



ADVOCATES
FOR HIGHWAY
& AUTO SAFETY

May 3, 2024

DOT Docket No. NHTSA-2023-0046

Docket Management Facility
U.S. Department of Transportation
West Building, Ground Floor
Room W12-140
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590-0001
Filed via www.regulations.gov

**FCA US LLC, Receipt of Petition for Decision of Inconsequential Noncompliance
Receipt of Petition
89 Federal Register 21658, March 28, 2024**

Advocates for Highway and Auto Safety (Advocates) files these comments in response to the National Highway Traffic Safety Administration's (NHTSA, Agency) Notice of the Receipt of a Petition for Decision of Inconsequential Noncompliance from FCA US LLC (FCA).¹

Motor Vehicle Deaths Remain Unacceptably High

The carnage and expense borne from crashes on our roadways is unacceptable. On average, 116 people were killed every day on roads in the U.S. in 2022, totaling just over 42,500 fatalities.² An additional 2.38 million people were injured.³ This represents a 29 percent increase in deaths in just a decade.⁴ Early projections for 2023 traffic fatalities remain high.⁵ In addition to vehicle occupants, other road users experienced upturns in deaths. Pedestrian fatalities grew by one percent, and bicyclist deaths were up 13 percent from 2021 to 2022.⁶

Conservatively, the annual economic cost of motor vehicle crashes is approximately \$340 billion (2019 dollars).⁷ This means that every person living in the U.S. essentially pays an annual "crash tax" of over \$1,000. Moreover, the total value of societal harm from motor vehicle crashes in 2019 was nearly \$1.4 trillion.⁸

FCA Petition for Decision of Inconsequential Noncompliance

¹ 89 FR 21658 (Mar. 28, 2024).

² Overview of Motor Vehicle Traffic Crashes in 2022, NHTSA, Apr. 2024, DOT HS 813 560. (Overview 2022).

³ Overview 2022.

⁴ Traffic Safety Facts 2021: A Compilation of Motor Vehicle Crash Data, NHTSA, Dec. 2023, DOT HS 813 527, (Annual Report 2021); and Overview 2022; [comparing 2013 to 2022].

⁵ Traffic Safety Facts: Crash Stats, Early Estimate of Motor Vehicle Traffic Fatalities in 2023, NHTSA, Apr. 2024, DOT HS 813 561.

⁶ Overview 2022.

⁷ The Economic and Societal Impact of Motor Vehicle Crashes, 2019, NHTSA, Dec. 2022, DOT HS 813 403. (Economic and Societal Impact 2019).

⁸ Economic and Societal Impact 2019.

Pursuant to the present Notice, NHTSA has received from FCA a Petition for Decision of Inconsequential Noncompliance for approximately 9,101 model year 2022-2023 Ram ProMaster vans that fail to comply with Federal Motor Vehicle Safety Standard (FMVSS) 101.⁹ Specifically, according to FCA, if the subject van’s automatic cruise control (ACC) is engaged and the driver rapidly presses the speed control button to either increase or decrease speed, a cluster reset can be triggered causing the cluster display to go blank and the speedometer indicator to go to zero before resetting.¹⁰

The Agency has noted in a separate petition filed by FCA that “[t]he burden of establishing the inconsequentiality of a failure to comply with a performance requirement in a standard—as opposed to a labeling requirement with no performance implications—is more substantial and difficult to meet.”¹¹ In determining inconsequentiality of noncompliance, NHTSA has stated that it “focuses on the safety risk to individuals who experience the type of event against which a recall would otherwise protect.”¹² Moreover, the absence of injuries or consumer complaints is not indicative of whether an issue is inconsequential to safety.¹³

FCA contends in its Petition that the loss of display of the cluster panel resulting from a common occurrence when a driver engages the van’s ACC does not pose an unsafe condition for the driver because it does not divert the driver’s attention from the driving task. Advocates and common sense contend otherwise. To properly operate a vehicle particularly at speeds where the ACC is typically engaged requires a functioning control panel including information on the vehicle’s speed. It is entirely reasonable and foreseeable for a driver to divert attention from the driving task when a sudden unexpected and serious malfunction to vehicle’s information panel occurs. Of great concern is the driver’s inability to determine if the vehicle is traveling at the proper posted speed limit during this malfunction. It is entirely foreseeable that this malfunction could result in serious incidents including crashes and certainly poses a serious safety risk to drivers who experience this type of event and those sharing the roads with them.

Conclusion

Under NHTSA’s standard for reviewing Petitions for Decisions of Inconsequential Noncompliance, FCA’s application should be denied and remedy for the noncompliance instituted without further delay.



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⁹ 89 FR 21658, 21659 (Mar. 28, 2024)

¹⁰ *Id.*

¹¹ 87 FR 61432, 61434 (Oct. 11, 2022).

¹² *Id.*

¹³ *Id.*