



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2015-0104, Notice 3]

Decision That Nonconforming Model Year 2013-2014 Ferrari F12 Berlinetta Passenger Cars Are Eligible for Importation

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

ACTION: Grant of petition

SUMMARY: This document announces a decision by the National Highway Traffic Safety Administration that certain Model Year (MY) 2013-2014 Ferrari F12 Berlinetta passenger cars (PCs) that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for importation into and sale in the United States that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the MY 2013-2014 Ferrari F12 Berlinetta PC), and they are capable of being readily altered to conform to the standards.

DATES: This decision became effective on March 20, 2018.

FOR FURTHER INFORMATION CONTACT: George Stevens, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366-5308.

SUPPLEMENTARY INFORMATION:Background

Under 49 U.S.C 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified as required under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition received, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments submitted, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

G&K Automotive Conversion, Inc., of Santa Ana, California ("G&K") (Registered Importer# RI-90-007), petitioned NHTSA to decide whether certain MY 2013-2014 Ferrari F12 Berlinetta PCs are eligible for importation into the United States. NHTSA

published a notice of the petition on December 7, 2016 (81 FR 88318) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition.

COMMENTS:

On February 6, 2017, Ferrari North America (FNA), the vehicle's original manufacturer, submitted comments to the petition docket. In their comments, Ferrari stated that while they agreed that the U.S. and the non-U.S. versions of the vehicle are "substantially similar" within the meaning of section 30141(a)(1)(A)(i), they strongly disputed G&K's assertions that the non-U.S. version could be readily altered to comply with all applicable FMVSS. FNA elaborated by presenting detailed reasons for their assertions with respect to specific FMVSS. G&K responded to FNA's comments by reiterating their belief that the subject non-U.S.-conforming vehicles can be readily modified to meet all applicable FMVSS and that they have the experience and technical knowledge to perform the necessary modifications to conform the vehicles and remedy necessary recalls.

A summary of FNA's comments, G&K's responses to FNA's comments, and the conclusions that NHTSA has reached regarding the issues raised by the parties is set forth below.

REVIEW OF COMMENTS AND CONCLUSIONS:

NHTSA has reviewed the petition, FNA's comments, G&K's subsequent responses to FNA's comments, and G&K's responses to NHTSA's resultant inquiries. Based on these reviews and associated analyses, NHTSA has concluded that the subject nonconforming vehicles, as originally manufactured, conform to many FMVSS in the same manner as their U.S.-certified counterparts, or are capable of being readily altered to comply with all applicable FMVSS as outlined in the petition, except as amended by NHTSA's following decisions.

NHTSA has concluded that an RI who imports one of these vehicles must complete modifications in addition to those proposed in the petition, and include, in the statement of conformity and associated documents (referred to as a "conformity package") they submit to NHTSA under 49 CFR 592.6(d,) additional specific proof to confirm that each vehicle was manufactured to conform to, or was successfully altered to conform to, each of the following standards:

FMVSS No. 101, Controls and Displays; FNA commented that a simple reprogramming of the software would be insufficient to render the vehicle compliant with the standard, and stated that in addition to various necessary software modifications, the instrument cluster must be replaced entirely, at considerable cost.

G&K responded that they have the necessary equipment and expertise to reprogram the vehicle to render the instrument cluster compliant. They also assert that this would be sufficient, and that replacement of the cluster would not be necessary.

NHTSA has decided that a description of how the programming changes were completed and how compliance with the standard was verified must be included in each conformity package. Photographs, printouts, and/or images of the installation computer's monitor ("screenshots"), as practicable, must also be submitted as proof that the reprogramming was carried out successfully. Proof must also be furnished that all portions of the instrument panel in the vehicle, as altered, meet the standard to which they are subject.

FMVSS No. 201, Occupant Protection in Interior Impact; FNA commented that the U.S. Market vehicles to which this petition refers have special A-pillar and rear pillar trims to satisfy the requirements of FMVSS No. 201, and that replacement of this trim would be especially expensive.

G&K responded that they have inspected the trim on the pillars of the vehicle subject to this petition, and that the relevant trim is identical both in appearance and material to the trim on the U.S.-certified vehicle.

NHTSA has decided that the A-pillar trim must be replaced with U.S.-conforming model replacement components. Each conformity package must include Ferrari replacement part number verification, which will consist of copies of purchase invoices and photographs, both pre- and post-installation, illustrating that the trim on the A-pillars of each vehicle being imported is identical to that in the U.S.-certified counterpart after the replacement parts are installed.

FMVSS No. 208, Occupant Crash Protection; FNA commented that the airbag system, and specifically the Child Seat Presence and Orientation Detector ("CPOD") system, can be reprogrammed only by means of a specific device, and that this reprogramming is not straightforward. They further state that the passenger seat, front bumpers, and ceiling light would need to be replaced to ensure properly functioning sensors and telltales.

G&K responded that they will inspect the passenger seat of each imported vehicle for compliance, and replace the seat or install components as necessary. They also assert that they have the necessary equipment and expertise to program the vehicle to activate the necessary sensing systems to satisfy the advanced airbag requirements. Finally, they state they will inspect, and replace as necessary, the ceiling lights to incorporate the necessary telltale, and that the relevant sensors in the bumpers are identical for the certified and non-certified vehicles.

NHTSA has decided that the passenger seat, the ceiling light containing the passenger airbag telltale, and the front bumper must be replaced with the U.S.-conforming model replacement component. Each conformity package must include Ferrari replacement part number verification, which will consist of copies of purchase invoices and a detailed description of the occupant protection system in place on the vehicle at the time it was delivered to the RI. The RI must also provide a similarly detailed description of the occupant protection system in place after the vehicle is altered, including photographs of all required labeling. The descriptions must include assembly diagrams and associated part numbers for all components that were removed from and installed on the vehicle, and descriptions of how the programming changes were completed and how compliance was verified. Additionally, photographs (e.g., screenshots) or report printouts, as practicable, must be submitted as proof that the reprogramming was carried out successfully. Proof in the form of test results that, as altered, the vehicle conforms to child protection requirements, passenger out of position, unbelted occupant, and telltale requirements of FMVSS No. 208 after the replacement parts and software updates are installed.

FMVSS No. 225, *Child Restraint Anchorage Systems*; FNA commented that while G&K correctly summarized that they will need to add the appropriate child restraint anchorage, this

summary unduly minimizes the expense and potential difficulties of said installation. Specifically, FNA states that installation will require replacement of upholstery, and that the screw holding the anchorage must be tightened to a precisely-defined torque.

G&K responded by asserting that they have the necessary experience to install such an anchorage in a vehicle.

NHTSA has decided that each conformity package must include photographic evidence that the required anchorage has been installed in each imported vehicle, and include a description of how the RI accomplished proper torqueing of the anchorage screw.

FMVSS No. 301 Fuel System Integrity; FNA stated that the modifications to the fuel system that G&K identified in their petition may overlook reinforcements that have been provided for U.S.-certified vehicles to limit the movement of the gearbox in rear-end collisions as a means of preventing its impact with the fuel tank.

G&K responded by reiterating that they will inspect each individual vehicle for compliance with this standard, and that they will install additional brackets behind the gearbox similar to those found in U.S.-certified vehicles as necessary.

NHTSA has decided that each conformity package must include a detailed description of all modifications made to achieve conformity with this standard and that all newly installed and

replaced components must be U.S.-conforming model Ferrari replacement components, provided that the non-U.S. vehicles were manufactured with mounting anchorages that are identical to those on the U.S.-certified vehicles. This description must include part number verification for each part replaced, copies of purchase invoices, and photographic evidence of the modifications made to achieve conformity.

In addition to the information specified above, each conformity package must include evidence showing how the RI verified that the changes they made in loading or reprogramming vehicle software to achieve conformity with each separate FMVSS, did not also cause the vehicle to fall out of compliance with any other applicable FMVSS.

DECISION:

Accordingly, on the basis of the foregoing, NHTSA hereby decides that MY 2013-2014 Ferrari F12 Berlinetta passenger cars that were not originally manufactured to comply with all applicable FMVSS, are substantially similar to MY 2013-2014 Ferrari F12 Berlinetta passenger cars manufactured for importation into and/or sale in the United States, and certified under 49 U.S.C. 30115, and are capable of being readily altered to conform to all applicable Federal Motor Vehicle Safety Standards.

VEHICLE ELIGIBILITY NUMBER FOR SUBJECT VEHICLES:

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP-594 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Michael Cole,

Acting Director, Office of Vehicle Safety Compliance.

Billing Code 4910-59-P

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