

The driver would lack information that the TPMS system was not functioning due to an incompatible tire for such a limited period of time that there would not be a significant safety risk.<sup>11</sup>

Second, the TPMS combination telltale does not “flicker”<sup>12</sup> off and on in stop-and-go traffic. A flickering telltale, due to its inconsistent pattern of illumination, could confuse drivers and may lead them to ignore the warning provided by the TPMS combination telltale. As Volkswagen demonstrated in its petition, the vehicle’s TPMS combination telltale will be extinguished for a period of about five minutes at slow speeds, after which it stays illuminated permanently.

Furthermore, occupants of the noncomplying vehicles would not be exposed to significantly greater risk than if they were occupants in a complying vehicle. The malfunction indicator would illuminate shortly after an incompatible tire is installed and the vehicle was then driven. This should provide a highly relevant warning to the person who had the new tire installed. The indicator would remain illuminated for the remainder of the drive cycle. On subsequent drive cycles, there may be a five-minute interval near the beginning of the drive cycle when the TPMS combination telltale extinguishes. Otherwise, the TPMS combination telltale will be illuminated. If an occupant of a noncomplying vehicle is unaware of a TPMS malfunction at this speed for five minutes, we do not believe that the malfunction would pose a significant risk when compared to an occupant in a compliant vehicle.

#### *NHTSA’s Response to Comments*

In its comments to the docket, Schrader stated its belief that the petition should be denied because, it alleges, safety deficiencies are inherent in indirect type TPMS and the compliance test procedure used by NHTSA is inadequate for the detection of such deficiencies. Schrader did not specifically address the TPMS combination telltale lamp noncompliance that is the essence of the Volkswagen petition. Instead, Schrader stated that it believes there are more

“problems” with the indirect system, and asked NHTSA to undertake a comprehensive review and expand its test procedure.

NHTSA’s safety standards and test procedures generally are technology neutral to permit manufacturers to have maximum flexibility in meeting any specified performance requirements. Although Schrader alleges that the test procedure may be problematic, the current test procedure (TP–138–03) follows precisely the testing protocol specific in FMVSS No. 138 and did uncover a noncompliance in the Audi indirect TPMS system.

However, if Schrader still takes issue with the actual test requirements that originate in FMVSS No. 138, it should petition the agency for a rulemaking revision. Requests for rulemaking changes should be submitted in a petition for rulemaking filed under the provisions of 49 CFR Part 552 *Petitions for Rulemaking, Defect, and Noncompliance Orders*.

Because Schrader’s comments did not provide any information addressing Volkswagen’s telltale noncompliance that is the essence of its petition, Schrader’s comments do not support denying the subject petition.

#### **Decision**

After a review of Volkswagen’s arguments, Schrader’s comments, and the final rule preamble language, NHTSA is convinced that Volkswagen has met its burden of demonstrating that the noncompliance does not present a significant safety risk. Therefore, NHTSA agrees with Volkswagen that this specific noncompliance is inconsequential to motor vehicle safety.

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 58,292<sup>13</sup> vehicles that Volkswagen no longer controlled at the time that it determined

that a noncompliance existed in the subject vehicles.

In consideration of the foregoing, NHTSA has decided that Volkswagen has met its burden of persuasion that the FMVSS No. 138 TPMS noncompliance in the vehicles identified in Volkswagen’s Noncompliance Information Report is inconsequential to motor vehicle safety. Accordingly, Volkswagen’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 49 CFR 1.50 and 501.8.

Issued on: May 18, 2011.

**Claude H. Harris,**

*Acting Associate Administrator for Enforcement.*

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## **DEPARTMENT OF TRANSPORTATION**

### **Pipeline and Hazardous Materials Safety Administration**

[Docket ID PHMSA–2011–0125]

#### **Pipeline Safety: Notice of Public Meetings on Managing Challenges With Pipeline Seam Welds and Improving Pipeline Risk Assessments and Recordkeeping**

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

**ACTION:** Notice of public meetings.

**SUMMARY:** Recent pipeline incidents involving seam weld anomalies and gaps in data and recordkeeping are driving a stronger focus on better managing these challenges. PHMSA is holding important public meetings to discuss its review of inspection reporting and incident findings in these areas. In addition, these public meetings are part of PHMSA’s efforts to address the Secretary of Transportation’s “Call to Action” to address pipeline infrastructure risks, drive for more aggressive safety efforts and to be more transparent when executing these safety measures.

These public meetings are designed to provide an open forum for exchanging information on the challenges associated with pipeline seam welds and improving pipeline risk assessments and recordkeeping. Specifically, these public meetings will facilitate individual, panel and working

<sup>11</sup> We note that TPMSs were not developed to warn the driver of extremely rapid pressure losses that could accompany a vehicle encounter with a road hazard or a tire blowout. As the agency noted, presumably, a driver would be well aware of the tire problem in those situations, and the TPMS would provide little added benefit. 70 FR 53079, 53083 (Sept. 7, 2005).

<sup>12</sup> A “flicker” is different from the standard’s S4.4(c)(2) requirement that a combination low tire pressure/TPMS malfunction telltale “flash” for a period of 60–90 seconds when a malfunction is detected.

<sup>13</sup> Volkswagen’s petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt Volkswagen as a manufacturer from the notification and recall responsibilities of 49 CFR Part 573 for 58,292 of the affected vehicles.

However, the agency cannot 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 Volkswagen notified them that the subject noncompliance existed.

group discussions for the following objectives:

#### **Managing Challenges With Pipeline Seam Welds—July 20**

1. Further determining the nature and extent of the seam weld issue from industry and government data.

2. Presenting perspectives on how anomalies in seam welds are identified and managed employing risk assessments, technology and standards or best practices.

3. Presenting the scope of a recently awarded PHMSA research study on seam welds.

4. Providing specifically designed working groups to further craft the scope for this PHMSA research study and other related topics.

#### **Improving Pipeline Risk Assessments and Recordkeeping—July 21**

1. Provide a U.S. and International regulatory perspective on pipeline integrity risk assessments.

2. Provide an operator overview of the challenging factors with conducting risk assessments, canvassing effective approaches, and case studies.

3. Identify options with addressing interactive threats, legacy pipelines and approaches for dealing with recordkeeping gaps.

**DATES:** The public meeting on managing challenges with pipeline seam welds will be held on Wednesday, July 20, 2011, from 8 a.m. to 4 p.m. EDT. The public meeting on improving pipeline risk assessments and recordkeeping will be held on Thursday, July 21, 2011, from 8 a.m. to 4:30 p.m. EDT. Please refer to these public meetings listed on <http://primis.phmsa.dot.gov/meetings/> for more information.

**ADDRESSES:** These public meetings will be held at The Westin Arlington Gateway, 801 North Glebe Road, Arlington, VA 22203, Phone: 703-717-6200, Fax: 703-717-6260 or <http://www.westinarlingtongateway.com/>. Please contact the Westin to reserve a room using “USDOT/PHMSA” for the room block name at the rate of \$157/night. This room rate is available for Tuesday night July 19 and Wednesday night July 20 until the reserved rooms at this rate are taken. A very limited number of rooms are available at this rate on July 21 until they are taken. Please also contact the Westin for information on facilities or services for individuals with disabilities, or to request special assistance during these public meetings.

Comments may be submitted to the docket in the following ways:

*E-Gov Web Site:* <http://www.regulations.gov>. This site allows

the public to enter comments on any **Federal Register** notice issued by any agency.

*Fax:* 1-202-493-2251.

*Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Room W12-140, Washington, DC 20590-0001.

*Hand Delivery:* Room W12-140 on the ground level of the U.S. Department of Transportation, West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Instructions:* Identify the docket number PHMSA-2011-0127 at the beginning of your comments. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. You should know that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Therefore, you may want to review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or view the Privacy Notice at <http://www.regulations.gov> before submitting any such comments.

*Docket:* For access to the docket or to read background documents or comments, go to <http://www.regulations.gov> at any time or to Room W12-140 on the ground level of the U.S. Department of Transportation, West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: “Comments on PHMSA-2011-0127.” The Docket Clerk will date-stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington, DC, we recommend that persons consider an alternative method (Internet, fax, or professional delivery service) of submitting comments to the docket and ensuring their timely receipt at DOT.

#### **Information on Services for Individuals With Disabilities**

For information on facilities or services for individuals with disabilities, or to seek special assistance

at the meeting, please contact Robert Smith at 919-238-4759 by July 1, 2011.

#### **FOR FURTHER INFORMATION CONTACT:**

Robert Smith by e-mail at [robert.w.smith@dot.gov](mailto:robert.w.smith@dot.gov) or by phone at 919-238-4759.

#### **SUPPLEMENTARY INFORMATION:**

*Public Meetings Registration:* Please visit <http://primis.phmsa.dot.gov/meetings/> and click on these public meetings to register.

#### **Preliminary Agenda for the Public Meeting on Managing Challenges With Pipeline Seam Welds**

8 a.m. Good Morning/Welcome  
8:10 a.m. Panel 1: What is the Nature/Extent of the Issue?  
9:40 a.m. Break  
9:55 a.m. Panel 2: Identifying/Managing Seam Weld Challenges  
11:10 a.m. Presentation: Seam Weld Research Project and Input/Refinement of this Targeted Research  
12 p.m. Lunch—On your Own  
1:30 p.m. (Concurrent Sessions)  
Working Group 1: Identifying Gaps in Risk Assessments  
Working Group 2: Identifying Gaps in Technology  
Working Group 3: Identifying Gaps with Assessment Methods  
4 p.m. Adjournment

#### **Preliminary Agenda for the Public Meeting on Improving Pipeline Risk Assessments and Recordkeeping**

8 a.m. Good Morning/Welcome  
8:10 a.m. Panel 1: U.S. & Canadian Regulatory Perspective on Risk Assessments  
9:30 a.m. Panel 2: Pipeline Operator Perspective on Risk Assessments  
Break taken during panel 2  
11:30 a.m. Lunch—On your Own  
1 p.m. Panel 3: How Should Recordkeeping Gaps Influence Risk Assessments?  
2:30 p.m. Break  
2:45 p.m. Panel 4: Identifying Interactive Threats and Understanding Options  
4:30 p.m. Summary and Adjournment

*Webcasting:* The public meeting on Managing Challenges with Pipeline Seam Welds will not be webcasted. The public meeting on Improving Pipeline Risk Assessments and Recordkeeping will be webcasted. Please refer to this event listed on <http://primis.phmsa.dot.gov/meetings/> for more information.

Issued in Washington, DC, on May 18, 2011.

**Jeffrey D. Wiese,**

*Associate Administrator for Pipeline Safety.*

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