

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2001-9628; Notice 2]

Decision That Nonconforming 2001 Ferrari 360 Passenger Cars are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 2001 Ferrari 360 passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 2001 Ferrari 360 passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards 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 and certified by their manufacturer as complying with the safety standards (the U.S. certified version of the 2001 Ferrari 360), and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective as of the date of its publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

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 Federal motor vehicle safety standards 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 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 Federal motor vehicle safety standards.

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 that it receives, 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 that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies of Baltimore, Maryland ("J.K.") (Registered Importer 90-006) petitioned NHTSA to decide whether 2001 Ferrari 360 Passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on May 21, 2001 (66 FR 28020) to afford an opportunity for public comment. The reader is referred to that notice for a description of the petition. The notice stated that the closing date for comments was June 20, 2001. The agency published on July 26, 2001 (66 FR 39081) notice that it was extending the comment period until August 10, 2001, based on requests that it had received from Fiat Auto R&D U.S.A., a division of Alfa Romeo, Inc., and Ferrari North America Inc.

Twenty-one comments were submitted in response to the notice of petition. Nineteen of these supported the granting of the petition. One comment, from an individual identifying himself as "James A. Linder" and stating that he represented the "Original Automobile Manufacturer's Association" of Concord, New Hampshire, which the agency has learned is a fictitious entity, raised general objections concerning the registered importer program and its impact on fabricating manufacturers, but did not directly address the subject of the petition—whether non-U.S. certified 2001 Ferrari 360 passenger cars are eligible for importation. As a consequence, the agency is not responding to this comment in this notice.

The remaining comment was from Ferrari North America, Inc. ("Ferrari"), the United States representative of Ferrari SpA, the manufacturer of the 2001 Ferrari 360. In its comment, Ferrari addressed the conformity status of the non-U.S. certified 2001 Ferrari 360 with, or its capability to be conformed to, the following standards: Federal Motor Vehicle Safety Standard ("FMVSS") Nos. 108, *Lamps, Reflective Devices, and Associated Equipment*; 118, *Power-Operated Window Systems*; 201, *Occupant Protection in Interior Impacts*; 208, *Occupant Crash Protection*; 225, *Child Restraint Anchorage Systems*; 301, *Fuel System Integrity*; and the Bumper Standard found in 49 CFR part 581. After receiving this comment, NHTSA accorded J.K. an opportunity to comment upon the issues that Ferrari had raised. Ferrari's comments with

respect to each of the standards at issue are set forth below, together with J.K.'s response to those comments and NHTSA's analysis of the matters in contention between the two. The agency's analysis is based on the contents of the petition, and on the comments submitted by J.K. and Ferrari. In addition, to assist the agency's analysis, NHTSA representatives examined a U.S.-certified version of the 2001 Ferrari 360 at a Ferrari dealership in Sterling, Virginia, and a non-U.S. certified version of the vehicle at J.K.'s facility in Baltimore, Maryland. Ferrari's comments, J.K.'s response, and NHTSA's analysis are separately stated below for each of the standards at issue.

1. FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment*

Ferrari stated that turn signal lamps are required by the standard to be located as far apart as practicable. Ferrari further stated that it has been informed by one of its dealerships that J.K. has not met this requirement in the past because the turn signal lamps on vehicles that it has altered are not placed at the outermost portion of the rear tail lamp assemblies.

J.K. claimed that the tail lamps on the non-U.S. certified 2001 Ferrari 360 meet the requirements of the standard. According to J.K., the signal lamps are located in the center of the rear stop lamp assembly that is mounted at the edge of the vehicle, and the turn signal lamp is 1.25 inches from the edge of the vehicle. J.K. believes that the phrase "as far apart as practicable" in the standard refers to the assembly and not to the lamp. J.K. also stated that the tail lamp assemblies on both the U.S. certified and the non-U.S. certified versions of the vehicle are the same and that the non-U.S. certified vehicles would be required to operate in the same manner as their U.S.-certified counterparts.

Analysis: The requirement in the standard for the mounting of lamps and reflectors as far apart as practicable applies to all of the lamps and reflectors that are mounted on the vehicle.

The agency recognizes that it would be impractical to mount all of these components on a vertical line at the outer edge of the vehicle. Moreover, it was not the intent of the standard to be that design restrictive.

Addressing the comments, the agency notes that Ferrari did not state that the rear stop lamp assemblies on non-U.S. certified 2001 Ferrari 360 vehicles do not meet the requirements of FMVSS No. 108, but only made an observation regarding the conformity status of other vehicles that J.K. has modified. That observation is not germane to the matter

at issue—whether the non-U.S. certified 2001 Ferrari 360 is capable of being readily modified to conform to the standard. The agency notes that J.K. has stated that it would modify the tail lamp assembly wiring on the non-U.S. certified 2001 Ferrari 360 so that the tail lamps will operate in the same manner as those on the U.S.-certified version of the vehicle and Ferrari has not taken issue with this assertion. The agency has therefore concluded that the non-U.S. certified 2001 Ferrari 360 is capable of being readily modified to comply with FMVSS No. 108.

2. FMVSS No. 118, Power-Operated Window Systems

Ferrari acknowledged that J.K. recognizes that the power window system must be modified so that it will not operate when the ignition is in the “off” position. Ferrari again stated that it had been informed by one of its dealers that other vehicles modified by J.K. were not in compliance with this requirement.

J.K. stated that it would add a relay to the power window system so that the power windows will not operate when the ignition switch is in the “off” position.

Analysis: Ferrari in essence concedes that non-U.S. certified 2001 Ferrari 360 vehicles can be modified to meet the standard. Ferrari’s expressed concern that J.K. may not actually perform this modification on a given vehicle is not germane to the issue of whether the non-U.S. certified 2001 Ferrari 360 is capable of being readily modified to meet this standard. Since no information has been provided to the contrary, NHTSA has concluded that the vehicle is capable of being so modified.

3. FMVSS No. 201, Occupant Protection in Interior Impacts

Ferrari stated that the non-U.S. certified 2001 Ferrari 360 vehicle has not been certified to the upper interior component requirements of the standard. It claimed that 16 interior trim components would have to be replaced to bring the non-U.S. certified version into compliance.

J.K. responded that it would inspect the interiors of all incoming vehicles and, if necessary, change upper interior parts to U.S.-model components. J.K. submitted a parts list for the occupant compartment interior that identifies parts that are “valid” for U.S. vehicles.

Analysis: While examining the U.S. certified 2001 Ferrari 360 at the Ferrari dealership in Sterling, Virginia, the agency’s representatives were told that only the interior occupant compartment

padding components were different between the U.S. certified and the non-U.S. certified versions of the vehicle. The company’s representatives also stated that the metal under the trim in the occupant compartment is the same for both versions. Therefore, changing the trim components of the occupant compartment would bring the non-U.S. certified version of the vehicle into compliance. J.K. appears to have identified these trim components. On the basis of these factors, the agency has concluded that non-U.S. certified 2001 Ferrari 360 vehicles can be readily modified to comply with the standard.

4. FMVSS 208, Occupant Crash Protection

Ferrari stated that the seat belt retractors in the non-U.S. certified version of the vehicle are not designed to accommodate child safety seats. Ferrari also pointed out that the bumpers on the non-U.S. certified version are different from those on the U.S. certified version. In addition, Ferrari noted that the U.S. certified vehicle is heavier than the non-U.S. certified vehicle. Ferrari stated that these two factors might affect compliance with the 30 m.p.h. rigid barrier belted dummy test requirement of the standard.

J.K. stated that it would examine the seat belts on all vehicles and change those that do not have the same part numbers and labels as found on U.S. certified vehicles. J.K. also conducted tests and furnished the agency with test data that, it asserted, demonstrated that a vehicle equipped with its modified bumpers will meet the requirements of the Bumper Standard, as found in 49 CFR part 581. This is discussed further below.

Analysis: Based on the data associated with vehicle weight submitted by Ferrari, the difference in curb weight between a U.S. and a non-U.S. certified version of the vehicle will be less than four percent. After the non-U.S. certified vehicle is modified, the difference in weight will be even smaller. J.K. has submitted test data that indicates that it is capable of bringing the non-U.S. certified vehicle’s bumpers into compliance with part 581. This indicates that once the bumpers on the non-U.S. certified version of the vehicle are modified, they will provide a similar amount of crush resistance to that provided by the bumpers on the vehicle’s U.S.-certified counterpart. The agency believes that the small difference between the bumper designs and the vehicle curb weights will not have a significant affect on the belted test dummies during 30 m.p.h. rigid barrier

impact tests. Based on these factors, and J.K.’s statement that it would replace the seat belts on non-U.S. certified versions of the 2001 Ferrari 360 with U.S.-model belts, the agency has concluded that these vehicles can be readily modified to comply with FMVSS No. 208.

5. FMVSS No. 225, Child Restraint Anchorage Systems

In its comments, Ferrari noted that the openings for the mounting of components on the rear frames of the U.S.-certified and non-U.S. certified versions of the 2001 Ferrari 360 are identical. The company stated, however, that only U.S. and Canadian certified vehicles are fitted with top tether anchorages for child restraints. During the agency’s visit to the Ferrari dealership, the Ferrari representatives explained that in order to install the anchorages behind the passenger seat, reinforcements to the chassis must be added. They pointed to an aluminum beam that ran behind the seats that they stated must be welded into the vehicle.

J.K. stated that both the U.S.-certified and the non-U.S. certified versions of the vehicle have the same rear frame, including the beam in question, and that it intends to install the U.S.-model anchorage part on the rear frame of the non-U.S. certified vehicles. At J.K.’s facility, the agency’s representatives were shown a U.S.-model tether anchorage. The anchorage attached to the rear beam by two bolts.

Analysis: In view of Ferrari’s concession that there are openings for mounting the tether anchorage on the rear frame of the non-U.S. certified 2001 Ferrari 360, the agency has concluded that these vehicles can be readily modified to comply with FMVSS No. 225.

6. FMVSS No. 301, Fuel System Integrity

Ferrari pointed out a number of differences between the fuel systems of the U.S. certified and the non-U.S. certified 2001 Ferrari 360 vehicles during the NHTSA representatives’ visit to the Ferrari dealership in Sterling, Virginia. Those differences were:

1. The charcoal canister in the U.S. certified vehicle is larger than the charcoal canister in non-U.S. certified vehicle and is located on the left side of the vehicle rather than the right side. The canister is placed very near the rear bumper.

2. An air pump was added to the U.S. certified vehicle and placed adjacent to the large charcoal canister.

3. The left and right fuel tanks in the U.S. certified vehicle are different from those in the non-U.S. certified vehicle.

Each U.S.-model tank is 1½ to 2 liters smaller than the non-U.S. model.

4. The fuel filler necks are of a different design and material composition in the two vehicles.

5. The rollover valves in the U.S. certified and non-U.S. certified vehicles are different and are mounted in different places on the vehicles.

6. There are 105 parts related to the fuel system that are different in the U.S. certified and the non-U.S. certified vehicles. Ferrari asserted that these parts must be replaced to bring the non-U.S. certified vehicle into compliance with FMVSS No. 301.

7. The electrical wiring in the U.S. certified and non-U.S. certified vehicles is different in that more sensors are installed on the U.S. certified model.

8. The aluminum frame is the same on both versions of the vehicle, but an additional frame or frame members were added to the U.S. certified version.

9. The exhaust pipes and catalytic converters are different on the U.S. certified and non-U.S. certified vehicles.

After the agency brought these issues to J.K.'s attention, the company responded that it would change the fuel/vapor separator, rollover valve, filler neck, vapor lines, evaporative (charcoal) canister, air pump, and associated hardware on non-U.S. certified versions of the vehicle to make them identical to those in the U.S. certified version. J.K. further asserted that the U.S.-model fuel tanks are the same as the non-U.S. model tanks with the exception of the connection to the fuel filler neck. J.K. plans to modify the U.S.-model filler neck so that it can be attached to the non-U.S. model tank. J.K. also pointed out that the non-U.S. model fuel system was certified to FMVSS No. 301 as the U.S. model system before current emissions requirements were implemented by the Environmental Protection Agency (EPA). Lastly, J.K. contested Ferrari's contention that the fuel pressure sensor is in different locations on the U.S. model and the non-U.S. model tank.

During their visit to J.K.'s facilities, the NHTSA representatives were shown changes that Ferrari had made to the rear frame of the non-U.S. certified 2001 Ferrari 360, which amounted to reinforcement of the vehicle's box structure. When asked about the differences cited by Ferrari in the exhaust pipes and catalytic converter on the U.S. certified and the non-U.S. certified versions of the vehicle, a J.K. staff member responded that the exterior dimensions of those equipment items remained the same, and that only their interior components were changed to

meet the current EPA emissions requirements.

Analysis: In its response, J.K. recognized that it must replace and move the charcoal canister (item 1 above), the air pump (item 2), the fuel filler neck (item 4), and the rollover valve (item 5). During the NHTSA representatives' visit to J.K.'s facilities, a J.K. staff member pointed out that the rear frame of the non-U.S. certified vehicle had predrilled mounting holes for both the U.S.-model and non-U.S. model fuel system components. As a consequence, the staff member contended that removing non-U.S. model parts and replacing them with U.S.-model parts would not be difficult.

The information that NHTSA has received indicates that the U.S.-model and the non-U.S. model fuel tanks are different (item 3). The major difference between the tanks is in the diameter of the connection to the fuel filler neck. The tank in the non-U.S. certified 2001 Ferrari 360 was the same as that used on U.S. models of the vehicle in the 1998 or 1999 model years, before current emissions requirements were implemented. As such, this tank would have been certified to FMVSS No. 301 by Ferrari SpA. Assuming that J.K. provides a sufficient connection between the fuel tank and the fuel filler neck, there is no reason to believe that these tanks and the associated fuel lines will not meet the crash test requirements of FMVSS No. 301. As to the remaining issues, the agency notes that J.K. has stated that it intends to modify the fuel system of the non-U.S. certified vehicle so that it is essentially the same as that of the U.S. certified vehicle version in order to satisfy EPA requirements, and that it would replace non-U.S. model components with U.S. model components. Based on these considerations, the agency has concluded that the non-U.S. certified 2001 Ferrari 360 is capable of being readily modified to meet the requirements of FMVSS No. 301.

7. 49 CFR Part 581 Bumper Standard

Ferrari asserted that the bumpers are very different on the U.S. certified and the non-U.S. certified versions of the 2001 Ferrari 360. The company stated that the front bumper on the U.S. certified vehicle weighs 2.25 kg (5 lb) more than that on the non-U.S. certified vehicle, and that the rear bumper weighs 3.85 kg (8.5 lb) more. Ferrari also maintains that simple changes in the brackets that attach the bumpers to the vehicle frame are not sufficient to bring the vehicle into compliance with the Bumper Standard.

J.K. submitted a report from MGA Research of Burlington, Wisconsin, dated March 7, 2002, which indicates that it tested a Ferrari 360 Spider to the requirements of part 581 and that there was no damage to the vehicle during this testing. J.K. has represented this vehicle to be a non-U.S. certified 2001 Ferrari 360 that it modified to conform to the requirements of part 581.

Analysis: Although it recognizes that this is a conformity issue, based on the test report that J.K. submitted, the agency has concluded that the non-U.S. certified 2001 Ferrari 360 is capable of being readily modified to conform to the requirements of part 581.

Conclusion

As detailed in the preceding discussion, J.K. has stated that with the exception of the bumper components and the fuel tanks, it would replace, with U.S.-model parts, all non-U.S. model parts that are necessary to bring non-U.S. certified 2001 Ferrari 360 vehicles into compliance with the applicable Federal Motor Vehicle Safety Standards and with the Bumper Standard in part 581. The agency notes that replacing the majority of these parts is a matter of removing the non-U.S. model part and bolting on the U.S. model part. J.K. has provided the agency with a test report from a reputable test laboratory that indicates that its modifications of the bumper system would achieve compliance with part 581. As detailed above, the agency has concluded that the fuel tanks in non-U.S. certified 2001 Ferrari 360 vehicles do not have to be replaced with U.S. model fuel tanks for those vehicles to comply with FMVSS No. 301.

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-376 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 2001 Ferrari 360 passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are substantially similar to 2001 Ferrari 360 passenger cars originally manufactured for importation into, and 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.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 5, 2002.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 02-8622 Filed 4-9-02; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34186]

David W. Wulfson, Gary E. Wulfson, Lisa W. Cota, Richard C. Szuch, and Peter A. Szuch—Control Exemption—The New York and Ogdensburg Railway Company, Inc.

David W. Wulfson, Gary E. Wulfson, Lisa W. Cota, Richard C. Szuch, and Peter A. Szuch, noncarrier individuals (applicants), have filed a verified notice of exemption to acquire control through stock ownership of The New York and Ogdensburg Railway Company, Inc. (NYOG), a noncontiguous Class III railroad.¹

The transaction was scheduled to be consummated on or after March 22, 2002, the effective date of the exemption.

Applicants control four other Class III rail carriers: Vermont Railway, Inc., and Clarendon & Pittsford Railroad Company, both operating in the States of Vermont and New York; Green Mountain Railroad Corporation, operating in the States of Vermont and New Hampshire; and Washington County Railroad Company, operating in the State of Vermont. Applicants are proposing to acquire 175 shares (a majority) of common stock in NYOG. Of the 175 shares, David W. Wulfson, Lisa W. Cota, and Gary E. Wulfson agreed to purchase 43.75 shares each and Richard C. Szuch and Peter A. Szuch agreed to purchase 21.875 each.

Applicants states: (i) The properties of subsidiaries and affiliates will not connect with each other; (ii) the acquisition and continuance in control are not part of a series of anticipated transactions that would connect the rail lines of subsidiaries and affiliates with each other; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior

approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings referring to STB Finance Docket No. 34186, must be filed with the Surface Transportation Board, Office of Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Andrew P. Goldstein, McCarthy, Sweeney & Harkaway, P.C., Suite 600, 2175 K Street, NW., Washington, DC 20037.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: April 2, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 02-8418 Filed 4-9-02; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 1, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 10, 2002 to be assured of consideration.

Departmental Offices/Office of DC Pensions

OMB Number: New.

Form Number: None.

Type of Review: New collection.

Title: The DC Pensions Plans

Satisfaction Survey.

Description: Under the National Capital Revitalization and Self Government Act of 1997, Treasury's Office of DC Pensions assumed responsibility for paying the benefits under the Police Officers and Fire Fighters Retirement Plan and Teachers Retirement Plan (earned through June 1997) and for the Judges Retirement Plan. The Office of DC Pensions seeks to collect information from pension benefit recipients in order to establish a customer service baseline and for use in developing a customer service plan. The survey also will be used to gauge improvements in customer service.

Respondents: Individuals or households.

Estimated Number of Respondents: 2,157.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 539 hours.

Clearance Officer: Lois K. Holland, (202) 622-1563, Departmental Offices, Room 2110, 1425 New York Avenue, NW, Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt, (202) 395-7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 02-8598 Filed 4-9-02; 8:45 am]

BILLING CODE 4811-16-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 1, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department

¹ See *The New York & Ogdensburg Railway Company, Inc.—Lease and Operation Exemption-Ogdensburg Bridge & Port Authority*, STB Finance Docket No. 33658 (STB served Oct. 1, 1998).