

information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

(1) *Title:* Air Bag Deactivation.

*OMB Control Number:* 2127-0588.

*Affected Public:* Private individuals, fleet owners and lessees, motor vehicle dealers, repair business.

*Abstract:* If a private individual or lessee wants to install an air bag on-off switch to turn-off either or both frontal air bags, they must complete Form OMB 2127-0588 to certify certain statements regarding use of the switch. The dealer or business must, in turn, submit the completed forms to NHTSA within seven days. The submission of the completed forms by the dealers and repair business to NHTSA, as required, will serve the agency several purposes. They will aid the agency in monitoring the number of authorization requests submitted and the pattern in claims of risk group membership. The completed forms will enable the agency to determine whether the dealers and repair business are complying with the terms of the exemption, which include a requirement that the dealers and repair businesses accept only fully completed forms. Finally, submission of the completed forms to the agency will promote honesty and accuracy in the filling out of the forms by vehicle owners. The air bag on-off switches are installed only in vehicles in which the risk of harm needs to be minimized on a case-by-case basis.

*Estimated Annual Burden:* 7,500 hours.

*Estimated Number of Respondents:* 15,000.

*Comments are invited on:* Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued on: November 21, 2006.

**Kevin Mahoney,**

*Director, Corporate Customer Services.*

[FR Doc. E6-20106 Filed 11-27-06; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2006-25545, Notice 2]

#### YES! Sportscars; Response to Application for a Temporary Exemption From the Advanced Air Bag Requirements of FMVSS No. 208

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

**ACTION:** Grant of application for temporary exemption from certain provisions of Federal Motor Vehicle Safety Standard No. 208, *Occupant Crash Protection*.

**SUMMARY:** This notice grants the YES! Sportscars application for temporary exemption from certain advanced air bag requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection*. This exemption applies to the YES! Roadster 3.2 and 3.2 Turbo (hereinafter collectively referred to as "the YES! Roadster"). In accordance with 49 CFR part 555, the basis for the grant is 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.

The exemption for the YES! Roadster is effective September 1, 2006 and will remain in effect until August 31, 2009.

In accordance with the requirements of 49 U.S.C. 30113(b)(2), we published a notice of receipt of the application<sup>1</sup> in the **Federal Register** and asked for public comments.<sup>2</sup> We received no comments on the application.

**DATES:** The exemption from the specified provisions of FMVSS No. 208 for the YES! Roadster is effective from September 1, 2006 until August 31, 2009.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ed Glancy or Mr. Eric Stas in the Office of the Chief Counsel at the National Highway Traffic Safety Administration (NCC-112), 400 Seventh Street, SW., Room 5219, Washington, DC 20590 (Telephone: (202) 366-2992; Fax: (202) 366-3820).

#### SUPPLEMENTARY INFORMATION:

<sup>1</sup> To view the application, go to: <http://dms.dot.gov/search/searchFormSimple.cfm> and enter Docket No. NHTSA-2006-25545.

<sup>2</sup> See 71 FR 50980 (August 28, 2006) (Docket No. NHTSA-2006-25545-1).

#### 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."<sup>3</sup> 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 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, but their efforts to bring their respective vehicles into compliance with these requirements began several years ago. However, because the new requirements were challenging, major air bag suppliers concentrated their efforts on working with large volume manufacturers, and thus, until recently, small volume manufacturers had limited access to advanced air bag technology. Because of the nature of the requirements for protecting out-of-position occupants, "off-the-shelf" systems could not be readily adopted. Further complicating matters, because small volume manufacturers build so few vehicles, the costs of developing custom advanced air bag systems compared to potential profits discouraged some air bag suppliers from working with small volume manufacturers.

The agency has carefully tracked occupant fatalities resulting from air bag deployment. Our data indicate that the agency's efforts in the area of consumer education and manufacturers' providing depowered air bags were successful in reducing air bag fatalities even before advanced air bag requirements were implemented.

As always, we are concerned about the potential safety implication of any temporary exemptions granted by this agency. In the present case, we are addressing a petition for a temporary

<sup>3</sup> See 65 FR 30680 (May 12, 2000) (Docket No. NHTSA-2000-7013).

exemption from the advanced air bag requirements submitted by a manufacturer of low volume, exotic sports cars.

## II. Overview of Petition for Economic Hardship Exemption

In accordance with 49 U.S.C. 30113 and the procedures in 49 CFR part 555, YES! Sportscars has petitioned the agency for a temporary exemption from certain advanced air bag requirements of FMVSS No. 208. The basis for the application is that compliance would cause substantial economic hardship<sup>4</sup> to a manufacturer that has tried in good faith to comply with the standard. 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.<sup>5</sup>

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). In determining whether a manufacturer of a vehicle meets that criterion, NHTSA considers whether a second vehicle manufacturer also might be deemed the manufacturer of that vehicle. The statutory provisions governing motor vehicle safety (49 U.S.C. Chapter 301) do not include any provision indicating that a manufacturer might have substantial responsibility as manufacturer of a vehicle simply because it owns or controls a second manufacturer that assembled that vehicle. However, the agency considers the statutory definition of "manufacturer" (49 U.S.C. 30102) to be sufficiently broad to include sponsors, depending on the circumstances. Thus, NHTSA has stated that a manufacturer may be deemed to be a sponsor and thus a manufacturer of a vehicle assembled by a second manufacturer if the first manufacturer had a substantial role in the development and manufacturing process of that vehicle.

Finally, while 49 U.S.C. 30113(b) states that exemptions from a Safety Act

standard are to be granted on a "temporary basis,"<sup>6</sup> the statute also expressly provides for renewal of an 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.

## III. YES! Sportscars

Background. YES! Sportscars is a division of Funke & Will Aktiengesellschaft (AG), a German corporation formed in 2000. Funke & Will AG is a specialized engineering firm which offers engineering services to the automobile industry on small volume projects. Although the parent company's two founders together own 85 percent of the corporation's shares, the German state of Saxony does have a 15-percent ownership stake.<sup>7</sup>

YES! Sportscars, a separate vehicle manufacturing part of the company, began production in 2001 of high-performance sports cars based on an aluminum spaceframe. This application concerns the YES! Roadster (currently the company's only model) which is expected to retail for \$59,000. To date, the primary markets for the YES! Roadster have been Europe and the Middle East, with the following numbers of vehicles being produced over the past five years: 12 vehicles in 2001; 37 vehicles in 2002; 42 vehicles in 2003; 48 vehicles in 2004, and 54 vehicles in 2005. None of those vehicles has been sold in the U.S. market.

According to the petition, the company had originally planned to prospectively produce vehicles for the European, Mid-East, and Far-East markets, but it has been determined to be a matter of financial necessity for YES! Sportscars to enter the U.S. market, particularly given the limited but global market for these high-end sports cars. The company anticipates

that approximately 65 percent of its total sales will be to the U.S. market.

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 vehicles in the U.S. after September 1, 2006.

*Eligibility.* As discussed in the petition, YES! Sportscars is a division of Funke & Will AG, a German corporation formed in 2000. The entire organization currently employs 49 people. No other vehicle manufacturer has an ownership interest in either YES! Sportscars or Funke & Will AG, and the reverse is likewise true. Stated another way, YES! Sportscars is an independent automobile manufacturer which does not have any common control or is otherwise affiliated with any other vehicle manufacturer.

The company is a small volume manufacturer whose total production has ranged from 12 to 54 vehicles per year over the period from 2001 to 2005. According to its current forecasts, YES! Sportscars anticipates that approximately 250 vehicles would be imported into the U.S. during the three-year period for its requested exemption, if such request were granted.

*Requested exemption.* YES! Sportscars stated that it intends to certify the YES! Roadster 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 YES! Roadster'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. YES! Sportscars stated that it, therefore, cannot at present say with certainty that the YES! Roadster will comply with the unbelted test requirement under S14.5.2, which is a 20–25 mph rigid barrier test.

As for the YES! Roadster's compliance with the other advanced air bag requirements, YES! Sportscars stated that it does not know whether the YES! Roadster will be compliant because to date it has not had the financial ability to conduct the necessary testing.

As such, YES! Sportscars is requesting an exemption for the YES! Roadster 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

<sup>4</sup> 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.

<sup>5</sup> The Safety Act is codified as Title 49, United States Code, Chapter 301.

<sup>6</sup> 49 U.S.C 30113(b)(1).

<sup>7</sup> According to the petitioner, the German state government took an ownership interest in the firm in exchange for subsidies for capital investment in facilities and equipment. According to YES! Sportscars, these subsidies cannot be used for operational expenditures and research and development funding.

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).

YES! Sportscars stated its intention to produce a second generation of the YES! Roadster by September 1, 2009, which would be certified as complying with all applicable U.S. standards, including the advanced air bag requirements. Accordingly, the company is requesting an exemption from the above-specified requirements of FMVSS No. 208 for the period from September 1, 2006 to August 31, 2009.

**Economic hardship.** Publicly available information and also the financial documents submitted to NHTSA by the petitioner indicate that the YES! Roadster project will result in financial losses unless YES! Sportscars obtains a temporary exemption.

Over the period 2001–2005, the YES! Sportscars division of Funke & Will AG has experienced net operational losses totaling \$618,000 (484,000 euros at an exchange rate of 1 euro = \$1.277).<sup>8</sup> As of the time of the application, YES! Sportscars has invested over \$3.0 million on the design, development, and homologation of the YES! Roadster project in order to have the vehicle meet U.S. standards—not including the advanced air bag requirements which are the subject of the present petition for temporary exemption. The company has stated that it cannot hope to attain profitability if it incurs additional research and development expenses at this time.

YES! Sportscars stated that costs associated with advanced air bag engineering and development (including research and development, testing, tooling, and test vehicles) have been estimated to be \$1.7 million (including internal costs). In its petition, YES! Sportscars reasoned that sales in the U.S. market must commence in order to finance this work and that non-U.S. sales alone cannot generate sufficient income for this purpose. In essence, YES! Sportscars argued that the exemption is necessary to allow the company to “bridge the gap” until fully compliant vehicles can be funded, developed, tooled, and introduced for the U.S. market.

If the exemption is denied, YES! Sportscars projects a net loss of \$1.1 million over the period from 2006–2008 (assuming a delayed start of U.S. sales until 2008). However, if the petition is granted, the company anticipates a profit of nearly \$1.4 million during that same period. The petitioner argued that a denial of this petition could preclude financing of the project for USA-compliant vehicles, a development which would have a highly adverse impact on the company.

**Good faith efforts to comply.** As stated above, YES! Sportscars initially planned to produce vehicles for the European, Mid-East, and Far-East markets, but once it was determined in 2005 that entry into the U.S. market was a necessary part of its business plan, the company invested over \$3.0 million on research and development and tooling for its U.S. YES! Roadster program (including adoption of a U.S.-certified engine and drive train). In that time, the company was able to bring the vehicle into compliance with all applicable NHTSA regulations, except for the advanced air bag provisions of FMVSS No. 208.

In light of limited resources, the petitioner stated that it was necessary to first develop the vehicle with a standard U.S. air bag system. The company has spent over \$630,000 to reengineer the YES! Roadster to include a standard air bag system, which it stated will then be “expanded” into an advanced air bag system.

According to its petition, even though advanced air bags are beyond its current capabilities, YES! Sportscars is nonetheless planning for the introduction of these devices. The company stated that Siemens Restraint Systems will spearhead this effort, and current plans estimate a cost of \$1.1 million (excluding internal costs) and a minimum lead time of 24 months for the advanced air bag project. YES! Sportscars stated that the following engineering efforts are needed to upgrade the YES! Roadster’s standard air bag system to an advanced air bag system: (1) Interior redesign work to the dashboard, steering column, and electronic systems; (2) sourcing and organization of supplier and engineering personnel and resources for development work (including sensor calibration); (3) construction of prototypes, and (4) testing.

In addition, YES! Sportscars stated that finding suppliers willing to work with a manufacturer with very low production volumes has proven extremely difficult, and as a result, the company must wait for technology to “trickle down” from larger

manufacturers and suppliers. YES! Sportscars further stated that small volume manufacturers simply do not have the internal resources to do full U.S. homologation projects without reliance on outside suppliers of advanced engineering technologies.

In short, YES! Sportscars argued that, despite good faith efforts, limited resources prevent it from bringing the vehicle into compliance with all applicable requirements, and it is beyond the company’s current capabilities to bring the vehicle into full compliance until such time as additional resources become available as a result of U.S. sales. With funding from the sale of the current generation of YES! Roadsters, the company expects that additional development efforts could start in 2007, thereby allowing introduction of a fully compliant vehicle in September 2009.

**YES! Sportscars argues that an exemption would be in the public interest.** The petitioner put forth several arguments in favor of a finding that the requested exemption is consistent with the public interest and would not have a significant adverse impact on safety. Specifically, YES! Sportscars argued that the vehicle would be equipped with a fully-compliant *standard* U.S. air bag system (*i.e.*, one meeting all requirements of FMVSS No. 208 prior to implementation of S14). Furthermore, the company emphasized that the YES! Roadster will comply with all other applicable FMVSSs.

The company asserted that granting the exemption will benefit U.S. employment, companies, and citizens, because YES! Roadsters will be sold and serviced through a network of U.S. dealers. YES! Sportscars also argued that denial of the exemption request would have an adverse impact on consumer choice, suggesting that there is domestic demand for a performance vehicle in the YES! Roadster’s price range. The company also argued that an exemption is unlikely to have a significant safety impact because these vehicles are not expected to be used extensively by their owners, due to their “second vehicle” nature and “minimalist design.” The company also reasoned that given the nature of the vehicle, it is less likely to be used to transport young children than most other vehicles.

As an additional basis for showing that its requested exemption would be in the public interest, YES! Sportscars stated that the YES! Roadster has an extremely strong and protective chassis, which is composed of aluminum tubes and composite structure parts. According to YES! Sportscars, the

<sup>8</sup> According to the YES! petition, the engineering portion of Funke & Will AG has made a modest profit in the past few years, but in total, such profits would only amount to 45 percent of the funding needed to finance the requisite advanced air bag work.

vehicle design is such that occupants are effectively placed in a “protective ‘cell’” with the chassis structure built around them.

*Agency Decision on YES! Sportscars Petition.* We are granting the YES! Sportscars petition to be exempted from portions of the advanced air bag regulation required by S14.2 (specifically S14.5.2, S15, S17, S19, S21, S23, and S25). The exemption does not extend to the provision requiring a belted 50th percentile male barrier impact test (S14.5.1(a)). In addition to certifying compliance with S14.5.1(a), YES! Sportscars must continue to certify to the unbelted 50th percentile barrier impact test in force prior to September 1, 2006 (S5.1.2(a)). We note that the unbelted sled test in S13 is an acceptable option for that requirement. The agency’s rationale for this decision is as follows.

The advanced air bag requirements present a unique challenge because they would require YES! Sportscars to undertake a major redesign of its vehicles, in order to overcome the engineering limitations of the YES! Roadster. Specifically, YES! Sportscars would be required to undertake significant interior redesign in order to upgrade the vehicle’s standard air bag system to an advanced air bag system. While the petitioner was aware of the new requirements for some time, its business plans did not initially involve sales in the U.S. However, YES! Sportscars subsequently determined that it would be necessary to introduce the YES! Roadster into the U.S., thereby raising the problem of compliance with the advanced air bag requirements. Once the determination was made to seek entry into the U.S. market, YES! Sportscars undertook significant homologation efforts in order to meet applicable U.S. requirements, but compliance with the advanced air bag provisions of FMVSS No. 208 were beyond the company’s capabilities at the present time. YES! Sportscars plans to utilize proceeds from sales of the current generation of YES! Roadsters to finance the development of a fully compliant successor vehicle.

YES! Sportscars explained the main engineering challenges precluding incorporation of advanced air bag into the YES! Roadster at this time, as follows. The company must undertake redesign work to the vehicle’s dashboard, steering column, and electronic systems. Furthermore, the petitioner stated that it would need additional time to work with an advanced air bag supplier, because very low volume manufacturers have had to wait for technology to “trickle down”

from larger manufacturers and suppliers. YES! Sportscars has made clear that such a prospect would pose a unique challenge to the company, due to the high cost of development and its extremely small sales volumes.

Based upon the information provided by the petitioner, we understand that YES! Sportscars made good faith efforts to bring the YES! Roadster into compliance with the applicable requirements until such time as it became apparent that there was no practicable way to do so. As a small specialty manufacturer, the company had a difficult time in gaining access to advanced air bag systems and components (which presumably reflects restraint system suppliers’ initial focus on meeting the needs of large volume manufacturers), so alternative means of compliance were not available as a practical matter. Small manufacturers such as YES! Sportscars are dependent upon air bag suppliers for the engineering expertise and technology transfer necessary for compliance with FMVSS No. 208. This further reduced the lead time available for development.

Furthermore, because YES! Sportscars is an independent automobile manufacturer, there was no possibility of technology transfer from a larger parent company that also manufactures motor vehicles. Consequently, no viable alternatives remain. The petitioner is unable to redesign its vehicle in time to meet the new advanced air bag requirements that became effective on September 1, 2006.

After review of the income statements provided by the petitioner, the agency notes that the company has faced ongoing financial difficulties, experiencing net operating losses of about \$618,000 (484,000 euros) over the past five years (2001–2005). The company was not profitable in any year during that period. If the petitioner’s request for a temporary exemption is denied, the company will be precluded from selling any vehicles in the U.S. market at this time. The resulting loss of sales would cause substantial economic hardship within the meaning of the statute, potentially amounting to the difference between a profit of nearly \$1.4 million (if an exemption is granted) and a loss of \$1.1 million (if an exemption is denied) over the period from 2006–2008. Ultimately, denial of the exemption request could preclude development of a U.S.-compliant vehicle and jeopardize the continued existence of YES! Sportscars.

According to YES! Sportscars, absent the exemption, the company anticipates being unable to enter the U.S. market during the period from 2006–2008.

However, YES! Sportscars’ problems would be compounded without its requested temporary exemption, because it needs the revenue from sales of the YES! Roadster over the next two years to finance development of a fully compliant vehicle for delivery to the U.S. market. Granting the exemption will allow YES! Sportscars to earn the resources necessary to bridge the gap in terms of development of a successor vehicle for the current YES! Roadster that meets all U.S. requirements.

While some of the information submitted by YES! Sportscars has been granted confidential treatment and is not detailed in this document, the petitioner made a comprehensive showing of its good faith efforts to comply with the requirements of S14.2 of FMVSS No. 208, and detailed engineering and financial information demonstrating that failure to obtain the exemption would cause substantial economic hardship. Specifically, the petitioner provided the following:

1. Chronological analysis of YES! Sportscars’ efforts to comply, showing the relationship to the rulemaking history of the advanced air bag requirements.

2. Itemized costs of each component that would have to be modified in order to achieve compliance.

3. Discussion of alternative means of compliance and reasons for rejecting these alternatives.

4. A detailed OEM price-volume quotation from an advanced air bag supplier, including detailed costs for the necessary components for each stage of the development program.

5. Explanations as to why components from newer, compliant vehicle lines could not be borrowed.

6. Corporate income statements and balance sheets for the period from 2000–2005, and projected profits for the period from 2006–2008 (analyzing alternative scenarios in which the petition is granted and denied).

While noting that reduction of sales revenue resulting from a denial of the company’s requested temporary exemption would have a negative impact on YES! Sportscars’ financial circumstances, we also sought to evaluate a denial’s affect on U.S. employment, in light of the company’s statement that it anticipates selling the YES! Roadster through a network of U.S. dealers. Traditionally, the agency has concluded that the public interest is served in affording continued employment to the petitioner’s U.S. work force. As a corollary, the agency also may consider prospective employment gains as part of its analysis of what is in the public interest.

However, YES! Sportscars provided no information on prospective U.S. dealers, projected sales per outlet, or employment. Thus, it is difficult to assess the likely employment impacts associated with granting the petition, as any such conclusions would be largely speculative.

We believe that this exemption will have negligible impact on motor vehicle safety because of the limited number of vehicles affected (approximately 250 imported for the duration of the exemption). Furthermore, as discussed in previous decisions on temporary exemption applications, the agency believes that the public interest is served by affording consumers a wider variety of motor vehicle choices.

We note that, as explained below, prospective purchasers will be notified that the vehicle is exempted from the specified advanced air bag requirements of Standard No. 208. Under § 555.9(b), a manufacturer of an exempted passenger car must affix securely to the windshield or side window of each exempted vehicle a label containing a statement that the vehicle conforms to all applicable Federal motor vehicle safety standards in effect on the date of manufacture "except for Standard Nos. [listing the standards by number and title for which an exemption has been granted] exempted pursuant to NHTSA Exemption No. \_\_\_\_." This label notifies prospective purchasers about the exemption and its subject. Under § 555.9(c), this information must also be included on the vehicle's certification label.

The text of § 555.9 does not expressly indicate how the required statement on the two labels should read in situations where an exemption covers part but not all of a Federal motor vehicle safety standard. In this case, we believe that a statement that the vehicle has been exempted from Standard No. 208 generally, without an indication that the exemption is limited to the specified advanced air bag provisions, could be misleading. A consumer might incorrectly believe that the vehicle has been exempted from all of Standard No. 208's requirements. Moreover, we believe that the addition of a reference to such provisions by number without an indication of its subject matter would be of little use to consumers, since they would not know the subject of those specific provisions. For these reasons, we believe the two labels should read in relevant part, "except for S14.5.2, S15, S17, S19, S21, S23, and S25 (Advanced Air Bag Requirements) of Standard No. 208, Occupant Crash Protection, exempted pursuant to \* \* \*." We note that the phrase "Advanced Air Bag

Requirements" is an abbreviated form of the title of S14 of Standard No. 208. We believe it is reasonable to interpret § 555.9 as requiring this language.

In sum, the agency concludes that YES! Sportscars has demonstrated good faith effort to bring the YES! Roadster into compliance with the advanced air bag requirements of FMVSS No. 208, and has also demonstrated the requisite financial hardship. Further, we find the exemption to be in the public interest.

In consideration of the foregoing, we conclude that compliance with the advanced air bag requirements of FMVSS No. 208, *Occupant Crash Protection*, would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard. We further conclude that granting of an exemption would be in the public interest and consistent with the objectives of traffic safety.

In accordance with 49 U.S.C. 30113(b)(3)(B)(i), the YES! Roadster is granted NHTSA Temporary Exemption No. EX 06-9, from S14.5.2, S15, S17, S19, S21, S23, and S25 of 49 CFR 571.208. The exemption is effective from September 1, 2006 to August 31, 2009.

Issued on: November 21, 2006.

**Nicole R. Nason,**  
Administrator.

[FR Doc. E6-20091 Filed 11-27-06; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34911 (Sub-No. 1)]

#### Montana Rail Link, Inc.—Trackage Rights Exemption—BNSF Railway Company

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Petition for Partial Revocation.

**SUMMARY:** The Board, under 49 U.S.C. 10502, exempts the trackage rights described in *Montana Rail Link, Inc.—Trackage Rights Exemption—BNSF Railway Company*, STB Finance Docket No. 34911 (STB served Oct. 13, 2006) (*MRL Trackage Rights*)<sup>1</sup> to permit them

<sup>1</sup> On September 25, 2006, Montana Rail Link, Inc. (MRL) concurrently filed a notice of exemption under the Board's class exemption procedures at 49 CFR 1180.2(d)(7). The notice covered the agreement by BNSF Railway Company (BNSF) to grant overhead trackage rights to MRL over BNSF's rail lines extending from approximately milepost 51.07 at or near Garrison, MT, to approximately milepost 21.5, a location south of Warm Springs, MT, a distance of approximately 29.57 miles. See *MRL*

to expire on or about December 31, 2010, in accordance with the agreement of the parties, subject to the employee protective conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

**DATES:** The exemption will be effective on December 28, 2006. Petitions to stay must be filed by December 8, 2006. Petitions to reopen must be filed by December 18, 2006.

**ADDRESSES:** An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34911 (Sub-No. 1) must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of all pleadings must be served on petitioner's representative: Troy Garriss, 1300 19th Street, NW., Fifth Floor, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 565-1609. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Board's decision. To purchase a copy of the full decision, write, e-mail, or call: ASAP Document Solutions, 9332 Annapolis Rd., Suite 103, Lanham, MD 20706; e-mail: [asapdc@verizon.net](mailto:asapdc@verizon.net); telephone: (202) 306-4004. [Assistance for the hearing impaired is available through FIRS at 1-800-877-8339.]

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

Decided: November 17, 2006.

By the Board, Chairman Nottingham, Vice Chairman Mulvey, and Commissioner Buttrey.

**Vernon A. Williams,**  
Secretary.

[FR Doc. E6-19977 Filed 11-27-06; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork

*Trackage Rights.* The trackage rights operations under the exemption were scheduled to be consummated on or after October 2, 2006.