

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,

or waive the compliance tests for a hydrographic product. This alternative may be used, for example, when there is no qualified entity to perform the compliance tests, where the compliance tests are simple, or when self-certification of compliance would be appropriate.

(c) Items failing the compliance tests may be changed by the applicant and retested. Items passing the compliance test upon retest shall be deemed compliant as if they had passed said tests initially.

§ 996.22 Certification.

(a) A hydrographic product that has passed the compliance tests shall automatically be considered for certification by NOAA. NOAA shall make its certification determination, if its other obligations permit, within 60 calendar days following receipt of the compliance test results. NOAA shall make a certification determination based upon the following criteria:

- (1) The results of the compliance tests;
- (2) The potential for the hydrographic product to impair public safety;
- (3) Successful completion of any administrative requirements, including the payment of required fees, as may be specified by NOAA;
- (4) The potential for certification to cause embarrassment to the Agency or the Department;
- (5) Other relevant criteria as they become apparent.

(b) Hydrographic products receiving a certification determination in the affirmative shall be designated as “certified” by NOAA. NOAA shall provide a written document to the sponsor indicating such, and shall announce its determination in the FEDERAL REGISTER or by other appropriate means. Certification shall mean that the hydrographic product has been found to be in compliance with the NOAA-adopted standard for that hydrographic product or class. Certification conveys no express or implied warranty as to the merchantability or fitness for a particular purpose; conveys no express or implied liability on the part of the Government of the United States for the hydrographic products; and con-

veys no automatic, direct or indirect NOAA endorsement of any product or service.

(c) Certification shall be for a term of 3 years unless otherwise specified by the Administrator.

(d) A certification may be renewed, at the request of sponsor and the option of NOAA, for a period of 2 years. Sponsors may request the renewal of a certification by writing to the Quality Assurance Program address at least 120 calendar days before the expiration of an existing certification. The request shall include:

- (1) Identifying and contact information for the sponsor;
- (2) Identifying information for the relevant hydrographic product(s) and the standard(s) under which they were certified;
- (3) Evidence sufficient to assure NOAA that the hydrographic product still meets the standard under which it was certified; and
- (4) Other information as may be requested by NOAA.

(e) NOAA shall decide within 60 calendar days, if its other obligations permit, whether to renew a certification. NOAA’s decision shall be based on whether the hydrographic product continues to meet the applicable standard, and other relevant criteria as they become apparent.

(f) The sponsor shall have an opportunity to request reconsideration of NOAA’s decision. Said request shall be submitted in writing, to the Quality Assurance Program address, post-marked within 30 days of NOAA’s announcement of its decision, and shall contain written material supporting the requestor’s position. NOAA shall have, if its other obligations permit, 30 calendar days from the receipt of a request for reconsideration to either deny the request, or to reconsider and announce its decision.

(g) NOAA’s decision, either the original decision if unappealed within 30 days, or the decision after the request for reconsideration, shall be considered final.

§ 996.23 Audit and decertification of hydrographic products.

(a) NOAA may audit hydrographic products it has certified. NOAA may