



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



1200 New Jersey Avenue SE.
Washington, DC 20590

AUG 02 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Cynthia Williams
Assistant Global Director, Automotive Safety Office
Environmental and Safety Compliance
Ford Motor Company
330 Town Center Drive, Suite 400
Dearborn, MI 48126-2738

NEF-0102bes
EA17-002

Dear Ms. Williams:

This letter requests information related to an investigation being conducted by the Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA). The investigation, Engineering Analysis (EA) 17-002, involves allegations of exhaust gas entry into the passenger compartment, and any associated carbon monoxide related risk presented to the driver, of certain model year (MY) Ford Explorer vehicles manufactured by Ford Motor Company (Ford).

Unless otherwise stated in the text, the following definitions apply to these information requests:

- **Subject vehicles:** all Model Year 2011 and later Ford Explorer vehicles, including Police Interceptor Utility (PIU) variants, produced prior to Ford's implementation of a revised Heating, Ventilation, and Air Conditioning (HVAC) control module strategy (which was intended to address exhaust gas entry into the passenger compartment), manufactured for sale or lease in the United States, including, but not limited to, the District of Columbia, and current U.S. territories and possessions.
- **Alleged defect A:** Reports or allegations of exhaust odors (smells) inside the vehicle cabin by the driver and/or other vehicle occupants.
- **Alleged defect B:** Reports or allegations of exposure to carbon monoxide due to exhaust gas entry into the occupant compartment because of unsealed openings in the rear occupant compartment and/or a cracked exhaust manifold (PIU only), as evidenced by documentation of one or both of the following conditions:
 - i. Measured levels of carbon monoxide (CO) in the occupant compartment; and/or,
 - ii. Measured levels of carboxyhemoglobin (COHB) for any vehicle occupant based on blood sample results.

- **Ford:** Ford Motor Company, 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 Ford (including all business units and persons previously referred to), who are or were involved in any way with any of the following related to the alleged defect in the subject 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.

- **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 Ford, 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 Ford 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 alleged defect, certain information is required. Pursuant to 49 U.S.C. § 30166, please provide numbered responses to the following information requests. Insofar as Ford has previously provided a document to ODI, Ford 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 Ford’s response to each request, identify the source of the information and indicate the last date the information was gathered.

1. State, by model and model year, the number of subject vehicles Ford has manufactured for sale or lease in the United States. Provide a separate count for PIU vehicles. Separately, for each subject vehicle manufactured to date by Ford, state the following:
 - a. Vehicle identification number (VIN);
 - b. Model Year;
 - c. Civilian or PIU vehicle specification;
 - d. Date of manufacture;
 - e. Date warranty coverage commenced; and
 - f. The State in the United States where the vehicle was originally sold or leased (or delivered for sale or lease).

Provide the table in Microsoft Access 2010, or a compatible format, entitled “PRODUCTION DATA.”

2. Produce a table(s) showing the number (counts) of each of the following, by model year and by civilian and police specification, received by Ford, or of which Ford is otherwise aware, which relate to, or may relate to, the alleged defect A 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;
 - d. Property damage claims;
 - e. Third-party arbitration proceedings where Ford is or was a party to the arbitration; and
 - f. Lawsuits, both pending and closed, in which Ford is or was a defendant or codefendant.

3. State the number of each of the following, received by Ford, or of which Ford is otherwise aware, which relate to, or may relate to, the alleged defect B 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;
 - d. Property damage claims;
 - e. Third-party arbitration proceedings where Ford is or was a party to the arbitration; and
 - f. Lawsuits, both pending and closed, in which Ford is or was a defendant or codefendant.

For subparts "a" through "f," 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 "f," provide a summary description of the alleged problem and causal and contributing factors and Ford'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.

4. Separately, for each item (complaint, report, claim, notice, or matter) within the scope of your response to Request No. 3, state the following information:
 - a. Ford's file number or other identifier used;
 - b. The category of the item, as identified in Request No. 3 (i.e., consumer complaint, field report, etc.);
 - c. Vehicle owner or fleet name (and fleet contact person), street address, email 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 property damage is alleged;
 - k. If reported, maximum level of CO measured in occupant compartment;
 - i) Details of measurement method (equipment, position in vehicle, party performing the measurement, drive cycle used, etc.)
 - l. If reported, maximum level of COHB measured via blood test;
 - i) Seating position of the occupant(s) in the vehicle;
 - m. TSB or other related repair procedures completed prior to the reported incident;
 - n. TSB or other related repairs completed after the reported incident;
 - i) CO levels measured post TSB application, if available;
 - o. Observations or comments regarding the cause or accuracy of the CO measurement;
 - p. Number of alleged injuries, if any; and
 - q. Number of alleged fatalities, if any.

Provide this information in Microsoft Access 2010, or a compatible format, entitled "REQUEST NUMBER THREE DATA."

5. Produce copies of all documents related to each item within the scope of Request No. 3. Organize the documents separately by category (i.e., consumer complaints, field reports, etc.) and describe the method Ford used for organizing the documents. Describe in detail the search methods and search criteria used by Ford to identify the items in response to Request No. 3.

6. For any of the following conducted since Ford's response to PE16-008, describe all assessments, analyses, tests, test results, studies, surveys, simulations, investigations, inquiries and/or evaluations (collectively, "actions") involving physical testing or analysis (including field inspections) of retail customer or PIU specification subject vehicles, that have been conducted, are being conducted, are planned, or are being planned by, or for, Ford. Provide separate response lists for PIU vehicles/fleets and retail customer vehicles. For each such action, provide the following information:
 - a. Action title or identifier;
 - b. If applicable, identifier from 3(a);
 - c. Brief description of the complaint and/or incident which initiated the action, if applicable;
 - d. The actual or planned start date;
 - e. The actual or expected end date;
 - f. Brief summary of the subject and objective of the action;
 - g. Engineering group(s)/supplier(s) responsible for designing and for conducting the action;
 - h. Details of test/evaluation methods and procedures used;
 - i. A brief summary of the findings and/or conclusions resulting from the action including pre-and post-evaluation CO measurements, if available.

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.

7. Describe all modifications or changes made by, or on behalf of Ford, in the design, operation, material composition, manufacture, quality control, supply, or installation of any of the following, introduced from the start of production to date, which relate to, or may relate to, either alleged defect in the subject vehicles:
 - a. Occupant compartment sealing components or methods, including any Technical Service Bulletins (TSB) issued to address either alleged defect or consumer concerns;
 - b. HVAC systems hardware and/or software; and,
 - c. Exhaust manifold/catalytic convertors, and/or emissions management software affecting durability or robustness of the manifold/catalytic convertors.

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 vehicle production or issued as a TSB;
- b. A detailed description of the modification or change;
- c. The reason(s) for the modification or change;

- d. The part number(s) (service and engineering) of the original component(s), if applicable;
- e. The part number(s) (service and engineering) of the modified component(s) if applicable;
- f. The revision level identifier for original software version, if applicable;
- g. The revision level identifier for updated software version, if applicable; and;
- h. Whether modified or changed components can be interchanged with earlier production components.

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

8. Furnish Ford's assessment of the alleged defects in the subject vehicles, including:
- a. The causal or contributory factor(s);
 - b. The failure mechanism(s);
 - c. The failure mode(s);
 - d. Any programs or actions taken by Ford to address consumer concerns;
 - 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 risk to motor vehicle safety that it poses.

Legal Authority for This Request

This letter is being sent to Ford 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.

Civil Penalties

Ford's failure to respond promptly and fully to this letter could subject Ford 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.) The Vehicle Safety Act, as amended, 49 U.S.C. § 30165(a)(3), provides for civil penalties of up to \$21,780 per violation per day, with a maximum of \$108,895,910 for a related series of daily violations, for failing or refusing to perform an act required under 49 U.S.C. § 30166. *See* 49 CFR 578.6 (as amended by Fixing America's Surface Transportation Act (the "FAST Act"), Pub. L. 114-94, § 24110(a)(2), 129 Stat. 1312 (Dec. 4, 2015)). This includes failing to respond completely, accurately, and in a timely manner to ODI information requests.

If Ford 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, Ford does not submit one or more requested documents or items of information in response to this information request, Ford 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.

Confidential Business Information

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 EA17-002 in Ford's response to this letter and in any confidentiality request submitted to the Office of Chief Counsel.

If Ford 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, Ford 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, to the Office of Chief Counsel (NCC-100), National Highway Traffic Safety Administration, Room W41-326, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590. Ford 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 phrase "ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION" or "CONTAINS CONFIDENTIAL BUSINESS INFORMATION" (as appropriate) must appear at the top of each page containing information claimed to be confidential, and the information must be clearly identified in accordance with 49 CFR 512.6. If you submit a request for confidentiality for all or part of your response to this IR, that is in an electronic format (e.g., CD-ROM), your request and associated submission must conform to the new requirements in NHTSA's Confidential Business Information Rule regarding submissions in electronic formats. See 49 CFR 512.6(c) (as amended by 72 Fed. Reg. 59434 (October 19, 2007)).

If you have any questions regarding submission of a request for confidential treatment, contact Daniel Rabinovitz, Trial Attorney, Office of Chief Counsel at daniel.rabinovitz@dot.gov or (202) 366-8534.

Due Date

Ford's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office by **September 16, 2019**. Ford's response must include all non-confidential attachments and a redacted version of all documents that contain confidential information. If Ford finds that it is unable to provide all of the information requested within the time allotted, Ford must request an extension from Scott Yon of my staff at (202) 366-0139 no later than five business days before the response due date. If Ford 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 Ford then has available, even if an extension has been granted.

Please send email notification to Brian Smith at brian.smith@dot.gov when Ford sends its response to this office and indicate whether there is confidential information as part of Ford's response.

If you have any technical questions concerning this matter, please call Brian Smith of my staff at (202) 366-6975.

Sincerely,

A handwritten signature in black ink that reads "Stephen A. Ridella". The signature is written in a cursive style with a large, stylized initial 'S'.

Stephen Ridella, Ph.D.
Office Director
Office of Defects Investigation