

enable it to begin the manufacture and sale of the Karma earlier than it could otherwise. This will provide additional consumer choice in selecting a motor vehicle, encourage the development of fuel-efficient and alternative-energy vehicles, and provide additional employment opportunities. It will also enable Fisker to generate funds through the sale of vehicles, which will help it sustain vehicle development plans, including meeting the advanced air bag requirements.

We have also considered safety issues related to the exemption requested by Fisker. With respect to transporting children, Fisker noted that the Karma is equipped with two rear seats. Each rear seat is equipped with a child seat LATCH system.⁷ Fisker stated that child seats may be safely placed in these rear seat positions. The Karma will also have the permanently affixed "sun visor air bag warning label" and a removable "warning label on the dashboard" that NHTSA developed/requires for vehicles without advanced air bags. Thus, parents and others will be able to transport children in the rear seats of the Karma without exposing them to the risks of air bags, and the vehicles will have warning labels concerning the risks of air bags. This helps minimize any safety disbenefits of the vehicle not meeting requirements for advanced air bags.

We also note again that the coupe version of the Karma will be equipped with eight functional air bags (front, side, knee and curtain air bags). The convertible version will be equipped with six functional air bags (front, side and knee air bags). Both versions will include seat belts with pretensioners and load limiters.

Given the relatively small number of vehicles that will be produced during the one-year exemption and the above discussion, we believe that the requested exemption would have a negligible effect on motor vehicle safety.

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 FMVSSs 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 FMVSS. 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 (apart from S14.5.1(b)), 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.

e. Decision

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), Fisker is granted NHTSA Temporary Exemption No. EX 10-01, from S14 (apart from S14.5.1(b)), S15, S17, S19, S21, S23, and S25 of FMVSS No. 208. In addition to certifying compliance with the belted 50th percentile adult male dummy barrier impact requirements in S14.5.1(b), Fisker must certify to the unbelted 50th percentile adult male dummy barrier impact test requirement that applied prior to September 1, 2006 (S5.1.2(a)). For purposes of this exemption, the unbelted sled test in S13 is an acceptable option for that requirement.

The exemption is for the Karma and shall remain in effect for one year as indicated in the **DATES** section of this document.

(49 U.S.C. 30113; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: September 15, 2010.

David L. Strickland,
Administrator.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. CU 159]

Indexing the Annual Operating Revenues of Railroads

The Surface Transportation Board (STB) is publishing the annual inflation-adjusted index factors for 2009. These factors are used by the railroads to adjust their gross annual operating revenues for classification purposes. This indexing methodology insures that railroads are classified based on real business expansion and not from the affects of inflation. Classification is important because it determines the extent to which individual railroads must comply with STB reporting requirements.

The STB's annual inflation-adjusted factors are based on the annual average Railroad's Freight Price Index which is developed by the Bureau of Labor Statistics (BLS). The STB's deflator factor is used to deflate revenues for comparison with established revenue thresholds.

The base year for railroads is 1991. The inflation index factors are presented as follows:

STB RAILROAD INFLATION-ADJUSTED INDEX AND DEFLATOR FACTOR TABLE

Year	Index	Deflator
1991	409.50	100.00
1992	411.80	99.45
1993	415.50	98.55
1994	418.80	97.70
1995	418.17	97.85
1996	417.46	98.02
1997	419.67	97.50
1998	424.54	96.38
1999	423.01	96.72

¹ *Montana Rail Link, Inc., and Wisconsin Central Ltd., Joint Petition For Rulemaking With Respect To 49 CFR Part 1201*, 8 I.C.C. 2d 625 (1992) raised the revenue classification level for Class I railroads from \$50 million (1978 dollars) to \$250 million (1991 dollars), effective for the reporting year beginning January 1, 1992. The Class II threshold was also raised from \$10 million (1978 dollars) to \$20 million (1991 dollars).

⁷ Lower Anchors and Tethers for Children (LATCH) Restraint System.

STB RAILROAD INFLATION-ADJUSTED
INDEX AND DEFLATOR FACTOR
TABLE—Continued

Year	Index	Deflator
2000	428.64	95.45
2001	436.48	93.73
2002	445.03	91.92
2003	454.33	90.03
2004	473.41	86.40
2005	522.41	78.29

STB RAILROAD INFLATION-ADJUSTED
INDEX AND DEFLATOR FACTOR
TABLE—Continued

Year	Index	Deflator
2006	567.34	72.09
2007	588.27	69.52
2008	656.78	62.28
2009	619.73	66.00

DATES: *Effective Date:* January 1, 2009.

FOR FURTHER INFORMATION CONTACT:
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By the Board, William F. Huneke, Director,
Office of Economics.

Jeffrey Herzig,

Clearance Clerk.

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