



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

1200 New Jersey Avenue SE.
Washington, DC 20590

APR 15 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Maurice Arcangeli
Director-Government Relations
Subaru of America, Inc.
P.O. Box 6000
Cherry Hill, NJ 08034-6000

NVS-212jfa
PE15-012

Dear Mr. Arcangeli:

This letter is to inform you that the Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) has opened a Preliminary Evaluation (PE) 15-012 to investigate allegations of improper operation of the passenger air bag system in model year (MY) 2012 Subaru Impreza vehicles manufactured by Subaru of America, Inc., and to request certain information.

This office has received 26 Vehicle Owner Questionnaire (VOQ) complaint reports on front passenger air bags in MY 2012 Subaru Impreza vehicles. The reports allege that the passenger air bag system fails to operate correctly and suppresses (turns off) the front passenger air bag when that seat is occupied. In a frontal crash, a suppressed air bag increases the risk of injury to the occupant of the seat. An electronic copy of each of the VOQ reports has been sent to your office for your information and a list of the relevant ODI numbers is provided at the end of this letter.

Additionally, ODI is aware that Subaru published Service Bulletin number 17-16-12 on May 29, 2012 to address conditions with the Occupant Detection System (ODS) that specifically lead to suppression of the passenger air bag when the passenger seat is occupied.

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

- **Subject vehicles:** all MY 2012 Subaru Impreza vehicles manufactured for sale or lease in the United States.
- **Subject Service Bulletin:** Subaru Service Bulletin, number: 17-16-12, issued on May 29, 2012.
- **Subject component:** all Occupant Control Units (OCU) used in the manufacture of the subject vehicles.



- **Subaru**: Subaru of America Inc., all of its past and present officers and employees, whether assigned to their principal offices or any of their 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 Subaru (including all business units and persons previously referred to), who are or, in or after 2007, 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, or unsatisfactory performance of the subject components, that suppresses the passenger air bag, or otherwise prevents the air bag from deploying in a vehicle crash of sufficient severity, and when the air bag should not otherwise be suppressed.

- **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 Subaru, 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 the Subaru 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 Subaru has previously provided a document to ODI, Subaru 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 Subaru'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 the response to this letter the number of all subject vehicles Subaru has manufactured, or imported for sale, in the United States. Separately, for each subject vehicle manufactured by Subaru, state the following:
 - a. Vehicle Identification number (VIN);
 - b. Date of manufacturer (in "yyyy/mm/dd" date format);
 - c. Date warranty coverage commenced (in "yyyy/mm/dd" date format)
 - d. The State in the United States where the vehicle was originally sold or leased (or delivered for sale or lease); and
 - e. The ODS software version.

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

2. State within the body of the response to this letter the number of each of the following, received by Subaru, or of which Subaru is otherwise aware, which relate to, or may relate to, the alleged defect in the subject vehicles:
 - a. Consumer complaints;
 - b. Field reports, including dealer field reports;
 - c. Reports involving a crash, injury, or fatality, based on claims against Subaru involving a death or injury, or notices received by Subaru alleging or proving that a death or injury was caused by the alleged defect in a subject vehicle;
 - d. Property damage claims;
 - e. Third-party arbitration proceedings where Subaru is or was a defendant or codefendant; and
 - f. Lawsuits, both pending and closed, in which Subaru 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 vehicles are to be counted separately. Multiple reports of the same incident are also to be counted separately (i.e., a consumer complaint and a field report involving the same incident in which a crash occurred are to be counted as a crash report, a field report and a consumer complaint).

In addition, for items “c” through “f”, provide a summary description of the alleged problem and causal and contributing factors and Subaru’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. Subaru’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’s name, address, and telephone number;
 - d. Vehicle’s VIN
 - e. Vehicle’s date of manufacture;
 - f. Vehicle’s mileage at the time of the incident;
 - g. Incident date (in “yyyy/mm/dd” date format);
 - h. Report or claim date (in “yyyy/mm/dd” date format);
 - i. The stature (weight and height) of the occupant of the passenger seat;
 - j. Whether a crash is alleged;
 - k. Whether property damage is alleged;
 - l. Number of alleged injuries; and
 - m. Number of alleged fatalities.

Provide this information in Microsoft Access 2010, 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 Subaru used for organizing the documents.
5. State a total count for all of the following categories of claims, collectively, that have been paid by Subaru 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; or similar adjustments and reimbursements; and warranty claims or repairs made in accordance with a procedure specified in a technical service bulletin, customer satisfaction campaign, or other such activity.

Separately, for each such claim, state the following information:

- a. Subaru's claim number;
- b. Vehicle owner's name and telephone number;
- c. VIN;
- d. Vehicle's date of manufacture (in "yyyy/mm/dd" date format);
- e. Vehicle's mileage at the time of the incident;
- f. Repairing facility's name, telephone number, city and state or ZIP code;
- g. Labor operation number;
- h. Problem code;
- i. Diagnostic trouble code;
- j. Replacement part number(s) and description(s);
- k. Concern stated by the customer; and
- l. Comment, if any, by the technician or person(s) making the repair, and/or the person(s) processing the claim that relate to the claim and/or repair.

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

6. Describe in detail the search criteria used by Subaru 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 the terms of new vehicle warranty coverage offered by Subaru on the subject vehicles (i.e., the number of months for which coverage is provided and the vehicle systems that are covered). Describe any extended warranty coverage option(s) related to the alleged defect that Subaru 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 Subaru has issued to any retailers or distributors, regional or zone offices, or other such entities. This includes, but is not limited to, bulletins, advisories, informational documents, training documents, or other documents or communications to or for Subaru customer service representatives, or consumers. Also include the latest draft copy of any of the above described documents that Subaru 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 or the Subject Service Bulletin in the subject vehicles that have been conducted, are being conducted, are planned, or are being planned by, or for, Subaru. For each such action, provide the following information:
- Action title or identifier;
 - The actual or planned start date;
 - The actual or expected end date;
 - Brief summary of the subject and objective of the action;
 - Engineering group(s)/supplier(s) responsible for designing and for conducting the action; and,
 - 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, Subaru in the design, material composition, manufacture, quality control, supply, or installation of the subject components, from the start of production to date, which relate to, or may relate to, the alleged defect in the subject vehicles. For each such modification or change, provide the following information:
- The date or approximate date on which the modification or change was incorporated into vehicle's production;
 - A detailed description of the modification or change;
 - The reason(s) for the modification or change;
 - The part numbers (service and engineering) of the original component;
 - The part number (service and engineering) of the modified component;
 - Whether the original unmodified component was withdrawn from production and/or sale, and if so, when;
 - When the modified component was made available as a service component; and,
 - Whether the modified component can be interchanged with earlier production components.

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

10. Provide a matrix (summary table) for all unique design levels of the subject component, which should include all part numbers (both original equipment and service part numbers), supplier identification information (name, address, part number, etc.), dates of component manufacture, dates of sale (year and month), and application by vehicle model including the periods/dates of production usage for each vehicle model identified. Also provide a table containing counts of service parts sales (volumes), by month and year of sale, for all unique design levels of the subject component and for all time periods.

11. Furnish Subaru's assessment of the alleged defect in the subject vehicles including:
 - a. The causal or contributory factor(s);
 - b. The failure mechanism(s);
 - c. The failure mode(s);
 - d. The risk to vehicle's safety that it poses;
 - e. What warnings, if any, that the alleged defect was occurring or that the subject component was malfunctioning; and
 - f. The reports included with this inquiry.

Legal Authority for This Request

This letter is being sent to Subaru 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

Subaru's failure to respond promptly and fully to this letter could subject Subaru 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 Subaru 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, Subaru does not submit one or more requested documents or items of information in response to this information request, Subaru 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 PE15-012 in Subaru's response to this letter and in any confidentiality request submitted to the Office of Chief Counsel.

If Subaru 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, Subaru 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. Subaru 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 or (202) 366-5253.

Due Date

Subaru's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office by **May 26, 2015**. If Subaru finds that it is unable to provide all of the information requested within the time allotted, Subaru must request an extension from me at (202) 366-0319 no later than five business days before the response due date. If Subaru 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 Subaru then has available, even if an extension has been granted.

Please send email notification to Mr. John Abbott at john.abbott@dot.gov and to ODI_IRresponse@dot.gov when Subaru sends its response to this office and indicate whether there is confidential information as part of Subaru's response.

If you have any technical questions concerning this matter, please call John Abbott of my staff, at (202) 366-5221.

Sincerely,



4/15/15

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

VOQ's: 10672345, 10668512, 10668243, 10662987, 10641835, 10640574, 10626384, 10622234,
10621456, 10619273, 10605789, 10604506, 10575908, 10559081, 10557856, 10556661, 10545059,
10538562, 10532118, 10481308, 10478660, 10473662, 10472608, 10470865, 10468157, 10463432.