



U.S. Department
of Transportation

**National Highway
Traffic Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

FEB 14 2012

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Frank Diertl
General Manager, Engineering Services
Mercedes-Benz USA, LLC
One Mercedes Drive
P.O. Box 350
Montvale, 07645

NVS-212am
PE12-001

Dear Mr. Diertl:

This letter is to inform you that the Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) has opened Preliminary Evaluation (PE) 12-001 to investigate allegations of fuel leakage at or near the top of the fuel tank assembly in model year (MY) 2003-2006 Mercedes Benz E55 AMG sedans and wagons manufactured by Mercedes-Benz USA, LLC (MB), and to request certain information.

This office has received 20 reports of alleged fuel system leakage in MY 2003-2006 Mercedes-Benz E55 AMG vehicles. Complainants report the odor of fuel/gasoline vapor either inside the car, or outside the car, with some reports associating presence of the odor with refueling of the vehicle. Additionally they allege fuel leakage in the area of the fuel module located on the top of the fuel tank and accessible by removing the rear seat cushion. Complainants allege the leakage results in liquid (raw) fuel pooling and/or spraying on other nearby vehicle components (e.g., an insulation barrier on the underside of the seat cushion). A copy of each Vehicle Owner Questionnaire (VOQ) report that ODI has received has been sent to your office, and the identification numbers for each report is listed at the end of this letter.

Additionally, ODI has received 50 VOQ's involving alleged fuel system tank and/or sender leakage on E-Class (W211) from MY 2003 to MY 2008. Accordingly ODI is expanding the subject vehicle definition for this letter to also include the E-Class vehicles. These 50 reports have also been sent to your office, and a list of the identification numbers is listed at the end of this letter.

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

- **Subject vehicles:** All vehicles involved in (subject to) Emissions Recall Campaign No. No. 2008-020001, and all MY 2003-2008 E-Class (W211) vehicles manufactured for sale or lease in the United States.

- **Subject components:** The fuel pump assembly, the devices that seal the pump to the fuel tank, the hoses that connect to the fuel pump, and the fuel tank.
- **Mercedes-Benz USA, LLC:** Mercedes-Benz USA, LLC all of their past and present officers and employees, whether assigned to their principal offices or any of its field or other locations, including all of their 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 Mercedes-Benz USA, LLC (including all business units and persons previously referred to), who are or, in or after 1999, 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.
- **Alleged defect:** Leakage or escape of liquid fuel and/or fuel vapors that relate to, or may relate to, the subject components.
- **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 Mercedes-Benz USA, LLC, 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 Mercedes-Benz USA, LLC 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 Mercedes-Benz USA, LLC has previously provided a document to ODI, Mercedes-Benz USA, LLC 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 Mercedes-Benz USA, LLC'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 Mercedes-Benz USA, LLC has manufactured for sale or lease in the United States. Separately, for each subject vehicle manufactured to date by Mercedes-Benz USA, LLC, state the following:
 - a. Vehicle identification number (VIN);
 - b. Make;
 - c. Model;
 - d. Model Year;
 - e. Date of manufacture;
 - f. Date warranty coverage commenced; and
 - g. The State in the United States where the vehicle was originally sold or leased (or delivered for sale or lease).

- h. Whether the vehicle was included in (subject to) Mercedes-Benz USA, LLC's Emissions Recall No. 2008-020001 (yes/no);
- i. If the vehicle was involved in the emissions recall, whether or not the recall repair was completed (yes/no); and,
- j. If the emissions recall was completed, the date of completion.

Provide this information in a Microsoft Access 2007 file, or a compatible format, entitled "PRODUCTION DATA."

2. State the number of each of the following, received by Mercedes-Benz USA, LLC, or of which Mercedes-Benz USA, LLC 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, fire, 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. Property damage claims;
 - e. Third-party arbitration proceedings where Mercedes-Benz USA, LLC is or was a party to the arbitration; and
 - f. Lawsuits, both pending and closed, in which Mercedes-Benz USA, LLC 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" and "d," provide a summary description of the alleged problem and causal and contributing factors and Mercedes-Benz USA, LLC'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.

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. Mercedes-Benz USA, LLC'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 leakage of liquid fuel is alleged;
- j. Whether the smell of fuel vapors is alleged;
- k. Whether a crash is alleged;
- l. Whether a fire is alleged;
- m. Whether property damage is alleged;
- n. Number of alleged injuries, if any; and
- o. Number of alleged fatalities, if any;

Provide this information in a Microsoft Access 2007 file, or a compatible format, entitled "REQUEST NUMBER TWO DATA."

4. 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 Mercedes-Benz USA, LLC used for organizing the documents.
5. State, by model and model year, a total count for all of the following categories of claims, collectively, that have been paid by Mercedes-Benz USA, LLC 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; claims for Emissions Recall Campaign No. 2008-02000; field, zone, or similar adjustments and reimbursements; any out of warranty dealer repairs; 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. Mercedes-Benz USA, LLC'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. Whether the claim is for Emissions Recall No. 2008-02000 repair (yes/no);
- k. Concern stated by customer;
- l. Comment, if any, by dealer/technician relating to claim and/or repair

Provide this information in a Microsoft Access 2007 file, or a compatible format, entitled "WARRANTY DATA."

6. Describe in detail the search criteria used by Mercedes-Benz USA, LLC to identify the claims identified in response to Request No. 5, including the labor operations, problem codes, part numbers and any other pertinent parameters used. 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 Mercedes-Benz USA, LLC 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 Mercedes-Benz USA, LLC 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.

7. Produce copies of all service, warranty, and other documents that relate to, or may relate to, the alleged defect in the subject vehicles, that Mercedes-Benz USA, LLC has issued to any dealers, regional or zone offices, field offices, fleet purchasers, or other entities. This includes, but is not limited to, documents related to Emissions Recall No. 2008-020001, bulletins, advisories, informational documents, training documents, or other documents or communications, with the exception of standard shop manuals. Also include the latest draft copy of any communication that Mercedes-Benz USA, LLC is planning to issue within the next 120 days.
8. Describe all assessments, analyses, tests, test results, studies, surveys, simulations, investigations, inquiries and/or evaluations (collectively, "actions") that relate to, or may relate to, the alleged defect in the subject vehicles that have been conducted, are being conducted, are planned, or are being planned by, or for, Mercedes-Benz USA, LLC. Ensure that this response includes testing or analysis conducted either by Mercedes-Benz USA, LLC or its suppliers, on any and all subject components returned to Mercedes-Benz USA, LLC or the supplier, from field service or other consumer use. 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.

9. Describe all modifications or changes made by, or on behalf of, Mercedes-Benz USA, LLC in the design, material composition, manufacture, quality control, supply, or installation of any of the subject components, including original equipment (production) and service parts, from the start of production to date, which relate to, or may relate to, the alleged defect in the subject vehicles, including those that relate to Emissions Recall No. 2008-020001. 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;
 - b. A detailed description of the modification or change;
 - c. The reason(s) for the modification or change;
 - d. The part numbers (service and engineering) of the original component;

- e. The part number (service and engineering) of the modified component;
- f. Whether the original unmodified component was withdrawn from production and/or sale, and if so, when;
- g. When the modified component was made available as a service component; and
- h. Whether the modified component can be interchanged with earlier production components.

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

10. Separately, by component name, part number (both service and engineering/production), state the (i) model and model year of the vehicles in which each of the following may be installed either as original equipment or as a service part, and (ii) sales numbers by month/year from calendar year 2002 to the present:
 - a. Subject components; and
 - b. Any kits that have been released, or developed, by Mercedes-Benz USA, LLC for use in service repairs to the subject components/assemblies, and including those that relate to Emissions Recall No. 2008-020001.

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 Mercedes-Benz USA, LLC is aware that contain the identical component, whether installed in production or in service, and state the applicable dates of production or service usage.

11. Furnish Mercedes-Benz USA, LLC's assessment of the alleged defect in the subject vehicle, 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;
 - f. Any relationship to Emissions Recall No. 2008-020001 or its repair; and,
 - g. The reports included with this inquiry.

This letter is being sent to Mercedes-Benz USA, LLC pursuant to 49 U.S.C. § 30166(b), (e), 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. Mercedes-Benz USA, LLC's failure to respond promptly and fully to this letter could subject Mercedes-Benz USA, LLC to civil penalties pursuant to 49 U.S.C. § 30165 or lead to an action for injunctive relief pursuant to 49 U.S.C. § 30163. (Other remedies and sanctions are available as well.) Please note that maximum civil penalties under 49 U.S.C. § 30165 have

increased as a result of the recent enactment of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, Public Law No. 106-414 (signed November 1, 2000). Section 5(a) of the TREAD Act, codified at 49 U.S.C. § 30165(a), provides for civil penalties of up to \$6,000 per day, with a maximum of \$17,350,000 for a related series of violations, for failing or refusing to perform an act required under 49 U.S.C. § 30166. *See* 49 CFR 578.6 (as amended by 75 Fed. Reg. 79,978 (Dec. 21, 2010)). This includes failing to respond to ODI information requests.

If Mercedes-Benz USA, LLC 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, Mercedes-Benz USA, LLC does not submit one or more requested documents or items of information in response to this information request, Mercedes-Benz USA, LLC 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.

Mercedes-Benz USA, LLC's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office by **March 16, 2012**. 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 PE12-001 in Mercedes-Benz USA, LLC's response to this letter and in any confidentiality request submitted to the Office of Chief Counsel. If Mercedes-Benz USA, LLC finds that it is unable to provide all of the information requested within the time allotted, Mercedes-Benz USA, LLC must request an extension from me at (202) 366-0139 no later than five business days before the response due date. If Mercedes-Benz USA, LLC 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 Mercedes-Benz USA, LLC then has available, even if an extension has been granted.

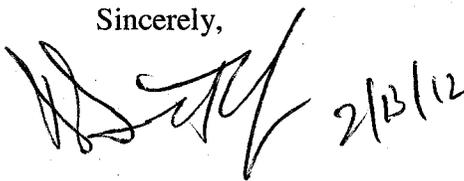
If Mercedes-Benz USA, LLC claims that any of the information or documents provided in response to this information request constitute confidential commercial material within the meaning of 5 U.S.C. § 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. § 1905, Mercedes-Benz USA, LLC must 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-111), National Highway Traffic Safety Administration, Room W41-227, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590. Mercedes-Benz USA, LLC is required to submit two copies of the documents containing allegedly confidential information (except only one copy of blueprints) and one copy of the documents from which information claimed to be confidential has been deleted. Please remember that the word "CONFIDENTIAL BUSINESS INFORMATION" must appear at the top of each page containing information claimed to be confidential, and the information must be clearly identified in accordance with 5 U.S.C. § 512.6. 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 (49 CFR 512.6(c)). See 72 Fed. Reg. 59,434 (Oct. 19, 2007).

Please send email notification to Ali Motamedamin (Ali.Motamedamin@dot.gov) and to ODI_IRresponse@dot.gov when Mercedes-Benz USA, LLC sends its response to this office and indicate whether there is confidential information as part of Mercedes-Benz USA, LLC's response.

If you have any technical questions concerning this matter, please call Ali Motamedamin of my staff, at (202) 366-7021.

Sincerely,



D. Scott Yon, Chief
Vehicle Integrity Division
Office of Defects Investigation

Vehicle Owner Questionnaire numbers for related complaints:

Complaints related to PE12-001: 10438976, 10438094, 10436932, 10421689, 10419750, 10419674, 10416845, 10412369, 10395389, 10395388, 10395218, 10392711, 10382329, 10375162, 10364387, 10361675, 10352224, 10351785, 10350632, 10349997.

Complaints related to the MY 2003-2008 E Class (W211): 10439711, 10438746, 10436439, 10433623, 10433530, 10433494, 10432494, 10427711, 10424435, 10423845, 10418272, 10416768, 10416386, 10414860, 10412613, 10410946, 10405830, 10405103, 10396714, 10395745, 10390093, 10387349, 10386015, 10383238, 10370377, 10366738, 10364069, 10311110, 10262767, 10281194, 10287486, 10303894, 10332416, 10442586, 10442775, 10443819, 10444833, 10445262, 10445597, 10445117, 10442575, 10441507, 10439789, 10437948, 10428736, 10409763, 10396056, 10363434, 10207734, 10361324.