

- San Francisco on December 1, 2005—San Francisco Civic Center Complex, Hiram Johnson Building, Auditorium, 455 Golden Gate Avenue, from 3 p.m. to 5 p.m. and 6 p.m. to 8 p.m.
- Livermore on December 5, 2005—Livermore public San Francisco Civic Center Complex, Hiram Johnson Building, San Diego Room, 455 Golden Gate Avenue, from 3 p.m. to 5 p.m. and 6 p.m. to 8 p.m.
- Modesto on December 6, 2005—DoubleTree Hotel, 1150 Ninth Street, Modesto, from 3 p.m. to 5 p.m. and 6 p.m. to 8 p.m.
- Suisun City on December 8, 2005—Suisun City Hall, Council Chambers, 701 Civic Center Blvd., from 3 p.m. to 5 p.m. and 6 p.m. to 8 p.m.

Persons interested in providing comments on the scope of the programmatic EIR/EIS should do so by December 16, 2005. Comments can be sent in writing to Mr. David Valenstein at the FRA address identified above. Comments may also be addressed to Mr. Dan Leavitt of the Authority at their address identified above. Information and documents regarding the environmental review process will also be made available through the Authority's Internet site: <http://www.cahighspeedrail.gov/>.

Issued in Washington, DC, on November 18, 2005.

Mark E. Yachmetz,

Associate Administrator for Railroad Development.

[FR Doc. E5-6526 Filed 11-25-05; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2005-23093]

Ferrari S.p.A and Ferrari North America, Inc.; Receipt of Application for a Temporary Exemption From Federal Motor Vehicle Safety Standard No. 208

In accordance with the procedures of 49 CFR part 555, Ferrari S.p.A. and Ferrari North America (collectively, "Ferrari") have applied for a Temporary Exemption from S14.2 of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection*, for the Ferrari F430 model vehicle. The basis of the application is that compliance would cause substantial economic hardship to a manufacturer that has

tried in good faith to comply with the standard.¹

We are publishing this notice of receipt of the application in accordance with the requirements of 49 U.S.C. 30113(b)(2), and have made no judgment on the merits of the application.

DATES: You should submit your comments not later than December 28, 2005.

FOR FURTHER INFORMATION CONTACT: Chris Calamita in the Office of Chief Counsel, NCC-112, (Phone: 202-366-2992; Fax 202-366-3820; E-Mail: Christopher.calamita@nhtsa.dot.gov).

SUPPLEMENTARY INFORMATION

I. Background

A manufacturer is eligible to apply for a hardship exemption if its total motor vehicle production in its most recent year of production does not exceed 10,000, as determined by the NHTSA Administrator (15 U.S.C. 1410(d)(1)). Ferrari's total production is approximately 4,000 vehicles per year. Fiat S.p.A., a major vehicle manufacturer, holds a majority interest in Ferrari. Consistent with past determinations, NHTSA has determined that Fiat's interest in Ferrari does not result in the production threshold being exceeded (see, 54 FR 46321; November 2, 1989).

The statutory provisions governing motor vehicle safety (49 U.S.C. Chapter 301) do not include any provision indicating that a person is a manufacturer of a vehicle by virtue of ownership or control of another person that is a manufacturer. NHTSA has stated, however, that a person may be a manufacturer of a vehicle manufactured by another person if the first person has a sufficiently substantial role in the manufacturing process that it can be deemed the sponsor of the vehicle. The agency considers the statutory definition of "manufacturer" (15 U.S.C. 1391(5)) to be sufficiently broad to include sponsors, depending on the circumstances.

In the present instance, the Ferrari F430 bears no resemblance to any motor vehicle designed or manufactured by Fiat, and the agency understands that the F430 was designed and engineered without assistance from Fiat. Further, the agency understands that such assistance as Ferrari may receive from Fiat relating to use of test facilities and the like is an arms length transaction for which Ferrari pays Fiat. Accordingly,

NHTSA concludes that Fiat is not a manufacturer of Ferrari vehicles by virtue of being a sponsor.

II. Why Ferrari Needs a Temporary Exemption and How Ferrari Has Tried in Good Faith to Comply With FMVSS No. 208

Ferrari states that the F430 was originally designed in the mid-1990s and was originally designated as the 360 model. The petitioner states that the Modena (coupe) version of the 360 was launched in 1999, followed by the Spider (convertible) version in 2000, and the Challenge Stradale in 2003. Production of these vehicles continued until the end of 2004. According to the petitioner, shortly thereafter Ferrari began an aesthetic redesign of the vehicle, relying on the same chassis. Ferrari stated that the redesigned vehicle, the F430, will be produced until late 2008. According to Ferrari, 2008 will mark the end of the life cycle for the 360/F430 vehicle. The petitioner states that the 360 and F430 were designed to comply, and do comply, with all of the FMVSSs in effect at the time the 360 was originally designed. The petitioner stated that the provisions of FMVSS No. 208 established in 2000 (65 FR 30680; May 12, 2000; Advanced Air Bag rule) were not anticipated by Ferrari when the 360 vehicle model was designed.

Ferrari stated that it has been able to bring the F430 into compliance with all of the high-speed belted and unbelted crash test requirements of the Advanced Air Bag rule. However, it stated that it has not been able to bring the vehicle into compliance with the child out-of-position requirements (S19, S21, and S23), and the 5th percentile adult female out-of-position requirements for the driver seat (S25).

Ferrari stated that despite efforts to involve numerous potential suppliers, it has not identified any that are willing to work with the company to develop an occupant classification system that would comply with the S19, S21, S23, and S25. Moreover, Ferrari stated that it is unable to reconfigure the F430 to accommodate an occupant classification system and air bag design that would comply with these requirements.

Ferrari has requested an exemption for the F430 from the advanced air bag provisions in FMVSS No. 208 during model years 2007 and 2008 (i.e., September 1, 2006 through August 31, 2008). Ferrari claims that compliance with the advanced air bag provisions would result in substantial economic hardship and has filed this petition under 49 CFR 555.6(a).

¹ To view the application using the Docket number listed above, please go to: <http://dms.dot.gov/search/searchFormSimple.cfm>.

Ferrari stated that its inability to sell the F430 in the United States through 2007 would lead to a substantial loss of sales and revenue. Ferrari stated that in 2004, sales of the 8-cylinder 360 models, those models being replaced by the F430, accounted for 86 percent of its U.S. sales. Ferrari projected that if it were unable to sell the F430 model in the U.S., it would realize a decrease in net profit of approximately 44 million Euros (\$53,000,000) in 2007. Ferrari stated that such consequences demonstrate "substantial economic hardship" within the meaning of 49 U.S.C. 30113(b)(3)(B)(i).

Ferrari has requested that additional specific details regarding its finances and financial forecasts be afforded confidential treatment under 49 CFR 512.4, *Asserting a claim for confidential information*. We have determined that this information is to be afforded such treatment.

III. Why an Exemption Would Be in the Public Interest

The petitioner put forth several arguments in favor of a finding that the requested exemption is consistent with the public interest. Specifically:

1. Ferrari states that the vehicle is equipped with a variety of "active safety" systems beyond that required by the FMVSSs and that these systems "significantly improve vehicle handling and enhance controllability." Such systems include the Manettino control system, which adjusts vehicle handling and stability to specific driving conditions; the Control Stability System, an electronic stability control system; Electro-Hydraulic Differential, a system that manages torque distribution between the two rear wheels to improve stability; Continuous Damping Control, a system that adjusts to road conditions in order to improve braking; and "Sky-Hook" strategy.²

2. The petitioner states that the F430 also has a variety of passive safety features not required under the FMVSS, including seat belt pretensioners and a fuel system that complies with the upgraded fuel system integrity requirements in advance of the compliance date.

3. Ferrari notes that the requirements for which the F430 does not comply are primarily designed to protect children from injuries due to air bag deployment. Ferrari argues that it is unlikely that

young children would be passengers in the vehicles covered by the exemption.

4. Ferrari states that the F430 will have a manual on/off switch for the passenger air bag. Ferrari also notes that a child restraint system that automatically suppresses the passenger air bag when properly installed would be available upon request of a consumer at no cost.

5. Ferrari states that the F430 was designed and marketed as a high performance, racing type vehicle, and therefore would have negligible on-road operation. Thus, Ferrari states, the impact of the exemption is expected to be minimal.

6. Ferrari argues that granting the exemption would increase choices available to the U.S. driving population in the high-performance vehicle segment.

7. The petitioner argues that granting the exemption would maintain the viability of U.S. firms associated with the sales and maintenance associated with the F430. Ferrari projects the F430 to be a major part of Ferrari sales in the U.S. during the two-year period for which an exemption has been requested.

IV. How You May Comment on the Ferrari Application

We invite you to submit comments on the application described above. You may submit comments [identified by the DOT Docket number in the heading of this document] by any of the following methods:

- Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site by clicking on "Help and Information" or "Help/Info."

- Fax: 1-202-493-2251.

• Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590.

• Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided.

Docket: For access to the docket in order to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: 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 the comment, if 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 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

We shall consider all comments received before the close of business on the comment closing date indicated below. To the extent possible, we shall also consider comments filed after the closing date. We shall publish a notice of final action on the application in the **Federal Register** pursuant to the authority indicated below.

(49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8)

Issued on: November 18, 2005.

Roger A. Saul,

Director, Office of Crashworthiness Standards.

[FR Doc. E5-6551 Filed 11-25-05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2005-23083]

Notice of Receipt of Petition for Decision That Nonconforming 2005 Lamborghini Murcielago Roadster Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2005 Lamborghini Murcielago roadster passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2005 Lamborghini Murcielago roadster passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety

² The "Skyhook" strategy detaches the vehicle body, as a sprung mass, from what is taking place on the axles and wheels by calming the movement of the body * * * In addition to improved comfort, this provides for "optimal control of the vehicle body at all times." Page 10 of the petition.