continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption for each renewal applicant.

Discussion of Comments

The Advocates for Highway and Auto Safety (AHAS) expresses continued opposition to FMCSA's procedures for renewing exemptions from the vision requirement in 49 CFR 391.41(b)(10). Specifically, AHAS objects to the agency's extension of the exemptions without any opportunity for public comment prior to the decision to renew and reliance on a summary statement of evidence to make its decision to extend the exemption of each driver.

The issues raised by AHAS were addressed at length in 66 FR 17994 (April 4, 2001). We will not address these points again here, but refer interested parties to that earlier discussion.

Conclusion

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA extends the exemptions from the vision requirement in 49 CFR 391.41(b)(10) granted to Mark K. Cheely, James D. Davis, James F. Durham, Glenn E. Gee, Robert N. Heaton, Laurent G. Jacques, Alfred G. Jeffus, Michael W. Jones, Jon G. Lima, Earl E. Martin, Clifford E. Masink, Robert W. Nicks, Richard W. O'Neill, Tommy L. Ray, Jr., Andrew W. Schollett, Melvin B. Shumaker, Sammy D. Steinsultz, Edward J. Sullivan, and Steven L. Valley, subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for 2 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136(e).

Request for Comments

FMCSA has evaluated the qualifications and driving performance of the 19 applicants here and extends their exemptions based on the evidence introduced. The agency will review any comments received concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31315 and 31136(e). While comments of this nature will be entertained at any time, FMCSA requests that interested parties with information concerning the safety records of these drivers submit comments by May 9, 2002. All comments will be considered and will be available for examination in the docket room at the above address. FMCSA will also continue to file in the docket relevant information which becomes available. Interested persons should continue to examine the docket for new material.

Issued on: April 4, 2002.

Brian M. McLaughlin,

Associate Administrator for Policy and Program Development.

[FR Doc. 02–8553 Filed 4–8–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

North American Bus Industries; Notice of Granted Buy America Waivers

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of granted Buy America waivers.

SUMMARY: FTA granted North American Bus Industries (NABI) two Buy America waivers on March 19, 2002. The first waiver allows NABI to assemble its CompoBus outside the United States and the second allows it to count the composite chassis/frame as domestic for purposes of calculating the domestic component content of the vehicle. The final assembly waiver is predicated on public interest and the component waiver on the non-availability of the item domestically. Both of these waivers will apply to procurements for which solicitations are issued within two years of the date of the letter, March 19, 2002, and to two contracts signed prior to the date of the letter, as noted below. This notice shall insure that the public is aware of these waivers.

FOR FURTHER INFORMATION CONTACT: Meghan G. Ludtke, FTA Office of Chief Counsel, Room 9316, (202) 366–1936 (telephone) or (202) 366–3809 (fax).

SUPPLEMENTARY INFORMATION: The above-referenced waivers follow:

March 19, 2002.

Mr. Andy Racz, President and CEO, North American Bus Industries, Inc., H–1165 Budapest, XVI UJSZASZ u., 45 Hungary.

Dear Mr. Racz:

This responds to your letter dated December 14, 2001, in which you request two Buy America waivers from the Federal Transit Administration (FTA) for North American Bus Industries' (NABI) CompoBus. The CompoBus is a light-weight, composite-structured vehicle with an integrated frame and chassis developed in line with FTA's Advanced Technology Bus program. You request (1) a public interest waiver of the final assembly requirements for a period of seven years and (2) a component waiver for the integrated body/chassis of the CompoBus, based on public interest or non-availability. For the reasons discussed below, we have determined that the grounds for such waivers exist for a two-year period.

Applicable Law

FTA's 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.

Under 49 U.S.C. 5323(j)(2)(A) and the implementing regulations, these requirements may be waived if their application ''would be inconsistent with the public interest.'' 49 C.F.R. 661.7(b). The regulation also notes that ''[i]n determining whether the conditions exist to grant this public interest waiver, the [FTA] will consider all appropriate factors on a case-by-case basis . . . .'' Id. And 49 U.S.C. 5323(j)(2)(B) states that 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 also provides that public interest and non-availability waivers may be granted for a component of rolling stock, and in such cases, the component would be treated as domestic when calculating the overall component content of the vehicle. 49 C.F.R. 661.7(f)

Final Assembly Waiver Request

Your request for a final assembly waiver is for CompoBus models 40C–LFW and 45C–LFW. You detail a number of advantages offered by the CompoBus, including its lightweight frame/chassis, the fact that it has completed Altoona testing, the lack of rusting, the environmental advantages, and

its crash worthiness. NABI has two primary manufacturing facilities, one in Hungary, the other in Anniston, Alabama.

FTA has determined that in this case, a final assembly waiver for a two-year period is in the public interest. FTA acknowledges the technical difficulties and increased costs associated with new technology and the consequent benefits of a single manufacturing facility. FTA supports the continued development of new vehicle technology that will result in more choices for FTA grantees and better buses for the riding public. This waiver will accomplish that goal. These advances are important enough to allow NABI time to further develop the technology. FTA declines to provide a seven-year waiver because we want to encourage continued changes in the marketplace and must be in a position to review this decision in two years and consider any such changes. However, FTA is also aware of the time lapses between entering into a contract and building a bus; therefore, this waiver applies to CompoBus models 40C–LFW and 45C–LFW for all procurements for which solicitations are issued within two years of the date of this letter.

Component Wavier Request

You also request a non-availability waiver for the CompoBus' integrated frame/chassis structures for use in model numbers 40C–LFW and 45C–LFW. Based on the information you have provided, I have determined that the grounds for a non-availability waiver exist, as it does not appear that there is another source for this product. Therefore, pursuant to the provisions of 49 U.S.C. § 5323(j)(2)(B), a non-availability waiver is granted for the CompoBus models 40C–LFW and 45C–LFW integrated frame/chassis structure for all procurements for which solicitations are issued within two years of the date of this letter.

Conclusion

NABI has offered sufficient justification for a public interest waiver for the final assembly of the CompoBus for a period of two years. The grounds necessary for a non-availability component waiver also exist for the integrated frame/chassis structure, and FTA hereby grants such a waiver for a period of two years. To ensure that the public is aware of these waivers, this letter will be published in the **Federal Register**.

The public interest waiver is predicated on the fact that it is in the public's interest to waive the Buy America final assembly requirements in this case; however, FTA is not of the opinion that that public interest overrides the government's interest in full and open competition. It is for this reason that FTA has reviewed the three procurements that resulted in an award to NABI for the CompoBus. FTA has reviewed the underlying competition for each contract and found that in two cases, the waiver will have no impact on the full and open competition required in federally funded procurements. Therefore, this waiver will apply to those contracts between NABI and the City of Phoenix and between NABI and the Los Angeles County Metropolitan Transportation Authority (LACMTA) for 30 CompoBuses.[1] Another LACMTA procurement is affected by this waiver, a contract for 370 buses, the last 20 of which will be composite buses.[2] Because that award would have had a different result if NABI had certified non-compliance and requested a waiver prior to award, it is FTA's position that NABI is bound by its original certification of compliance and, therefore, must assemble those vehicles in the U.S.

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

Very truly yours,

Gregory B. McBride,
Deputy Chief Counsel.

Issued on: April 4, 2002.

Jennifer L. Dorn,
FTA Administrator.

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BILLING CODE 4910–57–M

[1] The contract with the City of Phoenix was awarded to NABI, the only bidder, which certified compliance with Buy America. Had NABI certified non-compliance, it would have been eligible for award as the only bidder, and Phoenix would have qualified for a non-availability waiver under 49 C.F.R. 661.7(c)(1). The contract with LACMTA for 30 CompoBuses was awarded after a negotiated procurement with two responsive and responsible proposers in competitive range. Both proposers certified compliance with Buy America; however, the other bid was more than twenty-five percent over NABI's bid. Thus, had NABI certified non-compliance, it would have been eligible for award because there was more than a twenty-five percent price difference between the two offers, and LACMTA would have qualified for a waiver under 49 C.F.R. 661.7(c)(1).

[2] This was a sealed bid with two responsive and responsible bidders, both of which certified compliance. There was not more than a twenty-five percent difference in the bids; therefore, had NABI certified non-compliance, it would not have qualified for the award.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Partial Grant and Partial Denial of Motor Vehicle Defect Petition, DP01–003

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Partial grant and partial denial of petition for a defect investigation.

SUMMARY: This notice sets forth the reasons for the partial grant and partial denial of a petition submitted to NHTSA under 49 U.S.C. 30162, requesting that the agency commence a proceeding to determine the existence of a defect related to motor vehicle safety. The petition is hereinafter identified as DP01–003.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Squire, Office of Defects Investigation (ODI), NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–493–0212.

SUPPLEMENTARY INFORMATION: Mr. James J. Johnston, President of the Owner-Operator Independent Drivers Association, Inc. (OOIDA), submitted a petition to NHTSA by letter dated March 21, 2001, requesting that an investigation be initiated to determine whether to issue an order concerning safety defects in model year 1989 through 2000 Volvo heavy trucks (subject trucks). The petition is extremely broad in that the petitioner alleges multiple defects on more than 30 models of Volvo trucks produced over a span of 12 model years.

The petition identified alleged deficiencies in nine areas. Those areas were identified as: (1) Shaking and vibration in the front end; (2) steering problems; (3) premature front tire wear; (4) wheel alignment problems; (5) problems with axle parts, including an overweight condition on the steering axle; (6) suspension problems; (7) transmission and clutch problems; (8) problems with the engine, including unintended ''racing'' or ''shutting down,'' and (9) electrical problems.

The OOIDA petition and subsequent information forwarded to the NHTSA Office of Defects Investigation (ODI) contained complaints from 180 persons. A review of the ODI database for additional complaints pertaining to the alleged defects on the subject trucks revealed an additional 41 complainants. Many of the complainants cited multiple problems with one or more subject trucks. To assist with evaluation of the petition, ODI staff communicated directly with approximately 74 persons, including representatives of 13 fleet operations.

Review of the OOIDA and ODI data revealed that approximately 92% of the complaints involved model year 1995 and newer subject trucks. Eighteen complaints involved model year 1994 subject trucks, while 11 complaints involved model year 1993 and older subject trucks. Unfortunately, many complaints failed to identify the vehicle model, model year and/or vehicle identification number. Although this lack of information hampered the analysis, data from these complaints were nonetheless reviewed to the fullest extent possible.

After conducting an extensive review of the issues raised in the petition, NHTSA has granted it with respect to the following issues:

1. Alleged steering defects on model year 1998 through 2000 VN–610, 660, and 770 series trucks regarding ''lock up,'' ''binding,'' or ''pulling'' of the