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NHTSA #: ES20-000960

XREF #:

Delivery: EML

Rec'd Date: 5/8/2020

Doc Type: CMB

Address To: S1

Referred By: NAD-200

Doc Date: 5/4/2020

Due Date: 5/22/2020

S10 #: OST-S10-200508-078

DOT/I #:

RMP #:

Subject: S10 DIRECT REPLY - LETTER EXPRESSING CONCERNS WITH BMW RECALL

Ack Date:

Sign Office: AA FOR
ENFORCEMENT

Cleared Date:

File Loc:

Added By: ALee

Ack By:

Signature: JEFFREY GIUSEPPE

Cleared By:

XREF File:

Modified By: Arnold.Lee

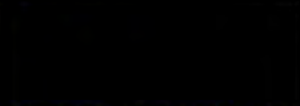
Signed For:

Cleared For:

Closed Date:

Most Recent Comment:

Author:



THOUSAND OAKS, CA

Tel:

Fax:

E-mail:

Assigned To

Task

Asgn Date

Deadline

Returned Date

NEF-010

REPLY

5/8/2020

5/22/2020

May 4, 2020

Elaine Chao Madam Secretary
United States Department of Transportation
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20690

Honorable Madam Secretary Chao,

I am writing this letter to express my outrage in the way BMW of North America (**BMWNA**) has handled a serious recall. Although I had sent a letter to their CEO (See Attachment-1 redacted to only show relevant items to this complaint) to get this recall fixed in June 2019, which resulted in this manufacturer executive liaison telling me there was is no fix for the recall and I am free to escalate to anyone I wanted. His arrogance and attitude permeated to me in a manner that said this manufacturer will suffer no consequences. I just received communication it will never be fixed rather they convinced somebody in the Department of Transportation to close this defect by extending a warranty on the recall parts on future failures. This is a dangerous defect as stated in the recall letter (See Attachment-2). It states **"With high temperatures normally present in the EGR Module, this might result in smoldering particles. In some cases, these particles could contact the engine intake manifold and create small holes due to melting. If this occurs, it would increase the risk of a fire"**. I am sure under your leadership this manufacturer would be held accountable. I wanted to inform you that **BMWNA** has failed to repair and replace this defect recall item which is putting the safety of me, my family, and all other US citizens at high risk. All they did was inspect my vehicle and told me there is no fix. This has been high anxiety for me and my family each time we drive this car since December 2018. I had also filed a complaint with the NHTSA which resulted in no action (see attached-3) in July of 2019. This manufacturer used to have a great reputation and brand name.

To assist American workers and American automobile industry we need a strong policy where **BMWNA** and all foreign manufacturers selling vehicles in the USA should be required to fix a "Recall or Defect" within 12 months of being self-identified, published or ordered by DOT or buy back the vehicle if a recall cannot or is not fixed. This will also allow American manufacturers to be competitive and provide high-quality cars.

Furthermore, **BMWNA** has engaged in deceptive practices in leasing cars by establishing high residuals on artificially inflated MSRP for decades. This may be more of an interest to SEC or FTC but I wanted to document it for you as well as it will serve as an example to their fraudulent financial scheme.

I leased a 328D (Diesel) on 09/23/2017 where the residual was set at \$32,052.00 which represents 60% of the sticker price of \$53,420 (Attachment-4). This was at a time when DOT was investigating Volkswagen for their emission fraud for their diesel cars. They knew that diesel cars will not have the resale value of 60% of MSRP at the end of my 3-year term. I believe the scheme includes writing off losses on the high residual and refreshing cost for

[REDACTED]
Thousand Oaks, CA [REDACTED]

[REDACTED] (Home)

Fax: [REDACTED]

resale. This is a scheme to sell cars with inflated residuals putting American carmakers at a disadvantage and I and my fellow American consumers end up paying thousands of dollars in lease cost on this and avoiding tax revenue by writing losses against future sales. Today this vehicle is only worth between \$22k-\$25k well below the high residual set on my vehicle. Additionally, they will spend \$2000 – 4000 refreshing the vehicle for resale resulting in a loss of approximately \$10k which they will write off against current year sales. I believe this type of accounting tricks used by BMWNA puts the American auto industry at a disadvantage.

In conclusion, I am requesting your agency require BMWNA to reimburse me the cost of ownership for continued anxiety for waiting all this time for not fixing the defect (i.e. lease, insurance, etc) since the defect was identified in December of 2018 and reverse the decision for them to simply extending a warranty on the above serious defect.

I am hoping under your fantastic leadership you will investigate my complaint and use this as an opportunity to ensure foreign car makers don't get away with bad practices, promptly fix defects, and recalls which puts American's safety at risk and American Auto Industry at a disadvantage.

If you need additional documentation please do not hesitate to call me at [REDACTED]

Sincerely,

[REDACTED]

[REDACTED]
Thousand Oaks, CA [REDACTED]

[REDACTED] (Home)
Fax: [REDACTED]

ATTACHMENT-1

[REDACTED]
Thousand Oaks, CA [REDACTED]

[REDACTED] (Home)
Fax: [REDACTED]

June 11, 2019

Bernhard Kuhnt CEO
BMW North America
300 Chestnut Ridge Road
Woodcliff Lake, NJ 07677-7731

Dear Mr. Kuhnt,

I am writing this letter to express my concern on three major items. I am hoping for a quick and amicable resolution to the issues I have expressed in this letter.

1. The first is related to "recall" pending for over 6 months and there is no remedy for it.
2. [REDACTED]
3. [REDACTED]

A. The Recall Notice: December 2018

Since then I have been minimizing the usage of the vehicle due to the fear the car could catch on fire or other potential injury to me or my family. I believe waiting over 6 months in the hopes to have a remedy or fix for this recall. I called this morning to your customer service line listed on the letter, who advised me there is not fix yet for this issue yet and no estimated time of resolution. I have been paying on the lease in the amount of \$554.54 in accordance to the terms of my lease. However, I have lost 6 months of value and usage. I love this vehicle, but safety for my family and me takes precedence. I no longer wish to feel unsafe and wait, therefore, I propose the following 2 options.

- 1) I request that a remedy and fix be implemented on my vehicle within 30 days from the date of this letter. Additionally, after the fix any credit towards the purchase of this vehicle would also be requested for the loss of use and enjoyment that I have experienced for over 6 months. I would like to then proceed with the purchase of it as it is an overall excellent vehicle.
- 2) If there is no fix that can be made within 30 days then I would request BMW roll back the lease that was initiated for this Diesel vehicle and refund/credit me all the payments, cost and loss of use inconvenience towards another BMW vehicle.

ATTACHMENT-2

BMW



IMPORTANT SAFETY RECALL – Remedy Not Yet Available

This notice applies to your vehicle, WBA8E5C39H [redacted]
Recall Campaign No. 18V-755: Exhaust Gas Recirculation (EGR) Cooler

December 2018

Dear BMW Owner / Lessee:

This notice is sent to you in accordance with the National Traffic and Motor Vehicle Safety Act. BMW AG has decided that a defect, which relates to motor vehicle safety, exists in certain Model Year 2013-2018 BMW 3 Series, 5 Series, 7 Series, X3 SAV and X5 SAV vehicles with a diesel engine. Our records indicate that you are the owner of a potentially affected vehicle.

Why are we contacting you?

We are informing you of a safety recall on your vehicle although we are not able to perform the remedy at this time. We will notify you with a follow-up letter as soon as we are able to perform this safety recall.

What could happen?

The engine's EGR cooler could develop an internal leak. The cooling fluid could mix with typical diesel engine soot deposits. With high temperatures normally present in the EGR module, this might result in smoldering particles. In some cases, these particles could contact the engine intake manifold and create small holes due to melting. If this occurs, it would increase the risk of a fire.

Your vehicle may be experiencing this issue if one or more of the following occurs; a reduction in engine power, a warning symbol indicating a loss of engine coolant. You may notice an unpleasant odor (e.g., exhaust), and/or hear an unusual noise from the engine. If this occurs, carefully move away from traffic and pull over to a safe location as soon as possible. All occupants should carefully exit the vehicle and move to a safe location away from traffic. Do not open the hood. Do not continue to drive the vehicle. Contact BMW Roadside Assistance at 1-800-332-4269 immediately to have your vehicle brought to the nearest authorized BMW center.

If you are not the only driver of this vehicle, please advise all other drivers and passengers of this important information.

What will BMW do?

When the remedy is available, the EGR cooler will be inspected and, if necessary, replaced. If the EGR cooler leaked, the engine intake manifold will also be replaced. This service will be performed for free and take approximately one hour. If you already had this repair performed at your own expense, our follow-up letter will contain information regarding possible eligibility for reimbursement.

What if I am not the current owner of this vehicle?

You can update the vehicle ownership or your contact information by completing the enclosed postage-paid card or by registering at <http://www.bmwusa.com/myBMW>. If you are a vehicle lessor, Federal Regulations require you to forward this notice to your lessee within ten days.

What if I have questions or experience problems?

For the latest updates to this recall, please visit www.bmwusa.com/recall. Should you have any questions about this recall, please contact your authorized BMW center. If you need additional assistance, contact BMW Customer Relations and Services at 1-800-525-7417 or at CustomerRelations@bmwusa.com.

If your BMW center is unable to remedy the defect without charge or within a reasonable period of time, you may notify the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Ave., S.E., Washington, DC 20590, call the toll-free Vehicle Safety Hotline at 1-888-327-4236 (TTY: 1-800-424-9153), or go to <http://www.safercar.gov>.

Please be assured that your safety is important to us, and we sincerely apologize if this recall causes any inconvenience. We recommend that you and your passengers wear your safety belt at all times.

Sincerely,
BMW of North America, LLC

Spanish translation on back side
Traducción en español en el lado inverso



Company
BMW
of North America, LLC
BMW Group Company
Mailing Address
PO Box 1327
Westwood NJ 07675-1327
Telephone
(800) 525-7417
Fax
(201) 930-8363
E-mail
CustomerRelations@
bmwusa.com
Internet
bmwusa.com

Thousand Oaks, CA

(Home)

Fax:

ATTACHMENT-2



47911 HALYARD DRIVE
STE. 200
PLYMOUTH, MI 48170
DO NOT MAIL REPAIR ORDERS TO THIS ADDRESS



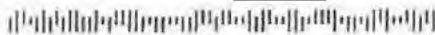
72213BMW02AK36071



IA

ALL FOR AADC 913

THOUSAND OAKS, CA



April 2020

This "Important Limited Warranty Information" applies to the BMW vehicle with the Vehicle Identification Number (VIN) of **WBA8E5C39H**

Dear BMW Owner/Lessee:

BMW is committed to delivering the ultimate in product satisfaction to our customers.

Towards that end, BMW is extending the limited warranty for the:

- **Exhaust Gas Recirculation (EGR) Cooler**

On the above-referenced vehicle to:

- **10 years without mileage limit as determined by your vehicle's original in-service date.**

This "component-specific" limited warranty extension applies to defects in materials or workmanship. This coverage is subject to the same vehicle eligibility requirements, limitations, and exclusions that apply to the BMW New Vehicle Limited Warranty for Passenger Cars and Light Trucks.

This is notice of a "limited warranty extension." This is not a notice of a Recall or Service Action.

If a repair to this component is required, please contact your nearest authorized BMW center in the United States or Puerto Rico to schedule an appointment. Your authorized BMW center will determine the vehicle's eligibility and review the scope of repairs that are covered by this component-specific limited warranty extension.

After vehicle inspection and diagnosis, eligible repair work will be performed by the authorized BMW center in the United States (including Puerto Rico) free of charge.

Repairs performed on ineligible vehicles, eligible vehicles operated and repaired outside the United States and Puerto Rico and/or the diagnosis and repair of other unrelated issues are not covered by this limited warranty extension. This exclusion applies to repairs, including consequential, that were performed using non-genuine BMW parts and/or used passenger car or light truck parts.

The integrity of our products is essential to BMW's success and our customers' trust. We are determined to exceed your expectations and hope this warranty extension further enhances your ownership experience.

Sincerely,

BMW of North America, LLC

B-ELWR 2020 N47T/N57T EGR Cooler 10Y/Unlimited Miles

Why is this manufacturer getting a pass by simply extending the warranty and not fixing or replacing the parts in the defect?

Company
BMW of North America, LLC
BMW Group Company

Mailing Address
PO Box 1227
Westwood, NJ
07675-1227

Telephone
(800) 831-1117

E-mail
Customerrelations@
bmwusa.com

Website
www.bmwusa.com

ATTACHMENT-4

The Ultimate Driving Machine®

2017 BMW 328d Sedan

Manufacturer's Suggested Retail Price	\$	40,250.00
Options and Additional Charges: (Optional equipment may supersede standard equipment; check with your authorized BMW center).		
Black Sapphire Metallic	\$	700.00
Black Dak Lthr w/ Oyster hglgt	\$	1,450.00
Driving Assistance Package	\$	950.00
- Rear view camera		
- Park Distance Control		
M Sport Package	\$	3,000.00
- 18" StarSpoke 400M AllSeason		
- Sport seats		
- FineLine Anthracite Wood Trim		
- M sport suspension		
- M steering wheel		
- Aerodynamic kit		
- Shadowline exterior trim		
- Anthracite headliner		
Premium Package	\$	2,450.00
- Comfort Access keyless entry		
- Moonroof		
- Lumbar support		
- SiriusXM Radio w/ 1 year sub		
Connected App Compatibility	Included	
Sport Automatic Transmission	Included	
Runflat tires	Included	
Universal garage-door opener	Included	
Power Front Seats	Included	
Storage package	Included	
Heated front seats	\$	500.00
LED Fog Lights	Included	
LED Headlights	Included	
Automatic climate control	Included	
Ambient Lighting	Included	
BMW Online and BMW Apps	Included	
Advanced RTTI	Included	
Remote Services	Included	
Apple CarPlay Compatibility	\$	300.00
Hands-free Bluetooth and USB	Included	
Navigation system	\$	1,950.00
Harman Kardon surround sound	\$	875.00
Refrigerant	Included	
Destination Charge	\$	995.00
Total Suggested Retail Price	\$	53,420.00

Standard Features

Performance and efficiency

- 2.0-liter BMW TwinPower Turbo Diesel dual overhead (DOHC) inline 4-cylinder, 16-valve engine with aluminum engine block, Variable-Geometry Turbo technology and latest-generation common-rail direct injection
- Driving Dynamics Control with ECO PRO, COMFORT, SPORT and SPORT+ settings
- 8-speed Sport Automatic transmission with automatic Sport and Manual shift modes and steering wheel-mounted paddle shifters

Handling, ride and braking

- Dynamic Stability Control (DSC), including Brake Fade Compensation, Start-off Assistant, Brake Drying, and Brake Stand-by features; with Dynamic Traction Control (DTC)
- High-performance, lightweight, 4-wheel ventilated disc brakes with Anti-lock Braking System (ABS), Dynamic Brake Control (DBC) and Cornering Brake Control (CBC)
- Enhanced Servotronic power-steering assist

Exterior

- Halogen high- and low-beam headlights and LED fog lights
- Power-folding, heated side mirrors

Interior seating and trim

- 10-way power front sport seats with driver's seat memory
- Anthracite headliner

BMW Ultimate Care™

\$0

Maintenance Program
For the first 3 years or
36,000 miles, whichever
comes first on scheduled
maintenance*

EPA
DOT

Fuel Economy and Envi

Fuel Economy



36 MPG

Compact Cars ra
The best vehicle

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Department of Transportation

To: W93-404
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Mail Point: S-10

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Sender:
Manufacturer:
Purchase Order:

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- Date of delivery specified*
- USPS TRACKING™ included to many major international destinations.
- Limited international insurance.
- Pick up available.*
- Order supplies online.*
- When used internationally, a customs declaration label may be required.

* Domestic only

W93-404

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PRIORITY MAIL 2-DAY™			
		Expected Delivery Date: 05/09/20	
THOUSAND OAKS CA		0006	
SIGNATURE REQUIRED			<div style="border: 1px solid black; padding: 2px;">C000</div>
SHIP TO: ELAINE CHAO US DOT OFFICE OF THE ASSISTANT SECRETARY 1200 NEW JERSEY AVE SE WASHINGTON DC 20590-0001			
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