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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2011-0006]

Koenigsegg Automotive AB; Morgan Motor Company Limited; Receipt of Applications for Renewals of Temporary Exemptions From the Advanced Air Bag Requirements of FMVSS No. 208

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

ACTION: Notice of receipt of applications for renewals of temporary exemptions and request for comments.

SUMMARY: In accordance with the procedures in 49 CFR Part 555, Koenigsegg Automotive AB (Koenigsegg) and Morgan Motor Company Limited ("Morgan") have petitioned the agency for renewals of temporary exemption from advanced air bag requirements of FMVSS No. 208, "Occupant crash protection." The basis for each application is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.

This notice of receipt of applications for renewal of temporary exemptions is published in accordance with the statutory provisions of 49 U.S.C. 30113(b)(2). Please note that we are publishing together the notice of receipt of the two applications for renewal to ensure efficient use of agency resources and to facilitate processing of the applications. NHTSA has made no judgments on the merits of each application. NHTSA will consider each application separately. We ask that commenters also consider each application separately and submit comments specific to individual applications.

DATES: Comments must be received on or before May 11, 2011.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, M-30, U.S. Department of Transportation, West Building, Ground

Floor, Rm. W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

- *Fax:* (202) 493-2251.

Regardless of how you submit your comments, you should mention the docket number of this document.

You may call the Docket at 202-366-9324.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act discussion below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

We shall consider all comments received before the close of business on the comment closing date indicated below. To the extent possible, we shall also consider comments filed after the closing date.

FOR FURTHER INFORMATION CONTACT: Ms. Dorothy Nakama, Office of the Chief Counsel, NCC-112, National Highway Traffic Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590. Telephone: (202) 366-2992; Fax: (202) 366-3820.

I. Advanced Air Bag Requirements and Small Volume Manufacturers

In 2000, NHTSA upgraded the requirements for air bags in passenger cars and light trucks, requiring what are commonly known as "advanced air bags."¹ The upgrade was designed to meet the goals of improving protection for occupants of all sizes, belted and unbelted, in moderate-to-high-speed crashes, and of minimizing the risks posed by air bags to infants, children, and other occupants, especially in low-speed crashes. The rule accomplished this by establishing new test requirements and injury criteria and specifying the use of an entire family of

test dummies: the then-existing dummy representing 50th percentile adult males, and new dummies representing 5th percentile adult females, 6-year-old children, 3-year-old children, and 1-year-old infants.

The advanced air bag requirements were a culmination of a comprehensive plan that the agency announced in 1996 to address the adverse effects of air bags. This plan also included an extensive consumer education program to encourage the placement of children in rear seats.

The new requirements were phased in beginning with the 2004 model year. Small volume manufacturers (*i.e.*, original vehicle manufacturers producing or assembling fewer than 5,000 vehicles annually for sale in the United States) were not subject to the advanced air bag requirements until September 1, 2006.

In recent years, NHTSA has addressed a number of petitions for exemption from the advanced air bag requirements of FMVSS No. 208. The majority of these requests have come from small manufacturers which have petitioned on the basis of substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.

Although NHTSA has granted a number of these petitions in situations where the manufacturer is supplying standard air bags in lieu of advanced air bags,² NHTSA is considering (1) whether it is in the public interest to continue to grant such petitions, particularly in the same manner as in the past, given the number of years these requirements have now been in effect and the benefits of advanced air bags, and (2) to the extent such petitions are granted, what plans and countermeasures to protect child and infant occupants, short of compliance with the advanced air bags, should be expected.

Given the passage of time since the advanced air bag requirements were established and have been implemented, and in light of the benefits of advanced air bags, NHTSA is considering whether it is in the public interest to continue to grant exemptions from these requirements, particularly in the same manner as in the past. The costs of compliance with the advanced air bag requirements of FMVSS No. 208 are costs that all entrants to the U.S. automobile marketplace should expect to bear. Furthermore, NHTSA understands that, in contrast to the

¹ See 65 FR 30680 (May 12, 2000) (Docket No. NHTSA-2000-7013).

² See, *e.g.*, grant of petition to Panoz, 72 FR 28759 (May 22, 2007), or grant of petition to Koenigsegg, 72 FR 17608 (April 9, 2007).

initial years after the advanced air bag requirements went into effect, low volume manufacturers now have access to advanced air bag technology. Accordingly, NHTSA tentatively concludes that the expense of advanced air bag technology may not now be sufficient, in and of itself, to justify the grant of a petition for a hardship exemption from the advanced air bag requirements.

NHTSA further notes that exemptions from motor vehicle safety standards are to be granted on a “temporary basis.”³ In prior petitions NHTSA has granted temporary exemptions from the advanced air bag requirements as a means of affording eligible manufacturers a transition period to comply with the exempted standard. Accordingly, in deciding whether to grant an exemption based on substantial economic hardship, NHTSA ordinarily considers the steps that the manufacturer has already taken to achieve compliance, as well as the future steps the manufacturer plans to take during the exemption period and the estimated date by which full compliance will be achieved.⁴

NHTSA invites comment on whether and in what circumstances (e.g., nature of vehicles, number of vehicles, level of efforts to comply with the requirements, timing as to number of years since the requirements were implemented, etc.) it should continue to grant petitions for exemptions from the advanced air bag requirements of FMVSS No. 208. We note that any policy statements we may make in this area would not have the effect of precluding manufacturers from submitting subsequent petitions for exemption. However, we believe it could be helpful for manufacturers to know our general views in advance of submitting a petition.

We also request comment on the issue of, to the extent such petitions are granted, what plans and countermeasures to protect child and infant occupants, short of compliance with the advanced air bags, should be expected. We note that in responding to some recent petitions for exemption from the advanced air bag requirements of FMVSS No. 208, NHTSA has considered the fact that the petitioner planned to install some countermeasures for the protection of child passengers.⁵

NHTSA also invites comment on the likelihood that a child or infant will be

a passenger in either a Morgan or Koenigsegg vehicle sold in the U.S.

As always, we are concerned about the potential safety implication of any temporary exemption granted by this agency. In the present case, we are addressing two petitions that seek renewals of temporary exemptions from the advanced air bag requirements. Each petitioner is a manufacturer of low volume, specialty sports cars.

II. Overview of Petitions for Economic Hardship Exemption

In accordance with 49 U.S.C. 30113 and the procedures in 49 CFR Part 555, Koenigsegg Automotive AB (“Koenigsegg”) and Morgan Motor Company (“Morgan”) have petitioned the agency for renewals of temporary exemptions from certain advanced air bag requirements of FMVSS No. 208 (S14).

The basis for Koenigsegg’s application and for Morgan’s application is that compliance would cause substantial economic hardship⁶ to a manufacturer that has tried in good faith to comply with that standard. A copy of each petition⁷ is available for review and has been placed in the docket for this notice. The agency closely examines and considers the information provided by manufacturers in support of these factors, and, in addition, pursuant to 49 U.S.C. 30113(b)(3)(A), determines whether exemption is in the public interest and consistent with the Safety Act.⁸

A manufacturer is eligible to apply for a hardship exemption if its total motor vehicle production in its most recent year of production did not exceed 10,000 vehicles, as determined by the NHTSA Administrator (49 U.S.C. 30113).

Finally, while 49 U.S.C. 30113(b) states that exemptions from a Safety Act standard are to be granted on a “temporary basis,”⁹ the statute also expressly provides for renewal of an

⁶ When considering financial matters involving companies based in the European Union (EU), it is important to recognize that EU and U.S. accounting principles have certain differences in their treatment of revenue, expenses, and profits. Public statements by EU manufacturers relating to financial results should be understood in this context. This agency analyzes claims of financial hardship carefully and in accordance with U.S. accounting principles.

⁷ Morgan has requested confidential treatment under 49 CFR Part 512 for certain business and financial information submitted as part of its petition for temporary exemption. Accordingly, the information placed in the docket does not contain such information that the agency has determined to be confidential.

⁸ The Safety Act is codified as Title 49, United States Code, Chapter 301.

⁹ 49 U.S.C. 30113(b)(1).

exemption on reapplication. Manufacturers are nevertheless cautioned that the agency’s decision to grant an initial petition in no way predetermines that the agency will repeatedly grant renewal petitions, thereby imparting semi-permanent exemption from a safety standard. Exempted manufacturers seeking renewal must bear in mind that the agency is directed to consider financial hardship as but one factor, along with the manufacturer’s on-going good faith efforts to comply with the regulation, the public interest, consistency with the Safety Act, generally, as well as other such matters provided in the statute.

We note that under 49 CFR 555.8(e), “If an application for renewal of temporary exemption that meets the requirements of § 555.5 has been filed not later than 60 days before the termination date of an exemption, the exemption does not terminate until the Administrator grants or denies the application for renewal.” In the case of the petitions for renewal from both Koenigsegg and Morgan, each manufacturer submitted its petition for renewal by the deadline stated in 49 CFR 555.8(e).

III. Petition of Koenigsegg

Background—Koenigsegg Automotive is a Swedish corporation formed in 1999 to produce high-performance sports cars, which are not intended for daily commuting purposes. Koenigsegg is a privately owned company with fewer than 100 shareholders, and manufactures fewer than 50 cars per year. At the time Koenigsegg applied for its initial exemption, the Koenigsegg product line for U.S. sale consisted of the CC model. The Koenigsegg CCX was developed as the next generation of Koenigsegg vehicles after production of the CCR model ended on December 30, 2005. The CCX model (the subject of Koenigsegg’s petitions for temporary exemption) was scheduled to go into production in 2006 and to continue at least through the end of 2009. Originally, planning to sell vehicles only in the European, Mid-East, and Far-East markets, Koenigsegg decided in late 2005 to seek entry to the U.S. market for reasons related to ongoing financial viability. The retail price of the CCX is reported to be over \$700,000 per vehicle.

In a **Federal Register** document of April 9, 2007 (72 FR 17608), Koenigsegg was granted a temporary exemption from the advanced air bag requirements of FMVSS No. 208, *Occupant Crash Protection*, and from certain provisions of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment* for

³ 49 U.S.C. 30113(b)(1).

⁴ 49 CFR 555.6(a)(2).

⁵ See, e.g., grant of petition of Think Technology AS, 74 FR 40634–01 (Aug. 12, 2009); grant of petition of Ferrari S.p.A., 74 FR 36303–02 (July 22, 2009).

the CCX. The exemption was granted for the period from April 9, 2007 (the date of **Federal Register** publication of the grant of Koenigsegg's petition) through December 31, 2009. In accordance with 49 CFR part 555, the basis for the grant was that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard, and the exemption would have a negligible impact on motor vehicle safety.

In a submission dated October 29, 2009, Koenigsegg petitioned for a partial renewal of its temporary exemption, seeking a temporary exemption from the advanced air bag requirements only for the CCX. Koenigsegg did not seek renewal of the exemption from FMVSS No. 108 requirements. Koenigsegg sought a renewal of temporary exemption from the advanced air bag requirements for the CCX for an additional three years, from January 1, 2010 through December 31, 2012.

As discussed in further detail below, the petitioner argued that it tried in good faith, but could not bring the vehicle into compliance with the advanced air bag requirements, and would incur substantial economic hardship if it cannot sell continue to sell vehicles in the U.S.

Eligibility. Koenigsegg is a small, privately-owned company with at present, 40 full-time staff members and several part-time employees. Koenigsegg advises NHTSA that it is not affiliated with any other automobile manufacturer. At the time Koenigsegg submitted its petition to NHTSA, Koenigsegg was negotiating to purchase SAAB Automobile, but SAAB was not sold to Koenigsegg.

The company is a small volume manufacturer whose total production has been between four and eight vehicles per year for the past four years. According to profit and loss accounts provided by Koenigsegg, the company has experienced losses in calendar year (CY) 2006 of \$3,771,571,¹⁰ losses in CY 2007 of \$3,673,124, and losses in CY 2008 of \$274,255. In CY 2009, Koenigsegg reported a profit of \$178,281.

Since it was granted the exemption from advanced air bags in 2007, Koenigsegg stated that worldwide economic conditions required a re-evaluation of its business and sales projections. Koenigsegg's earlier plan to manufacture as many as 50 vehicles per year has been adjusted to approximately 20 vehicles per year. Recently, Koenigsegg has initiated a "Custom

Vision" program that allows customers a measure of customization (within vehicle specification boundaries) of their vehicles. This initiative has increased the costs of building the vehicles and resulted in an increase in the retail sales price of each vehicle.¹¹

As an additional source of income, Koenigsegg has been able to sell its engineering services to third parties and cites the "Quant concept car"¹² as one project.

According to forecasts presented in its petition, Koenigsegg anticipates the following number of CCX vehicles would be imported into the United States, if its requested renewal of exemption were to be granted: 10 CCXs in CY 2010; 12 CCXs in CY 2011, and 17 CCXs in CY 2012.

Requested Exemptions. Koenigsegg stated that it intends to certify the CCX as complying with the rigid barrier belted test requirement using the 50th percentile adult male test dummy set forth in S14.5.1 of FMVSS No. 208. The petitioner stated that it previously determined the CCX's compliance with rigid barrier unbelted test requirements using the 50th percentile adult male test dummy through the S13 sled test using a generic pulse rather than a full vehicle test. Koenigsegg stated that it, therefore, cannot at present say with certainty that the CCX will comply with the unbelted test requirement under S14.5.2, which is a 20–25 mph rigid barrier test. As for the CCX's compliance with the other advanced air bag requirements, Koenigsegg stated that it does not know whether the CCX will be compliant because to date it has not had the financial ability to conduct the necessary testing. As such, Koenigsegg is requesting an exemption for the CCX from the rigid barrier unbelted test requirement with the 50th percentile adult male test dummy (S14.5.2), the rigid barrier test requirement using the 5th percentile adult female test dummy (belted and unbelted, S15), the offset deformable barrier test requirement using the 5th percentile adult female test dummy (S17), the requirements to provide protection for infants and children (S19, S21, and S23) and the requirement using an out-of-position 5th

percentile adult female test dummy at the driver position (S25).

Koenigsegg's Statement of Economic Hardship—Publicly available information and financial documents submitted to NHTSA by the petitioner indicate that sales of the CCX will result in greater financial losses unless Koenigsegg obtains renewal of the temporary exemption from the advanced air bag requirements.

Koenigsegg states that the U.S. accounts for approximately 35 to 40 percent of the worldwide market for the CCX. Koenigsegg states that for CY 2006 through 2008, its financial statements have shown losses of over \$7.7 million dollars.¹³

Koenigsegg states that if the renewal of the temporary exemption from advanced air bag requirements is not granted, there will be losses over CYs 2009–2011 of more than \$3.3 million.¹⁴

With a renewal of the temporary exemption from advanced air bag requirements, Koenigsegg forecasts profits of \$3.6 million for CYs 2010 through 2012.¹⁵

Koenigsegg states that without the renewal of the temporary exemption, the CCX cannot be sold in the U.S. from CY 2010 through 2012, and it needs the income from U.S. sales until the next version of the CCX is produced in 2013 with advanced air bags. Koenigsegg asserts that the financial impact of a denial of renewal of the temporary exemption would be more than lost sales. Koenigsegg's view is that with no U.S. sales for a three year period, it will "surrender" its small, but, in Koenigsegg's view, "significant" market share to competitors, and expressed concern that it will not be able to regain that lost market share. Furthermore, because the CYs 2010 through 2012 U.S. sales of the CCX are expected to make up half of worldwide sales of the CCX, Koenigsegg stated it is "likely" that it would no longer be viable for Koenigsegg to continue to produce the CCX for any market.

¹³ All dollar amounts cited are based on an exchange rate of 6.8 krona to the U.S. dollar.

¹⁴ Koenigsegg states it will make a profit of \$178,281 in CY 2009 (the last year of the temporary exemption from advanced air bag and FMVSS No. 108 requirements), and without a renewal of the temporary exemption from advanced air bag requirements, forecasts that it will incur a loss of \$2,607,200 in CY 2010, and that it will incur a loss of \$704,785 in CY 2011.

¹⁵ With a renewal of the temporary exemption from advanced air bag requirements, Koenigsegg forecasts that it will make a profit of \$6,636 (assuming U.S. sales of 10 CCX vehicles) in CY 2010, make a profit of \$1,131,449 (assuming U.S. sales of 12 CCX vehicles) in CY 2011, and will make a profit of \$2,493,698 (assuming U.S. sales of 17 CCX vehicles) in CY 2012.

¹¹ Koenigsegg did not specify the amount of the increase in price.

¹² In footnote 1 in its petition, Koenigsegg describes the "Quant concept car" as follows: "The Quant project was a commission from NLG, a Swiss high tech company specializing in the development of new patented solar cell and rechargeable battery technologies, who wanted a high profile concept car to showcase their technologies. Koenigsegg was responsible for the vehicle concept, styling and showcar manufacturing and painting, show ready * * *"

¹⁰ All dollar amounts cited are based on an exchange rate of 6.8 krona to the U.S. dollar.

Koenigsegg's Statement of Good Faith Efforts to Comply With Advanced Air Bag Requirements—Koenigsegg provided the following information in support of its statement that it has made the requisite good faith efforts to meet advanced air bag requirements. In its initial petition for temporary exemption from advanced air bag requirements, Koenigsegg anticipated “that two years would be needed to install an advanced air bag system on the CCX.”¹⁶ At that time, Koenigsegg planned to produce a second generation of the CCX model by late 2009, which would be certified as complying with all applicable U.S. standards, including those for advanced air bags.

However, Koenigsegg is facing unanticipated financial challenges. Since it was granted the temporary exemption from advanced air bag requirements in April 2007, Koenigsegg cited “unexpected events” that have necessitated the product cycle of the CCX to be extended from December 2009 to December 2012. The introduction of the successor vehicle to the CCX has been delayed for three years because Koenigsegg has used available funds to comply with the California Air Resources Board (CARB) requirements for the U.S. market. The world economic situation has hindered Koenigsegg’s search for outside financing to develop the new model. Koenigsegg stated that: “The limited funds available are felt to be better utilized on improving the CCX with regards to 35 mph occupant protection.”

Koenigsegg stated that expenditures also went to meeting U.S. and European carbon dioxide emissions requirements and FMVSS No. 108 headlamp requirements.

In 2009, when it realized the successor vehicle to the CCX was going to be delayed, Koenigsegg once again looked into the possibility of fitting advanced air bags into the current CCX. Koenigsegg had hoped that technological and supplier availability had changed since it made its last review in 2005. After its 2009 review, Koenigsegg concluded that advanced air bags for the current CCX were not available.

Nevertheless, there has been some progress in developing advanced air bags for the CCX. Koenigsegg states that it has undertaken significant work and through many iterations of crash analysis simulation, now understands the extent of redesign. Koenigsegg states that complete compliance with FMVSS No. 208 is hindered by the number of crash test vehicles needed to validate all

the test cases. Koenigsegg states that in adopting the new development plan, it would take three vehicles and 10 full front end assemblies, at a cost to Koenigsegg of \$4.5 million. Koenigsegg states that at present, this amount of money is neither financially or commercially feasible.

Koenigsegg explained how it has focused on developing advanced air bags for the CCX successor vehicle. Koenigsegg has started working with a consortium consisting of IDIADA, Bosch, and Key Safety Systems, to develop a “low risk” advanced air bag development program that would be feasible for a small volume manufacturer to complete. This effort is primarily based on a drastic reduction in the number of test vehicles, and is based on continued rebuild and repair of frontal structures that are bolted on to the vehicle. Koenigsegg stated that this was possible because of the “advanced monococque chassis concept” upon which the CCX successor will be based. Koenigsegg further stated that the successor to the CCX will comply with the FMVSS No. 214 *Side Impact Protection* pole test criteria.

Koenigsegg described how the work initiated for the advanced air bag program will be shared: Koenigsegg will take overall vehicle engineering responsibility; IDIADA will perform all CAE (computer aided engineering) and manage the crash test program; Bosch will be responsible for the air bag ECU (electronic control unit) hardware/software development; and Key Safety Systems (KSS) will be responsible for the DAB (driver side air bag)/PAB (passenger side air bag) and restraint system hardware adaptation and calibration, including all sled tests.

Koenigsegg’s plan is to spend over \$1.3 million in outside development costs plus \$2.8 million for the cost of development vehicles. Because of the worldwide economic situation, which has affected automotive sales, Koenigsegg states that it needs more time to be able to raise the capital to meet the advanced air bag development expenditures.

Koenigsegg Argues an Exemption Would Be in the Public Interest. The petitioner put forth several arguments in favor of a finding that the requested renewal of an exemption from advanced air bag requirements would be consistent with the public interest. Specifically, Koenigsegg argued that the vehicle would be equipped with a fully-compliant standard U.S. air bag system. Other than the lack of an advanced air bag, Koenigsegg emphasized that the CCX will comply with applicable

FMVSSs and with Part 581, *Bumper Standard*.

As additional bases for showing that its requested renewal of an exemption would be in the public interest, Koenigsegg offered the following. The company asserted that there is consumer demand in the U.S. for the CCX, and granting this application will allow the demand to be met, thereby expanding consumer choice. The company also suggested another reason why granting the renewal of the exemption would not be expected to have a significant impact on safety, specifically because the vehicle is unlikely to be used extensively by owners, due to its “sporty (second car) nature.” Finally, Koenigsegg indicated that the CCX incorporates advanced engineering and certain advanced safety features that are not required by the FMVSSs, including racing brakes with anti-lock capability and traction control. In addition, the company argued that the CCX has enhanced fuel efficiency due to its highly aerodynamic design.

IV. Petition of Morgan

Background—Founded in 1909, Morgan is a small, privately-owned vehicle manufacturer producing approximately 650 specialty sports cars per year.¹⁷ Morgan manufactures several models, but at present, only sells the Aero 8 in the U.S. Morgan intended to produce a vehicle line specific to the U.S. market, with Ford supplying the engine and transmission. However, for technical reasons, the project did not come to fruition, and Morgan temporarily stopped selling vehicles in the U.S. in 2004. In May 2005, Morgan obtained a temporary exemption from this agency’s bumper standard and began selling the Aero 8 in the U.S.

On July 12, 2006 (71 FR 39386), NHTSA published a notice of receipt of five applications for temporary exemptions from the advanced air bag requirements of FMVSS No. 208. Among these petitions was one from Morgan, for the Aero 8, which is discussed at pages 39390–39391. Morgan’s petition is included in the docket for that notice, i.e., Docket NHTSA–2006–25324.

We granted Morgan’s petition for temporary exemption in a **Federal Register** notice of September 7, 2006 (71 FR 52851). The discussion of Morgan’s grant is on pages 52862 though 52865. The grant of temporary exemption is for the Morgan Aero 8 “From S15.2, S17,

¹⁷ A manufacturer is eligible to apply for a hardship exemption if its total motor vehicle production in its most recent year of production does not exceed 10,000, as determined by the NHTSA Administrator (15 U.S.C. 1410(d)(1)).

¹⁶ 72 FR 17608, at 17611, April 9, 2007.

S19, S21, S23, and S25 of 49 CFR 571.208.” The exemption was granted for the period from September 1, 2006 to August 31, 2009.

In a petition dated June 11, 2009, Morgan asked for a renewal of the temporary exemption for a two year period, from September 1, 2009 to August 31, 2011. NHTSA’s statute at 49 U.S.C. 30113(b) states that exemptions from a Federal motor vehicle safety standard are to be granted on a “temporary basis.”¹⁸ However, the statute also expressly provides for renewal of an exemption on reapplication.

Morgan’s petition would apply to the Aero 8 and the Aero Super Sport, an interim vehicle also based on the Aero platform. The Aero Super Sport will be available on an interim basis until a successor vehicle (code named the AP8), is complete and ready for sale.

Morgan’s Statement of Economic Hardship—In its petition for temporary exemption for the Aero 8 for September 1, 2006 through August 31, 2009, Morgan estimated that U.S. sales of the Aero 8 would be several hundred vehicles a year. In the June 11, 2009 petition, Morgan reports that it has sold 19 Aero 8s in the U.S. from September 2006 to the present. The 19 vehicles represent “less than 3% of what had been expected.”

Morgan stated it has been focusing over the last two years on the Aero model range successor, (code named the AP8) which will be a completely new design. However, since the original petition was granted in 2006, it was decided to extend the availability of the present Aero model from September 2009 to the fall of 2011, in large part due to world economic conditions.

Because, over the past few years, Morgan did not sell as many vehicles in the U.S. as it had hoped, and because of other economic considerations, Morgan decided to delay development of the new AP8. In order to “improve available funds,” Morgan decided to concentrate on the Aero Super Sport, an interim project based on the Aero platform, which Morgan hopes will be able to generate enough revenue so that Morgan can continue to develop the AP8. The Aero Super Sport was slated to be available in the U.S. in January 2010.

Morgan seeks an extension of the temporary exemption from the advanced air bag requirements for the Aero Super Sport. Morgan intends to use the exemption to cover a “limited production run of 50 U.S. Aero Super Sport cars.” Morgan states the Aero Super Sport will be the last model that

is based on the Aero chassis and that uses the standard air bag system.

Morgan states that the Aero “must” come to an end in 2011 because the production of the steering wheel has ended, and no further stock, other than that already owned by Morgan, is available. Morgan stated that this essentially forced end to production is important because “it essentially precludes further requests by Morgan to NHTSA to prolong the Aero platform in the U.S.”

Morgan estimates that, assuming 50 Aero Super Sports are sold in the U.S., the total number of exempted vehicles that Morgan manufactures and sells in the U.S. will be 69 (50 Aero Super Sports plus the 19 Aero 8s already sold). If Morgan can sell 69 vehicles, that will be 656 fewer vehicles than the projected sales in Morgan’s first petition for temporary exemption in 2005.

Morgan’s Statement of Good Faith Efforts to Comply—In its previous submission, Morgan stated that it has been working with the air bag supplier Siemens to develop an advanced air bag system for the Aero 8. However, a lack of funds and technical problems precluded the implementation of an advanced air bag system for the Aero 8. It said that the minimum time needed to develop an advanced air bag system (provided that there is a source of revenue) is two years. Specific technical challenges include the following. Morgan does not have access to the necessary sensor technology to pursue the “full suppression” passenger air bag option. Due to the design of the Aero 8 platform dashboard, an entirely new interior solution and design must be developed. Chassis modifications are anticipated due to the originally stiff chassis design.

In its February 2006 petition, Morgan stated that for vehicles to be built between September 2006–September 2009, the Aero 8 vehicles will have (and in fact, did have) standard air bags. Back then, Morgan stated its belief that when its advanced air bag system is ready in 2009, the air bag system will simultaneously be installed in both the Aero and other models.

Morgan’s Statement of Public Interest—In its original petition concerning the Aero, Morgan put forth several arguments supporting its view that the requested exemption is consistent with the public interest. According to Morgan, if the exemption was denied and Morgan stops U.S. sales, Morgan’s U.S. dealers would unavoidably have numerous lay-offs, resulting in U.S. unemployment. Denial of an exemption would reduce consumer choice in the specialty sports

car market sector in which Morgan cars compete. That company argued that the Morgan vehicles will not be used extensively by owners, and are unlikely to carry small children. Finally, according to Morgan, granting an exemption would assure the continued availability of proper parts and service support for existing Morgan owners. Without an exemption, Morgan would be forced from the U.S. market, and Morgan dealers would find it difficult to support existing customers.

In its petition asking for a renewal of the temporary exemption from FMVSS No. 208, Morgan reiterated these points.

V. Public Comment Period

We are providing a 30-day comment period on Koenigsegg’s and Morgan’s petitions for an extension of a temporary exemption from the advanced air bag requirement of FMVSS No. 208. After considering public comments and other available information, we will publish a notice of final action addressing each application in the **Federal Register**.

VI. Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to the Docket at the address given above under **ADDRESSES**.

Comments may also be submitted to the docket electronically by logging into <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB’s guidelines may be accessed at <http://www.whitehouse.gov/omb/fedreg/reproducible.html>.

¹⁸ 49 U.S.C. 30113(b)(1).

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, go to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you

periodically check the Docket for new material.

Authority: 49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8.

Issued on: April 5, 2011.

Joseph S. Carra,
Acting Associate Administrator for Rulemaking.

[FR Doc. 2011-8468 Filed 4-8-11; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 55 (Sub-No. 705X)]

CSX Transportation, Inc.— Discontinuance of Service Exemption—in Pinellas County, Fla.

CSX Transportation, Inc. (CSXT) filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over approximately a 0.45-mile rail line on CSXT's Southern Region, Jacksonville Division, Clearwater Subdivision, extending between milepost ARE 897.55 near 16th Street North and milepost ARE 898.00 at the junction of 1st Avenue South and Dr. Martin Luther King Street in St. Petersburg, Pinellas County, Fla. The line traverses United States Postal Service Zip Code 33707.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic to be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this

exemption will be effective on May 11, 2011, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2)¹ must be filed by April 21, 2011.² Petitions to reopen must be filed by May 2, 2011, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to CSXT's representative: Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: April 1, 2011.

By the Board, Rachel D. Campbell,
Director, Office of Proceedings.

Jeffrey Herzig,
Clearance Clerk.

[FR Doc. 2011-8439 Filed 4-8-11; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request; State Small Business Credit Initiative Allocation Agreement

AGENCY: Departmental Offices, Small Business Lending Funds, Treasury.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)), this notice invites the general public and other public agencies to comment on a proposed information collection for which approval from the Office of Management and Budget (OMB) will be requested. The proposed collection would be an extension of a currently approved collection under OMB No. 1505-0227 which is due to expire June 30, 2011.

DATES: Written comments must be received on or before June 10, 2011 to be assured of consideration.

¹ Each OFA must be accompanied by the filing fee, which is currently set at \$1,500. See 49 CFR 1002.2(f)(25).

² Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historic documentation is required here under 49 CFR 1105.6(c) and 49 CFR 1105.8(b), respectively.