

U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 14, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Joint Powers Board, Yellowstone Regional Airport, Cody, Wyoming, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 16, 2001.

The following is a brief overview of the application.

Level of the proposed PFC: \$4.50.

Proposed charge effective date: November 1, 2001.

Proposed charge expiration date: January 1, 2003.

Total requested for use approval: \$294,000.00.

Brief description of proposed projects: Encasement of irrigation canal, relocation/reconstruction of parallel taxiway, acquisition of airfield equipment, and general aviation apron expansion.

Class or classes of air carriers, which the public agency has requested not be required to collect PFC's: Non-scheduled on-demand air carriers filing FAA Form 1800-31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM-600, 1601 Lind Avenue SW., Suite 315, Renton, WA 98055-4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Yellowstone Regional Airport.

Issued in Renton, Washington on May 14, 2001.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

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BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Granted Buy America Waiver

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Granted Buy America Waiver.

SUMMARY: This waiver allows New Flyer of America to count a foreign manufactured articulating joint system used in its low floor buses as a domestic component for purposes of calculating the aggregate domestic content of the vehicle and was predicated on the non-availability of the item in the domestic market. The waiver was granted on April 24, 2001, for the period of two years, or until such time as a domestic source for this articulating joint becomes available, whichever occurs first. This notice shall insure that the public, particularly potential manufacturers, is aware of this waiver. FTA requests that the public notify it of any relevant changes in the domestic market.

FOR FURTHER INFORMATION PLEASE

CONTACT: Meghan G. Ludtke, FTA Office of Chief Counsel, Room 9316, (202) 366-4011 (telephone) or (202) 366-3809 (fax).

SUPPLEMENTARY INFORMATION: The above-referenced waiver follows:

April 24, 2001.

Mr. Paul Smith,

Vice President, Sales and Marketing, New Flyer of America, 711 Kerneghan Avenue, Winnipeg, Manitoba, Canada R2C 3T4

Dear Mr. Smith: This letter responds to your correspondence of March 9, 2001, in which New Flyer of America requests a non-availability waiver of the Buy America requirements for the procurement of the Hubner Manufacturing Corporation (Hubner) articulating joint system for use in New Flyer's low floor buses. The system is comprised of three sections, a mechanical artic joint and hydraulic damping unit, an electronic control unit, and a center hoop and bellows.

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.

A non-availability waiver would allow New Flyer to count the joint as domestic for the purpose of calculating the aggregate domestic content of the vehicle. 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 being procured 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, "[i]t will be presumed that the conditions exist to grant this non-availability waiver if no responsive and responsible bid is received offering an item produced in the United States." 49 CFR 661.7(c)(1). The regulation goes on to note that, "[t]he waivers described in paragraphs (b) and (c) of this section may be granted for

a component or subcomponent in the case of the procurement of the items governed by [49 U.S.C. 5323(j)(2)(C)] (requirements for rolling stock). If a waiver is granted for a component or subcomponent, that component or subcomponent will be considered to be of domestic origin for the purposes of section 661.11 of this part." 49 CFR 661.7(f). The regulations allow a bidder or supplier to request a non-availability waiver for a component or subcomponent in the procurement of rolling stock. See 49 CFR 661.7(f) and 49 CFR 661.9(d).

New Flyer is a manufacturer of buses and regularly contracts to supply low floor buses to transit authorities and other U.S. customers. You state that the Hubner articulating joint system is necessary for the production of articulated low floor buses and is not available from a domestic source. In addition to the representations in your correspondence, you have also provided me with information indicating that, based on New Flyer's research, there are no U.S. companies with an approved design or the tooling necessary to produce the type of articulated joint required for New Flyer's low floor buses. You also included a letter from Hubner, which indicates that its manufacture of an American low floor articulating joint system is feasible but the manufacturing process would take a minimum of one year to develop.

This matter has been reviewed by FTA's engineering staff who noted that some components of the three sections included in the articulating joint system are available domestically but the entire joint mechanism necessary for New Flyer's vehicle design is not. Additionally, switching to a different type of joint would necessitate costly and time-consuming engineering changes to a low floor vehicle that has a limited share of the market.

Based on the information you have provided, I have determined that the grounds for a non-availability waiver do exist. Therefore, pursuant to the provisions of 49 U.S.C. 5323(j)(2)(B), the waiver is granted for the procurement of Hubner's articulating joint system for the New Flyer low floor buses for the period of two years, or until such time as a domestic source for this joint becomes available, whichever occurs first. 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 202.366-4011.

Very truly yours,
Gregory B. McBride,
Acting Chief Counsel.

Issued: May 16, 2001.

Hiram J. Walker,
Acting Deputy Administrator, Federal Transit Administration.

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