BMW Group

March 15, 2010

Kathleen C. DeMeter
Director, Office of Defects Investigation
National Highway Traffic Safety Administration
1200 New Jersey Ave., S.E.
Washington, DC 20590

Re: EA09-019

Dear Ms. DeMeter:

With this letter, BMW is responding to NHTSA's Information Request dated February 4, 2010 in the above captioned matter.

The attachments included with this letter comprise BMW's response to EA09-019. As requested, BMW has repeated each question verbatim and provided our response accordingly. Our detailed responses are contained in the attachments.

BMW understands that it is NHTSA policy to protect the privacy of individuals under Exemption 6 of the Freedom of Information Act, 5 USC Section 552(b)(6). Certain information requested by NHTSA, such as personal information pertaining to BMW vehicle owners that is contained in the attachments, although not claimed herein to be "BMW Confidential" pursuant to 5 USC Section 552(b)(4) (Exemption 4) and 49 CFR 512, should not be made public by NHTSA in accordance with Exemption 6.

Should you have any questions pertaining to the information enclosed with this letter, please contact me at (201) 571-5360, or Martin Rapaport of my staff at (201) 571-5208.

Sincerely,

Jan Urbahn
General Manager
Safety Engineering & Intelligent Transportation Systems

Attachments:

CD No. 1

Company
BMW of North America, LLC

BMW Group Company

Mailing address
PO Box 1227
Westwood, NJ
07675-1227

Office address
300 Chestnut Ridge Road
Woodcliff Lake, NJ
07677-7731

Telephone
(201) 307-4000

Fax
(201) 571-5479

Website
bmwusa.com

BMW Group

OFFICE OF DEFECTS &
INVESTIGATIONS

2010 MAR 17 P 2:59

March 15, 2010

Kathleen C. DeMeter
Director, Office of Defects Investigation
National Highway Traffic Safety Administration
1200 New Jersey Ave., S.E.
Washington, DC 20590

Re: EA09-019

Dear Ms. DeMeter:

With this letter, BMW is responding to NHTSA's Information Request dated February 4, 2010 in the above captioned matter.

The attachments included with this letter comprise BMW's response to EA09-019. As requested, BMW has repeated each question verbatim and provided our response accordingly. Our detailed responses are contained in the attachments.

BMW understands that it is NHTSA policy to protect the privacy of individuals under Exemption 6 of the Freedom of Information Act, 5 USC Section 552(b)(6). Certain information requested by NHTSA, such as personal information pertaining to BMW vehicle owners that is contained in the attachments, although not claimed herein to be "BMW Confidential" pursuant to 5 USC Section 552(b)(4) (Exemption 4) and 49 CFR 512, should not be made public by NHTSA in accordance with Exemption 6.

Should you have any questions pertaining to the information enclosed with this letter, please contact me at (201) 571-5360, or Martin Rapaport of my staff at (201) 571-5208.

Sincerely,

Jan Urbahn
General Manager
Safety Engineering & Intelligent Transportation Systems

Attachments:

CD No. 1

Company
BMW of North America, LLC

BMW Group Company

Mailing address
PO Box 1227
Westwood, NJ
07675-1227

Office address
300 Chestnut Ridge Road
Woodcliff Lake, NJ
07677-7731

Telephone
(201) 307-4000

Fax
(201) 571-5479

Website
bmwusa.com

BMW Response
to
NHTSA EA09-019
15 March 2010

1. **State the number of each of the following, received by BMW, or of which BMW is otherwise aware, which relate to, or may relate to, the alleged defect in the subject vehicles:**

   a. **Consumer complaints, including those from fleet operators;**
   b. **Field reports, including dealer field reports;**
   c. **Reports involving a crash, injury, or fatality, based on claims against the manufacturer involving a death or injury, notices received by the manufacturer alleging or proving that a death or injury was caused by a possible defect in a subject vehicle, property damage claims, consumer complaints, or field reports;**
   d. **Reports involving a fire, based on claims against the manufacturer involving a death or injury, notices received by the manufacturer alleging or proving that a death or injury was caused by a possible defect in a subject vehicle, property damage claims, consumer complaints, or field reports;**
   e. **Property damage claims;**
   f. **Third-party arbitration proceedings where BMW is or was a party to the arbitration; and**
   g. **Lawsuits, both pending and closed, in which BMW is or was a defendant or codefendant.**

   For subparts "a" through "e" state the total number of each item (e.g., consumer complaints, field reports, etc.) separately. Multiple incidents involving the same vehicle are to be counted separately. Multiple reports of the same incident are also to be counted separately (i.e., a consumer complaint and a field report involving the same incident in which a crash occurred are to be counted as a crash report, a field report and a consumer complaint).

   In addition, for items "c" through "e," provide a summary description of the alleged problem and causal and contributing factors and BMW's assessment of the problem, with a summary of the significant underlying facts and evidence. For items "f" and "g," identify the parties to the action, as well as the caption, court, docket number, and date on which the complaint or other document initiating the action was filed.

Response:

The sources of this information are our customer contact database (information current as of 19 February 2010), various field report databases (information current as of 22 February 2010), and certain legal databases (information current as of 19 February 2010).

The number of consumer complaints is indicated in Table 1.

Consumer Complaint Code	Code Description	Number of Complaints
6125	Turn Signals	3
6134	Brake Lights	14
6300	Lights General	135*
6313	Turn Indicators	5
6321	Rear Light Cluster	11
6325	Brake Lights	8

Table 1.

*Expanded timeframe compared to non-code-6300 complaints.

For all consumer complaints, with the exception of those collected using code 6300 ("lights general"), the number of complaints pertains to the time frame between the end date (11 September 2009) of the search conducted during the PE and the end date (19 February 2010) of the search conducted during the EA. For the complaints collected using code 6300, the time frame includes complaints between 1 January 2009 and 19 February 2010.

The time frame for the code 6300 complaints is different because the complaints that correspond to code 6300 were obtained via consumer surveys. In particular, these surveys were conducted as a follow-up with customers who have had a recent service appointment. As communicated to NHTSA recently, the vendor conducting the surveys was unable to process the surveys for complaints registered between January and July 2009. As also communicated to NHTSA recently, all of these complaints were subsequently processed in our customer complaint database within the 4th quarter of 2009. Therefore, the number of code 6300 consumer complaints for the 4th quarter of 2009 will be elevated. As a result, the code 6300 consumer complaints obtained during the EA includes complaints which were not captured during the PE. Please note, however, that all code 6300 consumer complaints have been collected, and are being submitted in response to the EA.

As noted in response to Question 2, Attachment "REQUEST NUMBER TWO DATA – CC" pertaining to the code-6300 complaints contains a column with the heading "repair order date" that correlates very closely with the date of the survey. This information is added in order to be able to identify a code 6300 complaint with its effective survey date.

Using the "repair order date", it can be determined that the number of code 6300 complaints pertaining to the PE time frame (pre-11 September 2009) is 78, while the number of code 6300 complaints pertaining to the EA time frame (11 September 2009 through 19 February 2010) is 43, resulting in a total of 121 as depicted in the attachment. As noted in our response to the PE, there were 14 code 6300 complaints through 11 September 2009. As these complaints started to be processed by the survey vendor in July 2009, these 14 complaints pertained to the July-September time frame. When these 14 complaints are added to the 121 complaints, that results in a total of 135 code 6300 complaints as depicted in Table 1.

The number of field reports, including dealer field reports, is 0.

The number of crash, injury, fatality, and fire reports is 0.

The number of property damage claims is 0.

During preparation of our response to the EA letter, we expanded the key-words utilized during the search of our records. This resulted in the 12 third-party arbitrations/mediations or lawsuits attached, all of which are "Lemon Law" cases. These cases do not comprise any instances of crashes, injuries, fatalities or fires. Lemon law cases are based on a variety of complaints where it is alleged that the vehicle is out of service for more than 30 days or that certain alleged defects cannot be repaired after a reasonable number of attempts. Tail lamps may be one of many alleged defects in the Complaint, but is not the focus of the Complaint, or tail lamps may be part of a repair order related to the lawsuit or third party arbitration/mediation although not specifically stated in the Complaint filed. Please note that as a result of the key word search used in the first search, or failure of the Complaint to state tail lamps as part of the alleged defects, these cases were not found in the DP stage of this inquiry.

Attachment "LEMON LAW SUMMARY INFO" on CD No. 1 contains the requested information for these "Lemon Law" claims.

2. **Separately, for each item (complaint, report, claim, notice, or matter) within the scope of your response to Request No. 2, state the following information:**
   a. **BMW's file number or other identifier used;**
   b. **The category of the item, as identified in Request No. 2 (i.e., consumer complaint, field report, etc.);**
   c. **Vehicle owner or fleet name (and fleet contact person), address, and telephone number;**
   d. **Vehicle's VIN;**
   e. **Vehicle's make, model and model year;**
   f. **Vehicle's mileage at time of incident;**
   g. **Incident date;**
   h. **Report or claim date;**
   i. **Whether a crash is alleged;**
   j. **Whether a fire is alleged;**
   k. **Whether property damage is alleged;**
   l. **Number of alleged injuries, if any; and**
   m. **Number of alleged fatalities, if any.**

   Provide this information in Microsoft Access 2000, or a compatible format, entitled "REQUEST NUMBER TWO DATA."

Response:

The sources of this information and the availability dates are as noted above.

Attachment "REQUEST NUMBER TWO DATA – CC" on CD No. 1 contains the requested information for the consumer complaints.

Attachment "REQUEST NUMBER TWO DATA – LL" on CD No. 1 contains the requested information for the "Lemon Law" claims.

The consumer complaint codes and their descriptions that were utilized in the search are contained in Table 2.

Consumer Complaint Code	Code Description
6125	Turn Signals
6134	Brake Lights
6300	Lights General
6313	Turn Indicators
6321	Rear Light Cluster
6325	Brake Lights

Table 2.

In addition, key words such as "light", "lamp", "tail", "rear", "brake", and "turn signal" were utilized, in various combinations and "character strings", in order to refine the search with the intent to collect only those consumer complaints that relate, or may relate, to the alleged defect in the subject vehicles.

Complaints pertaining to issues such as "headlamps", "headlights", "battery warning lamp", "service engine soon light / lamp", "oil level light / lamp", "front turn signals", "clear lamp lenses", "instrument panel light", and many other complaints that are not related to the alleged defect in the subject vehicles are not included.

Although not specifically requested, we have included, within Attachment "REQUEST NUMBER TWO DATA – CC" on CD No. 1, the complaint codes, in order to identify an individual complaint with its corresponding code.

Although not specifically requested, we have also included fields identified as "Type" and "Issue Summary" in Attachment "REQUEST NUMBER TWO DATA – CC" on CD No. 1. "Type" is used by the customer service representative to help categorize the customer's request, such as "inquiry", "complaint", etc., while "Issue Summary" is used by the customer service representative to help summarize, in a very brief manner, the customer's concern.

Attachment "REQUEST NUMBER TWO DATA – CC" pertaining to the code 6300 complaints contains a column with the heading "repair order date" that correlates very closely with the date of the survey. This information was added for the reasons explained in response to Question 1.

In response to DP09-002 (and reiterated in our response to PE09-036), we had stated the following regarding the "type" of complaints we were receiving (emphasis added):

> The vast majority (approximately 80%) of the consumer complaint Types are identified as "Survey", have a corresponding entry in the "Issue Summary" field, and pertain to Complaint Code 6300 ("Lights General"). The records pertaining to the Type ("Survey") are based upon individual telephone surveys, which are conducted as a follow-up with customers who have had a recent service or sales experience (standard follow-up procedure in the interest of product quality, customer loyalty, etc.). In some cases, some survey customers make a specific complaint during the survey. In other words, they do not initiate the complaint themselves; it is only in response to a company-initiated survey. These can be considered "second level" complaints, as the customer did not initiate the complaint, and did not contact us directly. Nevertheless, we do address and include these complaints as part of this submission.

As we noted in response to PE09-036, only a few consumer complaints directly pertained to turn-signals. In other words, turn-signal complaints were not dominant.

The same is true when examining the consumer complaint data obtained during the EA. Only a few consumer complaints directly pertain to turn-signals; turn-signal complaints are not dominant.

3. **Produce copies of all documents related to each item within the scope of Request No. 2. Organize the documents separately by category (i.e., consumer complaints, field reports, etc.) and describe the method BMW used for organizing the documents.**

Response:

The sources of this information, and the availability dates, are as noted above.

Attachment "CC" on CD No. 1 contains copies of the consumer complaints.

Attachment "LL" on CD No. 1 contains copies of the "Lemon Law" claims.

4. **State, by model and model year, a total count for all of the following categories of claims, collectively, that have been paid by BMW to date that relate to, or may relate to, the alleged defect in the subject vehicles: warranty claims; extended warranty claims; claims for good will services that were provided; field, zone, or similar adjustments and reimbursements; and warranty claims or repairs made in accordance with a procedure specified in a technical service bulletin or customer satisfaction campaign.**

   Separately, for each such claim, state the following information:

   a. **BMW's claim number;**
   b. **Vehicle owner or fleet name (and fleet contact person) and telephone number;**
   c. **VIN;**
   d. **Repair date;**
   e. **Vehicle mileage at time of repair;**
   f. **Repairing dealer's or facility's name, telephone number, city and state or ZIP code;**
   g. **Labor operation number;**
   h. **Problem code;**
   i. **Replacement part number(s) and description(s);**
   j. **Concern stated by customer; and**
   k. **Comment, if any, by dealer/technician relating to claim and/or repair.**

   BMW's response to this request must include any and all claims related to the technical service bulletin number 63 03 06 (not just the claims where the connector housing, as opposed to only terminal or wiring components, was replaced), claims where an outboard lamp assembly was replaced due to a failure of the ground circuit (e.g., overheating damage of the ground terminal), and any other claims that involved other repairs of the ground circuit not related to this bulletin. Provide this information in Microsoft Access 2000, or a compatible format, entitled "WARRANTY DATA."

Response:

The source of this information is our warranty claims database and is current as of 17 February 2010.

Attachment "WC – WARRANTY DATA" on CD No. 1 contains the requested information.

The number of warranty claims that relate, or may relate, to the issue is contained in Table 3.

Model Year	Warranty Claims
2002	25
2003	450
2004	2043
2005	706

Table 3.

The number of warranty claims pertains to the time frame from 1 May 2009 through 17 February 2010, and therefore, not only pertains to the time frame subsequent to our response to the PE, but also includes claims processed during effectively the same time frame analyzed during the PE stage of this information request. This time frame (1 May 2009 through 17 February 2010) was utilized during preparation of our response to the EA due to the expanded set of search criteria, details of which are further explained in response to Question 5. Therefore, the warranty claims obtained during the EA includes claims which may not have been captured as a result of the search performed during the PE which utilized a different set of search criteria that were based upon the definitions and specific requests contained in the PE letter.

5. **Describe in detail the search criteria used by BMW to identify the claims identified in response to Request No. 4, including the labor operations, problem codes, part numbers and any other pertinent parameters used (e.g., keyword searches of condition and repair statements). Provide a list of all labor operations, labor operation descriptions, problem codes, and problem code descriptions applicable to the alleged defect in the subject vehicles. State, by make and model year, the terms of the new vehicle warranty coverage offered by BMW on the subject vehicles (i.e., the number of months and mileage for which coverage is provided and the vehicle systems that are covered). Describe any extended warranty coverage option(s) that BMW offered for the subject vehicles and state by option, model, and model year, the number of vehicles that are covered under each such extended warranty.**

Response:

The warranty claims retrieval process involved a number of parameters. Specific part numbers and their descriptions as identified under "subject components" in the EA letter were utilized. Note that these part numbers and descriptions are also identified in Service Information Bulletin (SIB) 63 03 06. Additional part numbers and their descriptions identified in SIB 63 03 06 were also utilized. In addition, other parts that may have been affected and therefore replaced during a repair process, such as the tail lamp assembly, while not specifically identified on the SIB, were also utilized. Some of these parts that may have been affected / replaced are also identified under "alleged defect" in the EA letter, as well as, in the last paragraph of Question 4. Also, labor operations and their descriptions identified on SIB 63 03 06 were also utilized. Attachment "WC – WARRANTY DATA" on CD No. 1 contains this information.

Attachment "WC" contains additional information indicating model year and production date (year/month) for each VIN. Warranty claim type is also provided, and is identified within the problem code as follows: "new vehicle warranty" – problem code ends in a number, "CPO" – ends in "UW", "ESC" – ends in "ES", "goodwill" – ends in a letter combination other than "UW" or "ES".

The terms of the new vehicle warranty coverage for the subject vehicles is 4 years / 50,000 miles (whichever occurs first) and includes coverage for the subject component.

BMW offers a "Certified Pre-Owned" (CPO) program for the subject vehicles. The CPO program provides warranty coverage on the vehicle when purchased (via the CPO program) by a second (and subsequent) owner(s) for an additional 2 years / 50,000 miles (whichever occurs first), after the original warranty coverage of 4 years / 50,000 miles expires. With the addition of CPO coverage, the vehicle is covered up to a maximum of 6 years / 100,000 miles (whichever occurs first).

BMW offers an "Extended Service Contract" (ESC) for the subject vehicles. The ESC is known as the "Original Owner Protection Program" (2OP), and the coverage is similar to the CPO program. However, compared to the CPO program, coverage is available at three different levels – 6 years / 100,000 miles, 7 years / 70,000 miles, or 7 years / 100,000 miles (whichever occur first). Also, compared to the CPO program, the coverage is initially available to the original owner. Once in place, coverage can be transferred to a second (and subsequent) owner(s) in private-party to private-party changes in ownership, but, it does not apply (becomes "inactive") if the vehicle is traded in to a dealer, broker, or wholesaler.

6. **State the number of each of the following that BMW has sold that may be used in the subject vehicles by component name, part number (both service and engineering/production), model and model year of the vehicle in which it is used and month/year of sale *(including the cut-off date for sales, if applicable)*:**
   a. **The subject components; and**
   b. **Any kits that have been released, or developed, by BMW for use in service repairs to the subject components, or any assembly that contains one or more of the subject components.**

   For each component part number, provide the supplier's name, address, and appropriate point of contact (name, title, and telephone number). Also identify by make, model and model year, any other vehicles of which BMW is aware that contain the identical component, whether installed in production or in service, and state the applicable dates of production or service usage.

Response:

We believe that parts sales data has limited analytical value regarding its use in assessing the performance of the subject components because this data does not contain information pertaining to the reason for the sale of a particular part. Therefore, it is not possible from parts sales information to determine the number of these parts that have been installed in the subject vehicles for the purpose of repairing a vehicle in which the alleged defect is occurring.

The source of this information is our parts sales database and is current as of 1 March 2010.

Parts sales for the 8-pin connector (part number 7-519-956), are depicted in Table 4, while parts sales for the rear lamp assembly (part numbers 7-165-865 (left side), 7-165-866 (right-side)) are depicted in Table 5. Parts sales are depicted as totals per calendar year, and are irrespective of vehicle model year. Parts sales by vehicle model year are not available.

The 8-pin connector (p/n 7-519-956) and rear lamp assembly (p/n 7-165-865, 7-165-866) are only used in the subject vehicles.

8-pin Connector	
Calendar Year	**Parts Sold**
2003	10
2004	2,468
2005	12,030
2006	22,640
2007	34,000
2008	23,400
2009	13,900

Table 4.

Rear Lamp Assembly		
Calendar Year	**Parts Sold (Left Side)**	**Parts Sold (Right Side)**
2003	312	288
2004	1,445	1,969
2005	8,176	9,772
2006	14,553	15,510
2007	16,289	10,500
2008	15,452	9,927
2009	7,717	5,063

Table 5.

The supplier information is as follows:

Leopold Kostal GmbH & Co. KG
Michael Schricker
An der Bellmerei 10
D-58513 Lüdenscheid
Tel. +49 (0) 2351 16-2740
Fax +49 (0) 2351 16-2400
M.Schricker@kostal.com

7. **Describe all assessments, analyses, tests, test results, studies, surveys, simulations, investigations, inquiries and/or evaluations including, but not limited to, product and design development tests (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. 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.

Response:

Information responsive to Question 7 is identical to that which was provided in response to Question 8 of the DP.

8. **In consideration of any additional information accumulated and evaluated in preparation of BMW's response to this letter, furnish an update to BMW's assessment of the alleged defect in the subject vehicle, provided in BMW's October 15, 2009 response to the PE IR, including:**

a. **The causal or contributory factor(s);**
b. **The failure mechanism(s);**
c. **The failure mode(s);**
d. **The risk to motor vehicle safety that it poses;**
e. **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; and**
f. **The reports included with this inquiry.**

Response:

Our response to Question 8 reiterates, and expands upon, our response to identical Question 11 of the PE, and identical Question 12 of the DP.

However, before providing a copy of our response to PE-Q11 / DP-Q12 for NHTSA's review and as a reference, we would like to reiterate the following pertaining to our current solution for potentially affected vehicles in the field.

As we stated in response to Question 10 of the PE, in order to remedy vehicles in the field that were experiencing the issue that is the subject of this Information Request, BMW issued Service Information Bulletin (SIB) 63 06 09. The remedy contained in the SIB consisted of adding a secondary ground connection, in parallel to the primary ground connection, to the circuit of the rear lamp assembly, in addition to replacing the 8-pin connector housing. This was done in order to reduce the possibility of greater-than-specified current that might pass through the primary ground connection at the location of the 8-pin connector. With the addition of a secondary ground connection, current is divided between the primary- and

secondary-ground connections (dependent upon the resistance within those circuits), and therefore, mitigates any additional current at the primary connection.

BMW believes that issuing SIB 63 03 09 is a sufficient response (field action) to this issue for all the reasons explained in our response to PE-Q11 / DP-Q12, and also noted below in response to the specific parts of Question 8.

In brief, through system design (multiple lamp redundancies, various driver warnings, self-containment of fault), as well as, field experience (extremely low risk (no known crashes, injuries, fires), no product liability legal claims, no property-damage claims, and minimal "first-level" customer complaints), we believe the issue is one of customer satisfaction. Accordingly, BMW issued SIB 63 06 09, as an appropriate response, in order to address this matter.

Furthermore, we would also like to add that there have been other NHTSA inquiries involving vehicle lighting, and these inquires vary with respect to involved lamp and specific problem. In many of the inquiries, we believe that the risk is greater when compared to any possible risk which is the subject of this EA. For example, some of the NHTSA inquiries involve headlamps, front turn signals, or both front and rear turn signals. The issue that is the subject of this EA involves partial loss of rear tail and brake lamps, and loss of rear turn signals. In many of the NHTSA inquiries, the agency closed the matter with no action taken by the manufacturer.

Some examples, in addition to those previously cited in response to PE09-036 / DP09-002, are as follows:

PE04-020

In PE04-020, the issue involved headlamp failure. NHTSA closed PE04-020, with no further action by Nissan, or Ford (as the manufacturers shared a similar headlamp design). NHTSA closed PE04-020 based, in part, on the fact that neither Nissan / Ford, nor NHTSA, had received any reports of crashes, injuries, fatalities, or fires. The same is true in EA09-019 (PE09-036 / DP09-002).

PE05-007

In PE05-007, the issue involved headlamp failure. NHTSA closed PE05-007, with no further action by Mitsubishi. NHTSA closed PE05-007 based, in part, on the fact that neither Mitsubishi, nor NHTSA, had received any reports of crashes, injuries, fatalities, or fires. The same is true in EA09-019 (PE09-036 / DP09-002).

PE05-004 / EA05-009

In PE05-004 / EA05-009, the issue involved headlamp failure. NHTSA closed EA05-009, with no further action by Chrysler. NHTSA closed EA05-009 based, in part, on the fact that neither Chrysler, nor NHTSA, had received any reports of crashes, injuries, fatalities, or fires. The same is true in EA09-019 (PE09-036 / DP09-002).

PE05-055

In PE05-055, the issue involved loss of both front and rear turn signals and the instrument panel turn signal indicator lights. NHTSA closed PE05-055 based, in part, on the fact that

neither Ford, nor NHTSA, had received any reports of crashes, injuries, fatalities, or fires. The same is true in EA09-019 (PE09-036 / DP09-002).

The following information, comparing the issue that is the subject of this information request to other NHTSA inquiries, was also provided in our response to both the DP and the PE, and is included herein for completeness and again for the agency's review.

PE08-066

In PE08-066, the issue involved headlamp failure. NHTSA closed PE08-066, with no further action by Ford. NHTSA closed PE08-066 based, in part, on the fact that neither Ford, nor NHTSA, had received any reports of crashes, injuries, or fatalities. The same is true in PE09-036 (DP09-002).

PE08-059

In PE08-059, the issue involved the vehicle displaying the wrong exterior turn signal, i.e., the "other" turn signal relative to that which was selected by the driver via the turn signal lever. NHTSA closed PE08-059 based, in part, on the fact that neither Chrysler, nor NHTSA, had received any reports of crashes, injuries, or fatalities. The same is true in PE09-036 (DP09-002).

PE02-064 / EA02-037

In PE02-064 / EA02-037, the issue involved both rear and front turn signals becoming inoperative. Furthermore, the warning indicators that alert a driver that a problem is occurring, both the visible, and the audible, indicators, also became inoperative. In PE09-036 (DP09-002), all available warning indicators, both visible, and audible, are available, function properly, and alert the driver in a situation in which the condition is occurring.

While the issue that is the subject of this EA may be a source of customer dissatisfaction, it does not present an unreasonable risk to safe vehicle operation as evidenced by the field data. In other words, there are no crashes, injuries, fatalities, or fires which have occurred as a result of this issue.

Accordingly, we believe that this EA should be closed.

BEGIN COPY OF RESPONSE TO PE QUESTION 11

Please note that references below to the attachments refer to those attachments which were a part of our response to Question 12 of the DP.

Question 11(a), (b), and (c)

The material combination of the subject component (connector) and the rear lamp (zinc-plated at the wiring-harness (connector) side, tin-plated at lamp side), can result, in combination with aging and environmental influences, in an increase of the resistance at the contact points. This could lead to damage at the ground terminal (location of the highest current load) of the connector. As a result, an intermittent or permanent loss of functionality of one compartment of the tail lamp (including brake and turn-signal) could occur.

Question 11(d) and (e)

BMW believes that the condition that is the focus of this Information Request does not pose an unreasonable risk to motor vehicle safety. This is supported by the system design, as well as, by the field experience, of the subject component as set forth below:

SYSTEM DESIGN

Multiple Redundancies of Vehicle Brake Lamps

If the condition is occurring in a subject vehicle, such that one of the brake lamps is rendered inoperative, multiple redundancies of the brake lamps exist so that a driver of a "following" vehicle knows that the subject vehicle is braking.

The brake lamp on the non-affected side of the vehicle remains operational.

The center high-mounted stop lamp (CHMSL) remains operational.

This is depicted in Photo 1 on Attachment "Q12 – PHOTOS".

Therefore, sufficient brake lamp illumination is available for the driver of a "following" vehicle.

Multiple Redundancies of Vehicle Tail Lamps

If the condition is occurring in a subject vehicle, such that a tail lamp is rendered inoperative in one of the rear tail lamps, multiple redundancies of tail lamps exist so that a driver of a "following" vehicle knows that there is a vehicle in front of their vehicle.

An additional tail lamp on the affected side of the vehicle remains operational. This additional tail lamp on the affected side fulfills all photometric compliance requirements with FMVSS108 by itself.

The tail lamp on the non-affected side of the subject vehicle also remains operational.

This is depicted in Photo 2 on Attachment "Q12 – PHOTOS".

Redundancy of Rear Turn Signal via Side/Lateral Turn Signal

The subject vehicles contain a side/lateral turn signal near the front wheelhouse as an added safety feature. This lamp is not required by FMVSS 108. If a subject vehicle, in which the condition is occurring, prepares to turn, the driver of the "following" vehicle will be able to view the side/lateral turn signal on the subject vehicle.

In fact, due to the design and location of the side turn signal, it will be able to be viewed almost immediately as the subject vehicle moves into position to turn.

This is depicted in Photos 3 and 4 on Attachment "Q12 – PHOTOS", as well as, in the Diagram on Attachment "Q12 – DIAGRAM".

Sufficient Warning to Driver of Subject Vehicle

A driver of a subject vehicle, in which the condition is occurring, is presented with sufficient warnings so that the driver can present the vehicle for service and repair.

If the condition is occurring, a warning lamp is illuminated in the vehicle's "message control center". The "message control center" is a small area of the instrument cluster immediately in front of the driver, where certain information is displayed, such as that described. In this particular case, a small outline of a car is shown, and, a lamp symbol at the specific location in which the condition is occurring. Therefore, the driver is presented with a warning indicator in order to have the vehicle inspected for a possible non-functioning lamp.

This is depicted in Photo 5 on Attachment "Q12 – PHOTOS".

Furthermore, during each cycle of the ignition key, if the condition is present, then an audible warning alerts the driver.

In addition, if the condition is occurring, then the visible control symbol for the turn signal in the instrument cluster flashes at double the normal frequency, alerting the driver to the presence of the condition. Also for the turn signal, if the condition is occurring, an audible warning is provided via the double frequency of the audible signal.

The warning lamp in the "message control center" would also alert the driver in the case of a bulb which has reached the end of its useful life, and therefore, the risk-level is no different.

Failure Mode is Self-Contained

If the condition is occurring in a subject vehicle, it is self-contained. If there is damage to the subject component (connector), it does not propagate beyond the lamp housing, if at all. Although plastic melting can occur, there is no risk of fire occurring to the vehicle.

This is also reflected in the field experience of the subject vehicles.

FIELD EXPERIENCE

Field Experience Indicates That the Risk is Low

BMW is not aware of any crashes, injuries, or fatalities which have occurred as a result of the condition that is the focus of this Information Request. Similarly, the subject vehicles are not over-represented in crash experience as a result of this condition.

Legal Claim Experience

BMW has not received any legal claims, involving death or injury alleged to have occurred as a result of the condition, nor notices alleging or proving that a death or injury was caused by the condition. Therefore, there are no "...reports involving a crash, injury, or fatality..." based on such legal claims or notices, because such legal claims or notices have not been received by BMW.

Most Customer Complaints are "Second-Level" Complaints

As noted within the customer complaint data, most of the complaints received were considered "second-level" complaints. In other words, these complaints were not initiated by the customers themselves and presented to BMW. Rather, these complaints were in response to post-vehicle-service telephone surveys which were conducted to assess a vehicle owner's service experience. These surveys are performed in the interest of customer satisfaction.

Pre-turn Braking Alerts a Driver of a Following Vehicle

In the vast majority of cases involving a subject vehicle preparing to turn, the driver of that vehicle applies the service brakes so that the vehicle can safely make the turn; otherwise, the driver/vehicle may not be able to "negotiate" the turn/curve.

Therefore, a driver of a "following" vehicle is alerted (warned) that some action is about to occur in the subject vehicle. In the situation described, the driver of the "following" vehicle would typically anticipate that the subject vehicle is preparing to either a) stop, or, b) turn. In either case, the driver of the "following" vehicle should, by the presence of the subject vehicle's brake lamps, slow down in order to properly respond to the actions of the subject vehicle.

Furthermore, the side turn signal would become even more conspicuous to a driver of a "following" vehicle if the condition was occurring in the subject vehicle.

Pre-turn Movement Alerts a Driver of a Following Vehicle

In the vast majority of cases involving a vehicle preparing to turn, the driver of that vehicle starts to "position" the vehicle in anticipation of the turn. In other words, the driver, during pre-turn braking, gradually, and then, as the location of the turn approaches, more so, turns the steering wheel "into" the turn. In doing so, the vehicle starts to move in the direction of the turn. As the vehicle starts to move in the direction of the turn, the side turn signal will, almost immediately, be visible to the driver of a "following" vehicle. Therefore, a driver of a "following" vehicle can anticipate that the subject vehicle is intending to turn, and accordingly, can properly respond. Also, drivers of on-coming vehicles are not affected as all required front turn signals continue to function properly.

ADDITIONAL FACTORS

In addition to system design and field experience, there are other factors that support our belief that the condition does not pose an unreasonable risk to motor vehicle safety.

Sufficient Warning to Driver of Subject Vehicle

As described above in the section regarding system design, a driver of a subject vehicle, in which the condition is occurring, is presented with sufficient warnings so that the driver can present the vehicle for service and repair.

If the condition is occurring, a warning lamp is illuminated in the vehicle's "message control center". During each cycle of the ignition key, if the condition is present, then an audible warning alerts the driver.

Additionally, if the condition is occurring, then the visible control symbol for the turn signal in the instrument cluster flashes at double the normal frequency, alerting the driver to the presence of the condition. Also for the turn signal, if the condition is occurring, an audible warning is provided via the double frequency of the audible signal.

Comparison of PE09-036 (DP09-002) to Other NHTSA Cases

PE08-066

In PE08-066, the issue involved headlamp failure. NHTSA closed PE08-066, with no further action by Ford. NHTSA closed PE08-066 based, in part, on the fact that neither Ford, nor NHTSA, had received any reports of crashes, injuries, or fatalities. The same is true in PE09-036 (DP09-002).

PE08-059

In PE08-059, the issue involved the vehicle displaying the wrong exterior turn signal, i.e., the "other" turn signal relative to that which was selected by the driver via the turn signal lever. NHTSA closed PE08-059 based, in part, on the fact that neither Chrysler, nor NHTSA, had received any reports of crashes, injuries, or fatalities. The same is true in PE09-036 (DP09-002).

PE02-064 / EA02-037

In PE02-064 / EA02-037, the issue involved both rear and front turn signals becoming inoperative. Furthermore, the warning indicators that alert a driver that a problem is occurring, both the visible, and the audible, indicators, also became inoperative. In PE09-036 (DP09-002), all available warning indicators, both visible, and audible, are available, function properly, and alert the driver in a situation in which the condition is occurring.

END COPY OF RESPONSE TO PE QUESTION 11

While the issue that is the subject of this EA may be a source of customer dissatisfaction, it does not present an unreasonable risk to safe vehicle operation as evidenced by the field data. In other words, there are no crashes, injuries, fatalities, or fires which have occurred as a result of this issue.

Accordingly, we believe that this EA should be closed.

BMW Response
to
NHTSA EA09-019
15 March 2010

1. **State the number of each of the following, received by BMW, or of which BMW is otherwise aware, which relate to, or may relate to, the alleged defect in the subject vehicles:**

   a. **Consumer complaints, including those from fleet operators;**
   b. **Field reports, including dealer field reports;**
   c. **Reports involving a crash, injury, or fatality, based on claims against the manufacturer involving a death or injury, notices received by the manufacturer alleging or proving that a death or injury was caused by a possible defect in a subject vehicle, property damage claims, consumer complaints, or field reports;**
   d. **Reports involving a fire, based on claims against the manufacturer involving a death or injury, notices received by the manufacturer alleging or proving that a death or injury was caused by a possible defect in a subject vehicle, property damage claims, consumer complaints, or field reports;**
   e. **Property damage claims;**
   f. **Third-party arbitration proceedings where BMW is or was a party to the arbitration; and**
   g. **Lawsuits, both pending and closed, in which BMW is or was a defendant or codefendant.**

   For subparts "a" through "e" state the total number of each item (e.g., consumer complaints, field reports, etc.) separately. Multiple incidents involving the same vehicle are to be counted separately. Multiple reports of the same incident are also to be counted separately (i.e., a consumer complaint and a field report involving the same incident in which a crash occurred are to be counted as a crash report, a field report and a consumer complaint).

   In addition, for items "c" through "e," provide a summary description of the alleged problem and causal and contributing factors and BMW's assessment of the problem, with a summary of the significant underlying facts and evidence. For items "f" and "g," identify the parties to the action, as well as the caption, court, docket number, and date on which the complaint or other document initiating the action was filed.

Response:

The sources of this information are our customer contact database (information current as of 19 February 2010), various field report databases (information current as of 22 February 2010), and certain legal databases (information current as of 19 February 2010).

The number of consumer complaints is indicated in Table 1.

Consumer Complaint Code	Code Description	Number of Complaints
6125	Turn Signals	3
6134	Brake Lights	14
6300	Lights General	135*
6313	Turn Indicators	5
6321	Rear Light Cluster	11
6325	Brake Lights	8

Table 1.

*Expanded timeframe compared to non-code-6300 complaints.

For all consumer complaints, with the exception of those collected using code 6300 ("lights general"), the number of complaints pertains to the time frame between the end date (11 September 2009) of the search conducted during the PE and the end date (19 February 2010) of the search conducted during the EA. For the complaints collected using code 6300, the time frame includes complaints between 1 January 2009 and 19 February 2010.

The time frame for the code 6300 complaints is different because the complaints that correspond to code 6300 were obtained via consumer surveys. In particular, these surveys were conducted as a follow-up with customers who have had a recent service appointment. As communicated to NHTSA recently, the vendor conducting the surveys was unable to process the surveys for complaints registered between January and July 2009. As also communicated to NHTSA recently, all of these complaints were subsequently processed in our customer complaint database within the 4th quarter of 2009. Therefore, the number of code 6300 consumer complaints for the 4th quarter of 2009 will be elevated. As a result, the code 6300 consumer complaints obtained during the EA includes complaints which were not captured during the PE. Please note, however, that all code 6300 consumer complaints have been collected, and are being submitted in response to the EA.

As noted in response to Question 2, Attachment "REQUEST NUMBER TWO DATA – CC" pertaining to the code-6300 complaints contains a column with the heading "repair order date" that correlates very closely with the date of the survey. This information is added in order to be able to identify a code 6300 complaint with its effective survey date.

Using the "repair order date", it can be determined that the number of code 6300 complaints pertaining to the PE time frame (pre-11 September 2009) is 78, while the number of code 6300 complaints pertaining to the EA time frame (11 September 2009 through 19 February 2010) is 43, resulting in a total of 121 as depicted in the attachment. As noted in our response to the PE, there were 14 code 6300 complaints through 11 September 2009. As these complaints started to be processed by the survey vendor in July 2009, these 14 complaints pertained to the July-September time frame. When these 14 complaints are added to the 121 complaints, that results in a total of 135 code 6300 complaints as depicted in Table 1.

The number of field reports, including dealer field reports, is 0.

The number of crash, injury, fatality, and fire reports is 0.

The number of property damage claims is 0.

During preparation of our response to the EA letter, we expanded the key-words utilized during the search of our records. This resulted in the 12 third-party arbitrations/mediations or lawsuits attached, all of which are "Lemon Law" cases. These cases do not comprise any instances of crashes, injuries, fatalities or fires. Lemon law cases are based on a variety of complaints where it is alleged that the vehicle is out of service for more than 30 days or that certain alleged defects cannot be repaired after a reasonable number of attempts. Tail lamps may be one of many alleged defects in the Complaint, but is not the focus of the Complaint, or tail lamps may be part of a repair order related to the lawsuit or third party arbitration/mediation although not specifically stated in the Complaint filed. Please note that as a result of the key word search used in the first search, or failure of the Complaint to state tail lamps as part of the alleged defects, these cases were not found in the DP stage of this inquiry.

Attachment "LEMON LAW SUMMARY INFO" on CD No. 1 contains the requested information for these "Lemon Law" claims.

2. **Separately, for each item (complaint, report, claim, notice, or matter) within the scope of your response to Request No. 2, state the following information:**
   a. **BMW's file number or other identifier used;**
   b. **The category of the item, as identified in Request No. 2 (i.e., consumer complaint, field report, etc.);**
   c. **Vehicle owner or fleet name (and fleet contact person), address, and telephone number;**
   d. **Vehicle's VIN;**
   e. **Vehicle's make, model and model year;**
   f. **Vehicle's mileage at time of incident;**
   g. **Incident date;**
   h. **Report or claim date;**
   i. **Whether a crash is alleged;**
   j. **Whether a fire is alleged;**
   k. **Whether property damage is alleged;**
   l. **Number of alleged injuries, if any; and**
   m. **Number of alleged fatalities, if any.**

   Provide this information in Microsoft Access 2000, or a compatible format, entitled "REQUEST NUMBER TWO DATA."

Response:

The sources of this information and the availability dates are as noted above.

Attachment "REQUEST NUMBER TWO DATA – CC" on CD No. 1 contains the requested information for the consumer complaints.

Attachment "REQUEST NUMBER TWO DATA – LL" on CD No. 1 contains the requested information for the "Lemon Law" claims.

The consumer complaint codes and their descriptions that were utilized in the search are contained in Table 2.

Consumer Complaint Code	Code Description
6125	Turn Signals
6134	Brake Lights
6300	Lights General
6313	Turn Indicators
6321	Rear Light Cluster
6325	Brake Lights

Table 2.

In addition, key words such as "light", "lamp", "tail", "rear", "brake", and "turn signal" were utilized, in various combinations and "character strings", in order to refine the search with the intent to collect only those consumer complaints that relate, or may relate, to the alleged defect in the subject vehicles.

Complaints pertaining to issues such as "headlamps", "headlights", "battery warning lamp", "service engine soon light / lamp", "oil level light / lamp", "front turn signals", "clear lamp lenses", "instrument panel light", and many other complaints that are not related to the alleged defect in the subject vehicles are not included.

Although not specifically requested, we have included, within Attachment "REQUEST NUMBER TWO DATA – CC" on CD No. 1, the complaint codes, in order to identify an individual complaint with its corresponding code.

Although not specifically requested, we have also included fields identified as "Type" and "Issue Summary" in Attachment "REQUEST NUMBER TWO DATA – CC" on CD No. 1. "Type" is used by the customer service representative to help categorize the customer's request, such as "inquiry", "complaint", etc., while "Issue Summary" is used by the customer service representative to help summarize, in a very brief manner, the customer's concern.

Attachment "REQUEST NUMBER TWO DATA – CC" pertaining to the code 6300 complaints contains a column with the heading "repair order date" that correlates very closely with the date of the survey. This information was added for the reasons explained in response to Question 1.

In response to DP09-002 (and reiterated in our response to PE09-036), we had stated the following regarding the "type" of complaints we were receiving (emphasis added):

> The vast majority (approximately 80%) of the consumer complaint Types are identified as "Survey", have a corresponding entry in the "Issue Summary" field, and pertain to Complaint Code 6300 ("Lights General"). The records pertaining to the Type ("Survey") are based upon individual telephone surveys, which are conducted as a follow-up with customers who have had a recent service or sales experience (standard follow-up procedure in the interest of product quality, customer loyalty, etc.). In some cases, some survey customers make a specific complaint during the survey. In other words, they do not initiate the complaint themselves; it is only in response to a company-initiated survey. These can be considered "second level" complaints, as the customer did not initiate the complaint, and did not contact us directly. Nevertheless, we do address and include these complaints as part of this submission.

As we noted in response to PE09-036, only a few consumer complaints directly pertained to turn-signals. In other words, turn-signal complaints were not dominant.

The same is true when examining the consumer complaint data obtained during the EA. Only a few consumer complaints directly pertain to turn-signals; turn-signal complaints are not dominant.

3. **Produce copies of all documents related to each item within the scope of Request No. 2. Organize the documents separately by category (i.e., consumer complaints, field reports, etc.) and describe the method BMW used for organizing the documents.**

Response:

The sources of this information, and the availability dates, are as noted above.

Attachment "CC" on CD No. 1 contains copies of the consumer complaints.

Attachment "LL" on CD No. 1 contains copies of the "Lemon Law" claims.

4. **State, by model and model year, a total count for all of the following categories of claims, collectively, that have been paid by BMW to date that relate to, or may relate to, the alleged defect in the subject vehicles: warranty claims; extended warranty claims; claims for good will services that were provided; field, zone, or similar adjustments and reimbursements; and warranty claims or repairs made in accordance with a procedure specified in a technical service bulletin or customer satisfaction campaign.**

   Separately, for each such claim, state the following information:

   a. **BMW's claim number;**
   b. **Vehicle owner or fleet name (and fleet contact person) and telephone number;**
   c. **VIN;**
   d. **Repair date;**
   e. **Vehicle mileage at time of repair;**
   f. **Repairing dealer's or facility's name, telephone number, city and state or ZIP code;**
   g. **Labor operation number;**
   h. **Problem code;**
   i. **Replacement part number(s) and description(s);**
   j. **Concern stated by customer; and**
   k. **Comment, if any, by dealer/technician relating to claim and/or repair.**

   BMW's response to this request must include any and all claims related to the technical service bulletin number 63 03 06 (not just the claims where the connector housing, as opposed to only terminal or wiring components, was replaced), claims where an outboard lamp assembly was replaced due to a failure of the ground circuit (e.g., overheating damage of the ground terminal), and any other claims that involved other repairs of the ground circuit not related to this bulletin. Provide this information in Microsoft Access 2000, or a compatible format, entitled "WARRANTY DATA."

Response:

The source of this information is our warranty claims database and is current as of 17 February 2010.

Attachment "WC – WARRANTY DATA" on CD No. 1 contains the requested information.

The number of warranty claims that relate, or may relate, to the issue is contained in Table 3.

Model Year	Warranty Claims
2002	25
2003	450
2004	2043
2005	706

Table 3.

The number of warranty claims pertains to the time frame from 1 May 2009 through 17 February 2010, and therefore, not only pertains to the time frame subsequent to our response to the PE, but also includes claims processed during effectively the same time frame analyzed during the PE stage of this information request. This time frame (1 May 2009 through 17 February 2010) was utilized during preparation of our response to the EA due to the expanded set of search criteria, details of which are further explained in response to Question 5. Therefore, the warranty claims obtained during the EA includes claims which may not have been captured as a result of the search performed during the PE which utilized a different set of search criteria that were based upon the definitions and specific requests contained in the PE letter.

5. **Describe in detail the search criteria used by BMW to identify the claims identified in response to Request No. 4, including the labor operations, problem codes, part numbers and any other pertinent parameters used (e.g., keyword searches of condition and repair statements). Provide a list of all labor operations, labor operation descriptions, problem codes, and problem code descriptions applicable to the alleged defect in the subject vehicles. State, by make and model year, the terms of the new vehicle warranty coverage offered by BMW on the subject vehicles (i.e., the number of months and mileage for which coverage is provided and the vehicle systems that are covered). Describe any extended warranty coverage option(s) that BMW offered for the subject vehicles and state by option, model, and model year, the number of vehicles that are covered under each such extended warranty.**

Response:

The warranty claims retrieval process involved a number of parameters. Specific part numbers and their descriptions as identified under "subject components" in the EA letter were utilized. Note that these part numbers and descriptions are also identified in Service Information Bulletin (SIB) 63 03 06. Additional part numbers and their descriptions identified in SIB 63 03 06 were also utilized. In addition, other parts that may have been affected and therefore replaced during a repair process, such as the tail lamp assembly, while not specifically identified on the SIB, were also utilized. Some of these parts that may have been affected / replaced are also identified under "alleged defect" in the EA letter, as well as, in the last paragraph of Question 4. Also, labor operations and their descriptions identified on SIB 63 03 06 were also utilized. Attachment "WC – WARRANTY DATA" on CD No. 1 contains this information.

Attachment "WC" contains additional information indicating model year and production date (year/month) for each VIN. Warranty claim type is also provided, and is identified within the problem code as follows: "new vehicle warranty" – problem code ends in a number, "CPO" – ends in "UW", "ESC" – ends in "ES", "goodwill" – ends in a letter combination other than "UW" or "ES".

The terms of the new vehicle warranty coverage for the subject vehicles is 4 years / 50,000 miles (whichever occurs first) and includes coverage for the subject component.

BMW offers a "Certified Pre-Owned" (CPO) program for the subject vehicles. The CPO program provides warranty coverage on the vehicle when purchased (via the CPO program) by a second (and subsequent) owner(s) for an additional 2 years / 50,000 miles (whichever occurs first), after the original warranty coverage of 4 years / 50,000 miles expires. With the addition of CPO coverage, the vehicle is covered up to a maximum of 6 years / 100,000 miles (whichever occurs first).

BMW offers an "Extended Service Contract" (ESC) for the subject vehicles. The ESC is known as the "Original Owner Protection Program" (2OP), and the coverage is similar to the CPO program. However, compared to the CPO program, coverage is available at three different levels – 6 years / 100,000 miles, 7 years / 70,000 miles, or 7 years / 100,000 miles (whichever occur first). Also, compared to the CPO program, the coverage is initially available to the original owner. Once in place, coverage can be transferred to a second (and subsequent) owner(s) in private-party to private-party changes in ownership, but, it does not apply (becomes "inactive") if the vehicle is traded in to a dealer, broker, or wholesaler.

6. **State the number of each of the following that BMW has sold that may be used in the subject vehicles by component name, part number (both service and engineering/production), model and model year of the vehicle in which it is used and month/year of sale *(including the cut-off date for sales, if applicable)*:**
   a. **The subject components; and**
   b. **Any kits that have been released, or developed, by BMW for use in service repairs to the subject components, or any assembly that contains one or more of the subject components.**

   For each component part number, provide the supplier's name, address, and appropriate point of contact (name, title, and telephone number). Also identify by make, model and model year, any other vehicles of which BMW is aware that contain the identical component, whether installed in production or in service, and state the applicable dates of production or service usage.

Response:

We believe that parts sales data has limited analytical value regarding its use in assessing the performance of the subject components because this data does not contain information pertaining to the reason for the sale of a particular part. Therefore, it is not possible from parts sales information to determine the number of these parts that have been installed in the subject vehicles for the purpose of repairing a vehicle in which the alleged defect is occurring.

The source of this information is our parts sales database and is current as of 1 March 2010.

Parts sales for the 8-pin connector (part number 7-519-956), are depicted in Table 4, while parts sales for the rear lamp assembly (part numbers 7-165-865 (left side), 7-165-866 (right-side)) are depicted in Table 5. Parts sales are depicted as totals per calendar year, and are irrespective of vehicle model year. Parts sales by vehicle model year are not available.

The 8-pin connector (p/n 7-519-956) and rear lamp assembly (p/n 7-165-865, 7-165-866) are only used in the subject vehicles.

8-pin Connector	
Calendar Year	**Parts Sold**
2003	10
2004	2,468
2005	12,030
2006	22,640
2007	34,000
2008	23,400
2009	13,900

Table 4.

Rear Lamp Assembly		
Calendar Year	**Parts Sold (Left Side)**	**Parts Sold (Right Side)**
2003	312	288
2004	1,445	1,969
2005	8,176	9,772
2006	14,553	15,510
2007	16,289	10,500
2008	15,452	9,927
2009	7,717	5,063

Table 5.

The supplier information is as follows:

Leopold Kostal GmbH & Co. KG
Michael Schricker
An der Bellmerei 10
D-58513 Lüdenscheid
Tel. +49 (0) 2351 16-2740
Fax +49 (0) 2351 16-2400
M.Schricker@kostal.com

7. **Describe all assessments, analyses, tests, test results, studies, surveys, simulations, investigations, inquiries and/or evaluations including, but not limited to, product and design development tests (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. 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.

Response:

Information responsive to Question 7 is identical to that which was provided in response to Question 8 of the DP.

8. In consideration of any additional information accumulated and evaluated in preparation of BMW's response to this letter, furnish an update to BMW's assessment of the alleged defect in the subject vehicle, provided in BMW's October 15, 2009 response to the PE IR, including:

a. The causal or contributory factor(s);
b. The failure mechanism(s);
c. The failure mode(s);
d. The risk to motor vehicle safety that it poses;
e. 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; and
f. The reports included with this inquiry.

Response:

Our response to Question 8 reiterates, and expands upon, our response to identical Question 11 of the PE, and identical Question 12 of the DP.

However, before providing a copy of our response to PE-Q11 / DP-Q12 for NHTSA's review and as a reference, we would like to reiterate the following pertaining to our current solution for potentially affected vehicles in the field.

As we stated in response to Question 10 of the PE, in order to remedy vehicles in the field that were experiencing the issue that is the subject of this Information Request, BMW issued Service Information Bulletin (SIB) 63 06 09. The remedy contained in the SIB consisted of adding a secondary ground connection, in parallel to the primary ground connection, to the circuit of the rear lamp assembly, in addition to replacing the 8-pin connector housing. This was done in order to reduce the possibility of greater-than-specified current that might pass through the primary ground connection at the location of the 8-pin connector. With the addition of a secondary ground connection, current is divided between the primary- and

secondary-ground connections (dependent upon the resistance within those circuits), and therefore, mitigates any additional current at the primary connection.

BMW believes that issuing SIB 63 03 09 is a sufficient response (field action) to this issue for all the reasons explained in our response to PE-Q11 / DP-Q12, and also noted below in response to the specific parts of Question 8.

In brief, through system design (multiple lamp redundancies, various driver warnings, self-containment of fault), as well as, field experience (extremely low risk (no known crashes, injuries, fires), no product liability legal claims, no property-damage claims, and minimal "first-level" customer complaints), we believe the issue is one of customer satisfaction. Accordingly, BMW issued SIB 63 06 09, as an appropriate response, in order to address this matter.

Furthermore, we would also like to add that there have been other NHTSA inquiries involving vehicle lighting, and these inquires vary with respect to involved lamp and specific problem. In many of the inquiries, we believe that the risk is greater when compared to any possible risk which is the subject of this EA. For example, some of the NHTSA inquiries involve headlamps, front turn signals, or both front and rear turn signals. The issue that is the subject of this EA involves partial loss of rear tail and brake lamps, and loss of rear turn signals. In many of the NHTSA inquiries, the agency closed the matter with no action taken by the manufacturer.

Some examples, in addition to those previously cited in response to PE09-036 / DP09-002, are as follows:

PE04-020

In PE04-020, the issue involved headlamp failure. NHTSA closed PE04-020, with no further action by Nissan, or Ford (as the manufacturers shared a similar headlamp design). NHTSA closed PE04-020 based, in part, on the fact that neither Nissan / Ford, nor NHTSA, had received any reports of crashes, injuries, fatalities, or fires. The same is true in EA09-019 (PE09-036 / DP09-002).

PE05-007

In PE05-007, the issue involved headlamp failure. NHTSA closed PE05-007, with no further action by Mitsubishi. NHTSA closed PE05-007 based, in part, on the fact that neither Mitsubishi, nor NHTSA, had received any reports of crashes, injuries, fatalities, or fires. The same is true in EA09-019 (PE09-036 / DP09-002).

PE05-004 / EA05-009

In PE05-004 / EA05-009, the issue involved headlamp failure. NHTSA closed EA05-009, with no further action by Chrysler. NHTSA closed EA05-009 based, in part, on the fact that neither Chrysler, nor NHTSA, had received any reports of crashes, injuries, fatalities, or fires. The same is true in EA09-019 (PE09-036 / DP09-002).

PE05-055

In PE05-055, the issue involved loss of both front and rear turn signals and the instrument panel turn signal indicator lights. NHTSA closed PE05-055 based, in part, on the fact that

neither Ford, nor NHTSA, had received any reports of crashes, injuries, fatalities, or fires. The same is true in EA09-019 (PE09-036 / DP09-002).

The following information, comparing the issue that is the subject of this information request to other NHTSA inquiries, was also provided in our response to both the DP and the PE, and is included herein for completeness and again for the agency's review.

PE08-066

In PE08-066, the issue involved headlamp failure. NHTSA closed PE08-066, with no further action by Ford. NHTSA closed PE08-066 based, in part, on the fact that neither Ford, nor NHTSA, had received any reports of crashes, injuries, or fatalities. The same is true in PE09-036 (DP09-002).

PE08-059

In PE08-059, the issue involved the vehicle displaying the wrong exterior turn signal, i.e., the "other" turn signal relative to that which was selected by the driver via the turn signal lever. NHTSA closed PE08-059 based, in part, on the fact that neither Chrysler, nor NHTSA, had received any reports of crashes, injuries, or fatalities. The same is true in PE09-036 (DP09-002).

PE02-064 / EA02-037

In PE02-064 / EA02-037, the issue involved both rear and front turn signals becoming inoperative. Furthermore, the warning indicators that alert a driver that a problem is occurring, both the visible, and the audible, indicators, also became inoperative. In PE09-036 (DP09-002), all available warning indicators, both visible, and audible, are available, function properly, and alert the driver in a situation in which the condition is occurring.

While the issue that is the subject of this EA may be a source of customer dissatisfaction, it does not present an unreasonable risk to safe vehicle operation as evidenced by the field data. In other words, there are no crashes, injuries, fatalities, or fires which have occurred as a result of this issue.

Accordingly, we believe that this EA should be closed.

BEGIN COPY OF RESPONSE TO PE QUESTION 11

Please note that references below to the attachments refer to those attachments which were a part of our response to Question 12 of the DP.

Question 11(a), (b), and (c)

The material combination of the subject component (connector) and the rear lamp (zinc-plated at the wiring-harness (connector) side, tin-plated at lamp side), can result, in combination with aging and environmental influences, in an increase of the resistance at the contact points. This could lead to damage at the ground terminal (location of the highest current load) of the connector. As a result, an intermittent or permanent loss of functionality of one compartment of the tail lamp (including brake and turn-signal) could occur.

Question 11(d) and (e)

BMW believes that the condition that is the focus of this Information Request does not pose an unreasonable risk to motor vehicle safety. This is supported by the system design, as well as, by the field experience, of the subject component as set forth below:

SYSTEM DESIGN

Multiple Redundancies of Vehicle Brake Lamps

If the condition is occurring in a subject vehicle, such that one of the brake lamps is rendered inoperative, multiple redundancies of the brake lamps exist so that a driver of a "following" vehicle knows that the subject vehicle is braking.

The brake lamp on the non-affected side of the vehicle remains operational.

The center high-mounted stop lamp (CHMSL) remains operational.

This is depicted in Photo 1 on Attachment "Q12 – PHOTOS".

Therefore, sufficient brake lamp illumination is available for the driver of a "following" vehicle.

Multiple Redundancies of Vehicle Tail Lamps

If the condition is occurring in a subject vehicle, such that a tail lamp is rendered inoperative in one of the rear tail lamps, multiple redundancies of tail lamps exist so that a driver of a "following" vehicle knows that there is a vehicle in front of their vehicle.

An additional tail lamp on the affected side of the vehicle remains operational. This additional tail lamp on the affected side fulfills all photometric compliance requirements with FMVSS108 by itself.

The tail lamp on the non-affected side of the subject vehicle also remains operational.

This is depicted in Photo 2 on Attachment "Q12 – PHOTOS".

Redundancy of Rear Turn Signal via Side/Lateral Turn Signal

The subject vehicles contain a side/lateral turn signal near the front wheelhouse as an added safety feature. This lamp is not required by FMVSS 108. If a subject vehicle, in which the condition is occurring, prepares to turn, the driver of the "following" vehicle will be able to view the side/lateral turn signal on the subject vehicle.

In fact, due to the design and location of the side turn signal, it will be able to be viewed almost immediately as the subject vehicle moves into position to turn.

This is depicted in Photos 3 and 4 on Attachment "Q12 – PHOTOS", as well as, in the Diagram on Attachment "Q12 – DIAGRAM".

Sufficient Warning to Driver of Subject Vehicle

A driver of a subject vehicle, in which the condition is occurring, is presented with sufficient warnings so that the driver can present the vehicle for service and repair.

If the condition is occurring, a warning lamp is illuminated in the vehicle's "message control center". The "message control center" is a small area of the instrument cluster immediately in front of the driver, where certain information is displayed, such as that described. In this particular case, a small outline of a car is shown, and, a lamp symbol at the specific location in which the condition is occurring. Therefore, the driver is presented with a warning indicator in order to have the vehicle inspected for a possible non-functioning lamp.

This is depicted in Photo 5 on Attachment "Q12 – PHOTOS".

Furthermore, during each cycle of the ignition key, if the condition is present, then an audible warning alerts the driver.

In addition, if the condition is occurring, then the visible control symbol for the turn signal in the instrument cluster flashes at double the normal frequency, alerting the driver to the presence of the condition. Also for the turn signal, if the condition is occurring, an audible warning is provided via the double frequency of the audible signal.

The warning lamp in the "message control center" would also alert the driver in the case of a bulb which has reached the end of its useful life, and therefore, the risk-level is no different.

Failure Mode is Self-Contained

If the condition is occurring in a subject vehicle, it is self-contained. If there is damage to the subject component (connector), it does not propagate beyond the lamp housing, if at all. Although plastic melting can occur, there is no risk of fire occurring to the vehicle.

This is also reflected in the field experience of the subject vehicles.

FIELD EXPERIENCE

Field Experience Indicates That the Risk is Low

BMW is not aware of any crashes, injuries, or fatalities which have occurred as a result of the condition that is the focus of this Information Request. Similarly, the subject vehicles are not over-represented in crash experience as a result of this condition.

Legal Claim Experience

BMW has not received any legal claims, involving death or injury alleged to have occurred as a result of the condition, nor notices alleging or proving that a death or injury was caused by the condition. Therefore, there are no "…reports involving a crash, injury, or fatality…" based on such legal claims or notices, because such legal claims or notices have not been received by BMW.

Most Customer Complaints are "Second-Level" Complaints

As noted within the customer complaint data, most of the complaints received were considered "second-level" complaints. In other words, these complaints were not initiated by the customers themselves and presented to BMW. Rather, these complaints were in response to post-vehicle-service telephone surveys which were conducted to assess a vehicle owner's service experience. These surveys are performed in the interest of customer satisfaction.

Pre-turn Braking Alerts a Driver of a Following Vehicle

In the vast majority of cases involving a subject vehicle preparing to turn, the driver of that vehicle applies the service brakes so that the vehicle can safely make the turn; otherwise, the driver/vehicle may not be able to "negotiate" the turn/curve.

Therefore, a driver of a "following" vehicle is alerted (warned) that some action is about to occur in the subject vehicle. In the situation described, the driver of the "following" vehicle would typically anticipate that the subject vehicle is preparing to either a) stop, or, b) turn. In either case, the driver of the "following" vehicle should, by the presence of the subject vehicle's brake lamps, slow down in order to properly respond to the actions of the subject vehicle.

Furthermore, the side turn signal would become even more conspicuous to a driver of a "following" vehicle if the condition was occurring in the subject vehicle.

Pre-turn Movement Alerts a Driver of a Following Vehicle

In the vast majority of cases involving a vehicle preparing to turn, the driver of that vehicle starts to "position" the vehicle in anticipation of the turn. In other words, the driver, during pre-turn braking, gradually, and then, as the location of the turn approaches, more so, turns the steering wheel "into" the turn. In doing so, the vehicle starts to move in the direction of the turn. As the vehicle starts to move in the direction of the turn, the side turn signal will, almost immediately, be visible to the driver of a "following" vehicle. Therefore, a driver of a "following" vehicle can anticipate that the subject vehicle is intending to turn, and accordingly, can properly respond. Also, drivers of on-coming vehicles are not affected as all required front turn signals continue to function properly.

ADDITIONAL FACTORS

In addition to system design and field experience, there are other factors that support our belief that the condition does not pose an unreasonable risk to motor vehicle safety.

Sufficient Warning to Driver of Subject Vehicle

As described above in the section regarding system design, a driver of a subject vehicle, in which the condition is occurring, is presented with sufficient warnings so that the driver can present the vehicle for service and repair.

If the condition is occurring, a warning lamp is illuminated in the vehicle's "message control center". During each cycle of the ignition key, if the condition is present, then an audible warning alerts the driver.

Additionally, if the condition is occurring, then the visible control symbol for the turn signal in the instrument cluster flashes at double the normal frequency, alerting the driver to the presence of the condition. Also for the turn signal, if the condition is occurring, an audible warning is provided via the double frequency of the audible signal.

Comparison of PE09-036 (DP09-002) to Other NHTSA Cases

PE08-066

In PE08-066, the issue involved headlamp failure. NHTSA closed PE08-066, with no further action by Ford. NHTSA closed PE08-066 based, in part, on the fact that neither Ford, nor NHTSA, had received any reports of crashes, injuries, or fatalities. The same is true in PE09-036 (DP09-002).

PE08-059

In PE08-059, the issue involved the vehicle displaying the wrong exterior turn signal, i.e., the "other" turn signal relative to that which was selected by the driver via the turn signal lever. NHTSA closed PE08-059 based, in part, on the fact that neither Chrysler, nor NHTSA, had received any reports of crashes, injuries, or fatalities. The same is true in PE09-036 (DP09-002).

PE02-064 / EA02-037

In PE02-064 / EA02-037, the issue involved both rear and front turn signals becoming inoperative. Furthermore, the warning indicators that alert a driver that a problem is occurring, both the visible, and the audible, indicators, also became inoperative. In PE09-036 (DP09-002), all available warning indicators, both visible, and audible, are available, function properly, and alert the driver in a situation in which the condition is occurring.

END COPY OF RESPONSE TO PE QUESTION 11

While the issue that is the subject of this EA may be a source of customer dissatisfaction, it does not present an unreasonable risk to safe vehicle operation as evidenced by the field data. In other words, there are no crashes, injuries, fatalities, or fires which have occurred as a result of this issue.

Accordingly, we believe that this EA should be closed.

BMW Response
to
NHTSA EA09-019
15 March 2010

ATTACHMENT "LEMON LAW SUMMARY INFO."

Parties to the action:	Daniel & Coleen Curry / BMW of North America, LLC
Caption:	Breach of Warranty
Court:	Court of Common Pleas, Philadelphia, PA
Docket Number:	2711
Complaint Date:	February 25, 2005

Parties to the action:	Dominic C. Nguyen / BMW of North America, LLC
Caption:	Complaint for alleged breach of warranties.
Court:	Superior Court of California
Docket Number:	VC039476
Complaint Date:	March 11, 2003

Parties to the action:	Harvey Wexelman / BMW of North America, LLC
Caption:	Breach of Warranty
Court:	Superior Court of New Jersey
Docket Number:	L-3230-04
Complaint Date:	April 23, 2004

Parties to the action:	Joni VanArsdale / BMW of North America, LLC
Caption:	Arbitration
Court:	Court of Common Pleas, Philadelphia, PA
Docket Number:	2244
Complaint Date:	March 21, 2005

Parties to the action:	Jose M. Molina / BMW of North America, LLC
Caption:	Arbitration
Court:	Florida New Motor Vehicle Arbitration Board
Docket Number:	2003-0064/MIA
Complaint Date:	January 14, 2003

Parties to the action:	Mary C. Blickenstaff / BMW of North America, LLC
Caption:	Lemon Law
Court:	Delaware Superior Court
Docket Number:	06C-07-176
Complaint Date:	July 27, 2006

Parties to the action:	Michael Hopper / BMW of North America, LLC
Caption:	Arbitration
Court:	Court of Common Pleas, Philadelphia, PA
Docket Number:	002319
Complaint Date:	January 21, 2004

BMW Response
to
NHTSA EA09-019
15 March 2010

Parties to the action:	Mitra Nickanpour / BMW of North America, LLC
Caption:	Breach of Warranty
Court:	Superior Court of California
Docket Number:	30200800103739
Complaint Date:	March 10, 2008

Parties to the action:	Nima Nami / BMW of North America, LLC
Caption:	Breach of Warranty
Court:	Superior Court of California
Docket Number:	30200800115556
Complaint Date:	December 2, 2008

Parties to the action:	Philip Tsang / BMW of North America, LLC
Caption:	Lemon Law / Breach of Warranty
Court:	Circuit Court of Baltimore, MD
Docket Number:	03-C-05-002529
Complaint Date:	March 7, 2005

Parties to the action:	Shiva Hanassab / BMW of North America, LLC
Caption:	Breach of Warranty
Court:	Superior Court of California
Docket Number:	BC329653
Complaint Date:	March 2, 2005

Parties to the action:	Michelle Seller / BMW of North America, LLC
Caption:	Breach of Warranty
Court:	Superior Court of new Jersey
Docket Number:	L-1957-02
Complaint Date:	October 29, 2002