



November 15, 2022

**VIA E-MAIL**

Ann Collins  
Acting Administrator  
National Highway Traffic Safety Administration  
1200 New Jersey Avenue, S.E.  
Washington D.C. 20590

Re: Petition for Inconsequential Noncompliance - NHTSA Campaign Number: 22V-802  
Rivian Automotive, LLC

Dear Ms. Collins:

Pursuant to 49 U.S.C. §§ 30118(d), 30210(h) and 49 C.F.R. Part 556, Rivian Automotive, LLC (“Rivian”) hereby submits this Petition for Determination of Inconsequential Noncompliance relating to NHTSA Campaign Number: 22V-802. Rivian is a Delaware limited liability corporation and is located at 14600 Myford Road, Irvine, CA 92606. A copy of Rivian’s Noncompliance Information Report is provided with this submission.

Pursuant to FMVSS 208, Rivian affixes to the sun visor of Rivian Electric Delivery Van (“EDV”) vehicles an airbag warning label that advises of the risks of injury to a vehicle occupant from an airbag; in particular, the risks posed to infant child seats or small children that are located in a seating position equipped with an airbag. The airbag warning label meets the content requirements and contains the required regulatory statements mandated by regulation. However, also included on the sun visor is an additional label indicating the vehicle clearance height. The addition of this separate label on the sun visor does not conform to the requirement in FMVSS 208, S4.5.1(b)(5)(i) in that the Standard requires that no other information appear on the same side of the sun visor to which the airbag warning label is affixed.

Despite the foregoing described condition, the noncompliance does not pose an increased risk to motor vehicle safety. The subject vehicles are exclusively composed of a fleet of delivery vehicles sold to a single fleet customer and operated by professional drivers. As walk-in vans, the subject vehicles have no designated seating position other than the driver’s seat. Moreover, drivers are required to wear their seatbelt at all times when operating the subject vehicles. Due to the nature of the use of the subject vehicles, there is no risk of dilution of the importance or meaning of the information conveyed by the airbag warning label due to the inclusion of the vehicle clearance height label. As a result, the risk that S4.5.1(b)(5)(i) intends to address will not arise in the subject vehicles.

Rivian requests that the agency grant this petition and relieve the Company from the notice and remedy provisions of the Motor Vehicle Safety Act. Should you have any questions or require further information, please contact me at: [nbell@rivian.com](mailto:nbell@rivian.com).

Sincerely,

*Nancy Bell*

Nancy Bell

Senior Legal Director, Regulatory Affairs & Policy

Enclosure

cc: [Enforcement\\_Correspond@dot.gov](mailto:Enforcement_Correspond@dot.gov)

[Kimberley.Childers@dot.gov](mailto:Kimberley.Childers@dot.gov)

## **Rivian Automotive, LLC Petition for Determination of Inconsequential Noncompliance**

### **Background**

Pursuant to Federal Motor Vehicle Safety Standard (“FMVSS”) 208, S4.5(b)(1), for vehicles equipped with airbags, a sun visor warning label that conforms to the content indicated in the regulation is to be provided “at each front outboard seating position that is equipped with an inflatable restraint.” 49 C.F.R. § 571.208, S4.5(b)(1). The regulation further provides that no other information shall appear on the same side of the sun visor to which the air bag warning label is affixed, with the exception of the airbag maintenance label or a utility vehicle warning label. 49 C.F.R. §571.208, S4.5.1(b)(5)(i)).

On October 17, 2022, Rivian Automotive, LLC (“Rivian”) determined that a noncompliance with FMVSS 208, S4.5(b)(5)(i) exists in 1,278 Model Year 2022 EDV model vehicles (the “subject vehicles”). The subject vehicles have an air bag warning label affixed to the sun visor at the single outboard seating position (i.e., at the driver’s seat) that conforms to the requirements of FMVSS 208, S4.5.1(b)(1) and figure 6a of the standard. However, also affixed to the sun visor is an additional label indicating the vehicle’s clearance height. Consequently, the subject vehicles do not adhere to the requirement at S4.5.1(b)(5) that no other non-exempt label or information be present on the same side of the sun visor as the airbag warning label. The subject vehicles have a GVWR of 9,350 pounds and an unloaded vehicle weight of 7,606 pounds. Rivian submitted a Noncompliance Information Report to NHTSA on October 24, 2022.<sup>1</sup> The subject vehicles are electric delivery vans owned and operated by a single fleet customer. The vehicle clearance height label is intended to be placed on vehicles introduced into the European market and was inadvertently included on the sun visor of the subject vehicles. The condition has been corrected in production.

Despite this technical noncompliance, there is no increased risk to motor vehicle safety. The airbag warning label and requirement that no other information be present with the airbag warning label are largely focused on mitigating the potential for children to be placed at a seating position that is equipped with an airbag and also inform of precautions the vehicle occupant may take to protect themselves from being injured by a deploying airbag. There is no such risk here. The subject vehicles are walk-in delivery vans owned and operated by a single fleet customer. There is no foreseeable expectation that children would ever be present in or around the vehicle. Moreover, as a walk-in delivery van, the only designated seating position that exists in the vehicle is the driver’s seat. In the highly unlikely event that a child was present in the vehicle’s single outboard seating position, the driver’s seat, there is no way for the child to operate the vehicle due to the brake transmission shift interlock required by FMVSS 114, and thus no way for the airbags to deploy. Further, the fleet drivers are required to use seatbelts at all times and the information on the airbag warning label is readily apparent, easily readable and not in close proximity or adjacent to the vehicle clearance height label. There is no indication that these trained drivers would be confused by the addition of the clearance height label or that this information would otherwise dilute the messages contained within the airbag warning label. As a result, the presence of the clearance height label on the same side of the sun visor as the airbag warning label does not create an increased risk to motor vehicle safety.

### **Regulatory Requirements**

Under FMVSS 208, S4.5.1(b)(1), vehicles are to have a compliant airbag warning label that is permanently

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<sup>1</sup> Rivian subsequently amended its Noncompliance Information Report on November 14, 2022 to update the reference to the relevant portion of FMVSS 208 at issue in this petition.

affixed to the sun visor at each front outboard seating position that is equipped with an inflatable restraint. With limited exception not relevant here, FMVSS 208 does not permit additional labels or information from also being affixed to the same side of the sun visor as the airbag warning label. (FMVSS 208, S4.5.1(b)(5)).

In the subject vehicles, the airbag warning label is clearly visible on the sun visor when it is in the upwards position and is displayed as intended by FMVSS 208. The airbag warning label meets all of the content requirements under the standard. In addition, written explanation of the air bag system is included in the owner's manuals as required under FMVSS 208, S4.5.1(f)(1).

A representative photo of the sun visor in the subject vehicles is provided below:



### **Inconsequentiality Analysis**

In determining inconsequentiality of a noncompliance, NHTSA focuses on the safety risk to individuals who experience the type of event against which a recall would otherwise protect. (See e.g., Grant of Petition of General Motors, LLC, 78 Fed. Reg. 35355 (June 12, 2013)).

To reduce the adverse effects of air bags, especially for children, NHTSA required manufacturers to permanently affix labels to the vehicle's sun visor warning of the dangers of placing children at a seating position equipped with an airbag and including information on steps other vehicle occupants may take to mitigate the risk of injury from an airbag. (See 61 Fed. Reg. 60206, November 27, 1996.) NHTSA precluded additional information, with limited exception, from appearing on the same side of the sun visor as the airbag warning label. The agency's rationale for precluding other types of information from appearing on the same side of the sun visor as the airbag warning label was to create uniformity and consistency for consumers who are exposed to the label, thereby maximizing the effectiveness of the content of the label. In large part, NHTSA was concerned that including additional labels and information near the sun visor warning label could lead to information overload, consumer confusion and dilution of the effectiveness of

the airbag warning language. (68 Fed. Reg. 504, 510, January 6, 2003). “The purpose of [the airbag warning label in] FMVSS No. 208 is to reduce the adverse effects of air bags by attracting the attention of vehicle occupants to look for the air bag warning label on the sun visor.” (See Grant of Petition of Maserati, 87 Fed. Reg. 54749, September 7, 2022).

In this context, NHTSA has previously concluded that the manner in which a particular subset of vehicles is used bears upon the inconsequential nature of the airbag warning label noncompliance.<sup>2</sup> For example, NHTSA determined that a noncompliance with the placement of the airbag warning label in vocational vehicles, such as walk-in delivery vans, was inconsequential to motor vehicle safety “given the nature and intended use of the subject vocational vehicles, it would be unlikely for children to be placed in the front passenger seating area.” (See Grant of Petition of Spartan Motors, 81 Fed. Reg. 87654, December 5, 2016). This decision acknowledges that the risk that the requirement that no other information appear along with the airbag warning label is intended to mitigate against is not the same across all vehicles equipped with airbags. Indeed, the risk does not arise in the subject vehicles because the nature of the intended use of the subject vehicles is exclusively as walk-in delivery vans that are owned by a single fleet customer and operated by professional drivers. Just as in the Spartan petition referenced above, the possibility of children being present or riding in the vehicles is extremely unlikely. The subject vehicles have only a single outboard seating position for the driver and there are no other passenger seats in the vehicle that a child could occupy. The fleet drivers are required to use seatbelts at all times, one of the messages that is conveyed on the airbag warning label, and the label is readily apparent, easily readable and not in close proximity or adjacent to the vehicle clearance height label.

Finally, NHTSA has previously determined that even where airbag warning labels deviated from the exact language contained in the standard, the noncompliance was inconsequential to motor vehicle safety. (See Grant of Petition to Bentley Motors, 72 Fed. Reg. 71734, December 12, 2007, granting petition where airbag warning label intended to conform to FMVSS 208, S4.5.1(b)(3) did not contain an overt statement that the vehicle was equipped with advanced airbags but otherwise “contains all of the specific warnings required on the compliant label”; Grant of Petition to BMW, 71 Fed. Reg. 78511, December 29, 2006, granting petition where “the noncompliant permanent sun visor label contains virtually the same information as required by S4.5.1(b)(3)”). While the above cited petitions relate to language used in the advanced airbag warning label, the rationale of the agency’s findings still applies to the subject vehicles which are not equipped with advanced airbags.

In the subject vehicles, the airbag warning label affixed to the sun visor includes all of the required content. All of the information on the label is fully available, clearly visible and easily readable by the driver at all times when the sun visor is in the upwards position. The label is not physically obscured by or in close proximity to any other information, including the vehicle clearance height label. Consequently, there is no degradation of safety or dilution of the messages contained within the airbag warning label. There is no indication that the fleet drivers will be confused by the inclusion of the vehicle clearance height label on the same side of the sun visor. Further, as of the date of this filing, Rivian is not aware of any crash, death, injury, field report, or warrant claim related to this issue in any market. In sum and given the nature of the use of the subject vehicles, the presence of the vehicle clearance height label will not

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<sup>2</sup> NHTSA previously recognized that the risks to be mitigated through the airbag warning label are not the same in all vehicles. The original airbag warning label requirements only applied passenger cars and to trucks, buses and MPVs with a GVWR of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less. The use of an airbag warning label in other, heavier vehicles was at the option of the manufacturer. (See [Letter to Henneberger](#), March 23, 1999). While NHTSA has not made a similar statement for the airbag warning labels for medium and heavy vehicles under the current regulatory structure, the risk that the airbag warning labels was aimed at mitigating for these larger and vocation vehicles is fundamentally not the same as the risk in a light-duty vehicle which is more likely to transport children and other vulnerable occupants.

negatively impact the significance of the messages contained in the airbag warning label.

### **Conclusion**

Based on the foregoing, Rivian requests that the agency conclude that the noncompliance that is the subject of this petition is inconsequential to motor vehicle safety and that Rivian be relieved of the notification and remedy provisions of the Safety Act.

# Part 573 Safety Recall Report

# 22V-802

**Manufacturer Name :** Rivian Automotive, LLC**Submission Date :** OCT 24, 2022**NHTSA Recall No. :** 22V-802**Manufacturer Recall No. :** NR**Manufacturer Information :**

Manufacturer Name : Rivian Automotive, LLC

Address : 13250 North Haggerty Road  
PLYMOUTH MI 48170

Company phone : 999

**Population :**

Number of potentially involved : 1,278

Estimated percentage with defect : 100 %

**Vehicle Information :**

Vehicle 1 : 2022-2022 Rivian EDV

Vehicle Type :

Body Style : VAN

Power Train : NR

Descriptive Information : Certain 2022 EDV vehicles.

The potentially affected vehicle production period began on December 10, 2021, when Rivian Automotive, LLC ("Rivian") started to build vehicles for the US market with an additional label on the sun visor and ended on September 27, 2022, when Rivian stopped building vehicles for the US market with an additional label on the sun visor. The suspect population was determined using Rivian component traceability information.

Production Dates : DEC 10, 2021 - SEP 27, 2022

VIN Range 1 : Begin :

NR

End : NR

 Not sequential**Description of Noncompliance :**

Description of the Noncompliance : FMVSS 208, Occupant crash protection, S4.5.1(b)(3) requires vehicles to have a label, conforming in content as specified in the standard, permanently affixed to either side of the sun visor at each front outboard position that is equipped with an inflatable restraint. S5 of FMVSS 208 provides that no other information shall appear on the same side of the sun visor to which the sun visor air bag warning is affixed. Vehicles in the population may provide a vehicle clearance height label in addition to the airbag warning label. Though Rivian believes this condition to be inconsequential to motor vehicle safety, this condition represents a noncompliance with the labeling requirements of FMVSS 208.

FMVSS 1 : 208 - Occupant crash protection

FMVSS 2 : NR

Description of the Safety Risk : Failure to limit information on the sun visor to the required FMVSS 208 airbag warning information poses a noncompliance to FMVSS 208. Rivian believes this noncompliance condition to be inconsequential to motor vehicle safety. The EDV is a walk-in van with one designated seating position (DSP) on the front driver's side. The EDV is part of an Amazon fleet of commercial delivery vehicles. It is reasonably foreseeable that no child or infant will ever be placed in the DSP. If in the unlikely event an infant or child was placed in the DSP, the vehicle would be inoperable due to the EDV's equipment with a brake transmission shift interlock per S5.3 of FMVSS 114, Theft protection and rollaway prevention. Further, Amazon fleet drivers are required to use seat belts at all times and the information on the airbag warning label is apparent, easily readable, and not proximate/adjacent to the vehicle clearance height label. Reference attached photo.

Description of the Cause : NR

Identification of Any Warning that can Occur : The vehicle operator can easily distinguish between the two labels and follow the instructions on the labels accordingly.

## Involved Components :

Component Name 1 : Sun Visor

Component Description : SUN VISOR US LH

Component Part Number : C200032554

## Supplier Identification :

### Component Manufacturer

Name : NR

Address : NR

NR

Country : NR

## Chronology :

On October 4, 2022, Rivian learned that there may be a vehicle clearance height label on the same side of the sun visor as the airbag warning label.

On October 5, 2022, Rivian opened an investigation in order to determine if misapplication of labels was



occurring.

On October 17, 2022, Rivian concluded its investigation and determined to file a Part 573 report indicating a noncompliance to FMVSS 208. Rivian believes this noncompliance condition to be inconsequential to motor vehicle safety.

As of the date of this filing, Rivian is not aware of any crash, death, injury, field report, or warranty claim related to this issue in any market.

## Description of Remedy :

**Description of Remedy Program :** For vehicles in production and not yet released from the factory, Rivian will replace or resurface the sun visor so that the airbag label is the sole label affixed to a side of the sun visor. For vehicles in the field and out of Rivian's control, Rivian intends to file a petition for inconsequentiality for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety. This filing will be submitted pursuant to 49 U.S.C. 30118(d) and 30120(h), and 49 CFR part 556, Exemption for Inconsequential Defect or Noncompliance.

**How Remedy Component Differs from Recalled Component :** Vehicles with noncompliant sun visors have a vehicle maximum height clearance label, in addition to an airbag warning label. The distinction between compliant and noncompliant sun visors is readily discernable from a visual inspection of the sun visor. For vehicles in the field and out of Rivian's control, Rivian intends to file a petition for inconsequentiality for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety. This filing will be submitted pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, Exemption for Inconsequential Defect or Noncompliance.

**Identify How/When Recall Condition was Corrected in Production :** NR

## Recall Schedule :

**Description of Recall Schedule :** Rivian will not begin customer notifications until receiving a response from NHTSA regarding Rivian's petition for determination of inconsequential noncompliance and exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301. Rivian will be filing the foregoing petition within the 30-day period required by 49 CFR § 556.4 (c).

**Planned Dealer Notification Date :** NR - NR

**Planned Owner Notification Date :** NR - NR

\* NR - Not Reported

# Part 573 Safety Recall Report

# 22V-802

**Manufacturer Name :** Rivian Automotive, LLC**Submission Date :** NOV 14, 2022**NHTSA Recall No. :** 22V-802**Manufacturer Recall No. :** NR**Manufacturer Information :**

Manufacturer Name : Rivian Automotive, LLC

Address : 13250 North Haggerty Road  
PLYMOUTH MI 48170

Company phone : 999

**Population :**

Number of potentially involved : 1,278

Estimated percentage with defect : 100 %

**Vehicle Information :**

Vehicle 1 : 2022-2022 Rivian EDV

Vehicle Type :

Body Style : VAN

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Production Dates : DEC 10, 2021 - SEP 27, 2022

VIN Range 1 : Begin :

NR

End : NR

 Not sequential**Description of Noncompliance :**

Description of the Noncompliance : FMVSS 208, Occupant crash protection, S4.5.1(b)(1) requires vehicles to have a label, conforming in content as specified in the standard, permanently affixed to either side of the sun visor at each front outboard position that is equipped with an inflatable restraint. S5 of FMVSS 208 provides that no other information shall appear on the same side of the sun visor to which the sun visor air bag warning is affixed. Vehicles in the population may provide a vehicle clearance height label in addition to the airbag warning label. Though Rivian believes this condition to be inconsequential to motor vehicle safety, this condition represents a noncompliance with the labeling requirements of FMVSS 208.

FMVSS 1 : 208 - Occupant crash protection

FMVSS 2 : NR

Description of the Safety Risk : Failure to limit information on the sun visor to the required FMVSS 208 airbag warning information poses a noncompliance to FMVSS 208. Rivian believes this noncompliance condition to be inconsequential to motor vehicle safety. The EDV is a walk-in van with one designated seating position (DSP) on the front driver's side. The EDV is part of an Amazon fleet of commercial delivery vehicles. It is reasonably foreseeable that no child or infant will ever be placed in the DSP. If in the unlikely event an infant or child was placed in the DSP, the vehicle would be inoperable due to the EDV's equipment with a brake transmission shift interlock per S5.3 of FMVSS 114, Theft protection and rollaway prevention. Further, Amazon fleet drivers are required to use seat belts at all times and the information on the airbag warning label is apparent, easily readable, and not proximate/adjacent to the vehicle clearance height label. Reference attached photo.

Description of the Cause : NR

Identification of Any Warning that can Occur : The vehicle operator can easily distinguish between the two labels and follow the instructions on the labels accordingly.

## Involved Components :

Component Name 1 : Sun Visor

Component Description : SUN VISOR US LH

Component Part Number : C200032554

## Supplier Identification :

### Component Manufacturer

Name : NR

Address : NR

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Country : NR

## Chronology :

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As of the date of this filing, Rivian is not aware of any crash, death, injury, field report, or warranty claim related to this issue in any market.

## Description of Remedy :

**Description of Remedy Program :** For vehicles in production and not yet released from the factory, Rivian will replace or resurface the sun visor so that the airbag label is the sole label affixed to a side of the sun visor. For vehicles in the field and out of Rivian's control, Rivian intends to file a petition for inconsequentiality for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety. This filing will be submitted pursuant to 49 U.S.C. 30118(d) and 30120(h), and 49 CFR part 556, Exemption for Inconsequential Defect or Noncompliance.

**How Remedy Component Differs from Recalled Component :** Vehicles with noncompliant sun visors have a vehicle maximum height clearance label, in addition to an airbag warning label. The distinction between compliant and noncompliant sun visors is readily discernable from a visual inspection of the sun visor. For vehicles in the field and out of Rivian's control, Rivian intends to file a petition for inconsequentiality for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety. This filing will be submitted pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, Exemption for Inconsequential Defect or Noncompliance.

**Identify How/When Recall Condition was Corrected in Production :** NR

## Recall Schedule :

**Description of Recall Schedule :** Rivian will not begin customer notifications until receiving a response from NHTSA regarding Rivian's petition for determination of inconsequential noncompliance and exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301. Rivian will be filing the foregoing petition within the 30-day period required by 49 CFR § 556.4 (c).

**Planned Dealer Notification Date :** NR - NR

**Planned Owner Notification Date :** NR - NR

\* NR - Not Reported