

requested in the petition. Therefore, in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2000-7164; Notice 2]

Suzuki Motor Corporation; Denial of Application for Decision of Inconsequential Noncompliance

Suzuki Motor Corporation of Hamamatsu, Japan, has determined that it manufactured 1,595 vehicles that fail to comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 225, "Child Restraint Anchorage Systems," and has filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports." Suzuki has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published on April 25, 2000 in the **Federal Register** (65 FR 24253), with a 30-day comment period. We received no comments.

FMVSS No. 225, S4.1, requires that:

Each tether anchorage and each child restraint anchorage system installed, either voluntarily or pursuant to this standard, in any new vehicle manufactured on or after September 1, 1999, shall comply with the configuration, location, marking and strength requirements of this standard. The vehicle shall be delivered with written information, in English, on how to appropriately use those anchorages and systems.

FMVSS No. 225, S12, requires that:

The vehicle must provide written instructions, in English, for using the tether anchorages and the child restraint anchorage system in the vehicle. If the vehicle has an owner's manual, the instructions must be in that manual. The instructions shall:

(a) Indicate which seating positions in the vehicle are equipped with tether anchorages and child restraint anchorage systems;

(b) In the case of vehicles required to be marked as specified in paragraphs S4.1, S9.5(a), or S15.4, explain the meaning of markings provided to locate the lower anchorages of child restraint anchorage systems; and

(c) Include instructions that provide a step-by-step procedure, including diagrams, for properly attaching a child restraint system's tether strap to the tether anchorages.

At the start of production for the 2000 model year, Suzuki began installing user-ready tether anchorages as standard equipment in Suzuki Swift vehicles. Due to an oversight, however, Suzuki neglected to update the Suzuki Swift owner's manual in conjunction with this production change. As a result, the owner's manuals for 1,595 Suzuki Swift vehicles manufactured between August 1999 and February 2000, and shipped prior to March 2000, do not comply with the information requirements in FMVSS No. 225.

Suzuki supports its application for inconsequential noncompliance with the following:

"The vehicle owner's manual for the subject Suzuki Swift vehicles contains the following text relating to the use of child restraint systems that require use of a top tether:

Some child restraint systems require the use of a top strap. If you use such a restraint system and your vehicle is not equipped with the top tether strap anchor bracket, have your dealer install the top strap anchor bracket, or contact your dealer for instructions on how to install the anchor bracket.

In addition to the text message, the owner's manual contains two illustrations (one for the hatchback model and one for the sedan model) showing a child restraint system positioned at one of the rear seating positions, with its tether strap attached to the tether anchorage.

Although the Swift owner's manual does not mention that user-ready tether anchorages are provided as standard equipment and does not show all of the seating positions that are equipped with a tether anchorage, the illustrations in the manual do show the tether anchorage location for one of the rear seating positions. Suzuki believes that vehicle owners will assume, based on the illustrations, that anchorages are provided for both rear seating positions. In addition, when you look at the actual vehicle, it is obvious that user-ready anchorages are provided as standard equipment for both rear seating positions. Since the tether anchorages are easily recognizable in the vehicle, Suzuki believes that failure to fully illustrate the location of each tether anchorage in the vehicle owner's manual is inconsequential.

The Swift owner's manual also does not fully comply with the requirement to " * * * provide a step-by-step procedure, including diagrams, for properly attaching a child restraint system to the tether anchorages * * *." Typically, because there are differences in child restraint system design, the vehicle owner's manual can only provide general instructions to hook the tether strap hook into the anchor bracket and tighten the tether strap. These steps are somewhat obvious, and should be intuitively understood by vehicle owners.

Also, each child restraint system is required to be accompanied with its own installation instructions. S5.6.1 of FMVSS No. 213, Child Restraint Systems, requires that each child restraint system " * * * must

be accompanied by printed installation instructions in the English language that provide a step-by-step procedure, including diagrams, for installing the system in motor vehicles * * *". Suzuki believes that vehicle owners rely on the installation instructions provided with the child restraint system, rather than those provided in the vehicle owner's manual, for information about how to install the child restraint system in their vehicle. As a result, Suzuki believes that failure to provide a step-by-step procedure, in the vehicle owner's manual, for attaching a child restraint system to the vehicle's tether anchorages is inconsequential to safety."

We are denying Suzuki's application for the following reasons:

Suzuki failed to adhere to S4.1 of FMVSS No. 225, which requires that manufacturers shall specify tether anchorage configurations and locations in their vehicles along with written information on how to use those anchorages and systems appropriately. Suzuki also failed to meet the requirements of S12(a) and (c) of FMVSS No. 225, which specify that the information provided in the vehicle owner's manual must (a) indicate which seating positions in the vehicle are equipped with tether anchorages and (b) include instructions that provide step-by-step procedures, and diagrams for properly attaching a child restraint system's tether strap to the tether anchorages. Suzuki provides no excuse for its oversight in neglecting to update the 2000 model year Suzuki Swift owner's manual with the required information.

The agency does not agree with Suzuki that illustrating one child restraint system positioned at only one of the two rear seating positions, with its tether strap attached to the tether anchorage sufficiently demonstrates to the owner that in fact two rear seating positions are available for child restraints with tether installations. The agency further disagrees with Suzuki's assumption that the steps necessary for hooking the tether strap to the anchor bracket in the vehicle will be "intuitively" understood by vehicle owners. Child restraint systems with a top tether strap have only recently been introduced for use in this country, and requirements for tether anchorages have only applied to vehicles manufactured after September 1, 1999. Therefore, it is not likely that vehicle owners will be familiar with this new child restraint system feature on the child seat itself or its proper connection to the vehicle. The use of a top tether decreases the motion of a child restraint in a forward crash and therefore reduces the likelihood that the occupant child's head will impact hard interior surfaces of the

vehicle; hence, proper use of this feature improves the child occupant's protection.

As stated above, vehicle owners are not likely to be familiar with the purpose, use, or installation of top tethers in their vehicles, which may in some instances contribute to their misuse or nonuse of the top tether entirely when proper use and installation information is not provided. This may be especially true when specific information regarding the vehicle's tether anchor brackets is not made obvious to them when referring to their vehicle owner's manual for instruction.

Studies show that there is significant misuse of child restraint systems in this country. In part, this can be attributed to parents and care givers who improperly install child restraints in their vehicles. It is imperative that proper child restraint use and installation instructions be provided in a "step-by-step" fashion, particularly when new features and/or installation requirements are introduced, in as many resources as possible. Therefore, the agency cannot emphasize enough the importance of providing parents and care givers with specific information regarding proper child restraint use and installation.

The agency also does not agree with Suzuki's claim that because of differences in child restraint system designs, a vehicle owner's manual can only provide "general instructions." We note that we denied a petition filed by the Alliance of Automobile Manufacturers (Alliance) on April 17, 1999, which asked the agency to delete the requirement in FMVSS No. 225 that vehicle manufacturers provide "step-by-step" instructions, including diagrams, for properly attaching a child restraint tether hook to the vehicle anchor. The agency denied this request on August 31, 1999, stating that " * * * Standard No. 213 specifies the configuration and geometry of the tether hook * * *" which would enable vehicle manufacturers to develop their written instructions with the tether hook design in mind (64 FR 47566). The Alliance submitted a subsequent petition for reconsideration request on October 15, 1999, which requested that the agency defer the effective date on the detailed instruction requirement one year from September 1, 1999. The agency denied this request in a notice published July 31, 2000 (65 FR 46628).

Therefore, in consideration of the foregoing, NHTSA has decided that the applicant has not met its burden of persuasion that the noncompliance it describes is inconsequential to motor

vehicle safety, and it should not be exempted from the notification and remedy requirements of the statute. Accordingly, its application is hereby denied.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: September 19, 2000.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF TRANSPORTATION

[STB Ex Parte No. 634]

Consolidated Railroad Reporting

AGENCY: Surface Transportation Board, DOT.

ACTION: Proposal to Require Consolidated Financial Reporting by Commonly Controlled Railroads.

SUMMARY: The Board intends, consistent with Financial Accounting Standards Board (FASB) Statement No. 94, to require consolidated reporting by commonly controlled U.S. railroads and their U.S. railroad-related affiliates.

DATES: Carriers and other interested parties may submit comments by October 25, 2000.

ADDRESSES: An original plus 10 copies of all comments, referring to STB Ex Parte No. 634, must be sent to: Surface Transportation Board, Office of the Secretary, Case Control Unit, Attn: STB Ex Parte No. 634, 1925 K Street, NW., Washington, DC 20423-0001. In addition, parties must submit to the Board, on 3.5-inch IBM-compatible floppy diskettes (in, or convertible by and into, WordPerfect 9.0 format), an electronic copy of each such paper document. The diskettes shall be clearly labeled with the filer's name and the docket number of this proceeding, STB Ex Parte No. 634. Any party may seek a waiver from the electronic submission requirement.¹

Copies of the written comments will be available from the Board's contractor, Da-To-Da Office Solutions, 1925 K Street, NW, Room 405, Washington, DC. 20423-0001, phone (202) 466-5530. The comments will also be available for viewing and self copying in the Board's Microfilm Unit, Room 755. All pleadings submitted will be posted on the Board's website (www.stb.dot.gov).

¹ Documents transmitted by facsimile (FAX) or electronic mail (e-mail) will not be accepted.

FOR FURTHER INFORMATION CONTACT: Paul A. Aguiar, (202) 565-1527. [Assistance for the hearing impaired is available through TDD services: 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: FASB is the organization responsible for the development of financial accounting standards. FASB issues statements of financial accounting standards that provide guidance on proper accounting procedures.² Those pronouncements typically become "Generally Accepted Accounting Principles" or "GAAP." The Board, like most regulatory agencies, generally follows GAAP.

FASB No. 94, *Consolidation of All Majority-owned Subsidiaries*, which was issued in 1987, requires the preparer of financial statements to use consolidated reporting for all majority-owned subsidiaries unless control is temporary or does not rest with the majority owner. In *Supplemental Reporting of Information for Revenue Adequacy*, 5 I.C.C.2d 65 (1988) (*Supplemental Reporting*), our predecessor, the Interstate Commerce Commission (ICC), required railroads to use consolidated reporting for all railroad and railroad-related activities in conformance with GAAP for "revenue adequacy" purposes.³ While *Supplemental Reporting* was primarily concerned with gathering data for the annual railroad revenue adequacy determination, the ICC did not specifically limit adoption of consolidated reporting to only that issue. However, as a practical matter, over the past decade that decision has been interpreted to require mandatory consolidated reporting only for Annual Report Form R-1, Schedule 250 (related to revenue adequacy filings), and to permit—but not require—consolidated reporting for other R-1 schedules and reports filed with the agency.⁴

We believe that we should adopt FASB No. 94 (with some modifications) and require reporting of all railroad and railroad-related activities on a consolidated basis for all regulatory purposes. We believe that consolidated data would provide more meaningful and accurate information on major rail systems operating in the United States. Indeed, consolidated financial statements are generally recognized as being more meaningful than the

² FASB statements can be obtained by contacting the FASB of the Financial Accounting Foundation at 401 Merritt 7, P.O. Box 5116, Norwalk, Connecticut 06856-5116. Information about FASB statements can be found on the internet at: <http://www.rutgers.edu/accounting/raw/fasb>.

³ The STB is required by statute to "annually determine which rail carriers are earning adequate revenues." 49 U.S.C. 10704(a)(3).

⁴ See 49 CFR Part 1201 Instruction 1-9(f).