

corresponding requirements exist in FMVSS No. 110 for passenger cars, S4.2.1.1, which states “[t]he vehicle maximum load on the tire shall not be greater than the applicable maximum load rating as marked on the sidewall of the tire” and S4.3.4, requires that “No inflation pressure other than the maximum permissible inflation pressure

may be shown on the placard and, if any, tire inflation pressure label unless—(c) The tire load rating specified in a submission by an individual manufacturer, pursuant to S4.1.1(a) of § 571.139 or contained in one of the publications described in S4.1.1(b) of § 571.139, for the tire size at that inflation pressure is not less than the

vehicle maximum load and the vehicle normal load on the tire for those vehicle loading conditions. We asked Honda for data for fully loaded vehicles. Honda provided the maximum weight on the front and rear axles with the vehicles loaded to capacity weight, and we calculated the weight per tire assuming an equal distribution between the tires:

Model	Front axle		Front axle/2		Rear axle		Rear axle/2	
	kg	lb	kg	lb	kg	lb	kg	lb
2-door	930	2050	465	1025	805	1774	402	887
4-door	950	2094	475	1047	830	1830	415	915

The 18-inch tires at the maximum load rating on the sidewall of the tires and at the recommended inflation pressures of 33 psi or 36 psi specified on the FMVSS No. 110 vehicle placards appear to meet the two FMVSS No. 110 requirements identified above.

We then turned our attention to FMVSS No. 138. FMVSS No. 138 does not require the TPMS telltale activation pressure to be set at a level such that the tires at that pressure will have a load rating appropriate for the vehicle when loaded to its capacity weight.¹ The standard requires the TPMS activation pressure to be the value at 25 percent below the manufacturer’s recommended cold inflation pressure or 140kPa (from table 1 in FMVSS No. 138), whichever is higher. For the subject 18-inch tires, as discussed in the previous paragraph under the requirements of FMVSS No. 110, Honda could have specified a recommended cold inflation pressure of 33 psi or the 36 psi and either pressure would have been appropriate for the vehicles maximum load on the tires. Twenty-five percent below either of these recommended inflation pressures would have been appropriate under the requirements of FMVSS No. 138.

Finally, as relates to FMVSS No. 139, we examined the low inflation pressure performance test required by that standard. FMVSS No. 139 specifies a low inflation pressure performance test in which the tire is loaded to its maximum tire load capacity and inflated to only 140kPa (20 psi), less than the TPMS telltale activation pressure for the subject vehicles. Although NHTSA did not test a sample of the 18-inch tire to FMVSS No. 139,

tire manufacturers are required to certify that the tires meet all applicable requirements of the standard, evidenced by labeling each tire with the letters “DOT.”

NHTSA’s Conclusion: Honda is asking the agency to determine that its noncompliance be deemed inconsequential to safety because it believes the 18-inch tires have adequate load capacity at the 36 psi recommended inflation pressure for these tires and at the lower 33 psi recommended inflation pressure for the 17-inch tire being replaced. NHTSA’s analysis determined that Honda was correct in its assessment. Furthermore, FMVSS No. 138 does not include a minimum tire load rating margin requirement at the TPMS activation pressure thus a 25 percent below either pressure would be appropriate under the standard’s requirements. NHTSA’s analysis also noted that the subject tires must be certified to the low inflation pressure performance testing of FMVSS No. 139 which is conducted at an inflation pressure further below the subject tires TPMS activation inflation pressures. Finally, we conducted a search of the agency’s Office of Defects Investigation’s complaint data base and found no complaints associated directly with the incorrect TPMS activation inflation pressure thresholds for the 2008 and 2009 Honda Civic vehicles.

NHTSA’s Decision: In consideration of the foregoing, NHTSA has determined that Honda has adequately demonstrated, under the specific facts and circumstances presented here, that the noncompliance with FMVSS No. 138 in the case of 2008 and 2009 2-door and 4-door Civic SI vehicles is inconsequential to motor vehicle safety. Accordingly, Honda’s petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

Authority: (49 U.S.C. 30118, 30120: Delegations of authority at CFR 1.50 and 501.8).

Issued on: July 17, 2012.

Claude H. Harris,
Director, Office of Vehicle Safety Compliance.
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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35642]

Twin Cities & Western Railroad Company, the Estate of Douglas M. Head, and the DMH Trust fbo Martha M. Head—Continuance in Control Exemption—Sisseton Milbank Railroad Company

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption.

SUMMARY: The Board is granting an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 11323–25 for Twin Cities & Western Railroad Company (TCW), a Class III rail carrier, and the Estate of Douglas M. Head (the Estate), a noncarrier, to continue in control of Sisseton Milbank Railroad Company (SMRC) upon SMRC’s becoming a Class III rail carrier in a related transaction. That related transaction involves SMRC’s acquisition from Sisseton Milbank Railroad, Inc. (SMRR) and SLA Property Management Limited Partnership (SLA) of their interests in, and operation of, approximately 37.1 miles of rail line situated in Grant and Roberts Counties, S.D. (the Line).¹ Because all the carriers involved are Class III carriers, the continuance-in-control exemption is not subject to labor

¹ See **Federal Register** Notice 70 FR 18138, 18146 (April 8, 2005) describing NHTSA’s testing of a variety of Standard Load P-metric tires at 20 psi with 100 percent load, and no tires failed. “This testing led the agency to conclude that warnings of less severe conditions [i.e., in Honda’s case 25 psi] will give drivers sufficient time to check and re-inflate their vehicles’ tires before the tires experience appreciable damage.”

¹ See *Sisseton Milbank R.R.—Acquis. & Operation Exemption—SLA Prop. Mgmt. Ltd. P’ship*, FD 35641 (STB served June 29, 2012).

protective conditions. The Estate currently controls TCW, which, in turn, controls Minnesota Prairie Line, Inc. (MPL), also a Class III rail carrier. After the consummation of the acquisition transaction, SMRC and TCW will connect in or near Milbank, S.D.

In addition to TCW and the Estate, the DMH Trust fbo Martha M. Mead (Trust) also seeks an exemption for continuance of control of SMRC, apparently as part of the Estate's plan to distribute the stock of TCW to the Trust. Because the Trust does not currently control SMRC and will need to obtain Board authority in any event to acquire TCW, any rail carrier subsidiaries of TCW, or any other rail carrier, the request for a

continuance-in-control exemption, as it applies to the Trust, is being denied.

DATES: This exemption will be effective on August 7, 2012. Petitions to stay must be filed by July 26, 2012. Petitions to reopen must be filed by August 1, 2012.

ADDRESSES: Send an original and 10 copies of all pleadings referring to Docket No. FD 35642, to: Surface Transportation Board, 395 E Street SW., Washington DC 20423-0001. In addition, send one copy of pleadings to Rose-Michele Nardi, Weiner Brodsky Sidman Kider PC, 1300 Nineteenth Street NW., Fifth Floor, Washington, DC 20036-1609.

FOR FURTHER INFORMATION CONTACT: Scott M. Zimmerman, (202) 245-0386.

Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Board's decision served July 18, 2012, which is available on our Web site at "WWW.STB.DOT.GOV."

Decided: July 13, 2012.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Begeman.

Derrick A. Gardner,
Clearance Clerk.

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