



U.S. Department  
of Transportation  
**National Highway  
Traffic Safety  
Administration**

1200 New Jersey Avenue SE  
Washington, DC 20590

FEB 29 2008

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Ms. Diane Ingamells  
Coperate Legal Department  
Continental  
2400 Executive Hills Boulevard  
Auburn Hills, MI 48326-2980

NVS-212-pco  
EA08-001

Dear Ms. Ingamells:

This letter is to inform you that the Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) has upgraded the Preliminary Evaluation (PE07-045) to an Engineering Analysis (EA08-001) to investigate allegations of Occupant Classification System (OCS) failures resulting in the illumination of the OCS light and/or the illumination of the Airbag Warning Lamp (AWL) on vehicles (Model Year (MY) 2004-06 5 Series, 7 Series, X3s & Z4s; MY 2006 3 Series, 6 Series & X5s) manufactured by BMW.

BMW has informed this office that Continental is the supplier of the occupant seat mat sensor. To assist us in the investigation, we ask that you respond to the questions set forth below.

Unless otherwise stated in the text, the following definitions apply to this information request:

- **Subject vehicles:** All BMW vehicles using the OC3 seat mat sensor and all other vehicles sold in the U.S. equipped with the same seat mat sensor.
- **Subject component:** the OCS seat mat sensor (OC3) located in the passenger seat for detection of the passenger occupant.
- **Continental:** Continental, all of its past and present officers and employees, whether assigned to its principal offices or any of its field or other locations, including all of its divisions, subsidiaries (whether or not incorporated) and affiliated enterprises and all of their headquarters, regional, zone and other offices and their employees, and all agents, contractors, consultants, attorneys and law firms and other persons engaged directly or indirectly (e.g., employee of a consultant) by or under the control of Continental (including all business units and persons previously referred to), who are or, in or after September 1, 2001, were involved in any way with any of the following related to the subject condition in the subject peer vehicles:
  - a. Design, engineering, analysis, modification or production (e.g. quality control);
  - b. Testing, assessment or evaluation;



- c. Consideration, or recognition of potential or actual defects, reporting, record-keeping and information management, (e.g., complaints, field reports, warranty information, part sales), analysis, claims, or lawsuits; or
  - d. Communication to, from or intended for zone representatives, fleets, dealers, or other field locations, including but not limited to people who have the capacity to obtain information from dealers.
- **Alleged defect:** OCS failures due to circuit cracks in the OC3 seat mat sensor.
  - **Document:** "Document(s)" is used in the broadest sense of the word and shall mean all original written, printed, typed, recorded, or graphic matter whatsoever, however produced or reproduced, of every kind, nature, and description, and all non-identical copies of both sides thereof, including, but not limited to, papers, letters, memoranda, correspondence, communications, electronic mail (e-mail) messages (existing in hard copy and/or in electronic storage), faxes, mailgrams, telegrams, cables, telex messages, notes, annotations, working papers, drafts, minutes, records, audio and video recordings, data, databases, other information bases, summaries, charts, tables, graphics, other visual displays, photographs, statements, interviews, opinions, reports, newspaper articles, studies, analyses, evaluations, interpretations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, instructions, blueprints, drawings, as-builts, changes, manuals, publications, work schedules, journals, statistical data, desk, portable and computer calendars, appointment books, diaries, travel reports, lists, tabulations, computer printouts, data processing program libraries, data processing inputs and outputs, microfilms, microfiches, statements for services, resolutions, financial statements, governmental records, business records, personnel records, work orders, pleadings, discovery in any form, affidavits, motions, responses to discovery, all transcripts, administrative filings and all mechanical, magnetic, photographic and electronic records or recordings of any kind, including any storage media associated with computers, including, but not limited to, information on hard drives, floppy disks, backup tapes, and zip drives, electronic communications, including but not limited to, the Internet and shall include any drafts or revisions pertaining to any of the foregoing, all other things similar to any of the foregoing, however denominated by Continental, any other data compilations from which information can be obtained, translated if necessary, into a usable form and any other documents. For purposes of this request, any document which contains any note, comment, addition, deletion, insertion, annotation, or otherwise comprises a non-identical copy of another document shall be treated as a separate document subject to production. In all cases where original and any non-identical copies are not available, "document(s)" also means any identical copies of the original and all non-identical copies thereof. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents whether verified by Continental or not. If a document is not in the English language, provide both the original document and an English translation of the document.
  - **Other Terms:** To the extent that they are used in these information requests, the terms "claim," "consumer complaint," "dealer field report," "field report," "fire," "fleet," "good will," "make," "model," "model year," "notice," "property damage," "property damage

claim," "rollover," "type," "warranty," "warranty adjustment," and "warranty claim," whether used in singular or in plural form, have the same meaning as found in 49 CFR 579.4.

In order for my staff to evaluate the subject condition, certain information is required. Pursuant to 49 U.S.C. § 30166, please provide numbered responses to the following information requests. Insofar as Continental has previously provided a document to ODI, Continental may produce it again or identify the document, the document submission to ODI in which it was included and the precise location in that submission where the document is located. When documents are produced, the documents shall be produced in an identified, organized manner that corresponds with the organization of this information request letter (including all individual requests and subparts). When documents are produced and the documents would not, standing alone, be self-explanatory, the production of documents shall be supplemented and accompanied by explanation.

Please repeat the applicable request verbatim above each response. After Continental's response to each request, identify the source of the information and indicate the last date the information was gathered.

1. State in a table format, by make, model and model year, all vehicles that use the subject component made by Continental for eventual sale or lease in the United States.

Provide the above table also in Microsoft Excel format, entitled "QUESTION ONE DATA."

2. Describe all assessments, analyses, tests, test results, studies, surveys, simulations, investigations, inquiries and/or evaluations (collectively, "actions") that relate to, or may relate to, the alleged defect in the subject vehicles that have been conducted, are being conducted, are planned, or are being planned by, or for, BMW and other applicable subject vehicles. For each such action, provide the following information:
  - a. Action title or identifier;
  - b. The actual or planned start date;
  - c. The actual or expected end date;
  - d. Brief summary of the subject and objective of the action;
  - e. Engineering group(s)/supplier(s) responsible for designing and for conducting the action; and
  - f. A brief summary of the findings and/or conclusions resulting from the action.

For each action identified, provide copies of all documents related to the action, regardless of whether the documents are in interim, draft, or final form. Organize the documents chronologically by action.

3. Describe all modifications or changes made by, or on behalf of BMW or other applicable subject vehicles, in the design, material composition, manufacturing, quality control, supply, or installation of the subject component, from the start of production to date, which relate to,

or may relate to, the alleged defect in the subject vehicles. For each such modification or change, provide the following information:

- a. The date or approximate date on which the modification or change was incorporated into mat sensor production
- b. A detailed description of the modification or change;
- c. The reason(s) for the modification or change;
- d. The part numbers (service and engineering) of the original component;
- e. The part number (service and engineering) of the modified component; and
- f. Whether the modified component can be interchanged with earlier production components.

Also, provide the above information for any modification or change that Continental is aware of which may be incorporated into vehicle production within the next 120 days.

4. Produce one each of the following:
  - a. Exemplar sample of each seat mat prior to and after the 11/2005 BMW built date; and
  - b. Field return sample of the subject component exhibiting the subject failure mode.
5. Provide a summary description and function of the seat mat sensor in the role of occupant detection. Specifically, describe the role of the center grid section versus the "side bolster" grid sections and their roles in the detection of children (including child safety seats), adults and out-of-position children and adults. Describe the ramification of the post 11/2005 OC3 mat design (elimination of the side bolster grid sections) in its ability to detect all the different occupant types. The information shall include where applicable:
  - a. Functional block/flow diagram; and/or
  - b. Picture/illustration of the components and component location including the seat mat and seat assembly.
6. Furnish Continental's assessment of the alleged defect in the subject vehicle (both in BMW and in other applicable subject vehicles), including:
  - a. The causal or contributory factor(s);
  - b. The failure mechanism(s);
  - c. The failure mode(s);
  - d. Is the failure intermittent or permanent
  - e. The risk to motor vehicle safety that it poses;
  - f. What warnings, if any, the operator and the other persons both inside and outside the vehicle would have that the alleged defect was occurring or subject component was malfunctioning.

This letter is being sent to Continental pursuant to 49 U.S.C. § 30166, which authorizes NHTSA to conduct any investigation that may be necessary to enforce Chapter 301 of Title 49 and to request reports and the production of things. It constitutes a new request for information.

Continental's failure to respond promptly and fully to this letter could subject Continental to civil penalties pursuant to 49 U.S.C. § 30165 or lead to an action for injunctive relief pursuant to 49 U.S.C. § 30163. (Other remedies and sanctions are available as well.) Please note that maximum civil penalties under 49 U.S.C. § 30165 have increased as a result of the recent enactment of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, Public Law No. 106-414 (signed November 1, 2000). Section 5(a) of the TREAD Act, codified at 49 U.S.C. § 30165(b), provides for civil penalties of up to \$6,000 per day, with a maximum of \$16,375,000 for a related series of violations, for failing or refusing to perform an act required under 49 U.S.C. § 30166. See 49 CFR 578.6 (as amended by 71 Fed. Reg. 28279 (May 16, 2006)). This includes failing to respond to ODI information requests.

If Continental cannot respond to any specific request or subpart(s) thereof, please state the reason why it is unable to do so. If on the basis of attorney-client, attorney work product, or other privilege, Continental does not submit one or more requested documents or items of information in response to this information request, Continental must provide a privilege log identifying each document or item withheld, and stating the date, subject or title, the name and position of the person(s) from, and the person(s) to whom it was sent, and the name and position of any other recipient (to include all carbon copies or blind carbon copies), the nature of that information or material, and the basis for the claim of privilege and why that privilege applies.

Continental's response to this letter, in duplicate (including color photographs, diagrams and drawings), together with a copy of any confidentiality request, must be submitted to this office by March 31, 2008. **All business confidential information must be submitted directly to the Office of Chief Counsel as described in the following paragraph and should not be sent to this office.** In addition do not submit any business confidential information in the body of the letter submitted to this office. Please refer to EA08-001 in Continental's response to this letter and in any confidentiality request submitted to the Office of Chief Counsel. If Continental finds that it is unable to provide all of the information requested within the time allotted, Continental must request an extension from Mr. Thomas Z. Cooper at (202) 366-5218 no later than five business days before the response due date. If Continental is unable to provide all of the information requested by the original deadline, it must submit a partial response by the original deadline with whatever information Continental then has available, even if an extension has been granted.

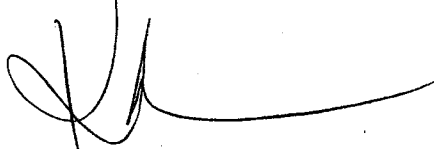
If Continental claims that any of the information or documents provided in response to this information request constitute confidential commercial material within the meaning of 5 U.S.C. § 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. § 1905, Continental must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with 49 CFR Part 512, as amended (69 Fed. Reg. 21409 et seq; April 21, 2004), to the Office of Chief Counsel (NCC-113), National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, S.W., Washington, D.C. 20590. Continental is required to **submit two copies of the documents containing allegedly confidential information (except only one copy of blueprints) and one copy of the documents from which information claimed to be confidential has been deleted.** Please remember that the word "CONFIDENTIAL" must appear at the top of each page containing

information claimed to be confidential, and the information must be clearly identified in accordance with 5 U.S.C. § 512.6.

Please send email notification to Peter C. Ong (Peter.Ong@dot.gov) and to ODI\_IRresponse@dot.gov when Continental sends its response to this office and indicate whether there is confidential information as part of Continental response.

If you have any technical questions concerning this matter, please call Peter Ong of my staff, at (202) 366-0583.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. DeMeter', with a long horizontal flourish extending to the right.

Kathleen C. DeMeter, Director  
Office of Defects Investigation  
Enforcement