



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

**MAR 11 2013**

1200 New Jersey Avenue SE  
Washington, DC 20590

**Via USPS Certified Mail and Email**

Mr. Donald Neff  
Manager, Technical Compliance Office  
Nissan North America, Inc.  
P.O. Box 685001  
Franklin, TN 37068-5009

NVS-215aa  
AQ12-003  
12V-076

**Re: Audit of Safety Recall Campaign, Sale of Recalled New Vehicles, Gwinnett Place Nissan**

Dear Mr. Neff:

NHTSA received information suggesting that one of Nissan North America, Inc.'s (Nissan) dealerships, Gwinnett Place Nissan of Duluth, Georgia, sold and delivered at least one new model year (MY) 2012 Nissan Quest vehicle to a customer without having had all required safety recall repairs performed on that vehicle. Specifically, the information suggests repairs required under safety recall number 12V-076 (also referenced as Nissan campaign R1207) were not made prior to delivery of the vehicle to the purchaser. This recall concerns certain model year 2011 and 2012 Nissan Quest vehicles manufactured from July 29, 2010, through February 21, 2012. Due to software programming, while driving at slow speeds or idling on a decline with  $\frac{1}{4}$  tank fuel or less, there may be an insufficient supply of fuel to the engine. As a result, the engine may stall. Vehicle stalling could increase the risk of a crash.

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 Gwinnett Place Nissan (defined below) has complied with the prohibition on sales and delivery of unremedied new vehicles subject to safety recalls.

For reference, a copy of the letter the Recall Management Division (RMD) mailed to Gwinnett Place Nissan, along with Gwinnett Place Nissan'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. "Nissan" means Nissan North America, Inc., 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 Nissan (including all business units and persons previously referred to).
2. The term "you" or "your" refers to Nissan
3. "Gwinnett Place Nissan" means Gwinnett Place Nissan, 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 Gwinnett Place Nissan (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 term "relate to" or "relating to" means constituting, comprising, containing, setting forth, showing, disclosing, describing, explaining, summarizing, concerning, or referring to, directly or indirectly.
7. The term "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 Nissan and those persons purporting to act for Nissan;
    - 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-076" means the safety recall Nissan is conducting through its dealerships to remedy certain model year 2011 and 2012 Nissan Quest vehicles manufactured from July 29, 2010, through February 21, 2012. Due to software programming, while driving at slow speeds or idling on a decline with ¼ tank fuel or less, there may be an insufficient supply of fuel to the engine. As a result, the engine may stall. Vehicle stalling could increase the risk of a crash.
10. "Recall notice" refers to any action in which Nissan 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 Nissan transmitted or otherwise made available to Gwinnett Place Nissan (including, but not limited to, notifications, service bulletins, recall notices, reports, and letters, whether paper or electronic (such as through any Nissan interactive network)) concerning safety recall 12V-076. For each notice or communication you identify, state: (a) the date Nissan transmitted it or otherwise made it available to Gwinnett Place Nissan; (b) the type of the notice or communication (e.g., recall notice, dealer bulletin, etc.); (c) the means of transmission (e.g., email, Nissan interactive Network, fax etc.); and (d) the number of affected units Nissan identified as within Gwinnett Place Nissan'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 Requests No. 1, between Nissan and Gwinnett Place Nissan concerning safety recall 12V-076. For each such communication, state: (a) the date Nissan transmitted it or otherwise made it available to Gwinnett Place Nissan; (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. For each and every safety recall of which Nissan notified NHTSA during calendar years 2010 through 2012, and for which Nissan notified Gwinnett Place Nissan (by means including, but not limited to, a specific recall notice), produce a spreadsheet table detailing the following about each new vehicle that was in Gwinnett Place Nissan'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 Nissan first notified Gwinnett Place Nissan of the recall:

- a. The VIN;
- b. The Nissan recall number;
- c. The NHTSA recall number;
- d. The date Nissan issued a recall notice to Gwinnett Place Nissan;
- e. The means of transmission of the notification referred to in subpart (d) above (email, Nissan interactive network, fax, etc.);
- f. The date Nissan transmitted or otherwise made available to Gwinnett Place Nissan 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, Nissan interactive network, fax etc.);
- h. The date on which Gwinnett Place Nissan took possession of the vehicle;
- i. What Gwinnett Place Nissan 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 Gwinnett Place Nissan to the first purchaser;
- l. Whether the recall remedy was performed on the vehicle. "Recall remedy" refers to the inspection and repair procedures Nissan instructed Gwinnett Place Nissan 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., Gwinnett Place Nissan).

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

- 4. Produce copies of all documents that evidence, substantiate, or are otherwise relate to your responses to each item within the scope of Request No. 3. Organize the documents separately by VIN.
- 5. Provide any additional information Nissan considers important for the agency to consider in reviewing and evaluating Nissan'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 Nissan 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., AQ12-003). 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