

case, the absence of a single indicator does not significantly affect a person's ability to visually inspect a tire and readily recognize when a significant portion of the tire's tread is worn to the point that a tire should be replaced."

In the Cooper decision, it is relevant to note:

(a) While the Cooper Mickey Thompson Baja MTZ tires had only one missing treadwear indicator, the maximum circumferential space between the two most distant treadwear indicators was 120 degrees. NHTSA determined that this confirmation of treadwear indicators does not significantly affect a person's ability to inspect a tire. In MNA's case, the maximum circumferential space between the two most distant treadwear indicators is less, at 90 degrees.

(b) The Cooper petition cites a Grant of Petition issued to Motor Bikes Imports, Inc. in 1987 which included a 49 CFR 571.119 S6.4 noncompliance related to motor bike tires with only 1 treadwear indicator. NHTSA's decision stated a "relatively small number of tires which remain in use nevertheless bear one treadwear indicator" concluding the existence of only a single treadwear indicator combined with the relatively low volume of tires in the market were inconsequential as they relate to motor vehicle safety.

3. *Product Performance & Monitoring:* MNA has no indication through our customer care network, fleet contacts or field engineers, of any issues related to monitoring and measuring of treadwear on the I6.00R20 XZL tires. The lack of two treadwear indicators on the tire was detected in the manufacturing process. We have no customer complaints or warranty claims related to the reduced number of treadwear indicators. The reduced number of treadwear indicators has no impact on product performance. Product performance and customer satisfaction of the subject tires is equivalent to tires produced with 6 treadwear indicators. The tires comply with all safety standards and tire marking requirements of 49 CFR 571.119.

MNA concluded by expressing the belief 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.

VI. NHTSA's Analysis

NHTSA has evaluated the merits of MNA's inconsequential noncompliance petition and has determined that this

particular noncompliance is inconsequential to motor vehicle safety. The agency believes that the purpose of the treadwear indicators is to serve as a means for a person to visually inspect and determine if a tire has worn to the extent of the tread depth, which is 1.6 mm (one-sixteenth of an inch) or less.

After review of the petition, NHTSA agrees with the petition that this noncompliance will have no significant impact on the safety of the vehicles on which the subject tires are mounted. The subject tires have four indicators spaced at 90 degrees around the circumference of the tread pattern of the tire. The absence of two indicators does not significantly affect the end user's ability to visually inspect a tire and recognize when the tire's tread has been worn to the point that it needs to be replaced.

VII. NHTSA's Decision

In consideration of the foregoing, NHTSA has decided that MNA has met its burden of persuasion that the FMVSS No. 119 noncompliance is inconsequential to motor vehicle safety. Accordingly, MNA's petition is hereby granted and MNA 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 allows 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 subject tires that MNA no longer controlled at the time it determined that the noncompliance existed. However, the granting of 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).

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2019-0149; PDA-40(R)]

Hazardous Materials: The State of Washington Crude Oil By Rail—Vapor Pressure Requirements

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

ACTION: Notice, and extension of comment period.

SUMMARY: PHMSA is extending the period for comments on the State of North Dakota and the State of Montana's application for an administrative determination as to whether Federal hazardous material transportation law preempts the State of Washington's rules relating to the volatility of crude oil received in the state.

DATES: Comments received on or before September 23, 2019, and rebuttal comments received on or before October 23, 2019, will be considered before an administrative determination is issued by PHMSA's Chief Counsel. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: All documents in this proceeding, including North Dakota and Montana's application and all comments received, may be reviewed in the Docket Operations Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590. All documents in this proceeding are also available on the U.S. Government *Regulations.gov* website: <http://www.regulations.gov>.

Comments must refer to Docket No. PHMSA-2019-0149 and may be submitted by 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 Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Docket Operations Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m.,

Monday through Friday, except Federal holidays.

A copy of each comment must also be sent to (1) Wayne Stenehjem, Attorney General, The State of North Dakota, Office of the Attorney General, 600 East Boulevard Avenue, Department 125, Bismarck, ND 58505-0040, and (2) Tim Fox, Attorney General, The State of Montana, Office of the Attorney General, Justice Building, Third Floor, 215 North Sanders, Helena, MT 59620-1401. A certification that a copy has been sent to these persons must also be included with the comment. (The following format is suggested: I certify that copies of this comment have been sent to Mr. Stenehjem and Mr. Fox at the addresses specified in the **Federal Register**.”)

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 a comment submitted on behalf of an association, business, labor union, etc.). You may review DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://www.regulations.gov>.

A subject matter index of hazardous materials preemption cases, including a

listing of all inconsistency rulings and preemption determinations, is available through PHMSA’s home page at <http://phmsa.dot.gov>. From the home page, click on “Regulations and Compliance,” then on “Standards & Rulemaking,” then on “Hazardous Materials Standards and Rulemaking,” then on “Preemption Determinations” located on the left side of the page. A paper copy of the index will be provided at no cost upon request to Mr. Lopez, at the address and telephone number set forth in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Vincent Lopez, Office of Chief Counsel, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590; Telephone No. 202-366-4400; Facsimile No. 202-366-7041.

SUPPLEMENTARY INFORMATION: The State of North Dakota and the State of Montana have applied to PHMSA for a determination whether Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, preempts the State of Washington’s Engrossed Substitute Senate Bill 5579, Crude Oil By Rail—Vapor Pressure. Specifically, North Dakota and Montana allege the law, which purports to regulate the

volatility of crude oil transported in Washington state for loading and unloading, amounts to a de facto ban on Bakken¹ crude.

PHMSA published a notice of the State of North Dakota and the State of Montana’s application in the **Federal Register** on July 24, 2019 (84 FR 35707).² On July 29, 2019, the State of Washington asked us for an extension of time in which to file comments. The State of Washington believes the original 30-day comment period is an inadequate amount of time for it and other interested parties to thoroughly and properly comment on the application.

After review of the State of Washington’s request, we have granted its request.

Issued in Washington, DC, on August 7, 2019.

Paul J. Roberti,
Chief Counsel.

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¹ According to the applicants, North Dakota and Montana are home to the Bakken Shale Formation, a subsurface formation within the Williston Basin. It is one of the top oil-producing regions in the country and one of the largest oil producers in the world.

² <https://www.govinfo.gov/content/pkg/FR-2019-07-24/pdf/2019-15675.pdf>.