

(5) Vehicle Fitment: Paragraph S6 of FMVSS No. 119 requires that the marking should contain load capacity values in pounds and kilograms as well as a letter designating the load range. This information is used by vehicle owners to ensure adequate tire load capacity for the specific vehicle configuration. Although the subject tire lacks the letter designating the load range, MNA believes that the ETRTO standard load capacity values and ISO load indices for single and dual application which are widely recognized in the industry are present to ensure proper application.

MNA has additionally informed NHTSA that it has corrected its internal systems error to prevent similar tires from being released for sale in the U.S. market in the future.

In summation, MNA believes that the described noncompliances of the subject tires is inconsequential to motor vehicle safety, and that its petition, to exempt MNA from providing recall notification of noncompliances as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the

defect or noncompliance. Therefore, any decision on this petition only applies to the subject tires that MNA no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after MNA notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120; Delegations of authority at 49 CFR 1.95 and 501.8)

**Jeffrey M. Giuseppe,**  
Director, Office of Vehicle Safety Compliance.

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**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

[Docket No. NHTSA-2013-0139; Notice 2]

**Aston Martin Lagonda Limited, Grant of Petition for Decision of Inconsequential Noncompliance**

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

**ACTION:** Grant of petition.

**SUMMARY:** Aston Martin Lagonda Limited (AML) has determined that

certain model year (MY) 2009-2013 Aston Martin passenger cars do not fully comply with paragraph S4.4(c)(2), of Federal Motor Vehicle Safety Standard (FMVSS) No. 138, *Tire Pressure Monitoring Systems*. AML has filed an appropriate report dated November 4, 2013, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

**ADDRESSES:** For further information on this decision contact Kerrin Bressant, Office of Vehicles Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-1110, facsimile (202) 366-3081.

**SUPPLEMENTARY INFORMATION:**

*I. Overview:* Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, AML submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of AML's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

*II. Vehicles Involved:* Affected are approximately 3,282 of the following AML model passenger cars manufactured from September 2009 through October 2013:

Model	Registered amlna fleet	Dealer un-registered	Build [date] range
DB9 Coupe .....	211	41	10/09-10/13
DB9 Volante .....	225	53	10/09-10/13
DBS Coupe .....	153	1	10/09-08/12
DBS Volante .....	147	1	10/09-08/12
Virage Coupe .....	120	0	12/10-08/12
Virage Volante .....	156	0	12/10-08/12
V8 Vantage Coupe .....	385	54	10/09-10/13
V8 Vantage Roadster .....	279	56	10/09-10/13
V8 Vantage S Coupe .....	170	9	06/10-10/13
V8 Vantage S Roadster .....	122	12	06/10-10/13
Rapide .....	671	0	09/09-02/13
Rapide S .....	74	65	01/13-10/13
Vanquish Coupe .....	197	80	09/12-10/13
<b>Total .....</b>	<b>2910</b>	<b>372</b>	<b>N/A</b>

*III. Noncompliance:* AML explains that during testing of the tire pressure monitoring system (TPMS) it was noted that the fitment of an incompatible wheel and tire unit was correctly detected and the malfunction indicator telltale illuminated as required by FMVSS No. 138. However, when the vehicle ignition was deactivated and

then reactivated after a five minute period, there was no immediate re-illumination of the malfunction indicator telltale as required when the malfunction still exists. Although the malfunction indicator telltale does not re-illuminate immediately after the vehicle ignition is reactivated, it does

illuminate within 40 seconds after the vehicle accelerates above 23 mph.

*IV. Rule Text:* Paragraph S4.4(c)(2) of FMVSS No. 138 requires in pertinent part:

S4.4 TPMS Malfunction.

...

(c) *Combination low tire pressure/TPMS malfunction telltale.* The vehicle meets the

requirements of S4.4(a) when equipped with a combined Low Tire Pressure/TPMS malfunction telltale that:

(2) Flashes for a period of at least 60 seconds but no longer than 90 seconds upon detection of any condition specified in S4.4(a) after the ignition locking system is activated to the “On” (“Run”) position. After each period of prescribed flashing, the telltale must remain continuously illuminated as long as a malfunction exists and the ignition locking system is in the “On” (“Run”) position. This flashing and illumination sequence must be repeated each time the ignition locking system is placed in the “On” (“Run”) position until the situation causing the malfunction has been corrected.

*V. Summary of AML’s Analyses:* AML stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

(A) AML stated that although the TPMS malfunction indicator telltale will not illuminate immediately after the vehicle is restarted, it generally will illuminate shortly thereafter and in any event it will illuminate in no more than 40 seconds after the vehicle accelerates above 23 mph. AML further explained that once the vehicle has accelerated above 23 mph for a period of 15 seconds, the TPMS will seek to confirm the sensors fitted to the vehicle, and in the case a sensor is not fitted, the TPMS will detect this condition within 25 additional seconds and activate the malfunction indicator telltale.

(B) AML explained that if the TPMS fails to detect the wheel sensors, the TPMS monitor will display on the TPMS pressures screen “—” warning the driver that the status of the wheel sensor is unconfirmed. Once the vehicle starts moving, the system will then accurately determine if a sensor is present or not.

(C) AML said that the noncompliance (a software design omission) is confined to one particular aspect of the functionality of the otherwise compliant TPMS malfunction indicator telltale. All other aspects of the low-pressure monitoring system functionality are fully compliant with the requirements of FMVSS No. 138.

(D) AML stated that it is not aware of any customer complaints, field communications, incidents or injuries related to this condition.

(E) AML said it has fixed all unsold vehicles in its custody and control so that they are fully compliant with FMVSS No. 138.

(F) AML argued that differences exist between the MBUSA TPMS inconsequential petition that the agency denied and their petition that should be granted.

In summation, AML believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt AML from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

#### NHTSA Decision

*NHTSA Analysis:* NHTSA has reviewed AML’s justification for an inconsequential noncompliance determination and agrees with AML that the described noncompliance in the subject vehicles is inconsequential to motor vehicle safety.

AML explained that although the malfunction indicator telltale does not re-illuminate immediately after the vehicle is restarted, it will illuminate shortly thereafter—within 40 seconds after the vehicle speed exceeds 23 mph.

NHTSA agrees with AML that the malfunction indicator telltale will not illuminate as required only during very short periods of time when the vehicle is traveling at low speeds and thus poses little risk to vehicle safety. Under normal driving conditions, a driver will begin a trip by accelerating moderately beyond 23 mph, and as explained by AML, once the vehicle accelerates above 23 mph, the malfunction indicator telltale re-illuminates and then remains illuminated for the entire ignition cycle, regardless of vehicle speed. The telltale fails to re-illuminate only in the very rare case when the driver begins a trip and never exceeds the 23 mph threshold, the speed required to re-activate the malfunction indicator telltale. No real safety risk exists because at such low speeds there is little risk of the driver losing control of the vehicle due to underinflated tires. Furthermore, the possibility that the vehicle will experience both a low inflation pressure condition and a malfunction simultaneously is highly unlikely.

AML stated that if the TPMS fails to detect the wheel sensors, a supplemental TPMS monitor provides the driver with a warning on the vehicle’s TPMS pressures screen, indicating the status of the wheel sensor is not confirmed.

The agency evaluated the displays AML uses in the noncompliant vehicles. In addition to the combination malfunction and low inflation pressure telltale indicator lamp, the subject vehicles are equipped with a “plan view” icon which displays the pressures for all four wheels individually. If any wheel has a malfunctioning pressure

sensor the indicator for that wheel displays several dashes “—” indicating there is a problem with that respective wheel. The additional information is not required by the safety standard, but can be used as an aid to the driver to determine the status of a vehicle’s tires.

AML discussed that the noncompliance only involves one specific TPMS functionality requirement and that it believes that the primary functions of the TPMS, the identification of all other required malfunctions as well as the identification of low tire inflation pressure scenarios, is not affected.

The agency agrees with AML that the primary function of the TPMS is to identify low inflation pressure conditions which AML’s system appears to do as required by FMVSS No. 138. Also, there are a variety of other malfunctions that can occur in addition to the incompatible tire malfunction identified in this petition. We understand from AML that its TPMS will perform as required during all other system malfunctions.

AML also mentioned that they have not received or are aware of any consumer complaints, field communications, incidences or injuries related to this noncompliance. In addition to the analysis done by AML that looked at customer complaints, field communications, incidents or injuries related to this condition, the agency conducted additional checks of its Office of Defects Investigations consumer complaint database and found no related complaints.

AML stated that unsold vehicles had the software correction administered and are now fully compliant with FMVSS 138. NHTSA agrees and concurs with AML’s action to mitigate vehicles in its possession as of the date that the noncompliance was acknowledged.

AML pointed out that there are differences between the Mercedes-Benz TPMS related inconsequential noncompliance petition<sup>1</sup> that the agency recently denied and AML’s subject inconsequential noncompliance petition. NHTSA agrees with AML that the noncompliance circumstances are substantially different between the two petitions. The Mercedes-Benz TPMS would initially display a malfunction warning, but would not display the warning on subsequent ignition cycles as required by S4.4(b)(3) of FMVSS No. 138. In the AML vehicles, the TPMS malfunction warning lamp will illuminate each time the vehicle is

<sup>1</sup> 79 FR 47718 (August 14, 2014).

operated, and it will do so very shortly after the vehicle begins to move.

**NHTSA Decision:** In consideration of the foregoing analysis, NHTSA has decided that AML has met its burden of demonstrating that the FMVSS No. 138 noncompliance is inconsequential to motor vehicle safety. Accordingly, AML's petition is hereby granted and AML is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that AML no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after AML notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120; Delegations of authority at 49 CFR 1.95 and 501.8)

**Jeffrey M. Giuseppe,**

*Director, Office of Vehicle Safety Compliance.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. FD 35974]

#### Union Pacific Railroad Company— Temporary Trackage Rights Exemption—BNSF Railway Company

BNSF Railway Company (BNSF) and Union Pacific Railroad Company (UP) have agreed to enter into a written trackage rights agreement,<sup>1</sup> under which BNSF will grant temporary overhead trackage rights to UP between milepost 579.3 near Mill Creek, Okla., on BNSF's Creek Subdivision and milepost 631.0 near Joe Junction, Tex., on BNSF's

Madill Subdivision, a distance of approximately 51.7 miles.

The transaction may be consummated on or after December 3, 2015, the effective date of the exemption (30 days after the verified notice of exemption was filed).

The purpose of the transaction is to allow UP to move loaded and empty unit ballast trains to be used for UP maintenance of way projects. UP states that, under the terms of the agreement, the trackage rights are temporary in nature and will be effective from January 1, 2016, until December 31, 2018.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7).<sup>2</sup> If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than November 25, 2015 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35974, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Jeremy M. Berman, Union Pacific Railroad Company, 1400 Douglas Street, STOP 1580, Omaha, NE 68179.

Board decisions and notices are available on our Web site at “[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

Decided: November 16, 2015.

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

**Kenyatta Clay,**

*Clearance Clerk.*

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<sup>2</sup> Because the trackage rights covered by the notice of exemption are longer than one year in duration, the Board's class exemption for temporary trackage rights under 49 CFR 1180.2(d)(8) does not apply. Instead, UP has filed under the trackage rights class exemption at 1180.2(d)(7) and concurrently has filed, in Docket No. FD 35974 (Sub-No. 1), a petition for partial revocation of this exemption to permit these proposed trackage rights to expire on December 31, 2018, as provided in the parties' agreement. The Board will address that petition in a separate decision.

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

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

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing rulings and determination letters.

**DATES:** Written comments should be received on or before January 19, 2016 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Michael Joplin, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulations should be directed to Kerry Dennis at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at [Kerry.Dennis@irs.gov](mailto:Kerry.Dennis@irs.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Rulings and Determination Letters.

*OMB Number:* 1545-1522.

*Revenue Procedure:* RP 2012-1.

*Abstract:* This revenue procedure explains how the Service provides advice to taxpayers on issues under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs and Special Industries), the Associate Chief Counsel (Procedure and Administration), and the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). It explains the forms of advice and the manner in which advice is requested by taxpayers and provided by the Service. The agency needs this information in order to use resources more efficiently and to provide more guidance to individual corporate taxpayers and their shareholders.

<sup>1</sup> A copy of the temporary trackage rights agreement was filed with the notice of exemption.