 892a-b:

**TITLE 33. NAVIGATION AND NAVIGABLE WATERS
CHAPTER 17. NATIONAL OCEAN SURVEY
NOAA HYDROGRAPHIC SERVICES**

33 USCS § 892a (2003)

§ 892a. Functions of the Administrator

(a) Responsibilities. To fulfill the data gathering and dissemination duties of the Administration under the Act of 1947 [33 USCS §§ 883a et seq.], the Administrator shall--

(1) acquire and disseminate hydrographic data;

(2) promulgate standards for hydrographic data used by the Administration in providing hydrographic services;

(3) promulgate standards for hydrographic services provided by the Administration;

(4) ensure comprehensive geographic coverage of hydrographic services, in cooperation with other appropriate Federal agencies;

(5) maintain a national database of hydrographic data, in cooperation with other appropriate Federal agencies;....

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33 USCS § 892b (2003)

§ 892b. Quality assurance program

(a) Definition. **For purposes of this section, the term "hydrographic product" means any publicly or commercially available product produced by a non-Federal entity that includes or displays hydrographic data.**

(b) Program.

(1) In general. The Administrator--

(A) by not later than 2 years after the date of enactment of the Hydrographic Services Improvement Act Amendments of 2002 [enacted Dec. 19, 2002], shall, subject to the availability of appropriations, develop and implement a quality assurance program that is equally available to all applicants, under which the Administrator may certify hydrographic products that satisfy the standards promulgated by the Administrator under section 303(a)(3) of this Act [33 USCS § 892a(a)(3)];

(B) may authorize the use of the emblem or any trademark of the Administration on a hydrographic product certified under subparagraph (A); and

(C) may charge a fee for such certification and use.

(2) Limitation on fee amount. Any fee under paragraph (1)(C) shall not exceed the costs of conducting the quality assurance testing, evaluation, or studies necessary to determine whether the hydrographic product satisfies the standards adopted under section 303(a)(3) [33 USCS § 892a(a)(3)], including the cost of administering such a program.

(c) Limitation on liability. The Government of the United States shall not be liable for any negligence by a person that produces hydrographic products certified under this section.

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HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

2002. Act Dec. 19, 2002, in subsec. (b), substituted para. (1) for one which read:

"(1) In general. The Administrator may--

"(A) develop and implement a quality assurance program that is equally available to all applicants, under which the Administrator may certify hydrographic products that satisfy the standards promulgated by the Administrator under section 303(a)(3);

"(B) authorize the use of the emblem or any trademark of the Administration on a hydrographic product certified under subparagraph (A); and

"(C) charge a fee for such certification and use."