



U.S. Department  
of Transportation

**National Highway  
Traffic Safety  
Administration**

1200 New Jersey Avenue SE.  
Washington, DC 20590

MAY 8 2015

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

**BMW Group**  
Sam Campbell  
Dept. Head, Safety Engineering and ITS  
200 Chestnut Ridge Road Bldg. 150  
Woodcliff Lake, NJ 07677

NVS-212jfa  
EA11-005Sup1

Dear Mr. Campbell:

As you are aware, the Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) is conducting an investigation to investigate allegations of unexpected loss of power steering assist while driving in MINI Cooper vehicles. This letter is a supplement to ODI's letter of July 6, 2011 and requests new and updated information. This letter also requests a new and consolidated response to the specific information requests below.

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

- **Subject vehicles**: all BMW MINI Cooper vehicles produced prior to March 1, 2005 manufactured for sale or lease in the United States.
- **Subject component(s)**: the Electro-Hydraulic Power (Assist) Steering ("EHPS") Pump.
- **BMW**: BMW of North America, LLC, including its parent company, (collectively BMW), where the design, engineering and/or manufacturing are undertaken in a foreign country, 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 BMW (including all business units and persons previously referred to), who are or, in or after 1996, 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:** Any failure of the subject component that resulted in, or allegedly resulted in any of the following outcomes or consequences:
    - a. A vehicle crash or loss of control incident;
    - b. An injury or fatality to an occupant of the subject vehicle, or to any other person; or
    - c. A vehicle fire (as defined in 49 CFR 579.4).
  
  - **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 BMW, 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 BMW 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. 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 BMW's response to each request, identify the source of the information and indicate the last date the information was gathered.

1. State, within the body of BMW's response to this letter, 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 vehicles, 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 vehicles, 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 "g," 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.

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. Each response should be in an individual and separate column:
  - 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 17-character VIN;
  - e. Vehicle's model;
  - f. Vehicle's model year;
  - g. Vehicle's mileage at time of incident;
  - h. Incident date;
  - i. Report or claim date;
  - j. Whether a crash is alleged;
  - k. Whether a fire is alleged;
  - l. Whether a loss of vehicle control is alleged;
  - m. Whether the subject component was allegedly replaced (Y/N);
  - n. Whether property damage is alleged;
  - o. Number of alleged injuries,
  - p. If an injury is alleged, explain the type of injury; and
  - q. Number of alleged fatalities, if any.

Provide this information in Microsoft Access 2010, or a compatible format, entitled **"COMPLAINT DATA."**

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.
4. State, within the body of BMW's response to this letter, a total count, by model and model year, for all vehicles included under BMW's Warranty Coverage Extension / Repair Expense Reimbursement program that have been paid by BMW to date, as described under BMW Service Information Bulletin SI M01 01 13.

Separately, for each such claim, state the following information (each response should be in an individual and separate column):

- a. BMW's claim number;
- b. Claim description, (i.e. warranty, TSB, extended warranty, good will, etc);
- c. Vehicle owner or fleet name (and fleet contact person) and telephone number;
- d. Vehicle's 17-character VIN;
- e. Vehicle's model;
- f. Vehicle's model year;
- g. Repair date;
- h. Vehicle mileage at time of repair;
- i. Replacement part number(s);

- j. Part number(s) description(s);
- k. Repairing dealer's or facility's name and telephone number;
- l. Repairing dealer's or facility's city;
- m. Repairing dealer's or facility's state;
- n. Labor operation number;
- o. Problem code;
- p. Whether a loss of vehicle control is alleged;
- q. Statements made by the customer; and,
- r. Comments, if any, by dealer/technician relating to claim and/or repair.

Provide this information in Microsoft Access 2010, or a compatible format, entitled "**Warranty Coverage Extension DATA.**"

### **Legal Authority for This Request**

This letter is being sent to BMW 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**

BMW's failure to respond promptly and fully to this letter could subject BMW 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), provides for civil penalties of up to \$7,000 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 77 Fed. Reg. 70710 (November 27, 2012)). This includes failing to respond completely to ODI information requests.

If BMW 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, BMW does not submit one or more requested documents or items of information in response to this information request, BMW 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 EA11-005-Sup1 in BMW's response to this letter and in any confidentiality request submitted to the Office of Chief Counsel.

If BMW 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, BMW 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. BMW 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).

If you have any questions regarding submission of a request for confidential treatment, contact Otto Matheke, Senior Attorney, Office of Chief Counsel at [otto.matheke@dot.gov](mailto:otto.matheke@dot.gov) or (202) 366-5253.

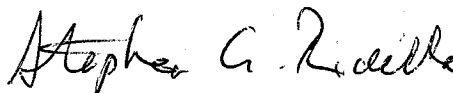
### **Due Date**

BMW's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office by **June 4, 2015**. If BMW finds that it is unable to provide all of the information requested within the time allotted, BMW must request an extension from me at (202) 366-0319 no later than five business days before the response due date. If BMW 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 BMW then has available, even if an extension has been granted.

Please send email notification to Scott Yon ([scott.yon@dot.gov](mailto:scott.yon@dot.gov)) and to [ODI\\_IRresponse@dot.gov](mailto:ODI_IRresponse@dot.gov) when BMW sends its response to this office and indicate whether there is confidential information as part of BMW response.

If you have any technical questions concerning this matter, please call Scott Yon of my staff at (202) 366-0139.

Sincerely,



Stephen Ridella, Acting Director  
Office of Defects Investigation