



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
NATIONAL VEHICLE AND FUEL EMISSIONS LABORATORY  
2565 PLYMOUTH ROAD  
ANN ARBOR, MICHIGAN 48105-2498

OFFICE OF  
AIR AND RADIATION

November 30, 2016

Kenneth M. Bush, Department Manager  
Government Relations  
Suzuki Motor of America, Inc.  
3251 E. Imperial Highway  
Brea, CA 92822-1100

Dear Mr. Bush,

This letter supersedes our previous void letter, dated November 9, 2016. The U.S. Environmental Protection Agency ("EPA" or "the Agency") is directing this letter to Suzuki Motor of America, Inc. and Suzuki Motor Corporation (hereafter collectively referred to as "Suzuki") for engine family CSKXC.652VR1.<sup>1</sup> This certificate was issued to Suzuki for your highway motorcycles on the basis of averaging multiple engine families for the 2012 Model Year (2012 MY). For the reasons explained below, the EPA is voiding this certificate of conformity.

This certificate was issued based upon information and statements you made in your application for certification, as required by 40 CFR Part 86. In your certificate application, you asserted full compliance with the applicable statutory and regulatory requirements. Specifically, Suzuki submitted in its application for certification that it would be using the averaging regulations under 40 CFR § 86.449 to demonstrate compliance with the applicable HC+NO<sub>x</sub> standard and that Suzuki would not need to use banked credits to comply with the standard of 0.8 g/km for its averaged engine families. The averaging regulations required Suzuki to submit an end-of-year (EOY) report to continue to demonstrate compliance with the conditions for which we granted the certificates of conformity by submitting final sales numbers and showing final compliance with the averaging provisions under the regulation. Suzuki failed to submit a timely EOY report prior to the reporting deadline and, when the EOY report was requested by the Agency, Suzuki produced an inaccurate EOY report on multiple occasions. EPA's

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<sup>1</sup> Suzuki Motor of America, Inc. (SMAI) is an American corporation organized under the laws of the State of California. Suzuki Motor Corporation (SMC) is a Japanese corporation. SMAI imports and distributes highway motorcycles and other vehicles into the U.S. as a distributor for SMC. On April 1, 2013, pursuant to the Fifth Amended Plan of Liquidation Under Chapter 11 of the Bankruptcy Code of American Suzuki Motor Corporation (ASMC), SMAI acquired certain assets of ASMC. Prior to April 1, 2013, ASMC was the importer and distributor of highway motorcycles and other vehicles into the U.S. for SMC. See Paragraph 3 of the Consent Agreement, CAA-HQ-2016-8274, available at the following website: [https://yosemite.epa.gov/oa/EAB\\_Web\\_Docket.nsf/77355bee1a56a5aa8525711400542d23/b104f0a26f96ee4c85258066004c6f1e!OpenDocument](https://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/77355bee1a56a5aa8525711400542d23/b104f0a26f96ee4c85258066004c6f1e!OpenDocument). For ease of reference, we refer to these three entities in this letter individually and collectively as "Suzuki."

decision to issue this certificate of conformity was based on our review of the information and statements in your certification application, including your continued obligation to demonstrate compliance with the averaging requirements for which you certified this engine family, and most importantly, our presumption that the information and statements in the application were true and complete. After our review of the application and other supporting material, we concluded that this engine family met all requirements of 40 CFR Part 86 and the Clean Air Act. Consequently, we issued this certificate of conformity. EPA may void Suzuki's certificate of conformity for both violations of failing to file its EOY report prior to the regulatory deadline and knowingly furnishing a false or inaccurate EOY report to EPA. While in the process of gathering information for the MY 2014 pre-certification meeting with Suzuki, and a review of the information Suzuki was to provide to the Agency, it became clear that Suzuki failed to submit its 2012 MY EOY report, as required under the regulations. When Suzuki was made aware of this failure, Suzuki submitted to the Agency a false or inaccurate report initially suggesting that Suzuki had "banked credits" it could use to offset exceeding the standard. After Suzuki was informed that it did not have banked credits to use for averaging purposes, Suzuki submitted another false or inaccurate EOY report stating that, due to a computer error that resulted in erroneous miscalculated sales data, Suzuki's vehicles met the averaging standard. Based on our investigation, which included repeated requests for information from Suzuki, we determined that Suzuki submitted, on multiple occasions, information to EPA to demonstrate compliance with the averaging standards that was false or inaccurate. Because the accuracy and authenticity of the EOY report was integral to our determination that your vehicles met emissions standards and otherwise conformed to applicable statutory and regulatory requirements, which resulted in our decision to issue your certificate of conformity, it appeared to EPA that Suzuki's certificate of conformity was issued based on the knowing and/or intentional submission of false or inaccurate information in your application for certification. Additionally, Suzuki failed to submit its EOY report prior to the deadline as required by the applicable regulation.

On July 2, 2015 ("July 2 letter"), EPA sent you a letter to inform you of our concerns pertaining to your certificates of conformity. At that time, we gave you advance notice of those concerns - which were set forth in greater detail throughout that letter and its attachments - and provided you with an opportunity to demonstrate or achieve compliance with all of the applicable requirements governing those certificates of conformity. We specifically requested that you provide us with evidence that would support the statements of compliance made in your original certification applications.

In response, EPA received a letter from your attorney, Johnathan Martel, dated August 27, 2015 ("August 27 letter"). EPA has not received any other correspondence or other communication directly from Suzuki. The August 27 letter from Mr. Martel states that it is "in response to the Environmental Protection Agency's ... July 2, 2015 notice ... that the Agency is considering voiding ab initio nineteen certificates of conformity for Model Year 2012 ("2012 MY") on-highway motorcycles." However, the August 27 letter does not demonstrate that the statements in support of your certification applications were accurate or that your vehicles otherwise comply with the applicable regulations. The August 27 letter does not address or contradict EPA's underlying concerns detailed in our July 2 letter regarding the apparently fabricated EOY reports or excuse you of your regulatory obligation to report accurate and authentic information to the Agency before the reporting deadline. The August 27 letter does not provide any evidence that the statements made in your certification applications were accurate by providing any

further explanation or information regarding the untimely or false or inaccurate EOY reports Suzuki submitted in support of your 2012 MY certificates. As we explained in our July 2 letter, it appears that Suzuki did not provide a timely EOY report to the EPA and, when requested by the EPA, Suzuki submitted on multiple occasions false or inaccurate EOY reports. The August 27 letter does not refute this finding; instead, the letter asserts that EPA either lacks grounds to void all the certificates because EPA has previously accepted inadequate reports in the past, Suzuki did not “knowingly” submit false or inaccurate information, or EPA did not actually rely on the information in the EOY report to certify Suzuki’s certification applications. In addition, Mr. Martel also argues that Suzuki’s “actual” emissions for 2012 MY were lower than the standard and a prior bankruptcy proceeding enjoins further action by EPA. However, none of Mr. Martel’s arguments refute EPA’s basis for voiding this certificate of conformity.

For the reasons set forth above, and as described in greater detail in our July 2 letter, EPA concludes that you knowingly submitted false or inaccurate information in your application for certification, and that you failed to provide your EOY report prior to the reporting deadline required by our regulations. Therefore, EPA is voiding your certificate of conformity for the engine family CSKXC.652VR1, effective immediately. By voiding your certificate of conformity, the certificate is deemed void from the beginning of the applicable model year. 40 CFR § 1068.30. Accordingly, all vehicles introduced into commerce under that certificate are considered noncompliant. Section 203 of the Clean Air Act prohibits the sale of vehicles and engines unless such vehicles and engines are covered by a valid certificate of conformity. See also 40 CFR § 86.407-78. Each introduction of a vehicle or engine into U.S. commerce under this certificate is a separate violation of section 203 of the Clean Air Act, and you may face civil penalties up to \$37,500 per vehicle or engine, as well as criminal penalties. CAA §§ 203(a)(1), 205(a); 40 CFR § 86.407-78.

Please contact Mr. Cleophas Jackson of my staff at (734) 214-4824 or [jackson.cleophas@epa.gov](mailto:jackson.cleophas@epa.gov), should you have any additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Byron Bunker', is written over a horizontal line.

Byron Bunker, Director  
Compliance Division  
Office of Transportation and Air Quality

CC: Jonathan S. Martel  
Arnold & Porter LLP  
601 Massachusetts Ave., NW  
Washington, DC 20001-3743