



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

SEP 27 2005

400 Seventh Street, S.W.  
Washington, D.C. 20590

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

Mr. Christopher J. Tinto, Vice President  
Toyota Motor North America, Inc.  
Technical and Regulatory Affairs  
601 Thirteenth Street, NW  
Suite 910 South  
Washington, DC 20005

NVS-213day  
DP05-002

Dear Mr. Tinto:

This letter is to inform you that the Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) is conducting Defect Petition (DP) 05-002 regarding allegations of inappropriate vehicle accelerations which occur as a result of a failure of the electronic throttle control (ETC) system and or both the ETC and the brake system in MY 2002 - 2005 Toyota Camry, Solara and Lexus ES models with automatic transmissions manufactured by Toyota Motor North America, Inc., and to request certain information. Electronic copies of the petition request letter and subsequent letter requesting an amendment of the petition are enclosed on the attached CD-ROM for your information.

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

- **Subject vehicles:** all MY 2002 - 2005 Toyota Camry, Camry Solara and Lexus ES300 and ES330 with automatic transmissions and electronic throttle control that were manufactured for sale or lease in the United States.
- **Complaint vehicles:** One hundred (100) subject vehicles identified by vehicle identification number (VIN) in the file titled "DP05002-IR\_VINs.xls" included on the enclosed CD-ROM.
- **Toyota:** Toyota Motor North America, Inc., 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 Toyota (including all business units and persons previously referred to), who



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are or, in or after 2000, 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:** The Petitioner alleges that the throttle control system can fail and cause the vehicle to accelerate unintentionally; the brake system may also fail (simultaneously) and cause the vehicle to accelerate in an uncontrollable manner. The Petitioner asserts that, based on his analysis of ODI reports, there are a substantial number of instances where the application of the brake pedal actually caused or increased the uncontrolled acceleration.
- **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 Toyota, 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 Toyota 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 Toyota has previously provided a document to ODI, Toyota 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 Toyota's response to each request, identify the source of the information and indicate the last date the information was gathered.

- I. State, by model and model year, the number of subject vehicles Toyota has manufactured for sale or lease in the United States. Separately, for each subject vehicle manufactured to date by Toyota, state the following:
  - a. Vehicle identification number (VIN);
  - b. Model designator (LE, SE, XLE, etc);
  - c. Engine designator (2AZ, 1MZ, etc);
  - d. Brake pedal actuator design (single or double link type);
  - e. Whether it is equipped with ABS (anti-lock braking);
  - f. Whether it is equipped with VSC (stability control);
  - g. Whether it is equipped with TRAC (traction control);
  - h. Whether it is equipped with adjustable accelerator and brake pedal assemblies;
  - i. Date of manufacture;
  - j. Date warranty coverage commenced; and
  - k. The State in the United States where the vehicle was originally sold or leased (or delivered for sale or lease).

Provide this information in Microsoft Access 2000, or a compatible format, titled "ProductionData." See the enclosed CD-ROM titled DP05-02 IR Response Data which provides further details regarding this submission.

2. State a total count for all of the following categories of claims, collectively, that have been paid by Toyota to date that involve the complaint vehicles, regardless of the nature of the claim and whether or not it is related to the alleged defect: warranty claims; extended warranty claims; claims for good will services that were provided; field, zone, or similar adjustments and reimbursements; and warranty 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:

- a. Toyota's claim number;
- b. Vehicle owner or fleet name (and fleet contact person) and telephone number;
- c. Vehicle identification number (VIN);
- d. Repair date;
- e. Vehicle mileage at time of repair;
- f. Repairing dealer's or facility's name, telephone number, city and state or ZIP code;
- g. Labor operation number;
- h. Problem code;
- i. Replacement part number(s) and description(s);
- j. Concern stated by customer; and
- k. Comment, if any, by dealer/technician relating to claim and/or repair.

Provide this information in Microsoft Access 2000, or a compatible format, titled "WarrantyData." See the enclosed CD-ROM titled DP05-02 IR Response Data which provides further details regarding this submission.

3. State the number of complaint vehicles of which Toyota has performed a vehicle inspection in connection with a report or complaint related to the alleged defect. Separately, for each inspection performed, state the following information:
  - a. VIN;
  - b. Date of inspection;
  - c. The name and address of the facility where the inspection was performed;
  - d. The name, phone number, and title of the person who performed the inspection;
  - e. Vehicle mileage at time of inspection;
  - f. The part numbers and descriptions of any components Toyota removed (or had a third party remove) from the vehicle as a result of the inspection;
  - g. The current disposition of any components described in item "f";
  - h. The labor operation and or description of any repairs, modifications or other adjustments Toyota performed (or had a third party perform) on the vehicle as a result of the inspection;
  - i. The code value and description of any stored diagnostic or trouble codes taken from any vehicle system (engine management, brake, airbag, etc.) during the inspection; and,
  - j. Toyota's findings or conclusions regarding the cause of the complaint or incident.

Provide this information in Microsoft Access 2000, or a compatible format, titled "InspectionData." See the enclosed CD-ROM titled DP05-02 IR Response Data which provides further details regarding this submission. Additionally, produce copies of all documents related to each vehicle inspection performed and organize the documents by VIN.

4. Provide the name and address details of the current vehicle registered owner or lessee for each of the complaint vehicles. State the source of this information. Provide this information in Microsoft Access 2000, or a compatible format, titled "CurrentOwnerData." See the enclosed CD-ROM titled DP05-02 IR Response Data which provides further details regarding this submission.
5. Produce copies of all service, warranty, and other documents that relate to, or may relate to, the alleged defect in the subject vehicles, that Toyota 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, for the subject vehicles and in addition to the preceding document request (but provided separately), include any such documents that relate to the transmission control system (e.g., addressing shift quality, shift performance, or transmission interaction with the engine control system), the brake and ABS system, the cruise control system, the stability control system, the traction control system, and the engine management system (including the throttle control system) regardless of whether the subject matter of the document is related to the alleged defect or not.
6. Describe all modifications or changes made by, or on behalf of, Toyota in the design, material composition, or manufacture of the electronic throttle control system of the subject vehicles. For each such modification or change, provide the following information:
  - a. The date or approximate date on which the modification or change was incorporated into vehicle production;
  - b. A detailed description of the modification or change;
  - c. The reason(s) for the modification or change, and
  - d. The name(s) and part number(s) of any component(s) effected.
7. Describe all modifications or changes made by, or on behalf of, Toyota in the design, material composition, or manufacture of the braking and ABS system of the subject vehicles. For each such modification or change, provide the following information:
  - a. The date or approximate date on which the modification or change was incorporated into vehicle production;
  - b. A detailed description of the modification or change;
  - c. The reason(s) for the modification or change, and
  - d. The name(s) and part number(s) of any component(s) effected.
8. Describe all modifications or changes made by, or on behalf of, Toyota in the design, material composition, or manufacture of the accelerator and brake control pedals and or their configuration (location, size, orientation to one another and to the steering wheel, etc) of the subject vehicles. For each such modification or change, provide the following information:

- a. The date or approximate date on which the modification or change was incorporated into vehicle production;
  - b. A detailed description of the modification or change;
  - c. The reason(s) for the modification or change, and
  - d. The name(s) and part number(s) of any component(s) effected.
9. State the name and address details for the original vehicle purchaser or lessee (based on Toyota's records) for 35 randomly selected vehicles (and not to include any of the complaint vehicles) from each make, model and model year subject vehicle population (12 populations, 420 vehicles in total). Describe the method Toyota used to randomly select these vehicles. Provide this information in Microsoft Access 2000, or a compatible format, titled "RandomOwnerData." See the enclosed CD-ROM titled DP05-02 IR Response Data which provides further details regarding this submission.
10. Furnish Toyota's assessment of the alleged defect in the subject vehicles, including, the causal or contributory factor(s).

This letter is being sent to Toyota 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. Toyota's failure to respond promptly and fully to this letter could subject Toyota 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.) Please note that maximum civil penalties under 49 U.S.C. § 30165 have increased as a result of the recent enactment of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, Public Law No. 106-414 (signed November 1, 2000). Section 5(a) of the TREAD Act, codified at 49 U.S.C. § 30165(b), provides for civil penalties of up to \$5,000 per day, with a maximum of \$16,050,000 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 69 Fed. Reg. 57864 (Sept. 28, 2004)). This includes failing to respond to ODI information requests.

If Toyota 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, Toyota does not submit one or more requested documents or items of information in response to this information request, Toyota 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.

Toyota's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office by November 1, 2005. Please refer to DP05-002 in Toyota's response to this letter. If Toyota finds that it is unable to provide all of the information requested within the time allotted, Toyota must request an extension from Mr. Jeffrey Quandt at (202) 366-5207 no later than five business days before the response due date. If Toyota 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 Toyota then has available, even if an extension has been granted.

If Toyota 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, Toyota 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 (69 Fed. Reg. 21409 et seq; April 21, 2004), to the Office of Chief Counsel (NCC-113), National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, S.W., Washington, D.C. 20590. Toyota 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.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Kathleen C. DeMeter', with a stylized flourish at the end.

Kathleen C. DeMeter, Director  
Office of Defects Investigation  
Enforcement

Enclosure 1, one CD ROM titled DP05-02 IR Response Data containing complaint vehicle VINs (one file), IR response data templates (5 files), and electronic copies of petition correspondence (two files).