



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

JUL 6 2011

1200 New Jersey Avenue SE.
Washington, DC 20590

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Jan Urbahn
General Manager
Safety Engineering and Intelligent Transportation Systems
BMW of North America, LLC
P.O. Box 1227
Montvale, NJ 07645-1227

NVS-212cag
EA11-005

Dear Mr. Urbahn:

This letter is to inform you that the Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) has opened an Engineering Analysis (EA11-005) to investigate allegations of unexpected loss of power steering assist while driving in Model Year (MY) 2004-2005 MINI Cooper vehicles manufactured by BMW, and to request certain information.

This office has received 370 Vehicle Owner Questionnaire (VOQ) complaints, and one additional field report alleging an unexpected loss of power steering assist while driving MY 2004-2005 MINI Cooper vehicles. The loss of power steering assist requires the driver to use increased steering force to control the vehicle. The reports indicate that the loss of power steering assist may be related to a power steering component failure. Identification numbers for the 370 consumer complaints are provided at the end of this letter.

Additionally, ODI has received 102 VOQ complaints for MY 2002-2003 alleging an unexpected loss of power steering assist while driving. Therefore, this information request will request data and information for MY 2002-2005. The identification numbers for the 102 consumer complaints are also provided at the end of this letter.

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

- **Subject vehicles:** all MY 2002-2005 BMW MINI Cooper vehicles equipped with the subject components that were manufactured for sale or lease in the United States.
- **Subject component(s):** the electric power steering system, including, but not limited to the electrical wiring components, the power steering rack, the cooling fan for the steering pump motor and its electrical wiring, and the power steering pump assembly.

- **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**: loss of power steering assist.

- **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. Insofar as BMW has previously provided a document to ODI, BMW 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 BMW's response to each request, identify the source of the information and indicate the last date the information was gathered.

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 vehicles 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."

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 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 mfg's short name'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.

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.);
 - 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."

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.
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(s) 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. Statements made by the customer; and,
- u. Comments, 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."

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 that relate or may relate 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.
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 BMW has issued to any dealers, regional or zone offices, field offices, fleet purchasers, or other entities. This includes, but is not limited to, bulletins, advisories, informational documents, training documents, or other documents or communications, with the exception of standard shop manuals. Also include the latest draft copy of any communication that BMW is planning to issue within the next 120 days. For each such action, provide a list of the BMW vehicles affected including make, model and model year.
8. For MY 2002-2005, describe all assessments, analyses, tests, test results, studies, surveys, simulations, investigations, inquiries and/or evaluations (collectively, "actions") that relate to, or may relate to, the alleged defect in the subject vehicles that have been conducted, are being conducted, are planned, or are being planned by, or for, BMW. For each such action, provide the following information:
 - a. Action title or identifier;
 - b. The actual or planned start date;
 - c. The actual or expected end date;
 - d. Brief summary of the subject and objective of the action;
 - e. Engineering group(s)/supplier(s) responsible for designing and for conducting the action; and,
 - f. A brief summary of the findings and/or conclusions resulting from the action.

For each action identified, provide copies of all documents related to the action, regardless of whether the documents are in interim, draft, or final form. Organize the documents chronologically by action.

9. For MY 2002-2005, describe all modifications or changes made by, or planned to be made within the next 120 days by, or on behalf of, BMW in the design, integrated circuit component design, control software, material composition, manufacture, quality control, supply, or installation of the subject component, from the start of production to the date BMW receives this request, which relate to, or may relate to, the alleged defect in the subject vehicles. For each such modification or change, provide the following information (each response should be in an individual and separate column):
- The date or approximate date on which the modification or change was incorporated into vehicle production;
 - A detailed description of the modification or change;
 - The reason(s) for the modification or change;
 - The part number(s) (service and engineering) of the original component;
 - The part number(s) (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.

10. For MY 2002-2005, state the number of each of the following that BMW has sold that may be used in the subject vehicles by component name, part number (both service and engineering/production), model and model year of the vehicle in which it is used and month/year of sale:
- Subject component(s); and,
 - Any kits that have been released, or developed, by BMW for use in service repairs to the subject component/assembly.

For each component part number, provide the supplier's name, address, and appropriate point of contact (name, title, and telephone number). Also identify by make, model and model year, any other vehicles of which BMW is aware that contain the identical component, whether installed in production or in service, and state the applicable dates of production or service usage.

11. Produce BMW's assessment of the alleged defect in the subject vehicles, including:
- The causal or contributory factor(s);
 - The failure mechanism(s);
 - The failure mode(s);
 - The risk to motor vehicle safety that it poses;
 - What warnings, if any, the operator and the other persons both inside and outside the vehicle would have that the alleged defect was occurring or subject component was malfunctioning; and,
 - The reports included with this inquiry.

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. 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.) Section 5(a) of the TREAD Act, codified at 49 U.S.C. § 30165(b), provides for civil penalties of up to \$6,000 per day, with a maximum of \$17,350,000 for a related series of violations, for failing or refusing to perform an act required under 49 U.S.C. § 30166. *See* 49 CFR 578.6 (as amended by 75 Fed. Reg. 79978 (December 21, 2010)). This includes failing to respond 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.

BMW's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office by August 19th, 2011. **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 in BMW's response to this letter and in any confidentiality request submitted to the Office of Chief Counsel. 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) 366-8089 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.

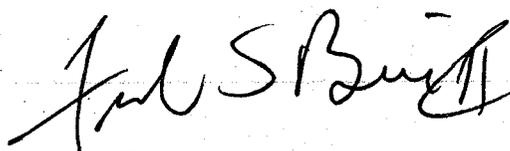
If BMW claims that any of the information or documents provided in response to this information request constitute confidential commercial material within the meaning of 5 U.S.C. § 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. § 1905, BMW must submit supporting information together 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 word "CONFIDENTIAL BUSINESS INFORMATION" must appear at the top of each page containing information claimed to be confidential, and the information must be clearly identified in accordance with 5 U.S.C. § 512.6. If you submit a request for confidentiality for all or part of your response to this IR, that is in an electronic format (e.g., CD-ROM), your request and associated submission must conform to the

new requirements in NHTSA's Confidential Business Information Rule regarding submissions in electronic formats (49 CFR 512.6(c)). See Federal Register, volume 72, page 59434 (October 19, 2007).

Please send email notification to Scott Yon (scott.yon@dot.gov) and to 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,



Frank Borris, Director
Office of Defects Investigation
Enforcement

VOQ Numbers:

Model Year 2002

10213658, 10218775, 10349309, 10351935, 10358096, 10358142, 10358222, 10358311,
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Model Year 2003

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Model Year 2004

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Model Year 2005

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