



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

DEC 20 2012

1200 New Jersey Avenue SE.
Washington, DC 20590

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Dale Weiss
Senior Manager, Field Quality Assurance
Nissan North America, Inc.
P.O. Box 685001
Franklin, TN 37068-5009

NVS-212-pco
EA12-005

Dear Mr. Weiss:

The Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) is conducting an investigation (EA12-005) to investigate allegations of crash related fire hazards associated with the fuel storage systems on model year (MY) 1993-2004 Jeep Grand Cherokee, MY 1993-2001 Jeep Cherokee, and MY 2002-2007 Jeep Liberty vehicles. For a comparative assessment, we are requesting information concerning certain rear wheel drive Nissan compact and medium sport utility vehicles (SUV) peer vehicles.

Unless otherwise stated in the text, the following definitions apply to this information request:

- **Subject peer vehicles:** All model year (MY) 1993 – 2007 and MY 2008 - 2010 Nissan Pathfinder vehicles, manufactured for sale or lease in the United States.
- **Subject component:** The fuel storage system, including the fuel tank, fuel filler hose, fuel filler neck, interconnecting devices, and any other related components.
- **Nissan:** Nissan North America, Inc., and all predecessor corporations, and all of its past and present officers and employees, whether assigned to principal offices or any field or other location, including all divisions, subsidiaries (whether or not incorporated) and affiliated enterprises and all of 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 Nissan (including all business units and persons previously referred to), who are or, on or after July 1, 1992, were involved in any way with any of the following related to the subject condition in the subject peer 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.
- **Subject condition:** A fire or liquid fuel leak occurring during or after the subject peer vehicle experienced an impact to the rear of the vehicle, regardless of what the subject peer vehicle impacted or was struck by (e.g., another vehicle, a pole, tree, or bridge abutment, etc.).
 - **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 Nissan, and 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 Nissan 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 (MY)," "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 subject condition, certain information is required. Pursuant to 49 U.S.C. § 30016, please provide numbered responses to the following information requests. Insofar as Nissan has previously provided a document to ODI, Nissan may produce it again or identify the document, or 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 Nissan’s response to each request, identify the source of the information and indicate the last date the information was gathered.

1. **State within the body of the response letter a summary table**, by make, model and model year, the number of subject peer vehicles Nissan has manufactured for sale or lease in the United States. Separately, for each model subject peer vehicle manufactured to date by Nissan, state the following:
 - a. Vehicle identification number (VIN);
 - b. Model;
 - c. Model year;
 - d. Date of manufacture (in “dd/mm/yyyy” date format);
 - e. Date warranty coverage commenced (in “dd/mm/yyyy” date format);
 - f. The State in the United States where the vehicle was originally sold or leased (or delivered for sale or lease);
 - g. The stowed location (e.g., in the rear cargo area, below the cargo area floor, or mounted on the exterior of the rear door, or other location) of the OE supplied spare tire;
 - h. Whether the vehicle was manufactured with a brush guard, skid guard/plate, or other covering for the underside of the fuel tank (i.e., a protective guard);
 - i. Whether the vehicle was manufactured with a tow hitch or tow receiver, and if so the duty/class of the hitch or receiver, and
 - j. Whether the vehicle was manufactured with an electrical harness/connector for trailer lighting purposes.

Provide the table in Microsoft Access 2007, or a compatible format, entitled “SUBJECT PEER VEHICLE PRODUCTION DATA.”

2. **State the number of each of the following**, received by Nissan, or of which Nissan is otherwise aware, which relate to, or may relate to, the subject condition in the subject peer vehicles:
 - a. Consumer complaints;

- b. Field reports, including dealer field reports;
- c. Reports involving a crash, or fire, based on claims against the manufacturer involving a death or injury, and notices received by the manufacturer alleging that a death or injury was caused by a possible defect in a subject peer vehicle;
- d. Property damage claims;
- e. Third-party arbitration proceedings where Nissan is or was a party to the arbitration; and
- f. Lawsuits, both pending and closed, in which Nissan is or was a defendant or codefendant.

For subparts "a" through "f" **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 "f," provide a summary description of the alleged problem and causal and contributing factors and Nissan's assessment of the problem, with a summary of the significant underlying facts and evidence including any and all photographic evidence, third-party post-crash/inspection reports, deposition materials, etc. For items "c" through "f" 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, and details of the resolution of the matter.

Include reports in which the subject peer vehicle was struck in the rear by another vehicle, or the subject peer vehicle itself, through its own momentum or movement, struck another vehicle or object, such as a tree, pole, or bridge abutment. As used here, the term rear includes crashes in which the subject peer vehicle is struck by another vehicle, or strikes an object, at an angle that included the rear of the vehicle (i.e., clock points 5, 6, or 7), and is not limited to direct crashes to the rear of the subject peer vehicle. Fire reports where the ignition source was from other than the crash are responsive and are to be included in your response. Reports of fuel leaks or fires where no crash occurred, such as fuel leaks that occur in garages or from punctures from running over objects in the road (but unrelated to a crash), are not within the scope of this request. Also, reports in which the fuel leak or fire originated in the engine compartment area, or where the fire was caused by an electrical issue (e.g., dash wiring or seat heater) or from a non-vehicle related source (e.g., a lit cigarette, or a lit match), as opposed to a crash related fuel leak and fire, are also outside the scope of this request.

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:
 - a. Nissan'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. Cause: 1) Whether the subject condition occurred due to the failure of or damage to a subject component or 2) Nissan's assessment of the cause of the fire or fuel leak, or 3) whether the subject condition occurred due to an unknown, undetermined, or ambiguous causation.
 - d. Vehicle owner or fleet name (and fleet contact person), address, and telephone number;

- e. Vehicle's VIN;
- f. Vehicle's model;
- g. Vehicle's model year;
- h. Vehicle's mileage at time of incident;
- i. Nissan's estimate of the impact speed of the striking vehicle or object that contacted the rear of the subject peer vehicle;
- j. The basis and/or analysis that substantiates the estimate provided in item i;
- k. Incident date;
- l. Report or claim date;
- m. Whether a fire is alleged;
- n. Whether property damage is alleged;
- o. Number of alleged injuries, if any; and
- p. Number of alleged fatalities, if any.

Provide this information in Microsoft Access 2007, or a compatible format, entitled "REQUEST NUMBER TWO DATA."

4. Produce copies of all documents related to each item within the scope of Request No. 2. The documents requested specifically include, but are not limited to, the following:
 - a. Any police reports relating to, or that may relate to, the crash, fuel leak or fire;
 - b. Any and all accident reconstruction reports and documents prepared by or for Toyota or by or for any other party;
 - c. Any and all reports and exhibits related to the subject condition prepared by expert witnesses in support of a claim against Toyota or in anticipation of testimony in any state or federal proceeding in which Toyota was a party;
 - d. Transcripts and/or video recordings and exhibits of any and all depositions of persons designated as experts in any state or Federal proceeding related the subject condition in which Toyota was a party;
 - e. Transcripts and/or video recordings of any and all depositions of Toyota employees in any state or Federal proceeding relating to the subject condition in which Toyota was a party; and
 - f. Any and all documents consulted, created, or relied upon by Toyota supporting its characterization or conclusions related to the causation of any fuel related leak and/or fire related to the subject condition.
5. For each subject peer vehicle model and model year, provide the following:
 - a. Model, model year, and platform designation;
 - b. Type of material the fuel tank is composed of (e.g., HDPE plastic);
 - c. Side, rear, and top view drawings showing the placement of the subject components and related components that secure them in the vehicle;
 - d. A bottom view drawing or photograph showing the full vehicle undercarriage in the fully built configuration including the locations of the subject components.
 - e. Overall length of vehicle (in/cm);
 - f. Wheel base (in/cm);
 - g. Track width (in/cm);
 - h. Curb weight (lb/kg);

- i. Gross vehicle weight rating (lb/kg);
 - j. Front gross axle weight rating (lb/kg);
 - k. Rear gross axle weight rating (lb/kg);
 - l. Interior volume (passenger and storage area);
 - m. For any subject peer vehicles manufactured with a fuel tank located behind the rearmost axle, state the horizontal distance (in/cm) from aft most point of the rear axle to forward most point of the fuel tank;
 - n. For any subject peer vehicles manufactured with a fuel tank located behind the rearmost axle, state the horizontal distance (in/cm) from aft most point of the fuel tank to the aft most point of the vehicle's rear bumper;
 - o. For any subject peer vehicles manufactured with a fuel tank located behind the rearmost axle, state the vertical distance (in/cm) from bottom/lower most surface of the fuel tank to bottom/lower most surface of vehicle's rear bumper at center line position (positive value indicates the tank surface is above bumper, negative value below the bumper);
 - p. For any subject peer vehicles manufactured with a fuel tank located behind the rearmost axle, state the vertical distance (in/cm) from the ground/road surface to the bottom/lower surface of i) the vehicle's rear bumper at center line position, and ii) the vehicle's tow hitch at center line position (when equipped with a tow hitch);
 - q. If not originally equipped with, whether or not a protective guard for the fuel tank was optionally available, and if so, the part number of the optionally available protective guard; and
 - r. Whether the vehicle was equipped with an ORVR/Onboard Refueling Vapor Recovery system.
6. Describe all assessments, analyses, tests, test results, design studies, studies, surveys, simulations, investigations, inquiries and/or evaluations (collectively, "actions") that relate to, or may relate to, the subject condition in the subject peer vehicles, and including all testing to Federal Motor Vehicle Safety Standard (FMVSS) No. 301 or any other contemplated or applicable corporate or internal fuel system integrity standards that have been conducted, are being conducted, are planned, or are being planned by, or for, Nissan. 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. Results and related documents for FMVSS 301 testing including video and photos;
 - f. Engineering group(s)/supplier(s) responsible for designing and for conducting the action; and
 - g. 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.

Provide copies of any and all internal or corporate fuel system integrity standards used by Nissan in the design and development of the subject vehicles that relate to the subject

condition or to fuel system crash integrity in general, including those that exceed the requirements of federal standards or FMVSS 301.

This letter is being sent to Nissan 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. Nissan's failure to respond promptly and fully to this letter could subject Nissan 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 \$7,000 per day, with a maximum of \$17,250,000 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 77 Fed. Reg. 70710 (November 27, 2012)). This includes failing to respond to ODI information requests.

<https://www.federalregister.gov/articles/2012/11/27/2012-28694/civil-penalties>

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

Nissan's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office by February 18, 2013. **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 EA12-005 in Nissan's response to this letter and in any confidentiality request submitted to the Office of Chief Counsel. If Nissan finds that it is unable to provide all of the information requested within the time allotted, Nissan must request an extension from me at (202) 366-0139 no later than five business days before the response due date. If Nissan 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 Nissan then has available, even if an extension has been granted.

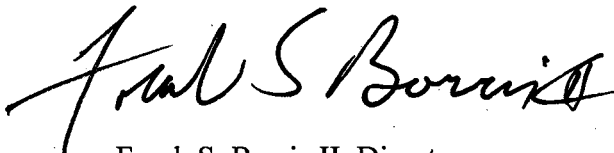
If Nissan claims that any of the information or documents provided in response to this information request constitute confidential commercial material within the meaning of 5 U.S.C. § 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. § 1905, Nissan must submit supporting information together 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-110), National Highway Traffic Safety Administration, Room W41-227, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590. Nissan 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" 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.

Please send email notification to Peter C. Ong (peter.ong@dot.gov) and to ODI_IRresponse@dot.gov when Nissan sends its response to this office and indicate whether there is confidential information as part of Nissan's response.

If you have any technical questions concerning this matter, please call Peter C. Ong of my staff, at (202) 366-0583.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank S. Borris II". The signature is fluid and cursive, with the first name "Frank" being the most prominent.

Frank S. Borris II, Director
Office of Defects Investigation
Enforcement