§ 996.3 Fees.

NOAA may charge for its Quality Assurance Program activities such sums as may be permitted or required under this Act, or under other statutory authorities. Such sums are non-refundable. NOAA will attempt to identify any such charges upon first submission of a hydrographic product. However, the intent to charge and the amounts may change. NOAA will promptly notify the sponsor to withdraw hydrographic products from consideration under the Quality Assurance Program should they so choose.

§ 996.4 Liability.

The Government of the United States shall not be liable for any negligence by producers of hydrographic products certified under this part.

Subpart B—The Quality Assurance Program for Hydrographic Products

§ 996.10 Submission and selection of hydrographic products for the development of standards and compliance tests.

(a) Any non-Federal entity may submit a hydrographic product to be considered for the development of standards and compliance tests under this Quality Assurance Program.

(b) Submission shall be made to the Quality Assurance Program address below, or to such other address as may be indicated in the future: Director (N/C), ATTN: Hydrographic Product Quality Assurance Program, Office of Coast Survey, NOAA, 1315 East West Highway, Silver Spring, MD 20910.

(c) The submission shall include:

(1) Name and description of the proposed hydrographic product.

(2) The non-Federal entity submitting the product for the development of standards and compliance tests, and contact information for that entity. This non-Federal entity shall be known as the sponsor.

(3) The names and contact information of proposed representatives of the affected communities who have committed to participate substantively in the writing of standards and compliance tests. Affected communities might include: manufacturers, users, regulators, resellers, developers of products that use certified hydrographic products such as datasets, and manufacturers of competing or substitute products.

(4) The names and contact information of the standards setting body, and the compliance testing body under whose authority it is proposed that the standards and compliance tests be written and adopted.

(5) Information deemed relevant by the sponsor for NOAA to consider in deciding whether to proceed with the development of standards, compliance tests, and certification. Such information should address at a minimum:

(i) The type and magnitude of the public benefits and enhancement of public safety that would be achieved;

(ii) The breadth of support for standards and certification among all the affected communities;

(iii) The practicality of writing and enforcing an effective and appropriate standard;

(iv) The availability of suitable, similar products that may already meet the needs of the public; and

(v) The required expertise needed to write an appropriate standard.

(d) NOAA may, at its option, define a hydrographic product class of which...
the proposed hydrographic product is a
specific instance. Standards and com-
pliance tests may then be prepared for
the class rather than for an individual
non-Federal entity’s specific product.

(e) NOAA shall publicize, in the Fed-
eral Register or by other appropriate
means, the hydrographic product or
class in order to solicit comments on
the proposal that standards and com-
pliance tests be written and certifi-
cation be offered for that hydrographic
product or class. Comments might in-
clude, but are not limited to, general
information; statements of interest in
participating in the development of
standards and compliance tests; or ob-
jections to acceptance of the hydro-
graphic product or class into this Qual-
ity Assurance Program. Instructions
for commenting and the duration of
the comment period will be included in
the announcement.

(f) NOAA shall decide, if its other ob-
ligations permit, within 60 calendar
days of the close of the comment pe-
riod whether to proceed with the de-
velopment of standards, compliance tests,
and certification for the proposed hy-
drographic product or class. NOAA
may request further information, and
shall have additional time as required
to consider the information once re-
ceived. NOAA’s decision on whether to
proceed shall be based on the following
criteria:
(1) The magnitude of the public ben-
efit and enhancement of public safety
that would be achieved compared to
the commitment of federal resources
that would be required;
(2) The breadth of support for stan-
dards and certification among all the af-
acted communities;
(3) The practicality of writing and
enforcing an effective and appropriate
standard;
(4) The availability of suitable, simi-
lar products that may already meet the
needs of the public;
(5) NOAA’s expertise related to the
expertise needed to write an appro-
priate standard;
(6) Availability of resources; and
(7) Other relevant criteria as they be-
come apparent.

(g) NOAA’s decision as to whether
the proposed hydrographic product or
class is accepted into the Quality As-
surance Program shall be publicly an-
nounced in the Federal Register or
by other appropriate means, and a
written notification shall be provided
to the sponsor. The response shall in-
clude NOAA’s reason for its decision
based on the criteria enumerated
above.

(h) Any party, including the sponsor,
shall have an opportunity to request
reconsideration of NOAA’s decision.
Said request shall be submitted in
writing, to the Quality Assurance Pro-
gram address, postmarked within 30
days of NOAA’s announcement of its
decision, and shall contain written ma-
terial supporting the requestor’s posi-
tion. NOAA shall have, if its other ob-
ligations permit, 60 calendar days from
the receipt of a request for reconsider-
ation to either deny the request, or to
reconsider and announce its decision.

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

(j) NOAA itself may choose to iden-
tify a hydrographic product or class,
which may or may not yet exist, but
for which it intends to adopt standards,
compliance tests, and to offer certifi-
cation. In such cases, NOAA will be
considered the sponsor. The procedures
to be followed for NOAA-sponsored hy-
drographic products or classes shall be
the same as for those sponsored by
non-Federal entities, including the pro-
cedures for announcement, comment,
and reconsideration.

§ 996.11 Development of standards for
a hydrographic product or class.

(a) NOAA shall work, to the extent
practicable, through existing, recog-
nized, standards bodies in the writing
and adopting of standards for a hydro-
dgraphic product or class that NOAA
has accepted into this program. It shall
be the responsibility of the sponsor to
propose an appropriate standards writ-
ing body. NOAA may accept this body
at its discretion, or may select an al-
ternate body. NOAA will then under-
take, jointly with the sponsor and ac-
knowledged representatives of the af-
fected communities, to submit the pro-
posal for writing standards to, and to