

manufacturer, A&A Manufacturing, expressing concern that because the articulated joint system is made of separate subcomponents that could be supplied separately by different manufacturers, the waiver effectively prevented A&A from selling its product, the bellows, to New Flyer's response stated that in the low floor bus, the articulated joints are purchased as an entire unit and any changes or integration of a subcomponent, such as new bellows, would require sufficient time to design, integrate and test.

On January 17, 2001, FTA directed Newflyer to work with domestic suppliers for these parts to develop alternative sources. We noted that this good faith effort to qualify new domestic suppliers would be considered should New Flyer request a renewal of the waiver. Newflyer now informs FTA that it plans to install an articulated joint, utilizing A&A's bellows and manufactured by a domestic manufacturer, in August 2003. The requisite testing should be completed by April 2004. FTA has also been advised by Hubner Manufacturing, that it plans to relocate the entire articulation systems manufacturing process from Germany to South Carolina by the end of 2003.

Based on the information you have provided, I have determined that the grounds for a non-availability waiver still exist.

Therefore, pursuant to the provisions of 49 U.S.C. 5323(j)(2)(B), a waiver is granted for the procurement of Hubner's articulated joint system for New Flyer low floor buses until June 30, 2004, as requested. The waiver will allow time for Hubner's relocation to the U.S. and completion of necessary testing for the alternate U.S. joint system. In order to insure that the public is aware of this waiver, particularly potential manufacturers, this waiver will be published in the **Federal Register**.

If you have any questions, please contact Meghan G. Ludtke at (202) 366-1935.

Very truly yours,

Gregory B. McBride,
Deputy Chief Counsel.
May 9, 2003.

Mr. Bill Coryell,
Vice President, Marketing and Sales, North American Bus Industries, Inc., 20350 Ventura Blvd., Suite 205, Woodland Hills, California 91364.

Dear Mr. Coryell: This letter responds to your correspondence of April 22, 2003, in which North American Bus Industries, Inc. (NABI) requests a non-availability waiver of the Buy America requirements for the procurement of the Hubner Manufacturing Corporation (Hubner) articulated joint system for use in NABI's low floor and standard floor articulated buses. The system is comprised of a mechanical articulating joint incorporating an electronically controlled, hydraulic damping subsystem.

The Federal Transit Administration's (FTA) requirements concerning domestic preference for federally funded transit projects are set forth in 49 U.S.C. 5323(j). Section 5323(j)(2)(C) addresses the general requirements for the procurement of rolling stock. This section provides that all rolling stock procured with FTA funds must have a domestic content of at least 60 percent and

must undergo final assembly in the U.S. You request a waiver under 49 U.S.C.

5323(j)(2)(B), which states the Buy America requirements shall not apply if the item or items are not produced in the U.S. in sufficient and reasonably available quantities or are not of a satisfactory quality. The implementing regulation provides that non-availability waivers may be granted for a component of rolling stock. 49 CFR 661.7(f).

FTA posted a request for comments and received one comment against the waiver. Gillig Corporation argues that the Buy America rules for rolling stock already allow a waiver of up to forty percent foreign content, and when a component is unavailable from a domestic source, the vehicle maker should use part of its allotted foreign content. However, as noted above, the regulation currently allows component waivers for rolling stock when the product is not available from a domestic source. FTA received no comments indicating that these articulating joint systems are available from a U.S. source. We received two comments in favor of the waiver, one from Hubner, the subject joint manufacturer, and the other from CAPtech, Inc., which argues that allowing foreign manufacturers into the market place will result in better U.S. products.

FTA issued a similar waiver to New Flyer of America on April 24, 2001, which was valid until April 24, 2003. Based in part on the waiver issued to New Flyer in 2001, NABI requested a similar waiver on August 9, 2002. In granting NABI's waiver, we wrote "we will grant this waiver to NABI for all solicitations responded to until April 24, 2003, which is when New Flyer's waiver expires. We will then evaluate the situation with respect to all vehicle and articulating joint manufacturers." New Flyer and NABI have both requested a renewal of this waiver and on April 24, 2003, FTA issued another waiver to New Flyer.

You state that the circumstances necessitating the current waiver remain unchanged and in the near term, NABI must still use the Hubner joint, which is still not available from a domestic source. FTA has been advised by Hubner Manufacturing that it plans to relocate the entire articulation systems manufacturing process from Germany to South Carolina by the end of 2003. Based on a review of the industry and the information provided by New Flyer, NABI, and Hubner, I have determined that the grounds for a non-availability waiver still exist. Therefore, pursuant to the provisions of 49 U.S.C. 5323(j)(2)(B), and consistent with the waiver issued to New Flyer on April 24, 2003, a waiver is granted for the procurement of Hubner's articulated joint system for NABI's low floor and standard buses until June 30, 2004. This waiver will allow time for Hubner's relocation to the U.S. In order to insure that the public is aware of this waiver, particularly potential manufacturers, this waiver will be published in the **Federal Register**.

If you have any questions, please contact Meghan G. Ludtke at (202) 366-1936.

Very Truly yours,

Gregory B. McBride,

Deputy Chief Counsel.

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DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD-2003-15377]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel AMMERSEE.

SUMMARY: As authorized by Pub. L. 105-383 and Pub. L. 107-295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2003-15377 at <http://dms.dot.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105-383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 14, 2003.

ADDRESSES: Comments should refer to docket number MARAD-2003-15377. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL-401, Department of Transportation, 400 7th St., SW., Washington, DC 20590-0001. You may also send comments electronically via the Internet at <http://dmses.dot.gov/submit/>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through