



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

**FEB 25 2013**

1200 New Jersey Avenue SE  
Washington, DC 20590

**Via USPS Certified Mail and E-mail**

Ms. Carmen Benavides  
Director, Product Investigations  
And Safety Regulations  
General Motors LLC  
Mail Code: 480-210-2V1  
30001 Van Dyke Road  
Warren, MI 48090-9020

NVS-215/aa  
AQ12-002  
12V-288

**Re: Audit of Safety Recall Campaign, Sale of Recalled New Vehicles, Chapman Chevrolet and Other Dealers**

Dear Ms. Benavides:

NHTSA received information suggesting that one of General Motors LLC's (GM) dealerships, Chapman Chevrolet located in Philadelphia, Pennsylvania, sold and delivered at least one new model year (MY) 2012 Chevrolet Cruze vehicle to a customer without having had all required safety recall repairs performed on that vehicle. Specifically, the information suggests repairs required under NHTSA safety recall number 12V-288 (also referenced as GM campaign 12081) were not made prior to delivery of the vehicle to the purchaser. This recall concerns certain model year 2011 and 2012 Chevrolet Cruze vehicles manufactured from October 2, 2009 through May 31, 2012. Spilled or dripping oil (such as after an oil change) may collect in the engine shield (bellypan) near hot engine or exhaust system surfaces. As a result, the oil and engine shield may ignite and burn. Either condition could result in an engine fire, possibly causing injury or death.

A dealer's sale and delivery of a new vehicle with a safety recall outstanding is a serious matter and a violation of Federal law to which significant civil penalties could apply. *See* 49 U.S.C. §§ 30120(i) and 30165. This office has opened an audit query (AQ) investigation and is sending this information request in order to determine whether Chapman Chevrolet (defined below) has complied with the prohibition on sales and delivery of unremedied new vehicles subject to safety recalls. It is also to gather more information about the recall communications GM supplied Chapman Chevrolet regarding recall 12V-288. For reference, a copy of the letter the Recall Management Division (RMD) mailed to Chapman Chevrolet, along with Chapman Chevrolet's complete response, is enclosed with the electronic copy of this letter.



## DEFINITIONS

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

1. "GM" means General Motors LLC, including all of its divisions, subsidiaries and affiliated enterprises and its 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 GM (including all business units and persons previously referred to).
2. The term "you" or "your" refers to GM.
3. "Chapman Chevrolet" means Chapman Chevrolet, including all of its divisions, subsidiaries and affiliated enterprises and its 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 Chapman Chevrolet (including all business units and persons previously referred to).
4. The term "communications" is used in the broadest sense of the word and shall mean the exchange, transfer, or relay of any ideas, messages, or information by speech, writing, or other means, whether electronic, paper, or in person.
5. The term "person" includes natural persons, proprietorships, partnerships, firms, corporations, federal, state, and local governments, all departments and agencies thereof, and any other governmental agencies, political subdivisions, groups, associations, or organizations, whether located in the United States or abroad.
6. The terms "relate to" or "relating to" mean constituting, comprising, containing, setting forth, showing, disclosing, describing, explaining, summarizing, concerning, or referring to, directly or indirectly.
7. The terms "explain," "describe in detail," or "state in detail" mean the following:
  - a. Describe fully by reference to underlying facts rather than ultimate facts or conclusions of law or fact.
  - b. Particularize as to:
    - i. The identity of each person involved in each such event, including but not limited to persons employed by GM and those persons purporting to act for GM;
    - ii. The specific acts of each person participating in each such event;
    - iii. The date and time of each such event;
    - iv. The address and location of each such event; and

v. The identity of each person present during each such event.

8. The term "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), and faxes. For purposes of this request, any document that 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.
9. "Safety recall 12V-288" means the safety recall GM is conducting through its dealerships to remedy certain model year 2011 and 2012 Chevrolet Cruze vehicles manufactured from October 2, 2009, through May 31, 2012. Spilled or dripping oil (such as after an oil change) may collect in the engine shield (bellypan) near hot engine or exhaust system surfaces. As a result, the oil and engine shield may ignite and burn. Either condition could result in an engine fire, possibly causing injury or death.
10. "Recall notice" refers to any action in which GM notifies any of its dealers, pursuant to 49 C.F.R. § 577.13, of a safety recall of new vehicles that may be, or come into, dealer inventory, and instructs that a recalled vehicle may not be sold and delivered until the safety defect or noncompliance is remedied.
11. Other Terms: To the extent that they are used in this information request, 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 plural form, have the same meaning as found in 49 CFR 579.4.
12. The singular includes the plural; the plural includes the singular. The masculine gender includes the feminine and neutral genders; and the neutral gender includes the masculine and feminine genders. "And" as well as "or" shall be construed either disjunctively or conjunctively, to bring within the scope of this information request all responses that might otherwise be construed to be outside its scope. "Each" shall be construed to include "every" and "every" shall be construed to include "each." "Any" shall be construed to include "all" and "all" shall be construed to include "any." The use of a verb in any tense shall be construed as the use of the verb is a past or present tense, whenever necessary to bring within the scope of the document request all responses which might otherwise be construed to be outside its scope.

## REQUESTS

1. Identify any and all notices or communications GM transmitted or otherwise made available to Chapman Chevrolet (including, but not limited to, notifications, service bulletins, recall notices, reports, and letters, whether paper or electronic (such as through any GM interactive network)) concerning safety recall 12V-288. For each notice or communication you identify, state: (a) the date GM transmitted it or otherwise made it available to Chapman Chevrolet; (b) the type of the notice or communication (e.g., recall notice, dealer bulletin, etc.); (c) the means of transmission (e.g., email, GM interactive network, fax etc.); and (d) the number of affected units GM identified as within Chapman Chevrolet's possession, if any.

Produce a copy of each notice or communication you identify in response to this question, including copies of any accompanying attachments.

2. Identify any other communications, other than those already identified and produced in your response to Information Request No. 1, between GM and Chapman Chevrolet concerning safety recall 12V-288. For each such communication, state: (a) the date GM transmitted it or otherwise made it available to Chapman Chevrolet; (b) the purpose of the communication; and (c) the means of transmission.

Produce a copy of each communication you identify in response to this question, including copies of any accompanying attachments.

3. Chapman Chevrolet's Information Request (IR) response and the attachments included indicate that GM supplied it a combined notification for recall 12V-288 and another recall, 12V-289 (also referenced as GM campaign 12133, fuel tank weld spots/fuel leak/possible fire). Please verify all aspects of this information and, if true, provide GM's reasoning for combining safety recall notifications to its dealers. Also, please explain if this method, of combining safety recall notifications, is a common practice.

Produce a copy of this communication as transmitted or made available to Chapman Chevrolet and other GM dealers.

4. Chapman Chevrolet's IR response included a GM dealer notice dated June 22, 2012, stating, "The attached list provides the Vehicle Identification Number of each vehicle involved in recall 12133. It is sorted by dealer Business Associate Code for immediate reference." Please state if GM included in the list to Chapman only a list of VINs applicable to recall 12V-289 or if GM included VIN lists for both recalls 12V-288 and 12V-289.



5. Produce a copy of all VIN lists that GM transmitted or otherwise made available to Chapman Chevrolet for recall 12V-288. State the date GM transmitted or made available each list to the dealership, and identify the means by which each list was transmitted or made available. If GM did not provide such a list for recall 12V-288, please explain GM's reasons for not doing so. If no such VIN list was provided to Chapman Chevrolet (for recall 12V-288), but a VIN list for recall 12V-289 (GM campaign 12133) was provided, please explain the reasoning for this decision.
  
6. For each and every safety recall of which GM notified NHTSA during calendar years 2010 through 2012, and for which GM notified Chapman Chevrolet (including but not limited to a specific recall notice), produce a spreadsheet table detailing the following about each new vehicle that was in Chapman Chevrolet's possession, subject to that recall, and had not yet been sold and delivered to the first purchaser other than for resale at the time GM first notified Chapman Chevrolet of the recall:
  - a. The VIN;
  - b. The GM recall number;
  - c. The NHTSA recall number;
  - d. The date GM issued a recall notice to Chapman Chevrolet;
  - e. The means of transmission of the notification referred to in subpart (d) above (email, GM interactive network, fax, etc.);
  - f. The date GM transmitted or otherwise made available to Chapman Chevrolet a VIN list or other information from which to ascertain the vehicle's inclusion in the safety recall;
  - g. The means of transmission for the VIN list or other information from which to ascertain the vehicle's inclusion in the safety recall and recall notice, (e.g., email, GM interactive network, fax etc.);
  - h. The date on which Chapman Chevrolet took possession of the vehicle;
  - i. What Chapman Chevrolet ultimately did with the vehicle (e.g., sold to a retail customer; leased to a retail customer);
  - j. The date on which the vehicle was leased or sold to the first purchaser other than for resale (e.g., sold to a retail customer) (if applicable);
  - k. The date on which the vehicle was delivered by Chapman Chevrolet to the first purchaser;

- l. Whether the recall remedy was performed on the vehicle. "Recall remedy" refers to the inspection and repair procedures GM instructed Chapman Chevrolet to perform under the recall;
- m. The date on which the recall remedy was performed on the vehicle;
- n. The name and address of the entity that performed the recall remedy on the vehicle (e.g., Chapman Chevrolet).

Provide your responses in a table in Microsoft Access or Excel entitled "Vehicles Requiring Recall Notice."

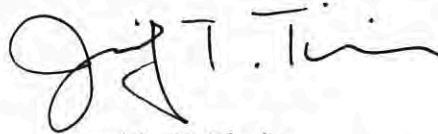
- 7. As to any GM dealership, excluding Chapman Chevrolet, identify by VIN, retailing dealership name and dealership mailing address any new Chevrolet Cruze vehicles subject to recall 12V-288 that were sold and delivered to the first purchaser before the recall remedy was performed on the vehicle.
- 8. Provide any additional information, including supporting documentation, GM considers important for the agency to consider in reviewing and evaluating GM's responses to any of the requests above. As one example, identify any anomalies in the data or documents and explain the reason(s) for those anomalies.

If GM 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, the company must submit supporting information together with the materials that are the subject of the confidentiality request, to the Office of Chief Counsel, W41-326 National Highway Traffic Safety Administration, 1200 New Jersey Ave., SE, Washington, D.C. 20590. Please see 49 CFR Part 512 for further instructions as to what is required to properly file a request for confidential treatment.

Please provide your response to this letter within 3 weeks of its date.

Please direct your response to me and note conspicuously on your response the investigation number assigned to this matter (e.g., AQ12-002). Should you have any questions or concerns, please contact Alex Ansley on my staff at (202) 493-0481 or at alexander.ansley@dot.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer T. Timian". The signature is fluid and cursive, with the first name being the most prominent.

Jennifer T. Timian  
Chief, Recall Management Division  
Office of Defects Investigation  
Enforcement