



NHTSA
WASHINGTON, DC 20590

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OFFICE OF CHIEF
COUNSEL

James P. Vondale, Director
Automotive Safety Office
Environmental & Safety Engineering

Fairlane Plaza South
330 Town Center Drive
Dearborn, MI 48126-2738 USA

November 11, 2010

Mr. Oakley Kevin Vincent
Chief Counsel
Office of the Chief Counsel
National Highway Traffic Safety Administration
1200 New Jersey Avenue SE, Room W41-322
Washington, DC 20590

Dear Mr. Vincent:

Subject: Request Under 49 CFR Part 512 for Confidential Treatment of Information
Regarding PE10-031

This letter requests confidential treatment and supports Ford's claim of confidentiality for confidential business information in accordance with 49 CFR § 512.8 and 5 U.S.C. § 552(b)(4).

Two copies of confidential information referenced in the Ford Motor Company (Ford) November 9, 2010, response to the agency's September 24, 2010, peer inquiry, PE10-031 are attached. Also for your reference, Attachment 1 is a copy of the non-confidential portion of Ford's response to the ODI's information request.

Ford requests protection from public disclosure for the documents because the documents contain confidential business information within the meaning of 49 C.F.R. § 512.3 and 512.15, and meet the following requirements:

1. The documents contain information that is not customarily released to the public by Ford.
2. Competitive Harm Test (established in *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974), and its progeny, and set for in 49 CFR § 512.15(b)): The documents contain confidential business information, the public disclosure of which would likely cause substantial competitive harm to Ford as further explained below.

In response to Request 5, Ford is providing Chassis Layout Drawings showing the precise placement of the subject components and the related components that secure them in the vehicle in Appendix F. The details contained in the Chassis Layout Drawings detail Ford proprietary intellectual property (component clearances, fastener torque specifications, and safety designated components) and could be used by competitors to develop or improve their



own products and processes without the need to invest the substantial resources invested by Ford, and to copy Ford components.

Ford documents of the types stated are maintained under a record keeping system which is intended to control dissemination of this material within Ford, and to assure that the material is not disseminated outside of Ford, except as described in the attached certification (Attachment 2), which is made pursuant to 49 CFR § 512.4(b).

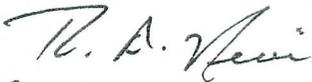
A compact disc containing copies of the documents is labeled "CONFIDENTIAL" and documents contained in the electronic files are marked either "ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION" or "CONFIDENTIAL BUSINESS INFORMATION" as appropriate, in the top margin, as part of this response. Ford notes that these PDF documents were created using Adobe Acrobat 6.0 Professional and must be printed by selecting "document and comments" or "document and markups" in order to print the appropriate bracket markings.

Ford requests that these documents be granted confidential treatment by the agency for a period of ten years. Earlier disclosure of these documents, in Ford's opinion, would result in substantial competitive harm.

In the event that the agency should conclude that all or part of the submitted information is not to be given confidential treatment, Ford asks the agency to provide reasonable notice of not less than ten working days prior to any contemplated disclosure in order that Ford may pursue such legal remedies as it may choose. Please direct all written notices to me at Ford Motor Company, Suite 400, Fairlane Plaza South, 330 Town Center Drive, Dearborn, Michigan 48126. Please direct all non-written communication to Mr. Alan Prescott who may be contacted by telephone at (313) 390-5621.

Thank you for your continuing courtesy.

Sincerely,



 James P. Vondale

Attachments

**CERTIFICATE IN SUPPORT OF REQUEST
FOR CONFIDENTIALITY**

I, R. A. Nevi, pursuant to the provisions of 49 CFR Part 512, state as follows:

1. I am Assistant Director, Global Automotive Safety Compliance, Automotive Safety Office, and I am authorized by Ford Motor Company (Ford) to execute this certificate on its behalf;
2. The information contained in the attachment to Ford's letter to NHTSA's Office of the Chief Counsel dated November 9, 2010, contains confidential and proprietary data and is submitted with the claim that it is entitled to confidential treatment under 5 U.S.C., § 552(b)(4);
3. A member of my staff has inquired of the responsible Ford personnel who have authority in the normal course of business to release the type of information for which a claim of confidentiality has been made to ascertain whether such information has ever been released outside Ford;
4. Based upon such inquiries, to the best of my knowledge, information and belief, the information for which Ford has claimed confidential treatment has never been released or become available outside Ford except as hereinafter specified:
 - Portions of these documents may have been or may be shared with Ford suppliers with the expectation that they will be kept confidential.
 - During the course of defending itself in litigation, Ford may have been, or may be required to produce such information.
5. I make no representations beyond those contained in this certificate and, in particular, I make no representations as to whether this information may become available outside Ford because of unauthorized or inadvertent disclosure, except as stated in Paragraph 4; and
6. I certify under penalty of perjury that the foregoing is true and correct. Executed on this the 9th day of November, 2010.



R. A. Nevi



James P. Vondale, Director
Automotive Safety Office
Environmental & Safety Engineering

Fairlane Plaza South
330 Town Center Drive
Dearborn, MI 48126-2738 USA

November 9, 2010

Mr. Richard P. Boyd, Acting Director
Office of Defects Investigation
National Highway Traffic Safety Administration
1200 New Jersey Avenue SE, Room W45-302
Washington, D.C. 20590

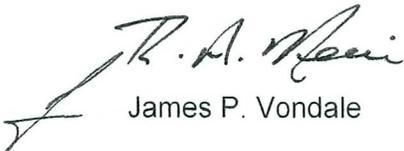
Dear Mr. Boyd:

Subject: PE10-031:NVS-212lh

The Ford Motor Company (Ford) response to the agency's September 24, 2010, letter requesting certain information concerning 1993 through 2004 Ford Explorer vehicles is attached. Ford understands that there is no alleged defect with respect to any of its vehicles and is providing this information as part of the agency's investigation of another manufacturer's vehicles.

If you have any questions concerning this response, please feel free to contact me.

Sincerely,


James P. Vondale

Attachment



FORD MOTOR COMPANY (FORD) RESPONSE TO PE10-031

Ford's response to this Preliminary Evaluation peer vehicle information request was prepared pursuant to a diligent search for the information requested. We have made every effort to provide thorough and accurate information, and we would be pleased to meet with agency personnel to discuss any aspect of this peer vehicle information request.

The scope of Ford's investigation conducted to locate responsive information focused on Ford employees most likely to be knowledgeable about the subject matter of this inquiry and on review of Ford files in which responsive information ordinarily would be expected to be found and to which Ford ordinarily would refer, as more fully described in this response. Ford notes that although electronic information was included within the scope of its search, Ford has not attempted to retrieve from computer storage electronic files that were overwritten or deleted. As the agency is aware, such files generally are unavailable to the computer user even if they still exist and are retrievable through expert means. To the extent that the agency's definition of Ford includes suppliers, contractors and affiliated enterprises for which Ford does not exercise day-to-day operational control, we note that information belonging to such entities ordinarily is not in Ford's possession, custody or control.

Ford has construed this request as pertaining to vehicles manufactured for sale in the United States, its protectorates and territories.

In an October 6, 2010, telephone conversation, Scott Yon and Larry Hershman, of the agency, informed Ford personnel that the subject component definition as stated in its September 24, 2010, inquiry includes the following components: rear mounted vapor canister and vapor lines, and fuel feed and return lines rearward of the dash panel.

Ford notes that some of the information being produced pursuant to this inquiry may contain personal information such as customer names, addresses, telephone numbers, and complete Vehicle Identification Numbers (VINs). Ford is producing such personal information in an unredacted form to facilitate the agency's investigation with the understanding that the agency will not make such personal information available to the public under FOIA Exemption 6, 5 U.S.C. 552(b)(6).

Answers to your specific questions are set forth below. As requested, after each numeric designation, we have set forth verbatim the request for information, followed by our response. Unless otherwise stated, Ford has undertaken to provide responsive documents dated up to and including September 24, 2010, the date of your inquiry. Ford has searched within the following offices for responsive documents: Ford Customer Service Division, Office of the General Counsel, North American Truck Product Development.

Request 1

State within the body of the response letter a summary table, by model and model year, the number of subject vehicles Ford has manufactured for sale or lease in the United States. Separately, for each subject vehicle manufactured to date by Ford, state the following:

- a. Vehicle identification number (VIN);
- b. Model year;

- c. Whether or not the vehicle was originally equipped (manufactured) with a brush guard, skid guard, or covering for the bottom of the fuel tank (i.e., a protective guard);
- d. If not originally equipped, whether or not a protective guard was optionally available from Ford, and if so, the part number of the optionally available protective guard;
- e. Date of manufacture (in "dd/mm/yyyy" date format);
- f. Date warranty coverage commenced (in "yyyy/mm/dd" date format); and
- g. 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 2007, or a compatible format, entitled "SUBJECT VEHICLE PRODUCTION DATA."

Answer

Ford records indicate that the approximate total number of subject peer vehicles sold in the United States (the 50 states and the District of Columbia) and its protectorates and territories (American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and Virgin Islands) is 3,647,108.

For the subject vehicle population, Ford offered either a fuel tank heat shield or an optional fuel tank skid plate. A review of documents indicates fuel tank shields were standard equipment on all Explorer 4-door 4X4 vehicles from 1993 through 1998. Fuel tank skid plates were offered as a production option on 1999 through 2001 Explorer 4-door 4X4 vehicles and 2000 through 2001 model year Explorer 4-door AWD vehicles. For 2002 through 2004 model years, fuel tank skid plates were available on Explorer 4-door 4X4 vehicles as part of an optional Off-Road package.

The number of subject peer vehicles sold in the United States by model and model year is shown below:

Explorer 4-Door Production				
Model Year	4X2	4X4	AWD	Total
1993	79,933	184,162	0	264,095
1994	87,020	227,361	0	314,381
1995	61,440	165,254	0	226,694
1996	129,995	202,008	37,878	369,881
1997	111,093	156,372	69,370	336,835
1998	122,054	166,685	51,542	340,281
1999	108,032	154,243	32,214	294,489
2000	117,343	165,098	40,867	323,308
2001	31,672	45,114	13,717	90,503
2002	170,127	321,237	0	491,364
2003	108,437	183,079	8,963	300,479
2004	100,915	187,128	6,755	294,798

The requested data including whether the vehicle was originally equipped (manufactured) with a fuel tank shield or skid plate for each subject peer vehicle is provided electronically in Appendix A.

Ford has reviewed its records to determine whether fuel tank skid plates or shields were available as aftermarket accessories. For 2002 through 2004 model year Explorer vehicles, the production skid plate (P/N: 1L2Z-9C082-AA) was offered as an aftermarket accessory.

Request 2

State the number of each of the following, received by Ford, or of which Ford are otherwise aware, which relate to, or may relate to, the potential defect in the subject vehicles:

- a. Consumer complaints;
- b. Field reports, including dealer field reports;
- c. Reports involving a crash, fire, injury, or fatality, based on claims against the manufacturer involving a death or injury, and notices received by the manufacturer alleging that a death or injury was caused by a possible defect in a subject vehicle;
- 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 "d," 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 "e" and "f," 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, and details of the resolution of the matter.

Include reports in which the subject vehicle was struck in the rear by another vehicle. As used here, rear includes crashes in which the striking vehicle hit the subject vehicle at an angle that included the rear, and is not limited to direct crashes to the rear of the subject vehicle. Fire reports where the ignition source was from other than the crash are responsive and are to be included in your response. Reports of fuel leaks or fires where no crash occurred, such as fuel leaks that occur in garages or from punctures from running over objects in the road (but unrelated to a crash), are not within the scope of this request. Also reports in which the fuel leak or fire originated in the engine compartment area, or where the fire was caused by an electrical issue (e.g., dash wiring or seat heater) or from a non-vehicle related source (e.g., a lit cigarette, or a lit match), as opposed to a fuel leak, are also outside the scope of this request.

Answer

For purposes of identifying reports of incidents that may be related to a fire or liquid fuel leakage occurring in or after the subject vehicle had been struck in the rear by another vehicle and any

related documents, Ford has gathered "owner reports" and "field reports" maintained by Ford Customer Service Division (FCSD), and claim and lawsuit information maintained by Ford's Office of the General Counsel (OGC).

Descriptions of the FCSD owner and field report systems and the criteria used to search each of these are provided electronically in Appendix B.

Owner Reports: Records identified in a search of the Master Owner Relations Systems (MORS) database, as described in Appendix B, were reviewed for relevance. No responsive owner reports alleging fire or liquid fuel leakage occurring in or after the subject vehicle had been struck from the rear by another vehicle were located.

Field Reports: Records identified in a search of the Common Quality Indicator System (CQIS) database, as described in Appendix B, were reviewed for relevance. No responsive field reports alleging fire or liquid fuel leakage occurring in or after the subject vehicle had been struck from the rear by another vehicle were located.

Crash/Injury Incident Claims: For purposes of identifying allegations of accidents or injuries that may have resulted from a fire or liquid fuel leakage occurring in or after the subject vehicle had been struck from the rear by another vehicle, Ford has reviewed responsive owner and field reports, and lawsuits and claims. One allegation, a lawsuit, was identified. Information pertaining to this lawsuit is provided in Appendix C1.

Claims, Lawsuits, and Arbitrations: For purposes of identifying incidents that may relate to a fire or liquid fuel leakage occurring in or after the subject vehicle had been struck from the rear by another vehicle, Ford has gathered claim and lawsuit information maintained by Ford's OGC. Ford's OGC is responsible for handling product liability lawsuits, claims, and consumer breach of warranty lawsuits and arbitrations against the Company.

Lawsuits and claims gathered in this manner were reviewed for relevance. Ford has identified one lawsuit, as noted above, that relates to the agency's request.

We are providing the available detailed information related to the responsive lawsuit in our Log of Lawsuits and Claims, as Appendix C1. Ford located and is providing electronic copies of the lawsuit, which is the first notice, in Appendix C2. With regard to this lawsuit, Ford has not undertaken to contact outside law firms to obtain additional documentation.

Request 3

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. Ford'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. Cause: 1) Whether the potential defect occurred due to the failure of or damage to a subject component or 2) whether the potential defect occurred due to an unknown, undetermined, or ambiguous causation.
- d. Vehicle owner or fleet name (and fleet contact person), address, and telephone number;
- e. Vehicle's VIN;

- f. Vehicle's model year;
- g. Vehicle's mileage at time of incident;
- h. Incident date;
- i. Report or claim date;
- 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 2007, or a compatible format, entitled "REQUEST NUMBER TWO DATA."

Answer

In response to Request 2 and Request 3, Ford has not identified any responsive owner or field reports with allegations of fire or liquid fuel leakage occurring in or after the subject vehicle had been struck from the rear by another vehicle. To the extent information sought in Request 3 is available for the responsive lawsuit that was identified, it is provided in the Log of Lawsuits and Claims in Appendix C1.

Request 4

Produce electronic copies of all documents related to each item within the scope of Request No. 2 items a, b, c, d, e, and f. The documents requested specifically include any police reports in Ford's possession which relate to, or may relate to, the crash, fuel leak or fire, and any accident reconstruction documents by any party. Organize the documents separately by category (i.e., consumer complaints, field reports, etc.) and describe the method Ford used for organizing the documents.

Answer

Ford has not identified any responsive owner or field reports alleging a fire or liquid fuel leakage occurring in or after the subject vehicle had been struck from the rear by another vehicle. Copies of complaints, first notices, or MORS reports relating to the matter shown on the Log of Lawsuits and Claims (Appendix C1) are provided in Appendix C2. To the extent information sought in Request 4 is available, it is provided in the referenced appendix.

Request 5

For each design variation of the subject vehicle, provide the following information:

- a. Applicable model years or other design variation details (generation number, sub-model, trim level, etc.)
- b. Side, rear, and top view drawings showing the placement of the subject components and related components that secure them in the vehicle;
- c. A bottom view drawing or photograph showing the full vehicle undercarriage in the fully built configuration including the location of the subject components; and
- d. Type of material the subject fuel tank is composed of (e.g., HDPE plastic).

Answer

Ford is providing a table summarizing design variation details and fuel tank material composition in Appendix D.

Ford is submitting chassis layout drawings showing the placement of the subject components and the related components that secure them in the vehicle in Appendix E with a request for confidentiality under separate cover to the agency's Office of the Chief Counsel pursuant to 49 CFR, Part 512.

Ford is providing bottom view photographs showing the full vehicle undercarriage in the fully built configuration in Appendix F.

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