

**§ 996.12 Development of standards compliance tests for a hydrographic product or class.**

(a) NOAA shall work, to the extent practicable, through existing, recognized, compliance testing bodies in the writing and adopting of compliance tests for a hydrographic product or class. It shall be the responsibility of the sponsor to propose an appropriate compliance testing body. NOAA may accept this body at its discretion, or may select an alternate body. NOAA will then undertake, jointly with the sponsor and acknowledged representatives of the affected communities, to secure the cooperation of the selected compliance testing body.

(b) NOAA shall undertake, jointly with representatives of the affected community, members of the compliance testing body, other governmental representatives, and the sponsor as appropriate, to write compliance tests for the hydrographic product or class according to the practices of the compliance testing body and the Quality Assurance Program standard adopted by NOAA. Participation in the writing of compliance tests may be determined according to the procedures of the compliance testing body.

(c) NOAA shall then undertake, jointly with representatives of the affected community, members of the compliance testing body and the body itself, other governmental representatives, and the sponsor as appropriate, to have the resulting compliance tests adopted according to the procedures of that body.

(d) NOAA may, at its option, proceed without the participation of an existing, recognized, compliance testing body should it so choose. Such action might be taken, for example, if there were no appropriate compliance testing body. In this eventuality, NOAA will adhere to the following general procedure:

(1) Announce, in the FEDERAL REGISTER or by other appropriate means, NOAA's intention to organize and chair a working group to write and publish compliance tests for the hydrographic product or class;

(2) Solicit, via the FEDERAL REGISTER or by other appropriate means, participation and select, reject, and/or revoke

permission to participate as NOAA deems appropriate so as to proceed in an orderly and representative manner in writing compliance tests;

(3) Initiate, schedule, host, and chair, or designate a chair for, the work of the working group;

(4) Circulate, via the FEDERAL REGISTER, or by other appropriate means, the drafts of the working group;

(5) Announce, via the FEDERAL REGISTER or by other appropriate means, a NOAA proposed final version of the compliance tests and provide an opportunity for public comment;

(6) Announce, via the FEDERAL REGISTER or by other appropriate means, and make available the final version of the compliance tests, and

(7) Provide the necessary administrative support.

(e) NOAA may, at its option, adopt existing compliance tests as the NOAA compliance tests for this program. In this eventuality, NOAA shall adhere to the following general procedure:

(1) Announce, in the FEDERAL REGISTER or by other appropriate means, NOAA's intention to adopt existing compliance tests for the proposed hydrographic product or class; and

(2) Solicit, via the FEDERAL REGISTER or by other appropriate means including public meetings, comment on the proposed compliance tests that NOAA proposes to adopt, and shall consider the comments received.

(f) Alternatively, NOAA may, at its option, proceed by writing compliance tests by itself. Such action might be used, for example, in cases where the tests are obvious. Producing exact copies of existing NOAA products might be one such case. Once written, these NOAA-authored tests shall be made publicly available for comment, and comments shall be considered before NOAA publishes the final compliance tests.

(g) At the conclusion of the compliance test writing, whether through an existing body, by a NOAA-convened working group, by adopting existing compliance tests, or by NOAA itself, NOAA shall consider the resulting compliance tests and comments, and either adopt or reject them as the NOAA Quality Assurance Program

compliance tests for the particular hydrographic product standard. NOAA's decision shall be publicly announced in the FEDERAL REGISTER or by other appropriate means.

(h) Any party may request NOAA to reconsider its decision to adopt or reject the compliance tests by submitting its request in writing to the Quality Assurance Program address within 30 days of NOAA's announcement of its decision. NOAA shall have, if its other obligations permit, 60 calendar days after the receipt of a request for reconsideration to either deny the request, or to reconsider and announce its decision. NOAA's original decision if unappealed within 30 days, or its decision upon reconsideration shall be considered final.

**§ 996.13 Determination of whether to offer certification for a hydrographic product or class.**

(a) Certification of a hydrographic product or class shall be at the option of NOAA. NOAA may decide at any time whether or not to offer certification for a product or class. However, it is most likely that a determination will be made only after a non-Federal entity has submitted a specific product for certification. NOAA's decision shall be based on the following criteria:

- (1) The suitability of the adopted standards and tests for their intended purpose;
- (2) The availability of a qualified entity to perform the compliance tests;
- (3) Availability of resources; and
- (4) Other relevant criteria as they become apparent.

(b) NOAA's decision as to whether certification for a hydrographic product or class is offered shall be publicly announced in the FEDERAL REGISTER or by other appropriate means.

(c) Any entity may request NOAA to reconsider its decision to offer or not offer certification by submitting its request in writing to the Quality Assurance Program address within 30 days of NOAA's announcement of its decision. NOAA shall have, if its other obligations permit, 60 calendar days after the receipt of a request for reconsideration to either deny the request, or to reconsider and announce its decision.

(d) NOAA's original decision if unappealed within 30 days, or its decision upon reconsideration, shall be considered final.

**Subpart C—Certification of a Hydrographic Product and Decertification.**

**§ 996.20 Submission of a hydrographic product for certification.**

(a) Upon adoption by NOAA of standards and compliance tests, any non-Federal entity may submit a hydrographic product for certification under a particular standard. This non-Federal entity shall be known as the applicant. Submission shall be made in writing to the Quality Assurance Program address. The submission shall include:

- (1) Name and description of the hydrographic product and its product class if any;
- (2) Identification and contact information for the non-Federal entity submitting the product for certification.
- (3) The identification of the standard and compliance tests adopted by this Quality Assurance Program under which the hydrographic product is to be certified;
- (4) A proposed, qualified, competent, independent compliance testing body to perform the compliance tests, which NOAA may accept at its discretion, or for which NOAA may select an alternative testing body;
- (5) Other information deemed relevant by the sponsor or requested by NOAA.

(b) [Reserved]

**§ 996.21 Performance of compliance testing.**

(a) NOAA and the applicant shall submit the applicant's hydrographic product to the testing body for performance of the compliance tests. That body shall determine compliance or non-compliance of the hydrographic product with the NOAA-adopted standard, and shall provide to NOAA written documentation stating the results of the compliance tests according to its usual practices.

(b) Alternatively, NOAA may choose, at its option, to perform, have performed by a NOAA-designated entity,