

notices of final disposition announcing its decision to exempt these 12 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

#### Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket numbers FMCSA–2005–22194; FMCSA–2007–28695; FMCSA–2009–0206 and click the search button. When the new screen appears, click on the blue “Comment Now!” button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA

may issue a final rule at any time after the close of the comment period.

#### Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, to submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA–2005–22194; FMCSA–2007–28695; FMCSA–2009–0206 and click “Search.” Next, click “Open Docket Folder” and you will find all documents and comments related to the proposed rulemaking.

Issued on: October 25, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–26302 Filed 11–1–13; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA–2011–0063; Notice 2]

#### Jaguar Land Rover North America, LLC, on behalf of Jaguar Cars 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:** Jaguar Land Rover North America, LLC, on behalf of Jaguar Cars Limited (collectively referred to as “Jaguar”) has determined that model year 2010 and certain 2011 Jaguar XJ passenger cars manufactured between September 11, 2009 and March 28, 2011, do not fully comply with paragraphs S5.2.1 and S5.5.2 of Federal Motor Vehicle Safety Standard (FMVSS) No. 101, *Controls and displays*, regarding brake system-related telltales. Jaguar has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*, dated April 15, 2011.

**ADDRESSES:** For further information on this decision contact Mr. Stuart Seigel, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202)366–5287, facsimile (202) 366–7002.

#### SUPPLEMENTARY INFORMATION:

##### I. Jaguar’s Petition

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, Jaguar has petitioned 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.

Notice of receipt of the petition was published, with a 30-day public comment period, on August 26, 2011 in the **Federal Register** (76 FR 53532). No comments were received. To view the petition, and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number “NHTSA–2011–0063.”

## II. Vehicles Involved

Affected are approximately 8,621 model year 2010 and 2011 Jaguar XJ passenger cars that were manufactured at Jaguar’s Castle Bromwich assembly plant between September 11, 2009 and March 28, 2011.

## III. Rule Text

Paragraphs S5.2.1 and S5.5.2 of FMVSS No. 101 specifically state:

S5.2.1 Except for the Low Tire Pressure Telltale, each control, telltale and indicator that is listed in column 1 of Table 1 or Table 2 must be identified by the symbol specified for it in column 2 or the word or abbreviation specified for it in column 3 of Table 1 or Table 2. If a symbol is used, each symbol provided pursuant to this paragraph must be substantially similar in form to the symbol as it appears in Table 1 or Table 2. If a symbol is used, each symbol provided pursuant to this paragraph must have the proportional dimensional characteristics of the symbol as it appears in Table 1 or Table . . .

S5.5.2 The telltales for any brake system malfunction required by Table 1 to be red, air bag malfunction, low tire pressure, electronic stability control malfunction (as of September 1, 2011), passenger air bag off, high beam, turn signal, and seat belt must not be shown in the same common space.

Additionally, Table 1 Note 9 states:

Refer to FMVSS 105 or FMVSS 135, as appropriate, for additional specific requirements for brake telltale labeling and color. If a single telltale is to be used to indicate more than one brake system condition, the brake system malfunction identifier must be used.

FMVSS No. 135 is applicable to the subject vehicles. Section 5.5.5, *Labeling*, states in pertinent part:

##### S5.5.5. Labeling.

(a) Each visual indicator shall display a word or words in accordance with the requirements of Standard No. 101 (49 CFR 571.101) and this section, which shall be legible to the driver under all daytime and nighttime conditions when activated. Unless otherwise specified, the words shall have letters not less than 3.2 mm (1/8 inch) high and the letters and background shall be of contrasting colors, one of which is red.

Words or symbols in addition to those required by Standard No. 101 and this section may be provided for purposes of clarity.

(d) If separate indicators are used for one or more of the conditions described in S5.5.1(a) through S5.5.1(g), the indicators shall display the following wording:

(1) If a separate indicator is provided for the low brake fluid condition in S5.5.1(a)(1), the words "*Brake Fluid*" (emphasis added) shall be used except for vehicles using hydraulic system mineral oil.

(2) If a separate indicator is provided for the gross loss of pressure condition in S5.5.1(a)(2), the words "*Brake Pressure*" (emphasis added) shall be used.

(3) If a separate indicator is provided for the condition specified in S5.5.1(b), the letters and background shall be of contrasting colors, one of which is yellow. The indicator shall be labeled with the words "*Antilock*" or "*Anti-lock*" or "*ABS*"; (emphasis added) or "*Brake Proportioning*," in accordance with Table 2 of Standard No. 101.

(4) If a separate indicator is provided for application of the parking brake as specified for S5.5.1(c), the single word "*Park*" (emphasis added) or the words "*Parking Brake*" (emphasis added) may be used.

#### IV. Summary of Jaguar's Analyses

Jaguar explains that the noncompliance for the 8,621 XJ vehicles is that the telltales used for brake warning, park brake warning and Antilock Braking System (ABS) failure warnings are displayed using International Organization for Standardization (ISO) symbols instead of the telltale symbols required by FMVSS No. 101.

Jaguar stated its belief that although the instrument cluster telltales are marked with ISO symbols, the noncompliance is inconsequential to motor vehicle safety for the following reasons:

(1) The functionality of all primary braking systems is not affected by this noncompliance and the vehicle will operate as intended.

(2) The owner's manual shows clearly the ISO warning symbols that may be displayed along with the FMVSS No. 101 compliant equivalents. Further, the owner's manual instructions on required actions to take in the event of a warning being displayed are the same for each telltale regardless of it being marked with an ISO symbol or with its FMVSS No. 101 compliant equivalent.

(3) The colors of the telltales adhere to a common color scheme and are consistent between ISO and FMVSS requirements. The owner's manual provides the following guidance to the driver:

a. RED warning lamps are for primary warnings. A primary warning must be investigated immediately by the driver

or seek qualified assistance as soon as possible.

b. AMBER warning lamps are for secondary warnings. Some indicate that a vehicle system is in operation, others indicate that the driver must take action and then seek qualified assistance as soon as possible.

(4) The driver will receive ISO symbol based warnings of any affected system malfunction. These warnings, although displaying telltales marked with ISO symbols, are augmented with a message center text providing further details as to the nature of the warning symbol:

a. If low brake fluid is detected or an Electronic Brakeforce Distribution (EBD) fault identified, the ISO Brake Warning Symbol and the words "Brake Fluid Low" or "EBD Fault" will be displayed in the message center.

b. If the park brake is applied, the ISO Parking Brake symbol will be displayed. If the vehicle is moving in excess of 1.8 mph, the message displayed in the message center is "Caution! Park Brake Applied" and a continuous chime will sound.

c. If an antilock brake system (ABS) malfunction is detected, the ISO ABS symbol illuminates display a message in the message center stating "ABS Fault".

(5) Jaguar is not aware of any incidents or injuries related to this condition.

Jaguar also explains that all unsold vehicles in the dealer stock will have the instrument cluster software configuration file settings updated to display the correct warning telltales as required by FMVSS No. 101 prior to sale.

In summation, Jaguar believes that the described noncompliance of its vehicles to be inconsequential to motor vehicle safety, and that its petition, to exempt Jaguar 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.

#### V. NHTSA'S Analyses

Since these vehicles are equipped with a split service brake system, a low brake fluid condition will potentially reduce the ability of the brakes on two of the four wheels to stop it. When this condition occurs in Jaguar's affected vehicles, the telltale labeled with the ISO brake symbol, which resembles a brake assembly but has no words, is displayed. In addition, in the message center, "Brake Fluid Low" is displayed. Likewise, Jaguar's ISO Park brake applied symbol (P) is accompanied by a message "Caution! Park Brake Applied" and a chime. Regarding the "ABS" telltale, the agency has learned that

Jaguar labeled the "ABS" telltale as required by FMVSS Nos. 101 and 135, with letters 3.2 mm high. Therefore, Jaguar incorrectly identified this telltale in its Part 573 report, and this portion of its petition is moot.

Jaguar notified NHTSA that, as of September 19, 2013, they had corrected 95 percent of the noncompliant vehicles by its Field Service Action (FSA). Jaguar also agreed to address the remaining vehicles as part of a supplemental customer notification satisfaction campaign (CNSC) and to continue to notify NHTSA of its progress. While NHTSA believes<sup>1</sup> that telltales labeled "BRAKE FLUID" and "PARK BRAKE" or "PARK" are more readily identified by drivers than an ISO brake symbol, the motor vehicle safety impact of the noncompliances on the remaining uncorrected vehicles is mitigated due to the unique set of indicators available to operators of the subject vehicles as well as Jaguar's ongoing CNSC.

NHTSA has also not received any consumer complaints on issues related to the subject noncompliances.

#### VI. NHTSA Decision

In consideration of Jaguar's actions and intent to remedy all vehicles, NHTSA has determined that Jaguar has met its burden of persuasion that the FMVSS No. 101 and 135 noncompliances of the subject vehicles, i.e. labeling of the brake system malfunction and park brake applied telltales, are inconsequential to motor vehicle safety. Accordingly, Jaguar's petition is hereby 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, this decision only applies to the vehicles that Jaguar no longer controlled at the time that it determined that a noncompliance existed in the subject vehicles. However, the granting of 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 Jaguar notified them that the subject noncompliance existed.

<sup>1</sup> See 60 FR 6414, February 2, 1995 and 70 FR 48295, August 17, 2005.

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

Issued On: October 29, 2013.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2013-26319 Filed 11-1-13; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

#### Notice of Application for Special Permits

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** list of Applications for Special Permits

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

**DATES:** Comments must be received on or before December 4, 2013.

*Address Comments To:* Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

#### FOR FURTHER INFORMATION CONTACT:

Copies of the applications are available for inspection in the Records Center, East Building, PHH-30, 1200 New Jersey Avenue Southeast, Washington DC or at <http://regulations.gov>.

This notice of receipt of applications for special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on October 29, 2013.

**Don Burger,**

*Chief, General Approvals and Permits.*

### NEW SPECIAL PERMITS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
15973-N .....	.....	Codman & Shurtleff, Inc. Raynham, MA.	49 CFR Parts 171-180 .....	To authorize the transportation in commerce of small amounts of butane contained within a Medstream Pump as unregulated. (modes 4, 5)
15980-N .....	.....	Windward Aviation, Inc. Puunene, HI.	49 CFR 175.9(a) .....	To authorize the transportation in commerce of aviation turbine engine fuel by external load. (mode 4)
15985-N .....	.....	Space Exploration Technologies Corp. Hawthorne, CA.	49 CFR Part 172 and 173 .....	To authorize the transportation in commerce of certain hazardous material as part of the Falcon space capsule without requiring shipping papers, marking and labeling. (mode 1)
15986-N .....	.....	Helicopter Consultants of Maui, Inc. dba Blue Hawaiian Helicopters Kahului, HI.	49 CFR 172.101 Column (9B), 172.204(c)(3), 173.27(b)(2), 175.30(a)(1), 172.200, 172.300 and 172.400.	To authorize the transportation in commerce of certain hazardous materials by external load in remote areas of the US without being subject to hazard communication requirements and quantity limitations where no other means of transportation is available. (modes 2, 4)
15991-N .....	.....	Dockweiler Neustadt-Glewe, Germany.	49 CFR 178.50(d)(1) and (d) (2).	To authorize the manufacture, marking, sale and use of non-DOT specification cylinders similar to DOT 4BW for the transportation in commerce of certain hazardous materials. (modes 1, 2, 3, 4, 5)
15992-N .....	.....	Ledwell & Son Enterprises, Inc. Texarkana, TX.	49 CFR 178.345-3 .....	To authorize the transportation in commerce of certain cargo tank motor vehicles that have had an appurtenance welded to the cargo tank wall without meeting the requirements of 49 CFR 178.345-3. (mode 1)
15994-N .....	.....	Pinnacle Helicopter Lubbock, TX.	49 CFR 175.9 .....	To authorize the transportation in commerce of hazardous materials in external load. (mode 4)
15996-N .....	.....	University of York York ...	49 CFR 171.23, 173.301(a) (1), and 173.301(j).	To authorize the transportation in commerce of 53 non-DOT specification EU certified cylinders from the United Kingdom into the U.S. Territory of Guam for the atmospheric research field campaign "CONTRAST". (mode 3)
15997-N .....	.....	Hi-Shear Technology Corporation Torrance, CA.	49 CFR 173.56(b), 173.61 and 173.63.	To authorize the transportation in commerce Sealed Scrap Parts (small parts containing milligram explosive loads) as as UN0352, Articles, explosive, n.o.s. 1.4D without having them re-examined when transported for disposal. (mode 1)
15998-N .....	.....	U.S. Department of Defense (DOD) Scott AFB, IL.	49 CFR 171.22(e) and 173.62	To authorize the transportation in commerce of certain Class 1 material which is forbidden for transportation by cargo air or exceeds the quantity limitations in 172.101 Column (9B) in alternative packaging. (mode 4)