

associated shipping costs for the purchased items (which includes raw materials), off-the-shelf items (and similar proportionately high-cost common supply items requiring additional manufacturing or incorporation to become end items), special tooling, special testing equipment, and construction equipment purchased for and required to perform on the contract. In the case of a supply contract, the acquisition of services or products from outside sources following normal commercial practices within the industry are also included.

(5) *Off-the-shelf item.* An item produced and placed in stock by a manufacturer, or stocked by a distributor, before orders or contracts are received for its sale. The item may be commercial or may be produced to military or Federal specifications or description. Off-the-shelf items are also known as Nondevelopmental Items (NDI).

(6) *Personnel.* Individuals who are "employees" under § 121.106 of this chapter.

(7) *Subcontracting.* That portion of the contract performed by a firm, other than the concern awarded the contract, under a second contract, purchase order, or agreement for any parts, supplies, components, or subassemblies which are not available off-the-shelf, and which are manufactured in accordance with drawings, specifications, or designs furnished by the contractor, or by the government as a portion of the solicitation. Raw castings, forgings, and moldings are considered as materials, not as subcontracting costs. Where the prime contractor has been directed by the Government to use any specific source for parts, supplies, components subassemblies or services, the costs associated with those purchases will be considered as part of the cost of materials, not subcontracting costs.

(c) SBA will determine compliance with the Prime Contractor Performance Requirements as of the following dates:

(1) In a sealed bid procurement, as of the date the bid was submitted;

(2) In a negotiated procurement, as of the date the concern submits its best and final offer. If a concern is determined not to be in compliance at the time it submits its best and final offer, it may not come into compliance later for that procurement by revising its subcontracting plan.

(d) Compliance will be considered an element of responsibility and not a component of size eligibility.

(e) The period of time used to determine compliance will be the period of performance which the

evaluating agency uses to evaluate the proposal or bid. If the evaluating agency fails to articulate in its solicitation the period of performance it will use to evaluate the proposal or bid, the base contract period, excluding options, will be used to determine compliance. In indefinite quantity contracts, performance over the guaranteed minimum will be used to determine compliance unless the evaluating agency articulates a different period of performance which it will use to evaluate the proposal or bid in its solicitation.

(f) Work to be performed by subsidiaries or other affiliates of a concern is not counted as being performed by the concern for purposes of determining whether the concern will perform the required percentage of work.

(g) The procedures of § 125.5 apply where the contracting officer determines non-compliance, the procurement is a full or partial small business set-aside or an SDB has claimed a preference, and refers the matter to SBA for a COC determination.

Dated: January 19, 1996.

Philip Lader,

Administrator.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD 05-96-002]

Regulated Navigation Area: Chesapeake Bay Ice Navigation Season

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: Coast Guard Captain of the Port (COTP) Baltimore is placing in effect from January 4, 1996 to April 15, 1996 the Regulated Navigation Area for the Maryland portion of the Chesapeake Bay, the District of Columbia, the Potomac River and its tributaries on the Maryland side, and the Maryland portion of the Chesapeake and Delaware Canal. Operators of specified vessels are required to contact COTP Baltimore prior to entering or getting underway within the Regulated Navigation Area to determine if operating restrictions have been imposed due to ice conditions.

EFFECTIVE DATES: Section 165.503 of 33 CFR is effective from 12:01 a.m., January 4, 1996 to 12:01 a.m., April 15, 1996,

unless sooner terminated by the Captain of the Port Baltimore by publication of a notice in the Federal Register.

SUPPLEMENTARY INFORMATION: Call the 24 Hour recorded message at (410) 576-2682, or U.S. Coast Guard Activities Baltimore Duty Officer at (410) 576-2520 for COTP ice information.

Drafting Information. The drafters of this regulation are Lieutenant Eric Bautz, project officer, Captain of the Port, Baltimore, Maryland, and Lieutenant Kathleen A. Duignan, project attorney, Fifth Coast Guard District Legal Staff.

Discussion

Ice conditions frequently exist during winter months on the northern portion of Chesapeake Bay and its tributaries, including the Chesapeake and Delaware Canal. Severe ice conditions may threaten the safety of persons, vessels and the environment. COTP Baltimore may issue specific COTP orders imposing operating restrictions due to ice conditions, vessel construction, and cargo. Mariners are also encouraged to monitor Broadcast Notices to Mariners to determine if ice conditions exist in a specific area.

Section 165.503 of 33 CFR establishes a Regulated Navigation Area (RNA). Operators of vessels carrying oil or hazardous materials in bulk as cargo or residue, power-driven vessels of three hundred gross tons or more, vessels of one hundred gross tons or more carrying one or more passengers for hire, and towing vessels of 26 feet or more in length must contact COTP Baltimore before entering or getting underway within the RNA to obtain current COTP orders. Section 165.503 will remain in effect from January 4, 1996 to April 15, 1996.

Dated: January 3, 1996.

G.S. Cope,

Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL-5406-3]

Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of stay and reconsideration.

SUMMARY: This action announces a three-month stay and reconsideration of