

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration**

[Docket No. NHTSA-2002-12140; Notice 2]

**Decision That Nonconforming 1997 and 1998 Ferrari 456 GT and GTA Passenger Cars Are Eligible for Importation****AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.**ACTION:** Notice of decision by NHTSA that nonconforming 1997 and 1998 Ferrari 456 GT and GTA passenger cars are eligible for importation.

**SUMMARY:** This notice announces the decision by NHTSA that 1997 and 1998 Ferrari 456 GT and GTA 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 1997 and 1998 Ferrari 456 GT and GTA), 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:** Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202-366-3151).

**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**.

G&K Automotive Conversion, Inc. of Santa Ana, California (G&K) (Registered Importer 90-007) petitioned NHTSA to decide whether 1997 and 1998 Ferrari 456 GT and GTA passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on May 3, 2002 (67 FR 22498) to afford an opportunity for public comment. The reader is referred to that notice for a description of the petition.

Ferrari North America Inc. (FNA), the U.S. representative of the vehicle's manufacturer, Ferrari SpA, was the only commenter that responded to the notice of petition. In its comments, FNA addressed the conformity of non-U.S. certified 1997 and 1998 Ferrari 456 GT and GTA passenger cars with, or their capability to be conformed to, the following standards: Federal Motor Vehicle Safety Standard (FMVSS) Nos. 208, *Occupant Crash Protection*; 209, *Seat Belt Assemblies*; 214, *Side Impact Protection*; 216, *Roof Crush Resistance*; and the Bumper Standard found in 49 CFR part 581. FNA did not raise objections with regard to the conformity of the vehicles to any other standard identified in the petition.

After receiving these comments, NHTSA accorded G&K an opportunity to respond to the issues that FNA had raised. FNA's comments with respect to each of the standards at issue are set forth below, together with G&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 G&K and FNA. FNA's comments, G&K's response, and NHTSA's analysis are separately stated below for each of the standards at issue.

**1. FMVSS No. 208, *Occupant Crash Protection*, and FMVSS No. 209, *Seat Belt Assemblies*:**

FNA challenged G&K's assertion in the petition that the seat belt assemblies of non-U.S. certified Ferrari 456 GT and GTA passenger cars are identical to those of the vehicles' U.S. certified counterparts. Ferrari contended that only the U.S. versions have an automatic retractor lock device for the child safety seat mounting.

G&K disputed this claim by stating that Ferrari SpA makes this feature available on vehicles manufactured for many markets around the world. To

ensure that all vehicles it imports have this feature, G&K stated that it will inspect those vehicles, and replace, with the part used in U.S. certified vehicles, any seat belt assemblies found not to incorporate the automatic retractor lock device. G&K further observed that these parts are readily available and can be installed through a very simple and straightforward procedure.

*NHTSA's Analysis:* Based on G&K's statement that it would replace non-conforming seat belts on non-U.S. certified 1997 and 1998 Ferrari 456 GT and GTA passenger cars with readily available U.S.-model belts, and the absence of any challenge from FNA regarding the feasibility of this modification, the agency has concluded that the vehicles' seat belt system can be readily modified to achieve compliance with FMVSS Nos. 208 and 209.

**2. FMVSS No. 214, *Side Impact Protection*:**

FNA acknowledged that G&K was correct in stating that the doors on non-U.S. certified 1997 and 1998 Ferrari 456 GT and GTA passenger cars must be reinforced to comply with FMVSS No. 214, but observed that G&K provided no details as to how the reinforcement would be made, what parts would be used, or how the modified doors would be tested. FNA provided schematics and a parts list showing that the part numbers for the doorframes are different for the U.S.-certified and the non-U.S. certified version of the vehicle.

G&K claimed that the door structure in the U.S. version of the vehicle and the non-U.S. version are identical except for the door beam and contended that door beam installation is simple. G&K further observed that NHTSA approved a similar petition for a 1995 Ferrari 456 (VSP 256) that entailed the installation of reinforcing door beams, that a crash test (as recommended initially by NHTSA) to confirm conformance of the vehicles with FMVSS No. 214 was unnecessary, and that reverse engineering and good engineering judgment could be used to confirm conformance with the dynamic test requirements of FMVSS No. 214, as was done with respect to a prior petition to establish that a Ferrari 550 complied with FMVSS No. 216, *Roof Crush Resistance*. With regard to the latter points, FNA contended that the petition should be judged on its own merits and not be dependent on previous petition approvals by the agency.

*NHTSA's Analysis:* The agency notes that G&K will be installing available OEM or equivalent side impact reinforcement bars in the doors of the models in question. G&K stated that the door structure, sills, and frames for the

U.S. and non-U.S. versions of the vehicle are the same and that once the additional horizontal reinforcement structure is in place, the modified non-U.S. model doors will essentially duplicate the crashworthiness of the doors installed on the U.S. model vehicle. FNA submitted with its July 19, 2002 comments on the petition an enclosure with illustrations of the type typically used by dealers to identify replacement/repair parts. This identified different part numbers for the right-hand and left-hand doorframes of U.S. and non-U.S. model Ferrari 456M GT and GTA vehicles. However, the differences, if any, were not described, nor was any information or data provided regarding how the differences would affect compliance with FMVSS No. 214.

G&K provided with its March 14, 2003 response to FNA's comments photographs of the door interior with the trim and door panel removed. These appeared to confirm G&K's contention that the bars can be positioned and welded to existing factory-located mounts already present on the non-U.S. model 456 doors. G&K also provided opinions from automotive consultants it retained that the door structure is the same and that the hinge and latch connections to the frame are identical for the two vehicles. This appears to be correct. The agency believes that once the non-U.S. model doors are modified, they should be equivalent in strength to the U.S. model doors and as capable of transferring side impact loads to the vehicle body through the "A" and "B" pillars.

A sketch included in the consultants' report shows the recommended design for side beams if OEM reinforcement bars are not used. This design consists of two one-inch by one-inch square tubes running parallel to one another and welded together. G&K's consultants offered a limited mathematical analysis of the modified structure using this non-OEM side beam structure as evidence that the doors, once modified, will not deflect to a degree exceeding the FMVSS specifications. FMVSS No. 214 requires that the average force to deflect the door 6 inches (initial crush resistance) cannot be less than 2250 pounds. The G&K analysis shows that a load of 2250 pounds results in a deflection of only 0.419 inches. The intermediate crush resistance value must not be less than 3500 pounds for a 12-inch deflection. G&K stated that for a 3500-pound load, the deflection is 0.422 inches. Lastly, a peak crush resistance less than two times the curb weight or 7000 pounds, whichever is less, must not exceed 18 inches

deflection. The G&K deflection is 0.876 inches at a load of 3500 pounds. It would appear that at 7000 pounds the deflection would be less than the maximum 18 inches allowed.

Finally, in a letter dated February 10, 2003, G&K stated, "We are of the opinion that we can utilize the method used in 67 FR 17479 to establish the vehicle's compliance with FMVSS No. 214." This refers to a **Federal Register** notice of a decision that nonconforming 2001 Ferrari model 550 passenger cars are eligible for importation. This notice states in part:

[The registered importer] stated that if it receives a vehicle with a door that lacks a door beam, it would replace the door with a U.S. model door. Based on these considerations, the agency has concluded that non-U.S. certified 2001 Ferrari 550 vehicles are capable of being readily modified to comply with FMVSS No. 214. (67 FR 17481)

However, G&K is not using the same basis for demonstrating compliance with FMVSS No. 214 as was used for the 2001 Ferrari 550 vehicles, which entailed the replacement of the non-U.S. model doors with U.S. model doors. Instead, G&K is using an equivalent structure.

NHTSA's review of G&K's proposed modifications and calculations, as well as its examination of the supplied photographs and parts list, have led the agency to conclude that the non-U.S. certified 1997 and 1998 Ferrari 456 GT and GTA, when equipped with doors modified as described by G&K, will meet the requirements of FMVSS No. 214.

### 3. FMVSS No. 216, *Roof Crush Resistance*:

FNA contended that G&K was incorrect in asserting that the body/roof and support structure and components of the non-U.S. certified Ferrari 456 GT and GTA are identical to those found in the U.S.-certified version of the vehicle. In its June 3, 2002 comments on the petition, FNA indicated that the roof frame of the U.S. certified Ferrari 456 is specially reinforced to comply with FMVSS No. 216. FNA further stated that the installation of a compliant roof would require removal of the existing European specified roof and pillars back to the C-Pillar and replacement of those components with U.S.-model parts. Photographs included in a submission from FNA to NHTSA dated May 7, 2003, showed additional roof support structures in the U.S. certified vehicle to consist of the following 8 components: two triangulated braces (gussets) in the rear corners, rear beam roof reinforcement, front beam roof reinforcement, two side beam

reinforcements, and two front side plate roof reinforcements. FNA reported that these structures are not present in the non-U.S. certified version of the vehicle.

G&K claimed that the U.S.-certified and the non-U.S. certified Ferrari 456 have identical roof structures, with the exception of the two triangulated braces (gussets) at the rear corners, found only in the U.S. certified models. After designing identical gussets and bonding them in place, G&K asserted that the roof structure on the non-U.S. certified vehicle would have structural strength identical to, or greater than, that of its U.S. certified counterpart.

*NHTSA's Analysis:* G&K provided photographs of the roof area of the non-U.S. certified Ferrari 456 taken from inside the vehicle with the headliner removed. Contrasting these photographs to the materials supplied by Ferrari revealed that the only visible difference between the roof structure of the U.S. certified vehicle and that of its non-U.S. certified counterpart is that gussets are located at the rear corners adjacent to the B-pillar crossover bar on the U.S. model but are not present on the non-U.S. certified model. A schematic diagram of the roof supplied by FNA revealed 14 different part numbers for the entire roof structure, depending on country of destination, but no specific parts delineation for the 8 separate roof reinforcement pieces that FNA described as being present only on the U.S. certified models. No information was offered by FNA as to what, if any, effect the variations it identified would have on FMVSS No. 216 compliance. Furthermore, FNA provided no discussion or calculations as to the strengthening increase provided by the 8 additional roof components. The same parts listing indicated variations for the U.S. and non-U.S. versions for cosmetic interior roof components, none of which would affect the roof crush resistance. The gussets that G&K observed on the U.S. version alone were not identified on the parts listing described above.

A parts list later supplied by FNA included part numbers for the 8 additional roof structural components and FNA supplied photographs showing the assembly of these components into the roof. The photographs did in fact show the installation of the rear gussets, front and rear lateral rods, longitudinal rods on both sides, and side plate reinforcements at the "A" pillars. From the photographs, it appeared that this reinforcement would only be visible with the sheet metal roof removed. G&K stated that it was unable to remove the roof without destructive consequences, but claimed that the components were in fact present and could be detected in

the structure of the roof interior and visually through large holes in roof beam members. This G&K claim could not be substantiated by NHTSA.

However, of greatest significance to NHTSA was the roof reinforcement that was in place at the "A" pillars of the U.S.-certified vehicle, in a position where the FMVSS No. 216 loading plate would be contacting the roof. This area would in effect be the primary location at which the principal loading would be resisted by the roof structure. In light of FNA's contention that this reinforcement only existed on the U.S. certified model, NHTSA asked that G&K provide documentation or other evidence to confirm that the structural reinforcement was also in place at this location on the non-U.S. certified vehicle. At that juncture, G&K agreed to have non-destructive X-rays of this area taken to show whether the required support was in place. The X-rays appeared to confirm that the side plate reinforcements were present.

Lastly, G&K provided from its automotive consultant a limited mathematical analysis of the fabricated gussets to be added to the rear "B" pillars of the non-U.S. certified vehicle. These gussets are dimensionally similar to those found on the U.S. certified version of the vehicle, and the bonding method appears to provide sufficient strength to resist the shear forces present during roof crush testing.

Based on its examination of the materials illustrating the structural components of the vehicle's roof, the X-ray evidence furnished by G&K that appeared to confirm that "A" pillar support plates are in place on both sides of the non-U.S. certified vehicle, and its review of the modification involving the fabrication and installation of rear gussets that G&K proposed, the agency is satisfied that the non-U.S. certified Ferrari 456, when modified in this fashion, will comply with FMVSS No. 216.

4. 49 CFR Part 581, *Bumper Standard*:

In the petition, G&K stated that the bumpers on non-U.S. certified Ferrari 456 passenger cars would have to be modified to comply with the Bumper Standard in 49 CFR part 581. It contended that such modifications can be made by using steel or the bumper assemblies found on U.S. certified versions of the vehicle. FNA observed that G&K did not describe how it would modify the bumpers by using the steel or how it would assure that such modifications actually achieve compliance with part 581. FNA further stated that the differences in the bumpers of the U.S. certified and the non-U.S. certified versions of the

vehicle are structural and not cosmetic and that the U.S. certified version is reinforced to comply with more stringent U.S. bumper requirements.

G&K responded that there is a standard industry practice among registered importers concerning reinforcing bumper structures and that OEM bumpers are readily available and easily installed. G&K further noted that the mounting points to which the bumpers attach are the same in all markets, that the bumpers vary only slightly for different countries, that aluminum shims behind the bumper structure must be replaced with rubber to be identical to the U.S. bumper system, and that in some cases the corners of the bumpers must be reinforced. G&K also stated that all vehicles would be inspected to determine the necessary modifications that each will require. G&K did note that its automotive consultant compared the petitioned vehicle to its U.S. certified counterpart, and concluded that the only differences between the two models were that front and rear marker lights are installed on the U.S. certified vehicle while none are present on the non-U.S. certified version, and the number plate mounts are different for the two vehicles.

*NHTSA's Analysis:* G&K acknowledged that the bumpers must be modified to meet U.S. requirements. Part numbers provided by G&K identifying the U.S. bumpers that may be used in the modification, when cross-referenced to the parts listing from FNA, are correct. G&K provided details as to the modifications that may be necessary, including bumper and shim replacement, correction of shim variations, addition of reinforcement at the corners, and installation of marker lights and number plate mounts. Photographs provided by G&K of bumpers on U.S. certified and non-U.S. certified vehicles confirm that the marker lights and plate mountings are different. In addition, review of the FNA parts listing and schematic reveals that virtually all components positioned between the external bumper facing and the vehicle body are identical between the U.S. certified and the non-U.S. certified versions, providing further evidence of the vehicles' similarities in this regard. NHTSA further notes that the only parts on the parts list FNA supplied to the agency that are delineated as being different between the U.S. certified and the non-U.S. certified version of the vehicle are those comprising the bumper facing itself, and not any supporting structure. FNA did not contend that the modifications described by G&K would be insufficient

to achieve compliance with the Bumper Standard. For those reasons, the agency has concluded that non-U.S. certified 1997 and 1998 Ferrari 456 vehicles are capable of being readily modified to meet the requirements of that standard.

### Conclusion

Based on its consideration of the information submitted by the petitioner and FNA, NHTSA has decided to grant the petition.

### 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-408 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 1997 and 1998 Ferrari 456 GT and GTA passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are substantially similar to 1997 and 1998 Ferrari 456 GT and GTA 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 12, 2004.

**Kenneth N. Weinstein,**

*Associate Administrator for Enforcement.*

[FR Doc. 04-8712 Filed 4-15-04; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2004-17525]

### Evaluation of Rear Window Defrosting and Defogging Systems; Technical Report

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

**ACTION:** Request for comments on technical report.

**SUMMARY:** This notice announces NHTSA's publication of a technical