

April 19, 2012

Ms. Nancy Lummen Lewis
Associate Administrator for Enforcement
National Highway Traffic Safety Administration
1200 New Jersey Ave., S.E.
Washington, DC 20590

**RE: 49 CFR 573 Report
Head Restraints
2012 BMW 3-Series Sedan**

Dear Ms. Lewis:

This notice is sent to you in accordance with the requirements of the National Traffic and Motor Vehicle Safety Act of 1966 and 49 CFR Part 573.

Pursuant to Section 573.6(c), we submit the following information.

1. Manufacturer: Bayerische Motoren Werke AG (BMW AG)

Designated Agent: Thomas C. Baloga
Vice President, Engineering-US
BMW of North America, LLC
Woodcliff Lake, NJ 07677

2. Make: BMW

Model Year / Model Inclusive dates of manufacture

2012 / 3-Series Sedan Oct. 1, 2011 – Mar. 18, 2012

3. The number of vehicles affected is 9,045.

4. The percentage of vehicles affected is estimated to be 100%.

5. The issue involves the manually adjustable head restraints of the front seats. The head restraints have been designed to accommodate a wide range of occupants including very tall persons. At the highest head restraint height, the vehicle satisfies our internal crash test requirements. Section S4.2.6 of FMVSS 202a specifies requirements for a height retention test that unfortunately is not satisfied at the highest head restraint height. Under FMVSS 202a, a 50 N downward force is applied to the top of the head restraint with the rounded surface of a 165 mm diameter cylinder in order to establish an initial reference position. During the application of this load, the head restraint must not move downward more than 25 mm. An error in a laboratory test was made in that the head restraint's initial test position did not correspond to the highest possible position, but instead to the highest locked position. As a result, the downward movement limit of 25mm allowed by the standard can be exceeded in the highest position. Therefore the vehicles do not fully conform to FMVSS 202a.

6. Not applicable.

Company
BMW of North America, LLC

BMW Group Company

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7. On March 23, 2012, BMW became aware of this matter while checking a supplier's test report. The test report and discussions with the supplier indicated that there may have been an error in the test setup.

On March 30, 2012 BMW conducted a review of available information which suggested that the test setup by the supplier may have been misinterpreted.

On April 2, 2012, engineering analysis was performed relative to the requirements of FMVSS 202a.

On April 5, 2012, further testing was initiated.

On April 12, 2012, BMW AG confirmed that the downward movement limit of 25mm allowed by the standard could be exceeded, and that affected vehicles do not conform to Section 4.2.6 of FMVSS 202a. A vehicle hold was issued.

To correct the non-compliance, the maximum height of the head restraint will be at a lower position. The head restraint post of vehicles in BMW's possession will be fitted with a clamp.

BMW has not received any reports, nor is BMW otherwise aware of any accidents or injuries related to this issue

8. Based on internal testing, BMW believes that this matter is inconsequential to motor vehicle safety and is preparing to file a Petition for Inconsequential Noncompliance in accordance with the provisions of Part 556. A final decision on this Petition will be reached by Friday April 27, 2012.
9. Not applicable.
10. Not applicable.
11. Not applicable.
12. Not applicable.

Sincerely,



Thomas C. Baloga
Vice President, Engineering-US