

illumination of that control, telltale or indicator.

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.

*V. Summary of Volkswagen's Petition:* The following views and arguments presented in this section, V. Summary of Volkswagen's Petition, are the views and arguments provided by Volkswagen. They have not been evaluated by the agency and do not reflect the views of the Agency.

Volkswagen described the subject noncompliance and stated that the noncompliance is inconsequential as it relates to motor vehicle safety.

Volkswagen submitted the following views and arguments in support of the petition:

1. All affected Audi A3 vehicles are initially delivered for first-sale in the U.S. market in a compliant state (speed displayed in miles-per-hour). Only through driver interaction, within the settings menu, can the speedometer display be changed from mph to km/h. The change between the display settings must be done intentionally and cannot be accomplished inadvertently.

2. In the affected 2017–2019 MY Audi A3 vehicles, the two speedometer scales are noticeably different. Were the previous driver to have changed the display, a subsequent driver would be able to tell at a glance that the scale is not in mph.

3. The indicated vehicle speed in km/h is 1.6 times greater than the speed in mph. Audi purports that if the vehicle operator changes the display to indicate km/h and later has not changed the display back to mph, the vehicle operator will clearly recognize that the vehicle is moving at a lower speed than intended and adjust their vehicle speed to match road and traffic conditions. Notice of the speed differential advises the vehicle operator to perform the necessary steps to adjust the speedometer back to mph (at the next appropriate opportunity).

4. The 2017–2019 MY Audi A3 Owner Manuals contains information and instructions for changing the units displayed, via the Infotainment system, using the MMI Settings menu. Therefore, if a vehicle operator needs to change the display to indicate mph, instructions are available. As of January 08, 2019, production has been corrected, vehicles withheld at the factory have been corrected and unsold units will be corrected prior to sale.

5. Additionally, Volkswagen is not aware of any field or customer

complaints related to this condition, nor has it been made aware of any accidents or injuries that have occurred as a result of this issue.

Volkswagen concluded that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the 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 vehicles that Volkswagen 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 Volkswagen 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)

**Otto G. Matheke III,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2019–21892 Filed 10–7–19; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2018–0027; Notice No. 2018–09]

### Hazardous Materials: Clarification of Process To Reissue Explosives Classification Approvals

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

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

**SUMMARY:** PHMSA issues this notice to clarify and request comments on the Approvals Program procedures for companies to request a modification to

an explosives classification approval to reflect a merger, acquisition, or change in name or legal status.

**DATES:** Interested persons are invited to submit comments on or before January 6, 2020.

**ADDRESSES:** You may submit comments identified by Docket No. PHMSA–2018–0027 via any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Fax:* 1–202–493–2251.

- *Mail:* Docket Operations, U.S.

Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* To Docket Operations, Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Instructions:* All submissions must include the agency name and docket number for this notice. Internet users may access comments received by the DOT at: <http://www.regulations.gov>. Please note that comments received will be posted without change to: <http://www.regulations.gov> including any personal information provided.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), the DOT solicits comments from the public. The DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

#### FOR FURTHER INFORMATION CONTACT:

*Pipeline and Hazardous Materials Safety Administration:* Laura Ulmer, Attorney-Advisor (PHC–10), U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, East Building, 2nd Floor, Washington, DC 20590–0001, Telephone (202) 366–4400.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

As defined in title 49, section 173.56 of the Code of Federal Regulations (CFR), a “new explosive” is an explosive produced by a person who either has not previously produced that explosive, or has previously produced that explosive, but has made a change in the formulation, design, or process so as to alter any of the properties of the

explosive. The Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) require that each new explosive be examined by a DOT-approved explosives test laboratory and assigned a recommended shipping description, division, and compatibility group in accordance with § 173.56(b). This classification must be approved by PHMSA. Applications are submitted and approvals are issued per the requirements in 49 CFR part 107, subpart H. These explosive classification approvals are generally known as “EX” approvals. A “person,” as defined in 49 CFR 171.8, must obtain an approval classifying each new explosive that he or she offers or transports to, from, or within the United States. In December 2015, PHMSA posted a document titled “EXPLOSIVES CLASSIFICATION (EX) APPROVALS (Company Name Changes, Mergers, Acquisitions, and Changes in Legal Structure)” on its website, <http://www.phmsa.dot.gov>. This document clarified that: (1) An EX approval is non-transferable in any merger, acquisition, sale of assets, or other business transaction; (2) an EX approval is non-transferrable in bankruptcy proceedings, and thus, a debtor may not use an EX approval as an asset to sell in order to drive up the purchase price; and (3) PHMSA may reissue the EX approvals in certain situations to reflect the new company name, when adequate documentation is submitted. The

document also included frequently asked questions on several common merger, acquisition, and legal-status change scenarios and provided instructions on how companies could request a modification of an EX approval to reflect a status change. Companies can also choose to apply for new EX approvals instead of requesting to go through the company name-change process.

The specific scenarios and documentation requirements included in the document led to questions and concerns from the regulated community. Therefore, we are clarifying the description of the program procedures and documentation required for PHMSA to reissue EX approvals. Specifically, we have revised the guidance to remove the requirement that the applicant declare that the information that it is providing for the certification is correct, under penalty of perjury, after certain members of the regulated community had concerns about swearing under penalty of perjury that documents they did not personally draw up were complete and correct. PHMSA acknowledges those concerns, and believes that the modification of the certification letter contents will alleviate these concerns. The guidance also clarifies that companies which request a modification at least 30 days prior to the merger, acquisition, or legal-status change can continue to use their existing approvals until PHMSA takes

final administrative action on the application for modification. PHMSA is seeking comments on:

1. The contents of the certification letter;
2. the description of the timeline for applying and processing a name change; and
3. information requested for additional facilities.

**II. Clarification of Requirements To Reissue Approvals**

Companies always have the option to apply for a new EX approval in anticipation of a merger, acquisition, or other change in corporate structure or form. Alternatively, PHMSA may reissue existing EX approvals when adequate documentation is provided for the types of corporate changes described in this guidance. Provided a request to reissue an EX approval is made at least 30 days prior to the anticipated corporate change, the new entity may continue to use the existing EX approval until PHMSA reaches a final decision on the request. Title 49 CFR part 107, subpart H and § 173.56(b) set out the requirements for applying for an EX approval. Table 1, below, explains what is meant by various types of requested documents. Table 2, which follows, explains which of these documents are requested for an EX approval to be reissued in different scenarios.

TABLE 1—TYPES OF DOCUMENTATION

Certification Letter .....	When applicable, the company requesting the reissued approval will submit a certification letter that: <ul style="list-style-type: none"> <li>A. Is signed by a director or officer of the company requesting the reissued approval;</li> <li>B. states that the company is not producing a new explosive and that there has been no change in the formulation, design, or process so as to alter any of the properties of the explosive; and</li> <li>C. states that the requesting company understands that failure to provide accurate and complete information could result in the modification, suspension, or termination of the approval.</li> </ul>
Approvals List .....	A list of EX approval numbers and product descriptions, and a copy of each EX approval that the company is requesting that PHMSA reissue.
Lab Report .....	Copies of any laboratory reports or technical drawings in the company’s possession relating to the requested EX approvals.
Proof of Change .....	Legal documentation of the applicable change (e.g., certification of merger, sales agreement, etc.).
Relinquishment Letter .....	When applicable, the company that initially held the approval should provide a letter that: <ul style="list-style-type: none"> <li>A. Is signed by a director or officer of the company holding the initial approval; and</li> <li>B. states that the company holding the initial approval voluntarily relinquishes all the rights to the EX approval numbers listed in the document and that they will no longer manufacture the explosives approved under those respective EX approvals.</li> </ul>

TABLE 2—REQUESTED DOCUMENTATION TO REISSUE APPROVALS IN DIFFERENT SCENARIOS

Scenario	Documents requested to reissue EX approval				
	Cert. letter	EX number list	Lab reports	Proof of change	Relinquishment letter
Merger .....	Yes	Yes	Yes	Yes ( <i>merger certification</i> )	No.

TABLE 2—REQUESTED DOCUMENTATION TO REISSUE APPROVALS IN DIFFERENT SCENARIOS—Continued

Total Purchase	Company A buys 100% of Company B. Both companies hold EX approvals. Company B will now operate under Company A's name. Company A wants to use Company B's EX approvals.	Yes	Yes	Yes	Yes (sales agreement)	No.
Partial Purchase (Assets).	Company A buys less than 100% of Company B's assets. Company A wants to use Company B's EX approvals.	Yes	Yes	Yes	Yes (sales agreement)	Yes.
Subsidiary (Separate Legal Entities).	X Corporation has three subsidiaries that are distinct legal entities: <ul style="list-style-type: none"> <li>• X LLC,</li> <li>• X Inc., and</li> <li>• X LP.</li> </ul> X Corporation wants to use X Inc.'s EX approvals.	N/A. Reissuing of EX numbers is not permitted. Each of the four companies (one parent and three subsidiaries) needs EX approvals for covered activities. Each of these entities is a separate "person" based on the definition PHMSA uses. The term "person" refers to each separate legal entity, such as a corporation, partnership, association, or LLC, or LP. This means that a separately incorporated subsidiary (or LLC or LP) must apply for their own approval if it engages in activities that require an EX approval, even when a parent company already holds an EX approval.				
New Additional, U.S. Facility.	Company X adds a new U.S. facility. The principal place of business and manufacturing process do not change.	N/A. No change needed.				
New Primary, U.S. Facility.	Company X changes "principal place of business" to new U.S. facility, and therefore must submit an application to amend its EX approval.	No	Yes	Yes	No	No.
Additional Facility Abroad.	Company X purchases an additional manufacturing plant location outside of the United States.	N/A. All manufacturing locations outside of the U.S. are required to apply for their own EX approvals.				
New Name, Same Legal Structure.	Company X changes its name to "Company Y," but does not change the legal structure or ownership of the company.	No	Yes	Yes	No	No.
New Name, New Legal Structure.	Company X, LLC changes its name to "Company X, Inc." indicating a change in legal structure. Company X., Inc. wants to use Company X, LLC's approval.	Yes	Yes	Yes	No	No.
Bankruptcy .....	Debtor holds an EX approval with PHMSA and goes into bankruptcy.	N/A. EX approvals are non-transferrable and cannot be treated as assets in the event of a bankruptcy.				

Signed in Washington, DC, on October 2, 2019.

**William S. Schoonover,**

Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

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**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**

**Hazardous Materials: Notice of Applications for New 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, 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 November 7, 2019.

**ADDRESSES:** 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:** Donald Burger, Chief, Office of

Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH-30, 1200 New Jersey Avenue Southeast, Washington, DC 20590-0001, (202) 366-4535.

**SUPPLEMENTARY INFORMATION:** 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 2, 2019.

**Donald P. Burger,**

Chief, General Approvals and Permits Branch.