

be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on November 24, 1997.

**Joseph A. Hawkins,**

*Executive Director, Aviation Rulemaking Advisory Committee.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-97-3163]

#### Decision That Nonconforming 1995 Ferrari F50 Passenger Cars Are Eligible for Importation

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

**ACTION:** Notice of decision by NHTSA that nonconforming 1995 Ferrari F50 passenger cars are eligible for importation.

**SUMMARY:** This notice announces the decision by NHTSA that 1995 Ferrari F50 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 1995 Ferrari F50), and they are capable of being readily altered to conform to the standards.

**DATE:** This decision is effective December 8, 1997.

**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. Motors of Kingsville, Maryland ("J.K.") (Registered Importer R-90-006) petitioned NHTSA to decide whether 1995 Ferrari F50 passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on August 18, 1997 (62 FR 44030) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition.

One comment was received in response to the notice, from Fiat Auto U.S.A., Inc. (Fiat), the U.S. representative of Ferrari, S.p.A., the vehicle's manufacturer. In its comment, Fiat observed that non-U.S. certified 1995 Ferrari F50 passenger cars are equipped with manual 3-point seat belts while their U.S. certified counterparts are equipped with motorized 2-point shoulder belts and manual 2-point lap belts. Fiat contended that modification of a non-U.S. certified 1995 Ferrari F50 for compliance with the automatic restraint requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection*, would be very difficult, if not impossible, owing to the fact that the vehicle has a carbon body. Fiat additionally observed that the petitioner inaccurately described the vehicle as having "rear belts," in view of the fact that it is a two seater. With respect to the requirements of FMVSS No. 210, *Seat Belt Assembly Anchorages*, Fiat claimed that non-U.S. certified 1995 Ferrari F50 passenger cars have 3-point anchorages, while their U.S. certified counterparts have 4-point anchorages. Addressing the requirements of FMVSS No. 214, *Side Impact Protection*, Fiat contended that U.S. certified 1995 Ferrari F50 passenger cars have a steel beam inside their doors that cannot be simply added to the non-U.S. certified version of the vehicle.

NHTSA afforded J.K. an opportunity to respond to Fiat's comments. With respect to Fiat's comments regarding FMVSS No. 208 and 210 compliance issues, J.K. responded that the automatic belt system that is supplied on the U.S. certified 1995 Ferrari F50 bolts on to existing mounts that are on the seats and door frames of the non-U.S. certified version of the vehicle. J.K. additionally acknowledged that the reference to rear seat belts in the petition was in error since the 1995 Ferrari F50 has no rear seat. With respect to the FMVSS No. 214 compliance issue raised by Fiat, J.K. stated that the door beams in the U.S. certified 1995 Ferrari F50 are bolt-on components that can be easily installed on the non-U.S. certified version of the vehicle without the need for fabrication or welding.

NHTSA has reviewed each of the issues that Fiat has raised regarding J.K.'s petition. NHTSA believes that J.K.'s responses adequately address each of those issues. NHTSA further notes that the modifications described by J.K. are consistent with its finding that a non-U.S. certified 1995 Fiat F50 is "capable of being readily altered to comply with all Federal motor vehicle safety standards."

NHTSA has accordingly 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-226 is the eligibility number assigned to vehicles admissible under this decision.

#### Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 1995 Ferrari F50 passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are substantially similar to 1995 Ferrari F50 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 CAR 593.8; delegations of authority at 49 CAR 1.50 and 501.8.

Issued on: December 2, 1997.

**Marilynne Jacobs,**

*Director, Office of Vehicle Safety Compliance.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-97-3164]

#### Decision That Nonconforming 1988-1989 Audi 80 Passenger Cars Are Eligible for Importation

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

**ACTION:** Notice of decision by NHTSA that nonconforming 1988-1989 Audi 80 passenger cars are eligible for importation.

**SUMMARY:** This notice announces the decision by NHTSA that 1988-1989 Audi 80 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 1988-1989 Audi 80), and they are capable of being readily altered to conform to the standards.

**DATES:** This decision is effective as of December 8, 1997.

**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**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (Champagne) (Registered Importer R-90-009) petitioned NHTSA to decide whether 1988-1989 Audi 80 passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on August 5, 1997 (62 FR 42156) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition.

One comment was received in response to the notice, from Volkswagen of America, Inc. (Volkswagen), the U.S. representative of Audi AG, the vehicle's manufacturer. In its comment, Volkswagen observed that the alterations identified in the petition are the minimum that are necessary to conform non-U.S. certified 1988-1989 Audi 80 passenger cars to the applicable Federal motor vehicle safety standards. Volkswagen further observed that in addition to differences in the bumper system, modifications were made to the body components and structure of U.S. certified 1988-1989 Audi 80 passenger cars to achieve compliance with the Bumper Standard found in 49 CFR part 581.

Petitioners for eligibility determinations are not required to submit arguments in support of the capability of a non-conforming vehicle to comply with the Bumper Standard. Under statute, eligibility determinations are based solely on the capability of a vehicle to comply with the Federal motor vehicle safety standards. However, a passenger motor vehicle that does not meet the Bumper Standard at the time of importation must be brought into compliance after importation in order to comply with the law. Therefore, a vehicle eligibility notice affords a forum through which issues of compliance with the Bumper Standard can be raised and discussed. However, NHTSA has no authority to deny an eligibility petition solely on the basis that the vehicle is incapable of being conformed to meet the Bumper Standard.

Volkswagen's first observation, as described above, appears to be generally

supportive of the petition. Although Volkswagen's second observation identifies a potential need for alterations beyond those specified in the petition to conform non-U.S. certified 1988-89 Audi 80 passenger cars to the Bumper Standard, the company nowhere contends that these alterations cannot be readily made. The petitioner and other RIs seeking to import 1988-89 Audi 80s under this exemption should recognize Volkswagen's concern and may be assured that NHTSA will carefully examine data they submit in support of their certification of compliance with the Bumper Standard.

#### 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-223 is the eligibility number assigned to vehicles admissible under this decision.

#### Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 1988-1989 Audi 80 passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are substantially similar to 1988-1989 Audi 80 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 CAR 593.8; delegations of authority at 49 CAR 1.50 and 501.8.

Issued on: December 2, 1997.

**Marilynne Jacobs,**

*Director, Office of Vehicle Safety Compliance.*

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## DEPARTMENT OF THE TREASURY

[Treasury Directive Number 12-53]

#### Delegation of Authority to Make Decisions on Appeals of the Initial Denial of Records Under the Freedom of Information Act

Dated: December 1, 1997.

##### 1. Delegation

a. This Directive delegates to the Deputy Assistant Secretary (Human Resources) the authority to make appeal decisions on the initial denial of records or other adverse determinations made