

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject motorcycles that KMC no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant motorcycles under their control after KMC notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8.

Otto G. Matheke III,
Director, Office of Vehicle Safety Compliance.
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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2020-0121; Notice 1]

FCA US LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of petition.

SUMMARY: FCA US LLC (f/k/a Chrysler Group LLC) ("FCA US") has determined that certain model year (MY) 2017–2020 Dodge Charger Pursuit motor vehicles with Officer Protection Package ("OPP") modules do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 102, *Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect* and FMVSS No. 118, *Power-Operated Window, Partition, and Roof Panel Systems*. FCA US filed a noncompliance report dated November 13, 2020, and subsequently petitioned NHTSA on December 4, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of FCA US's petition.

DATES: Send comments on or before May 24, 2021.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- **Mail:** Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- **Hand Delivery:** Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal holidays.
- **Electronically:** Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at <https://www.regulations.gov/>

by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Frederick Smith, Compliance Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366-7487 or Ahmad Barnes, Compliance Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366-7236.

SUPPLEMENTARY INFORMATION:

I. **Overview:** FCA US has determined that certain MY 2017–2020 Dodge Charger Pursuit motor vehicles with OPP modules do not fully comply with the requirements of paragraph S3.1.4.1 of FMVSS No. 102, *Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect* (49 CFR 571.102) and paragraph S5.1 of FMVSS No. 118, *Power-Operated Window, Partition, and Roof Panel Systems* (49 CFR 571.118). FCA US filed a noncompliance report dated November 13, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. FCA US subsequently petitioned NHTSA on December 4, 2020, 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, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of FCA US's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. **Vehicles Involved:** Approximately 27,593 MY 2017–2020 Dodge Charger Pursuit motor vehicles with OPP modules, manufactured between October 17, 2016, and October 30, 2020, are potentially involved.

III. **Noncompliance:** FCA US explains that the noncompliance is occurs when the OPP module is in Surveillance Mode, the subject vehicles' PRNDL display will indicate the vehicle is in the REVERSE "R" position while the transmission is actually in the PARK "P" position and, therefore, do not fully meet the requirements specified in paragraph S3.1.4.1 of FMVSS No. 102. Additionally, when Surveillance Mode is activated, the driver and passenger power-operated windows in the subject

vehicles will only stop but do not reverse direction in the event that an obstruction is detected and, therefore, does not fully meet the requirements specified in S5.1 of FMVSS No. 118.

IV. Rule Requirements: Paragraph S3.1.4.1 of FMVSS No. 102 and paragraph S5.1 of FMVSS No. 118 include the requirements relevant to this petition. Except as specified in paragraph S3.1.4.3 of FMVSS No. 102, if the transmission shift position sequence includes a park position, identification of shift positions, including the positions in relation to each other and the position selected, shall be displayed in view of the driver whenever any of the following conditions exist (a) the ignition is in a position where the transmission can be shifted, or (b) the transmission is not in park. While closing, the power-operated window, partition, or roof panel shall stop and reverse direction either before contacting a test rod with properties described in paragraphs S8.2 or S8.3 of FMVSS No. 118, or before exerting a squeezing force of 100 newtons (N) or more on a semi-rigid cylindrical test rod with the properties described in paragraph S8.1 when such test rod is placed through the window partition, or roof panel opening at any location in the manner described in the applicable test under paragraph S7.

V. Summary of FCA US's Petition: The following views and arguments presented in this section, "V. Summary of FCA US's Petition," are the views and arguments provided by FCA US. They have not been evaluated by the Agency and do not reflect the views of the Agency. FCA US describes the subject noncompliances and contends that the noncompliances are inconsequential as they relate to motor vehicle safety.

In support of its petition, FCA US submitted the following reasoning:

1. Functionality of the Officer Protection Module and Surveillance Mode: FCA US says that, as the name implies, the purpose of the OPP module when activated (*i.e.*, put in "Surveillance Mode") is to provide warning and some measure of protection for law enforcement officers against ambush from the rear of the vehicle while parked. FCA US states that they provided the OPP module, manufactured by InterMotive Inc., ("InterMotive"), free of charge to Police Departments as part of the purchase of a MY 2017–2020 Dodge Charger Pursuit vehicle. The OPP module is a "plug and play" module, shipped separately from the vehicle and installed by the Police Department or an installer of its choice.

When Surveillance Mode is activated, the reverse camera display will turn on.

Surveillance Mode uses the rear Park Assist system in the Charger Pursuit vehicle. If any of the sensors detect a presence while in Surveillance Mode, the vehicle will chime indicating which sensor tripped, and then the OPP module will lock all the doors, roll the driver and passenger front windows up and flash the rear lights. Again, these actions are intended to increase an officer's situational awareness when parked and working inside the vehicle.

Surveillance Mode must be turned on by the driver, and it will only engage if all of the following conditions are met:

- The vehicle ignition must be in the RUN position;
- The transmission must be in PARK;
- Vehicle speed must be zero;
- All doors must be closed;
- Service brake must not be applied;

and

- The driver must choose to activate Surveillance Mode by pressing a switch.

If any one of these conditions is not met, then the OPP module will not activate Surveillance Mode.

Once Surveillance Mode is active, it will deactivate if/when any of the following occurs:

- The vehicle ignition is switched to the OFF position;
- The driver door is opened;
- The service brake is pressed;
- The Surveillance Mode switch is pressed; or
- The Transmission is shifted out of PARK.

Once the OPP Surveillance Mode is deactivated, all vehicle operations return to normal function, including accurate transmission shift position display and auto-reversing power window operation. It should be noted that the operation of the rear windows is not affected while Surveillance Mode is active.

In order for the OPP module to activate the ParkView rear backup camera, it must tell the vehicle's other computer systems that the vehicle is in REVERSE, even though the transmission is actually in PARK. As a result, the PRNDL display will incorrectly show "R" when FMVSS No. 102 requires it to display "P." As mentioned above, this condition only exists while the OPP system is activated in Surveillance Mode and will be immediately corrected if any of the deactivation criteria occur, including an attempt to shift the vehicle out of PARK.

2. Justification for Petition for a Determination of Inconsequentiality:

FCA US believes these technical noncompliances are inconsequential to motor vehicle safety for the following reasons:

a. FMVSS No. 102

When the OPP module is in Surveillance Mode, the PRNDL display indicates the vehicle is in REVERSE while the transmission is actually in PARK. If a driver attempts to shift the transmission, he must press the brake pedal because of the brake shift interlock system. Once the brake pedal is depressed, Surveillance Mode deactivates, and the correct gear position will be immediately displayed. Further, the driver must have parked the vehicle, left the ignition in the RUN position, had all doors closed, and intentionally activated Surveillance Mode.

Surveillance Mode of the OPP module does not increase the likelihood of shifting errors. The temporary noncompliance of displaying an inaccurate transmission shift position in the limited circumstances when Surveillance Mode is intentionally activated is not likely to result in a shifting error, since Surveillance Mode deactivates and immediately cures the technical noncompliance if the driver attempts to shift the transmission.

NHTSA has previously granted inconsequential treatment for FMVSS No. 102 transmission position indication noncompliances. Examples of the Agency granting similar inconsequentiality petitions for temporary incorrect gear position display include:

- General Motors 53 FR 12638 (April 15, 1988)
- General Motors 58 FR 33296 (June 16, 1993)
- Nissan 64 FR 38701 (July 19, 1999)
- Workhorse Custom Chassis 70 FR 21492 (April 26, 2005)
- Honda 71 FR 34413 (June 14, 2006)
- General Motors 76 FR 73006 (November 28, 2011)
- Nissan 78 FR 59090 (September 25, 2013)
- Paccar 79 FR 17648 (March 28, 2014)
- Ford 80 FR 42604 (July 17, 2015)
- Ford 80 FR 64058 (October 22, 2015)
- General Motors 81 FR 17761 (March 30, 2016)

FCA US believes that the noncompliance in this instance is similar to the situation presented in Nissan's petition where Nissan explains "that the noncompliance is that, on the affected vehicles, a unique sequence of actions can lead the shift position indicator to incorrectly display the shift position as required by paragraph S3.1.4.1 of FMVSS No. 102." See 78 FR 59090–59091 (September 25, 2013). Nissan further explained that "[t]his issue only occurs when the ignition is switched from "ON" into "ACC" mode

and the engine is off. Further, the vehicle cannot be restarted unless the ignition is switched out of "ACC" at which point the shift position indicator would reset and show the correct position." (Id.) FCA US cited the Agency as agreeing with Nissan, that under these "rare" circumstances, "the noncompliance poses little if any risk to motor vehicle safety." FCA US says that similar to Nissan's case, in the Charger Pursuit vehicles, the inaccurate transmission shift position display occurs only when a specific set of conditions are present after the operator intentionally activates Surveillance Mode. The inaccurate transmission shift position display returns to the correct position immediately upon pressing the brake, opening the driver's door, shifting the transmission, or pressing the Surveillance Mode switch. Importantly, the vehicle cannot be operated in the noncompliant condition.

b. FMVSS No. 118

When the OPP module is in Surveillance Mode, detection of a presence at the rear of the vehicle will initiate automatic window closure of the driver and passenger front windows. While closing, the power-operated windows will stop when an obstruction is detected, however, they will not reverse direction. Removal of the reverse direction feature was a conscious design decision made by the creator of the OPP module, InterMotive, to facilitate the purpose of the module—the safety and protection of law enforcement officers.

FCA US says that the regulatory history of the standard confirms that the primary concern is the risk to children. FCA US cited the Agency as saying, "The Agency's experience is that children are the group of people most likely at risk from inadvertent or unsupervised operation of power windows." See 57 FR 23958 (June 5, 1992). FCA US believes that given the police surveillance circumstances in which this noncompliance would manifest, children are highly unlikely to be present in the motor vehicle. FCA US says that NHTSA has previously granted a petition for a determination of inconsequential noncompliance based on an analysis of whether children were likely to be present in the front seat of the noncompliant delivery trucks. FCA US cited the Agency as saying, "NHTSA agrees that, 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 81 FR 87654–87656 (December 5, 2016). FCA US believes this purpose can be fulfilled

while also protecting law enforcement officers.

FCA US contends that successful activation of Surveillance Mode requires a specific set of conditions. Not only must the vehicle be in the RUN position, in PARK, with the doors closed and no application of the service brake, the driver must choose to activate the Surveillance Mode. When Surveillance Mode is activated, the backup camera view will be displayed on the radio head unit. This is an immediate visual cue that the OPP module is in Surveillance Mode. It is unlikely that Surveillance Mode would be inadvertently activated, and even if it were, it is easily recognizable.

Deactivation of Surveillance Mode is easily achieved. It is much more likely that Surveillance Mode can be inadvertently deactivated rather than inadvertently activated. Switching the vehicle ignition to the OFF position, opening the driver door, pressing the service brake, shifting the transmission out of PARK, or pressing the Surveillance Mode switch immediately restores normal vehicle functionality, including reverse direction functionality of the driver and passenger front power windows. Surveillance Mode cannot be latched on from key cycle to key cycle, as a requirement for Surveillance Mode is the ignition in the RUN position. Again, switching the vehicle ignition to OFF deactivates Surveillance Mode.

Purchasers of Charger Pursuit vehicles who request the OPP module are law enforcement agencies. Officers of such law enforcement agencies are highly trained and sophisticated vehicle operators. Law enforcement personnel use vehicles much differently than the average vehicle owner, and are accustomed to, if not expect, unique vehicle attributes while engaged in law enforcement duties.

The OPP module is a "plug and play" module that can be easily removed when and if the law enforcement agency sells the vehicle into the civilian market. FCA US acknowledges, however, that the law enforcement agencies cannot be required to remove the OPP module from the vehicle prior to such sale.

Lastly, FCA US is not aware of any injuries, or customer complaints associated with the condition.

FCA US concludes by again contending that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the

noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that FCA US no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after FCA US notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8.

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2020–0116; Notice 1]

Mercedes-Benz USA, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of petition.

SUMMARY: Mercedes-Benz AG (MBAG) and Mercedes-Benz USA, LLC (MBUSA), (collectively, "Mercedes-Benz"), have determined that certain model year (MY) 2020–2021 Mercedes-Benz GLE and GLS Class motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 Kilograms (10,000 pounds) or Less*. Mercedes-Benz filed a noncompliance report dated October 30, 2020. Mercedes-Benz subsequently petitioned NHTSA on November 16, 2020, for a decision that the subject noncompliance