

BMW Group
INFORMATION Redacted PURSUANT TO THE FREEDOM OF
INFORMATION ACT (FOIA), 5 U.S.C. 552(B)(6)
September 2, 2011

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

Re: EA11-005

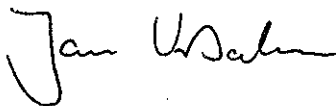
Dear Mr. Borris:

With this letter, BMW is responding to NHTSA's Information Request dated July 6, 2011 in the above captioned matter. As agreed with the agency, BMW would be responding to Questions 1 through 6 by September 2, 2011. Accordingly, the materials contained herein are BMW's response to Questions 1 through 6 of the Information Request. As also agreed with the agency, BMW would respond to Questions 7 through 11 by September 16, 2011.

As requested, BMW has repeated each question verbatim and provided our response accordingly. Our detailed responses are contained in the attachments.

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,



Company
BMW of North America, LLC

BMW Group Company

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Jan Urbahn
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Safety Engineering & Intelligent Transportation Systems

Attachments:

CD No. 1

Cc:

S. Yon, NHTSA, Office of Defects Investigation (Letter only)

OFFICE OF DEFECTS &
INVESTIGATIONS
2011 SEP - 7 A 10:19



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to
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(Questions 1-6)
2 Sep 2011**

As requested by NHTSA in a discussion between the agency and BMW on July 13, 2011, BMW is providing this summary introduction.

As BMW explained on July 13th, its response to PE10-038 Question 1 (production data) did not contain a complete data set pertaining to Model Year 2004-05 subject vehicle production. BMW stated that in response to EA11-005 Question 1 (production data), it would provide a complete data set pertaining to Model Year 2004-05 subject vehicle production, along with Model Year 2002-03 subject vehicle production data (now a part of this Information Request).

BMW explained that in its response to PE10-038 Question 1 (production data), information pertaining to convertible models was not included. BMW interpreted the PE10-038 "subject vehicles" as not including convertibles. BMW stated that it would provide production data pertaining to convertible models in response to EA11-005 Question 1 (production data). BMW also stated that in response to other EA11-005 questions, information pertaining to convertible models would be included as applicable.

BMW stated that prior to submitting its response, it would perform an analysis in order to ensure that any VIN contained within a field data file (e.g., warranty claims, consumer complaints, field reports, etc.) was also contained within the vehicle production file.

Lastly, as requested by NHTSA, BMW would include in its response to EA11-005, data already provided in response to PE10-038.

- 1. For MY 2002-2005, state, by model and model year, the number of subject vehicles BMW has manufactured for sale or lease in the United States. Separately, for each subject vehicle manufactured to date by BMW, 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).**

Provide the table in Microsoft Access 2007, or a compatible format, entitled "PRODUCTION DATA."

Response:

The source of this information is our vehicle production database and is current as of 30 June 2011.

The number of subject vehicles BMW has manufactured for sale or lease in the United States by Model and Model Year is contained in Table 1.

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Model	Model Year	US Production
Cooper	2002	10,245
Cooper	2003	18,205
Cooper	2004	16,286
Cooper	2005	15,311
Cooper S	2002	7,032
Cooper S	2003	14,957
Cooper S	2004	14,958
Cooper S	2005	18,364
Cooper Convertible	2005	3,359
Cooper S Convertible	2005	10,541

Table 1.

Attachment "PRODUCTION-DATA" on CD No. 1 contains the requested information. In the attachment, there are 29 VINs which do not have a US state of sale; however, we are including them as they were produced for sale or lease in the United States.

2. For MY 2002-2005, 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:
- Consumer complaints, including those from fleet operators;
 - Field reports, including dealer field reports;
 - 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;
 - 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;
 - Property damage claims;
 - Third-party arbitration proceedings where BMW is or was a party to the arbitration; and,
 - 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 mfg's short name's [sic - BMW's] assessment of the problem, with a summary of the significant underlying facts and

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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 source of this information is our customer contact database, various field report databases, and certain legal databases, and is current as of 30 June 2011.

The number of reports, if any, by category, that may relate to allegations of loss of power steering assist is provided in Table 2. Table 2 also includes the number of reports, if any, in which an allegation, of the type noted in 2(c) and 2(d), is contained within the specific report in that category.

Search terms / key words for item 2(c) were: "crash" (and variations), "accident", "hit", "injury" (and variations), and "pain".

Search terms / key words for item 2(d) were: "fire", "flame", "burn", "smoke", "melt", "heat", and "spark".

Category	Number	Number Including Allegation of Crash	Number Including Allegation of Injury	Number Including Allegation of Fatality	Number Including Allegation of Fire
Consumer Complaints	768	7	0	0	16
Field Reports	23	17	5	0	3
Dealer Field Reports	12	0	0	0	0
Property Damage Claims	0	0	0	0	0
Third-Party Arbitration Proceedings*	1	0	0	0	0
Lawsuits*	7	0	0	0	1

Table 2.

*All but one of the third-party arbitration proceedings, and lawsuits, are "Lemon-Law" matters. The other is a Class Action lawsuit that was filed after PE10-038 commenced.

Attachment "LEGAL-SUMMARY-INFO" on CD No. 1 contains the requested information for items 2(f) and 2(g).

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. 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.);

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- c. Vehicle owner or fleet name (and fleet contact person), address, and telephone number;
- d. Vehicle's 17-character VIN;
- e. Vehicle's make;
- f. Vehicle's model;
- g. Vehicle's model year;
- h. Vehicle's mileage at time of incident;
- i. Incident date;
- j. Report or claim date;
- k. Whether a crash is alleged;
- l. Whether a fire is alleged;
- m. Whether a loss of vehicle control is alleged;
- n. Whether any of the subject components were allegedly replaced (Y/N);
- o. If any were replaced, list the subject components (rack, fan, pump, etc.), or "n/a" if none were replaced;
- p. Whether the vehicle was re-purchased by BMW;
- q. If BMW re-purchased the vehicle, explain in detail the reason for the re-purchase, or "n/a" if not re-purchased;
- r. Whether property damage is alleged;
- s. Number of alleged injuries;
- t. If an injury is alleged, explain the type of injury; and
- u. Number of alleged fatalities, if any.

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

Response:

The source of this information is our customer contact database, various field report databases, and certain legal databases, and is current as of 30 June 2011.

Attachment "COMPLAINT-DATA-CC" on CD No. 1 contains the requested information for the consumer complaints that may relate to allegations of loss of power steering assist. As the subparts of Q3 were expanded from the PE to the EA, the consumer complaint data provided in response to the PE was updated. Therefore, the attachment contains separate tabs for Model Year 2002-03, Model Year 2005 Convertibles, Model Year 2004-05 updated data collected during the PE (tab "PE"), and Model Year 2004-05 data collected after the PE data collection end-date (tab "EA"). Item (i) "Incident Date" is not available. Within each tab, data is organized chronologically.

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The consumer complaint codes and code descriptions utilized in the search are contained in Table 3.

Consumer Complaint Code	Code Description
3200	Steering Unit Components (SUC)
3201	SUC – Wheel Vibration/Balance
3211	SUC – Steering Box
3213	SUC – Steering Rack
3231	SUC – Steering Column
3233	SUC – Steering Wheel
3241	SUC –Hydraulics – Pump, Hose
GQ02	NHTSA Investigation – MINI Cooper Cooper S (2004-2005) Power Steering

Table 3.

Attachment "COMPLAINT DATA – FR" on CD No. 1 contains the requested information for the field reports that may relate to allegations of loss of power steering assist. As the subparts of Q3 were expanded from the PE to the EA, the field report data provided in response to the PE was updated. Therefore, the attachment contains separate tabs for the updated PE data (tab "PE"), and for the EA data (tab "EA"). Within each tab, data is organized alphabetically by file identifier. As noted in the attachment, there were seven (7) incidents (1 on the PE tab, 6 on the EA tab) where a field report was not received, as the vehicle was not able to be inspected. Nevertheless, BMW received information from the field, and therefore, is including that information as a "field report". Those incidents are identified on the tabs in the attachment. For those incidents, there is no field report copy to provide in response to Question 4.

Attachment "COMPLAINT DATA – DFR" on CD No. 1 contains the requested information for the dealer field reports that may relate to allegations of loss of power steering assist. Within each tab, data is organized alphabetically by file identifier. Item (i) "Incident Date" is not available.

The field report, and dealer field report code descriptions utilized in the search were as follows:

- Steering
- Power steering
- Steering locked/stiff/binds/pulls
- Steering/suspension/driveline, loss of control
- Alleged suspension defect caused crash
- Power steering cooling fan
- Front axle / front wheel control
- General vehicle electrics

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Attachment "COMPLAINT DATA - LM" on CD No. 1 contains the requested information for the legal matters that may relate to allegations of loss of power steering assist. As the subparts of Q3 were expanded from the PE to the EA, the legal matter data provided in response to the PE was updated. Therefore, the attachment contains separate tabs for the updated PE data (tab "PE"), and for the EA data (tab "EA"). Item (i) "Incident Date" is not available. Within each tab, data is organized alphabetically by file identifier.

For item 3(p) and 3(q), no vehicle repurchase, if any, has occurred solely due to a matter that may relate to an allegation of loss of power steering assist. In other words, an allegation, if any, that may relate to loss of power steering assist, is not the sole reason for a vehicle repurchase.

- 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 BMW used for organizing the documents.**

Response:

The source of this information is our customer contact database, various field report databases, and certain legal databases, and is current as of 30 June 2011.

Attachment "CONSUMER-COMPLAINTS" on CD No. 1 contains copies of the consumer complaints that may relate to allegations of loss of power steering assist. For Model Year 2002-03, a separate file is provided and contains complaints for all codes listed in Table 3. For Model Year 2005 Convertibles, a separate file is provided and contains complaints for all codes listed in Table 3. For Model Year 2004-05, separate files are provided for the PE and EA data collection time period, and also according to the consumer complaint code listed in Table 3. Within each file, complaints are organized chronologically.

Attachment "FIELD-REPORTS" on CD No. 1 contains copies of the field reports that may relate to allegations of loss of power steering assist. Each field report is a separate file. As noted above in response to Question 3, there were also seven (7) incidents where a field report was not received, as the vehicle was not able to be inspected. Nevertheless, BMW received information from the field, and therefore, is including that information as a "field report". For those incidents, there is no field report copy in the attachment.

Attachment "DEALER-FIELD-REPORTS" on CD No. 1 contains copies of the dealer field reports that may relate to allegations of loss of power steering assist. Each dealer field report is a separate file.

Attachment "LEGAL-MATTERS" on CD No. 1 contains copies of the legal matters that may relate to allegations of loss of power steering assist. Each legal matter is a separate file. All but one of the legal matters is a "Lemon-Law" matter. One is a Class Action case that was filed after PE10-038 commenced. The Lemon Law cases do not comprise any instances of crashes, injuries, or fatalities. Lemon Law cases are based on a variety of vehicle complaints where it is alleged that the vehicle is out of service for more than 30 days within a specific "Lemon Law" period of time (depends upon the State) or that certain alleged defects cannot be repaired after a reasonable number of attempts. Power steering may be one of a number of alleged defects in the Complaint, but is not the focus of the

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Complaint, or power steering may be part of a repair order related to the lawsuit or third party arbitration/mediation although not specifically stated in the Complaint filed.

5. For MY 2002-2005, 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; claims that were repaired under service action TSB/CSC SI M32 03 04; extended warranty claims; claims for good will services that were provided; field, zone, or similar adjustments and reimbursements; and 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 (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 make;
- f. Vehicle's model;
- g. Vehicle's model year;
- h. Repair date;
- i. Vehicle mileage at time of repair;
- j. Replacement part number(s);
- k. Part number description(s);
- l. Whether the power steering rack was replaced (Y/N);
- m. Whether the power steering pump was replaced (Y/N);
- n. Repairing dealer's or facility's name and telephone number;
- o. Repairing dealer's or facility's city;
- p. Repairing dealer's or facility's state;
- q. Labor operation number;
- r. Problem code;
- s. Whether a loss of vehicle control is alleged;
- t. Concern stated by customer; and,
- u. Comment, if any, by dealer/technician relating to claim and/or repair.

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

Response:

The source of this information is our warranty claims database and is current as of 30 June 2011.

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The number of paid warranty claims by Model and Model Year that may relate to allegations of loss of power steering assist is contained in Table 4.

Model	Model Year	Number of Warranty Claims
Cooper	2002	1,786
Cooper	2003	2,810
Cooper	2004	2,275
Cooper	2005	1,164
Cooper S	2002	1,540
Cooper S	2003	2,571
Cooper S	2004	2,004
Cooper S	2005	1,129
Cooper Convertible	2005	446
Cooper S Convertible	2005	328

Table 4.

Attachment "WARRANTY-DATA" on CD No. 1 contains the requested information. Separate tabs are provided for claims by problem code, claims by labor operation code, and claims by part number. The tab containing claims by problem code provides the total number of separate and unique claims. For a given claim, there could be more than one labor operation and/or more than one part number. Therefore, separate tabs are provided for those parameters so as to not duplicate the results on the problem code tab. The tabs have a common attribute which is item 5(a) – BMW claim number.

Information pertaining to labor operations, labor operation descriptions, problem codes, problem code descriptions, part numbers, and part number descriptions are contained in Attachment "WARRANTY-DATA" on CD No. 1. Separate tabs are provided for the labor operations/descriptions, problem codes/descriptions, and part numbers/descriptions.

6. **Describe in detail the search criteria used by BMW 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 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 search criteria was initially based upon the NHTSA definition of "subject component" and our corresponding warranty claims system comprehensive

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problem code for that component, specifically the steering system. Using those parameters resulted in capturing all warranty claims information pertaining to the steering system in the subject vehicles.

The claims data was then reviewed in order to remove clearly unrelated / non-applicable claims, such as those pertaining to steering wheel cosmetics, loose trim pieces, etc.

Warranty claims were then sorted / grouped into categories based upon warranty claim problem code. Those claims were then reviewed using a text-based search involving the NHTSA definition of "alleged defect" with the intention of capturing claims that may relate to allegations of loss of power steering assist. As a result, warranty claims that may relate to allegations of loss of power steering assist were retained.

The warranty claim problem codes and code descriptions are contained in Table 5.

Warranty Claim Problem Code	Code Description
32410114XX	Vane/tandem pump/electric pump occasional malfunction
32410115XX	Vane/tandem pump/electric pump permanent malfunction
32130234XX	Steering gear stiff to move
32130214XX	Steering gear occasional malfunction
32130215XX	Steering gear permanent malfunction
32410199XX	Vane/tandem pump/electric pump Fault code stored in diagnosis fault code memory (no warning lamp)]
0032630100	SIB 320304
32419479XX	SIB 320104
32130248XX	Steering gear leaking
32410148XX	Vane/tandem pump/electric pump leaking

Table 5.

The "XX" at the end of the warranty claim problem code denotes an alpha-numeric set of characters specific to a regular warranty claim, a goodwill warranty claim, or an extended warranty claim. As requested in response to Question 5(b), the specific claim type is contained in Attachment "WARRANTY-DATA" on CD No. 1.

Warranty claims pertaining to the Service Information Bulletin that NHTSA included as a part of this Information Request (SIB 320304) were also captured. Also, warranty claims pertaining to Service Information Bulletin (SIB) 320104 were also captured. SIB 320104 is provided as an attachment in response to Question 7.

Information pertaining to labor operations, labor operation descriptions, problem codes, problem code descriptions, part numbers, and part number descriptions are contained in Attachment "WARRANTY-DATA" on CD No. 1. Separate tabs are provided for the labor operations/descriptions, problem codes/descriptions, and part numbers/descriptions.

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The terms of the New Vehicle Limited Warranty coverage for the subject vehicles is 4 years / 50,000 miles and includes coverage for the subject component.

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

MINI offers several extended service contract options for the subject vehicles which are known as the MINI "Extended Motorer Protection" (EMP) program. While CPO coverage is only available in one term as noted above, we have four EMP terms available for vehicles still covered by our New Vehicle Limited Warranty: 5 years / 100,000 miles, 6 years / 100,000 miles, 7 years / 70,000 miles, or 7 years / 100,000 miles (whichever occur first). All of these terms "wrap" the factory 4 year / 50,000 mile warranty, and will expire at 5, 6, or 7 years from the original in-service date of the vehicle, or 70,000 or 100,000 total vehicular miles, whichever comes first.

On these enrollments, coverage begins on the date of enrollment, and the covered mileage period is calculated by adding the term mileage coverage to the mileage on the vehicle as of the date of enrollment. For all of our current EMP offerings, once in place, coverage can be transferred to a second (and any 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.

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As requested by NHTSA in a discussion between the agency and BMW on July 13, 2011, BMW is providing this summary introduction.

As BMW explained on July 13th, its response to PE10-038 Question 1 (production data) did not contain a complete data set pertaining to Model Year 2004-05 subject vehicle production. BMW stated that in response to EA11-005 Question 1 (production data), it would provide a complete data set pertaining to Model Year 2004-05 subject vehicle production, along with Model Year 2002-03 subject vehicle production data (now a part of this Information Request).

BMW explained that in its response to PE10-038 Question 1 (production data), information pertaining to convertible models was not included. BMW interpreted the PE10-038 “subject vehicles” as not including convertibles. BMW stated that it would provide production data pertaining to convertible models in response to EA11-005 Question 1 (production data). BMW also stated that in response to other EA11-005 questions, information pertaining to convertible models would be included as applicable.

BMW stated that prior to submitting its response, it would perform an analysis in order to ensure that any VIN contained within a field data file (e.g., warranty claims, consumer complaints, field reports, etc.) was also contained within the vehicle production file.

Lastly, as requested by NHTSA, BMW would include in its response to EA11-005, data already provided in response to PE10-038.

- 1. For MY 2002-2005, state, by model and model year, the number of subject vehicles BMW has manufactured for sale or lease in the United States. Separately, for each subject vehicle manufactured to date by BMW, 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).**

Provide the table in Microsoft Access 2007, or a compatible format, entitled “PRODUCTION DATA.”

Response:

The source of this information is our vehicle production database and is current as of 30 June 2011.

The number of subject vehicles BMW has manufactured for sale or lease in the United States by Model and Model Year is contained in Table 1.

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Model	Model Year	US Production
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Cooper S Convertible	2005	10,541

Table 1.

Attachment “PRODUCTION-DATA” on CD No. 1 contains the requested information. In the attachment, there are 29 VINs which do not have a US state of sale; however, we are including them as they were produced for sale or lease in the United States.

- 2. For MY 2002-2005, 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 “g,” provide a summary description of the alleged problem and causal and contributing factors and mfg’s short name’s [sic – BMW’s] assessment of the problem, with a summary of the significant underlying facts and

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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 source of this information is our customer contact database, various field report databases, and certain legal databases, and is current as of 30 June 2011.

The number of reports, if any, by category, that may relate to allegations of loss of power steering assist is provided in Table 2. Table 2 also includes the number of reports, if any, in which an allegation, of the type noted in 2(c) and 2(d), is contained within the specific report in that category.

Search terms / key words for item 2(c) were: “crash” (and variations), “accident”, “hit”, “injury” (and variations), and “pain”.

Search terms / key words for item 2(d) were: “fire”, “flame”, “burn”, “smoke”, “melt”, “heat”, and “spark”.

Category	Number	Number Including Allegation of Crash	Number Including Allegation of Injury	Number Including Allegation of Fatality	Number Including Allegation of Fire
Consumer Complaints	768	7	0	0	16
Field Reports	23	17	5	0	3
Dealer Field Reports	12	0	0	0	0
Property Damage Claims	0	0	0	0	0
Third-Party Arbitration Proceedings*	1	0	0	0	0
Lawsuits*	7	0	0	0	1

Table 2.

*All but one of the third-party arbitration proceedings, and lawsuits, are “Lemon-Law” matters. The other is a Class Action lawsuit that was filed after PE10-038 commenced.

Attachment “LEGAL-SUMMARY-INFO” on CD No. 1 contains the requested information for items 2(f) and 2(g).

- 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. 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.);**

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- c. Vehicle owner or fleet name (and fleet contact person), address, and telephone number;
- d. Vehicle's 17-character VIN;
- e. Vehicle's make;
- f. Vehicle's model;
- g. Vehicle's model year;
- h. Vehicle's mileage at time of incident;
- i. Incident date;
- j. Report or claim date;
- k. Whether a crash is alleged;
- l. Whether a fire is alleged;
- m. Whether a loss of vehicle control is alleged;
- n. Whether any of the subject components were allegedly replaced (Y/N);
- o. If any were replaced, list the subject components (rack, fan, pump, etc.), or "n/a" if none were replaced;
- p. Whether the vehicle was re-purchased by BMW;
- q. If BMW re-purchased the vehicle, explain in detail the reason for the re-purchase, or "n/a" if not re-purchased;
- r. Whether property damage is alleged;
- s. Number of alleged injuries;
- t. If an injury is alleged, explain the type of injury; and
- u. Number of alleged fatalities, if any.

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

Response:

The source of this information is our customer contact database, various field report databases, and certain legal databases, and is current as of 30 June 2011.

Attachment "COMPLAINT-DATA-CC" on CD No. 1 contains the requested information for the consumer complaints that may relate to allegations of loss of power steering assist. As the subparts of Q3 were expanded from the PE to the EA, the consumer complaint data provided in response to the PE was updated. Therefore, the attachment contains separate tabs for Model Year 2002-03, Model Year 2005 Convertibles, Model Year 2004-05 updated data collected during the PE (tab "PE"), and Model Year 2004-05 data collected after the PE data collection end-date (tab "EA"). Item (i) "Incident Date" is not available. Within each tab, data is organized chronologically.

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The consumer complaint codes and code descriptions utilized in the search are contained in Table 3.

Consumer Complaint Code	Code Description
3200	Steering Unit Components (SUC)
3201	SUC – Wheel Vibration/Balance
3211	SUC – Steering Box
3213	SUC – Steering Rack
3231	SUC – Steering Column
3233	SUC –Steering Wheel
3241	SUC –Hydraulics – Pump, Hose
GQ02	NHTSA Investigation – MINI Cooper Cooper S (2004-2005) Power Steering

Table 3.

Attachment “COMPLAINT DATA – FR” on CD No. 1 contains the requested information for the field reports that may relate to allegations of loss of power steering assist. As the subparts of Q3 were expanded from the PE to the EA, the field report data provided in response to the PE was updated. Therefore, the attachment contains separate tabs for the updated PE data (tab “PE”), and for the EA data (tab “EA”). Within each tab, data is organized alphabetically by file identifier. As noted in the attachment, there were seven (7) incidents (1 on the PE tab, 6 on the EA tab) where a field report was not received, as the vehicle was not able to be inspected. Nevertheless, BMW received information from the field, and therefore, is including that information as a “field report”. Those incidents are identified on the tabs in the attachment. For those incidents, there is no field report copy to provide in response to Question 4.

Attachment “COMPLAINT DATA – DFR” on CD No. 1 contains the requested information for the dealer field reports that may relate to allegations of loss of power steering assist. Within each tab, data is organized alphabetically by file identifier. Item (i) “Incident Date” is not available.

The field report, and dealer field report code descriptions utilized in the search were as follows:

- Steering
- Power steering
- Steering locked/stiff/binds/pulls
- Steering/suspension/driveline, loss of control
- Alleged suspension defect caused crash
- Power steering cooling fan
- Front axle / front wheel control
- General vehicle electrics

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Attachment “COMPLAINT DATA – LM” on CD No. 1 contains the requested information for the legal matters that may relate to allegations of loss of power steering assist. As the subparts of Q3 were expanded from the PE to the EA, the legal matter data provided in response to the PE was updated. Therefore, the attachment contains separate tabs for the updated PE data (tab “PE”), and for the EA data (tab “EA”). Item (i) “Incident Date” is not available. Within each tab, data is organized alphabetically by file identifier.

For item 3(p) and 3(q), no vehicle repurchase, if any, has occurred solely due to a matter that may relate to an allegation of loss of power steering assist. In other words, an allegation, if any, that may relate to loss of power steering assist, is not the sole reason for a vehicle repurchase.

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 BMW used for organizing the documents.

Response:

The source of this information is our customer contact database, various field report databases, and certain legal databases, and is current as of 30 June 2011.

Attachment “CONSUMER-COMPLAINTS” on CD No. 1 contains copies of the consumer complaints that may relate to allegations of loss of power steering assist. For Model Year 2002-03, a separate file is provided and contains complaints for all codes listed in Table 3. For Model Year 2005 Convertibles, a separate file is provided and contains complaints for all codes listed in Table 3. For Model Year 2004-05, separate files are provided for the PE and EA data collection time period, and also according to the consumer complaint code listed in Table 3. Within each file, complaints are organized chronologically.

Attachment “FIELD-REPORTS” on CD No. 1 contains copies of the field reports that may relate to allegations of loss of power steering assist. Each field report is a separate file. As noted above in response to Question 3, there were also seven (7) incidents where a field report was not received, as the vehicle was not able to be inspected. Nevertheless, BMW received information from the field, and therefore, is including that information as a “field report”. For those incidents, there is no field report copy in the attachment.

Attachment “DEALER-FIELD-REPORTS” on CD No. 1 contains copies of the dealer field reports that may relate to allegations of loss of power steering assist. Each dealer field report is a separate file.

Attachment “LEGAL-MATTERS” on CD No. 1 contains copies of the legal matters that may relate to allegations of loss of power steering assist. Each legal matter is a separate file. All but one of the legal matters is a “Lemon-Law” matter. One is a Class Action case that was filed after PE10-038 commenced. The Lemon Law cases do not comprise any instances of crashes, injuries, or fatalities. Lemon Law cases are based on a variety of vehicle complaints where it is alleged that the vehicle is out of service for more than 30 days within a specific “Lemon Law” period of time (depends upon the State) or that certain alleged defects cannot be repaired after a reasonable number of attempts. Power steering may be one of a number of alleged defects in the Complaint, but is not the focus of the

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Complaint, or power steering may be part of a repair order related to the lawsuit or third party arbitration/mediation although not specifically stated in the Complaint filed.

5. For MY 2002-2005, 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; claims that were repaired under service action TSB/CSC SI M32 03 04; extended warranty claims; claims for good will services that were provided; field, zone, or similar adjustments and reimbursements; and 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 (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 make;
- f. Vehicle's model;
- g. Vehicle's model year;
- h. Repair date;
- i. Vehicle mileage at time of repair;
- j. Replacement part number(s);
- k. Part number description(s);
- l. Whether the power steering rack was replaced (Y/N);
- m. Whether the power steering pump was replaced (Y/N);
- n. Repairing dealer's or facility's name and telephone number;
- o. Repairing dealer's or facility's city;
- p. Repairing dealer's or facility's state;
- q. Labor operation number;
- r. Problem code;
- s. Whether a loss of vehicle control is alleged;
- t. Concern stated by customer; and,
- u. Comment, if any, by dealer/technician relating to claim and/or repair.

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

Response:

The source of this information is our warranty claims database and is current as of 30 June 2011.

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The number of paid warranty claims by Model and Model Year that may relate to allegations of loss of power steering assist is contained in Table 4.

Model	Model Year	Number of Warranty Claims
Cooper	2002	1,786
Cooper	2003	2,810
Cooper	2004	2,275
Cooper	2005	1,164
Cooper S	2002	1,540
Cooper S	2003	2,571
Cooper S	2004	2,004
Cooper S	2005	1,129
Cooper Convertible	2005	446
Cooper S Convertible	2005	328

Table 4.

Attachment “WARRANTY-DATA” on CD No. 1 contains the requested information. Separate tabs are provided for claims by problem code, claims by labor operation code, and claims by part number. The tab containing claims by problem code provides the total number of separate and unique claims. For a given claim, there could be more than one labor operation and/or more than one part number. Therefore, separate tabs are provided for those parameters so as to not duplicate the results on the problem code tab. The tabs have a common attribute which is item 5(a) – BMW claim number.

Information pertaining to labor operations, labor operation descriptions, problem codes, problem code descriptions, part numbers, and part number descriptions are contained in Attachment “WARRANTY-DATA” on CD No. 1. Separate tabs are provided for the labor operations/descriptions, problem codes/descriptions, and part numbers/descriptions.

- 6. Describe in detail the search criteria used by BMW 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 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 search criteria was initially based upon the NHTSA definition of “subject component” and our corresponding warranty claims system comprehensive

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problem code for that component, specifically the steering system. Using those parameters resulted in capturing all warranty claims information pertaining to the steering system in the subject vehicles.

The claims data was then reviewed in order to remove clearly unrelated / non-applicable claims, such as those pertaining to steering wheel cosmetics, loose trim pieces, etc.

Warranty claims were then sorted / grouped into categories based upon warranty claim problem code. Those claims were then reviewed using a text-based search involving the NHTSA definition of “alleged defect” with the intention of capturing claims that may relate to allegations of loss of power steering assist. As a result, warranty claims that may relate to allegations of loss of power steering assist were retained.

The warranty claim problem codes and code descriptions are contained in Table 5.

Warranty Claim Problem Code	Code Description
32410114XX	Vane/tandem pump/electric pump occasional malfunction
32410115XX	Vane/tandem pump/electric pump permanent malfunction
32130234XX	Steering gear stiff to move
32130214XX	Steering gear occasional malfunction
32130215XX	Steering gear permanent malfunction
32410199XX	Vane/tandem pump/electric pump Fault code stored in diagnosis fault code memory (no warning lamp)]
0032630100	SIB 320304
32419479XX	SIB 320104
32130248XX	Steering gear leaking
32410148XX	Vane/tandem pump/electric pump leaking

Table 5.

The “XX” at the end of the warranty claim problem code denotes an alpha-numeric set of characters specific to a regular warranty claim, a goodwill warranty claim, or an extended warranty claim. As requested in response to Question 5(b), the specific claim type is contained in Attachment “WARRANTY-DATA” on CD No. 1.

Warranty claims pertaining to the Service Information Bulletin that NHTSA included as a part of this Information Request (SIB 320304) were also captured. Also, warranty claims pertaining to Service Information Bulletin (SIB) 320104 were also captured. SIB 320104 is provided as an attachment in response to Question 7.

Information pertaining to labor operations, labor operation descriptions, problem codes, problem code descriptions, part numbers, and part number descriptions are contained in Attachment “WARRANTY-DATA” on CD No. 1. Separate tabs are provided for the labor operations/descriptions, problem codes/descriptions, and part numbers/descriptions.

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The terms of the New Vehicle Limited Warranty coverage for the subject vehicles is 4 years / 50,000 miles and includes coverage for the subject component.

MINI offers a “Certified Pre-Owned” (CPO) program for the subject vehicles. The CPO program provides certain warranty coverage (subject to exclusions and limitations) on the vehicle when purchased (via the CPO program) by a second (and any subsequent) owner(s) for an additional 2 years / 50,000 miles (whichever occurs first), after our original New Vehicle Limited Warranty coverage period of 4 years / 50,000 miles expires. With the addition of this CPO coverage, the vehicle is covered (with certain limitations) up to a maximum of 6 years / 100,000 miles (whichever occurs first).

MINI offers several extended service contract options for the subject vehicles which are known as the MINI “Extended Motorer Protection” (EMP) program. While CPO coverage is only available in one term as noted above, we have four EMP terms available for vehicles still covered by our New Vehicle Limited Warranty: 5 years / 100,000 miles, 6 years / 100,000 miles, 7 years / 70,000 miles, or 7 years / 100,000 miles (whichever occur first). All of these terms “wrap” the factory 4 year / 50,000 mile warranty, and will expire at 5, 6, or 7 years from the original in-service date of the vehicle, or 70,000 or 100,000 total vehicular miles, whichever comes first.

On these enrollments, coverage begins on the date of enrollment, and the covered mileage period is calculated by adding the term mileage coverage to the mileage on the vehicle as of the date of enrollment. For all of our current EMP offerings, once in place, coverage can be transferred to a second (and any 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.

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LEGAL SUMMARY INFO.

Legal matters submitted in response to PE10-038 (and also included herein)

Parties to the action: [REDACTED] / BMW of North America, LLC
Caption: [REDACTED] vs. BMW of North America
Court: Superior Court of NJ / Union County
Docket Number: UNN-L-3379-05
Complaint Date: October 17, 2005

Parties to the action: [REDACTED] / BMW of North America, LLC
Caption: [REDACTED] vs. BMW of North America
Court: Superior Court of NJ / Camden County
Docket Number: L-7348-05
Complaint Date: August 15, 2005

Parties to the action: [REDACTED] / BMW of North America, LLC
Caption: [REDACTED] vs. BMW of North America
Court: Circuit Court of Illinois / Cook County
Docket Number: 07M1214495
Complaint Date: December 4, 2007

Legal matters being submitted in response to EA11-005

Parties to the action: [REDACTED] / BMW of North America, LLC
Caption: [REDACTED] vs. BMW of North America
Court: Circuit Court of Florida / Dade County
Docket Number: 05-1423-CA-20
Complaint Date: January 21, 2005

Parties to the action: [REDACTED] / BMW of North America, LLC
Caption: [REDACTED] vs. BMW of North America
Court: United States District Court / New Jersey
Docket Number: 2:10-CV-05259-SDW-MCA
Complaint Date: October 15, 2010

Parties to the action: [REDACTED] / BMW of North America, LLC
Caption: [REDACTED] vs. BMW of North America
Court: Superior Court of California / Los Angeles County
Docket Number: BC311368
Complaint Date: March 1, 2004

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LEGAL SUMMARY INFO.

Legal matters being submitted in response to EA11-005 – continued

Parties to the action: [REDACTED] / BMW of North America, LLC
Caption: [REDACTED] vs. BMW of North America, LLC
Court: Florida New Motor Vehicle Arbitration Board
Docket Number: 2004-0942/MIA
Complaint Date: October 26, 2004

Parties to the action: [REDACTED] / BMW of North America, LLC
Caption: [REDACTED] vs. BMW of North America
Court: Court of Common Plea, PA.
Docket Number: 51076
Complaint Date: Unknown