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**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**Petition for Exemption From the Federal Motor Vehicle Motor Theft Prevention Standard; American Suzuki Motor Corporation**

**AGENCY:** National Highway Traffic Safety Administration, Department of Transportation (DOT).

**ACTION:** Grant of petition for exemption.

**SUMMARY:** This document grants in full the petition of American Suzuki Motor Corporation, (Suzuki) in accordance with § 543.9(c)(2) of 49 CFR part 543, *Exemption from the Theft Prevention Standard*, for the Suzuki XL-7 vehicle line. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

**DATES:** The exemption granted by this notice is effective beginning with the 2007 model year.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Mazyck's phone number is (202) 366-4139. Her fax number is (202) 493-2290.

**SUPPLEMENTARY INFORMATION:** In a petition dated December 19, 2005, Suzuki requested exemption from the parts-marking requirements of the theft prevention standard (49 CFR part 541) for the Suzuki XL-7 vehicle line beginning with MY 2007. The Suzuki XL-7 which had previously been a model of the Suzuki Grand Vitara line will no longer be produced as a model of that vehicle line beginning with MY 2007. However, Suzuki plans to use the XL-7 nameplate for its new vehicle line beginning with the 2007 model year. According to Suzuki, the new XL-7 will have a distinct visual difference from

that of the XL-7 model. The petition requested exemption from parts-marking pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard*, based on the installation of an antitheft device as standard equipment for the entire vehicle line. According to Suzuki, this vehicle line will be certified by CAMI Automotive, Inc.

Under § 543.5(a), a manufacturer may petition NHTSA to grant exemptions for one line of its vehicle lines per year. In its petition, Suzuki provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new vehicle line. Suzuki will install its antitheft device as standard equipment on its Suzuki XL-7 vehicle line beginning with MY 2007. Features of the antitheft device will include an electronically coded ignition key, passive immobilizer, engine control module and PASS-Key III+ controller module. Suzuki's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in 543.5 and the specific content requirements of 543.6.

The antitheft device to be installed on the MY 2007 Suzuki XL-7 is the PASS-Key III+. Suzuki stated that the PASS-Key III+ device is designed to be active at all times without direct intervention by the vehicle operator. The system is fully armed immediately after the ignition has been turned off and the key removed. The system will provide protection against unauthorized starting and fueling of the vehicle engine. Components of the antitheft device include a special ignition key and decoder module. Before the vehicle can be operated, the key's electrical code must be sensed and properly decoded by the PASS-Key III+ control module. The electronics molded into the ignition key head receive energy and data from the control module. Upon receipt of the data, the key will calculate a response to the data and transmit the response back to the vehicle. The controller module translates the radio frequency signal received from the key into a digital signal and compares the received response to an internally calculated value. If the values match, the key is recognized as valid and the vehicle can be operated.

In addressing the specific content requirements of 543.6, Suzuki provided information on the reliability and durability of the proposed device. To ensure reliability and durability of the device, Suzuki conducted tests based on its own specified standards. Suzuki provided a detailed list of the tests

conducted on the components of its immobilizer device and believes that the device is reliable and durable since it complied with the specified requirements for each test. Specifically, Suzuki stated that the components of the device were tested and met compliance in climatic, mechanical and chemical environments, and immunity to various electromagnetic radiations.

Suzuki indicated that the theft rates, as reported by the Federal Bureau of Investigation's National Crime Information Center, are lower for Suzuki models equipped with the "PASS-Key"-like systems which have exemptions from the parts-marking requirements of 49 CFR part 541, than the theft rates for earlier, similarly-constructed models which were parts-marked. Based on the performance of the PASS-Key, PASS-Key II, and PASS-Key III systems on other Suzuki models, and the advanced technology utilized in PASS-Key III+, Suzuki believes that the PASS-Key III+ will be more effective in deterring theft than the parts-marking requirements of 49 CFR part 541.

Suzuki stated that although its antitheft device provides protection against unauthorized starting and fueling of the vehicle, it does not provide any visible or audible indication of unauthorized entry by means of flashing vehicle lights or sounding of the horn. Since the system is fully operational once the vehicle has been turned off, specific visible or audible reminders beyond key removal reminders have not been provided. Suzuki also stated that the PASS-Key III+ device to be used on the XL-7 vehicle line is the same theft deterrent system used on motor vehicles produced by General Motors Corporation. Based on a comparison of the reduction in the theft rates of Chevrolet Corvettes using a passive theft deterrent device along with an audible and visual alarm system to the reduction in theft rates for the Chevrolet Camaro and Pontiac Firebird vehicles equipped with a passive theft deterrent device without an alarm, GM found that the lack of an alarm or attention attracting device does not compromise the theft deterrent performance of a system such as PASS-Key III+.

On the basis of this comparison, Suzuki has concluded that the antitheft device proposed for its XL-7 vehicle line is no less effective than those devices installed in the lines for which NHTSA has already granted full exemption from the parts-marking requirements.

Based on the evidence submitted by Suzuki, the agency believes that the antitheft device for the XL-7 vehicle

line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR 543.6(a)(4) and (5), the agency finds that Suzuki has provided adequate reasons for its belief that the anti-theft device will reduce and deter theft. This conclusion is based on the information Suzuki provided about its device.

For the foregoing reasons, the agency hereby grants in full Suzuki's petition for exemption for the XL-7 vehicle line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541, Appendix A-1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR 543.7(f) contains publication requirements incident to the disposition of all part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the anti-theft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts marking requirements of the Theft Prevention Standard.

If Suzuki decides not to use the exemption for this line, it should formally notify the agency, and, thereafter, the line must be fully marked as required by 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Suzuki wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an anti-theft device similar to but differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden that part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part

543 to require the submission of a modification petition for every change to the components or design of an anti-theft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

**Authority:** 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: March 7, 2006.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34284]

#### Southwest Gulf Railroad Company— Construction and Operation Exemption—Medina County, TX

**AGENCY:** Surface Transportation Board, Transportation.

**ACTION:** Notice of intent to prepare a Supplemental Draft Environmental Impact Statement.

**SUMMARY:** This Notice discusses the environmental review process conducted thus far for this proceeding and the basis for determining that a Supplemental Draft Environmental Impact Statement is needed; the scope of the Supplemental Draft Environmental Impact Statement; and the remaining steps necessary to conclude the environmental review process.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rini Ghosh, Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001, or by phone at (202) 565-1539. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339. The Web site for the Surface Transportation Board is <http://www.stb.dot.gov>.

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 27, 2003, Southwest Gulf Railroad Company (SGR) filed a petition with the Surface Transportation Board (Board) pursuant to 49 U.S.C. 10502 for authority to construct and operate a new rail line in Medina County, Texas. The proposal involves the construction and

operation of approximately seven miles of new rail line from a Vulcan Construction Materials, LP (VCM) proposed limestone quarry to the Union Pacific Railroad Company rail line near Dunlay, Texas. The Board's Section of Environmental Analysis (SEA) issued a Draft Environmental Impact Statement (Draft EIS) on November 5, 2004, for public review and comment. The Draft EIS evaluated the potential environmental impacts that could result from SGR's proposed rail line construction and operation, four alternatives to SGR's proposed rail line (including the No-Action Alternative) and recommended mitigation that could be undertaken to reduce the potential impacts identified.

In response to the Draft EIS, SEA has received approximately 120 written comment letters to date,<sup>1</sup> as well as 75 oral comments submitted at two public meetings held in Hondo, Texas, on December 2, 2004 (SEA has considered each time a commenter spoke as one comment, even though several commenters spoke multiple times).

SEA has carefully reviewed all comments received, as well as additional information about the project proposal submitted by SGR, and has decided to prepare a concise Supplemental Draft EIS (SDEIS) that focuses on three specific matters. The SDEIS will contain a discussion of the following: (1) Evaluation of three alternative rail routes that were not studied in detail in the Draft EIS and a comparison of these three alternative routes to the four rail routes previously studied in the Draft EIS; (2) a discussion of the progress of additional historic property identification efforts; (3) and the additional noise analysis that SEA will perform, based on updated operational data (that trains may operate during nighttime hours) provided by SGR. Below, we discuss the following: (1) The environmental review process for this proceeding thus far and the rationale for determining that a SDEIS is needed; (2) the scope of the SDEIS; and (3) the remaining steps in the environmental review process.

<sup>1</sup> Although the official deadline for submitting comments was January 10, 2006, SEA has continued to receive comment letters that were postmarked after that date. In the interests of providing all parties with ample opportunity to participate in the environmental review process, SEA is considering all comments received to date. These comments have been placed in the public record for this proceeding and are available in the Environmental Correspondence section of the Board's Web site at <http://www.stb.dot.gov>.