

Toyota Motor Engineering &
Manufacturing North America, Inc.

Vehicle Safety & Compliance
Liaison Office
Mail Code: S-104
19001 South Western Avenue
Torrance, CA 90501

August 2, 2012

Mr. Jeffrey L. Quandt, Chief
Vehicle Control Division
Office of Defects Investigation
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: NVS-213dlr; PE12-013

Dear Mr. Quandt:

On behalf of Toyota Motor Corporation, this is a response to your June 14, 2012 information request (IR) regarding PE12-013. Please find the enclosed response to your inquiry and attachments (on CD-ROM) for the specific information requested. Per our correspondence on August 1, 2012, it was agreed that Toyota will provide response to questions 1-6 only, and in addition, response 4 will have more limited information which will be provided at a later time as noted in the response.

Please be aware that some of the responses and several of the attachments provided with this response contain confidential and proprietary business information. Therefore, Toyota is submitting a request to NHTSA's Office of Chief Counsel for a determination that those materials are entitled to confidential treatment pursuant to 49 CFR Part 512 and Exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4).

Should you have any questions about this response, please contact me at (310) 468-1946.

Sincerely,



Matthew D. Collins,
Manager
Toyota Motor Engineering & Manufacturing
North America, Inc.

MC:tk
Enclosure

COPY

Toyota Motor Engineering &
Manufacturing North America, Inc.

Vehicle Safety & Compliance
Liaison Office
Mail Code: S-104
19001 South Western Avenue
Torrance, CA 90501

August 2, 2012

Mr. O. Kevin Vincent, Chief Counsel
Office of Chief Counsel, NCC-110
National Highway Traffic Safety Administration
Room W41-227
1200 New Jersey Ave., SE
Washington, D.C. 20590

Subject: NVS-213dlr; PE12-013
Request for Confidential Treatment

Dear Mr. Vincent:

Enclosed is Toyota's response to Requests 1, 2, 3, 5, and 6 of NHTSA's letter regarding PE12-013, a defect investigation into MY 2006-2008 RAV4 vehicles. Pursuant to 49 C.F.R. Part 512 and Exemption 4 of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b)(4), Toyota requests that the information identified in Enclosure 1 be granted confidential treatment.

The supporting information required by 49 C.F.R. Part 512 is set forth below.

A. Description of the Information (49 C.F.R. § 512.8(a))

The information contains extended warranty sales numbers. This information contains confidential information that, if released, would be likely to cause Toyota substantial competitive harm.

B. Confidentiality Standard (49 C.F.R. § 512.8(b))

This submission is subject to the substantial-competitive-harm confidentiality standard set forth in 49 C.F.R. § 512.15(b).

C. Justification for Confidential Treatment (49 C.F.R. § 512.8(c))

Part 512 and FOIA Exemption 4 protect the confidentiality of information that, if disclosed, would be likely to cause substantial competitive harm to the submitter. *See* 49 C.F.R. § 512.15(b); *see also*, *e.g.*, *Nat'l Parks & Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974). Under FOIA Exemption 4, a submitter need not establish a certainty that competitive harm will result from a

disclosure. Rather, a submitter need establish only that competitive harm is a *likely* result of a disclosure. See, e.g., *Judicial Watch, Inc. v. Export-Import Bank*, 108 F. Supp. 2d 19, 29 (D.D.C. 2000).

FOIA Exemption 4 was enacted to prevent disclosures that would “eliminate much of the time and effort that would otherwise be required to bring to market a product competitive with the [submitter’s] product.” *Public Citizen Health Research Grp. v. FDA*, 185 F.3d 898, 905 (D.C. Cir. 1999). “Because competition in business turns on the relative costs and opportunities faced by members of the same industry, there is a potential windfall for competitors to whom valuable information is released under FOIA. If those competitors are charged only minimal FOIA retrieval costs for the information, rather than the considerable costs of private reproduction, they may be getting quite a bargain. Such bargains could easily have competitive consequences not contemplated as part of FOIA’s principal aim of promoting openness in government.” *Worthington Compressors, Inc. v. Costle*, 662 F.2d 45, 51 (D.C. Cir. 1981).

The information for which Toyota is seeking confidential treatment clearly qualifies for withholding under this agency’s precedent and the case law interpreting Exemption 4.

When combined with other publicly available information, the extended warranty sales information can be used to calculate sales margins on extended warranties, and could be used by competitors in the extended warranty market to discern Toyota’s market share.

D. Class Determination (49 C.F.R. § 512.8(d))

None of the information for which confidential treatment is being sought is subject to a class determination.

E. Duration For Which Confidential Treatment Is Sought (49 C.F.R. § 512.8(e))

Toyota requests that the information be accorded confidential treatment for a period of 10 years from this date.

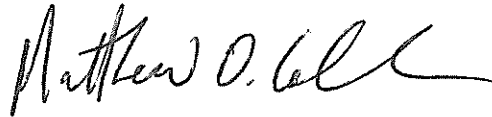
F. Contact Information (49 C.F.R. § 512.8(f))

Please direct all inquiries to the undersigned at the address and telephone number on the letterhead.

* * *

Toyota is enclosing three sets of the response documents. Per 49 C.F.R. § 512, two sets of documents contain the response including the confidential information, and one contains the response with the confidential information redacted. All of the confidential material is being provided on CD-ROM, entitled "ATT_1 (Conf Bus Info)." Please refer to "Enclosure 1" for the specific requests identified by attachment number.

Sincerely,



Matthew D. Collins, Manager
Toyota Motor Engineering & Manufacturing
North America, Inc.

Enclosures

Enclosure 1:

Confidential Data List

Enclosure 2:

Certificates in Support of Request for Confidential Treatment

Enclosure 3:

Response including Attachments –Confidential Information

Enclosure 4:

Response including Attachments –Confidential Information Removed

Enclosure 1:

Identification of Attachments

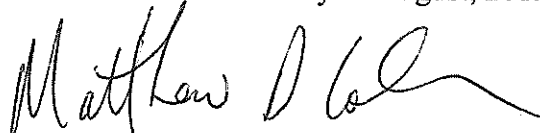
Attachment	Description	Basis for Confidential Request	Length	Affidavit(s)
Attachment-Response 6- 1	Extended Warranty Sales Numbers	Includes sales figures that can be used by competitors to calculate Toyota's sales margins on extended warranties	10 Years	Toyota

Certificate in Support of Request for Confidentiality

I, Matthew D. Collins, pursuant to the provisions of 49 C.F.R. Part 512, state as follows:

- (1) I am Manager, Toyota Motor Engineering & Manufacturing North America, Inc., and I am authorized by Toyota Motor Corporation. ("Toyota") to execute documents on its behalf;
- (2) I certify that the information contained in the attachments of Toyota's response to NHTSA's June 14, 2012 letter [NVS-213dlr; PE12-013] that are identified in Enclosure 1 is confidential and proprietary data and is being submitted with the claim that it is entitled to confidential treatment under 5 U.S.C. 552(b)(4) (as incorporated by reference in and modified by the statute under which the information is being submitted);
- (3) I hereby request that the information contained in the attachments be protected for a period of 10 years from this date.
- (4) This certification is based on the information provided by the responsible Toyota personnel who have authority in the normal course of business to release the information for which a claim of confidentiality has been made to ascertain whether such information has ever been released outside Toyota;
- (5) Based upon that information, to the best of my knowledge, information and belief, the information for which Toyota has claimed confidential treatment has never been released or become available outside Toyota, except for disclosures to suppliers and contractors who were provided the information with the understanding that such information must be maintained in strict confidence;
- (6) I make no representations beyond those contained in this certificate and, in particular, I make no representations as to whether this information may become available outside Toyota because of unauthorized or inadvertent disclosure (except as stated in paragraph 5); and
- (7) I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 2nd day of August, 2012



Matthew D. Collins,
Manager
Toyota Motor Engineering & Manufacturing
North America, Inc.

1. State, by model and model year, the number of subject vehicles Toyota has manufactured for sale or lease in the United States and federalized territories. Separately, for each subject vehicle manufactured to date by Toyota, 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 2003 or 2007, or a compatible format, entitled "PE 12- 013 PRODUCTION DATA." See Enclosure for a pre-formatted table which provides further details regarding this submission.

Response 1

The number of subject vehicles manufactured for sale or lease in the United States is provided in the following table.

Model	Model Year	Total
Toyota RAV4	2006	114,967
	2007	181,160
	2008	164,345
	Total	460,472

In addition, the detailed information responsive to "a" through "g" is provided electronically on CD-ROM in Microsoft Access 2003 format entitled "PE12-013 PRODUCTION DATA.mdb" stored in the folder "Attachment-Response 1."

2. State the number of each of the following, received by Toyota, or of which Toyota 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 vehicle, property damage claims, consumer complaints, or field reports;
- d. Property damage claims; and
- e. Third-party arbitration proceedings where Toyota is or was a party to the arbitration; and
- f. Lawsuits, both pending and closed, in which Toyota is or was a defendant or codefendant.

For subparts "a" through "d" 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 Toyota's assessment of the problem, with a summary of the significant underlying facts and evidence. For items "e" and "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.

Response 2

For purposes of identifying reports of incidents which relate to, or may relate to, the alleged defect on the subject component, Toyota used the following categorizations in the review of each report for subparts "a" through "f".

Category	Description
A	Matters related or maybe related to turn-buckle of Rear Suspension Arm No.1 Assembly
B	Matters related to bushing or ball joint of Rear Suspension Arm No.1 Assembly
C	Matters related or maybe related to Rear Suspension Arm No.1 Assembly but there is insufficient information to determine

Toyota is providing reports of incidents in all the categories described above in response to the request for reports which relate to, or may relate to, the alleged defect on the subject component. Multiple incidents involving the same vehicle are counted separately, and multiple reports of the same incident are also counted separately.

Using the methodology described above, the number of reports which are responsive to this request are provided

electronically on CD-ROM in Excel format entitled "Total Count for Reports.xlsx" stored in the folder "Attachment- Response 2."

For items "c" through "f", the additional requested information, where available, is also provided in "Total Count for Reports.xlsx."

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. Toyota'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);
 - d. Vehicle owner's address;
 - e. Vehicle owner's telephone number;
 - f. Vehicle's VIN;
 - g. Vehicle's make, model and 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 property damage is alleged;
 - m. Number of alleged injuries, if any; and
 - n. Number of alleged fatalities, if any.

Provide this information in Microsoft Access 2003 or 2007, or a compatible format, entitled "PE12-013 REQUEST NUMBER TWO DATA." See Enclosure for a pre-formatted table which provides further details regarding this submission.

Response 3

The information "a" through "n" for each item (complaint, report, etc.), where available, is provided electronically on CD-ROM in Microsoft Access 2003 format entitled "PE12-013 REQUEST NUMBER TWO DATA.mdb" stored in the folder "Attachment-Response 3". In addition, Toyota is providing information pertaining to the individual categories described in the previous response for each item listed in the attachment.

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 Toyota used for organizing the documents.

Response 4

As referenced in the cover page concerning conversations between our staff and ODI, it was greened that Toyota would provide the related documents requested for only the crash and injury data. Also as part of our agreement, our response to question #4 will be provided separately by August 10.

5. State, by model and model year, a total count for all of the following categories of claims, collectively, that have been paid by Toyota to date that relate to, or may relate to, the alleged defect in the subject vehicles: 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);
- c. Vehicle owner's address;
- d. Vehicle owner's telephone number;
- e. YIN;
- f. Repair date;
- g. Vehicle mileage at time of repair;
- h. Repairing dealer's or facility's name, telephone number, city and state or ZIP code;
- i. Labor operation number;
- j. Problem code;
- k. Replacement part number(s) and description(s);
- l. Concern stated by customer; and
- m. Comment, if any, by dealer/technician relating to claim and/or repair.

Provide this information in Microsoft Access 2003 or 2007, or a compatible format, entitled "PE12-013 WARRANTY DATA." See Enclosure for a pre-formatted table which provides further details regarding this submission.

Response 5

The total count of warranty claims, extended warranty claims, and claims for good will services paid by Toyota for the subject vehicles that relate to, or may relate to, the alleged defect in the subject component are provided electronically on CD-ROM in Microsoft Excel 2010 format entitled "Total Count for Claims.pdf" stored in the folder "Attachment-Response 5". The detailed information for each claim, where available, is also provided electronically on CD-ROM in Microsoft Access 2003 format entitled "PE12-013 WARRANTY DATA.mdb" stored in the folder "Attachment-Response 5." In addition, Toyota is providing information pertaining to the individual categories described in the previous response for each item listed in the attachment.

6. Describe in detail the search criteria used by Toyota 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 applicable to the alleged defect in the subject vehicles. State, by make and model year, the terms of the new vehicle warranty coverage offered by Toyota 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 Toyota 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.

Response 6

The search criteria used by Toyota to identify the claims is as follows:

Toyota searched the warranty, extended warranty (service contract) and goodwill service databases for those claims that replaced any of the part numbers identified in the Microsoft Excel 2010 file entitled "Search Criteria, Operation & Problem Codes.pdf" stored in the folder "Attachment-Response 6" on CD-ROM. Each claim condition, cause, and remedy description was then reviewed and determined to be responsive under similar guidelines to those set forth in Response No. 2.

A list of all labor operations, labor operation description, problem codes and problem code descriptions identified in these warranty claims, extended warranty claims, and goodwill claims are also provided in the same file described above.

The terms that Toyota offers for new vehicle warranty coverage on the subject vehicles are as follows:

For Rear Suspension Arm No.1 Assembly

36 months or 36,000 miles from the vehicle's date-of-first-use, whichever occurs first.

There are some extended warranty coverage options that Toyota offered for purchase with the subject vehicles. Detailed information about these options is provided electronically on CD-ROM, in PDF format, entitled

“Extended Warranty Option.pdf” stored in the folder “Attachment-Response 6.”

The number of the subject vehicles for which Toyota sold an extended service plan is provided, by model and model year, electronically on CD-ROM in Microsoft Excel 2010 format entitled “Extended Warranty for Vehicles (Conf Bus Info).pdf”. Please note that this document contains trade secret and commercial information, therefore, Toyota believes that this document must be afforded confidential treatment. A request for confidential treatment of this document has been sent to the Office of Chief Counsel. A public version of this document is included with this response.

* * *

Data provided in this document is current as of the following dates:

	Response	Dates
Response 1	Production Data	6/19/2012
Response 2 - 3	Consumer Complaints	6/19/2012
	Field Reports	6/19/2012
	TAS and Dealer Product Reports	6/19/2012
	3 rd Party Arbitration	6/19/2012
	Claims and Notices (from Legal Department)	6/19/2012
Response 5	Warranty claims	6/19/2012
	Goodwill	6/19/2012
	Extended warranty claims	6/19/2012
Response 6	Extended service plan data	6/19/2012

In the foregoing responses to this Information Request (“IR”), information has been obtained from those departments and employees knowledgeable about the subject matter of this inquiry most likely to have such information in the regular and ordinary course of business. When a particular Request seeks “documents” as defined in the IR, reasonable, good faith searches have been made of corporate records where such documents would ordinarily be expected to be found and to which Toyota would ordinarily refer when looking for such information.

The definitions of “documents” and “Toyota”, however, are unreasonably broad, vague, and ambiguous, and Toyota objects to such definitions, because they exceed a reasonable understanding of such terms. For example, “calendars”, “travel reports”, “contracts” and “personnel records”, to name a few, would not normally contain responsive information pertaining to the alleged defect subject of this inquiry. Toyota has also not provided information from electronic files that require extraordinary or expert means to retrieve that are generally unavailable to the computer user.

In addition, Toyota has not provided information from persons or entities over which it does not ordinarily exercise control, such as independent suppliers and contractors. Toyota also objects to the definition of “Toyota” to the extent it purports to include outside counsel. It would be unduly burdensome to require Toyota to request that outside counsel search files for responsive documents. Moreover, it is highly unlikely that outside counsel would possess any non-privileged documents responsive to this IR that are not already being produced by Toyota. In light of the significant burden and cost associated with canvassing outside counsel for potentially responsive documents and the very low probability of identifying any non-privileged document not already being produced, Toyota has not asked its outside counsel to search for responsive documents.

Toyota understands this IR to seek information on vehicles manufactured for sale in the United States and its territories. Also, we understand documents specifically related to the preparation of the responses are not sought.

The source of information used as a basis for the data in each Attachment, including the date the data were updated and retrieved, is identified above as applicable. If a document itself is the source for the requested information and it is provided, no further source identification is provided. If a document, drawing or component is requested, or if no responsive information is available, we assume no further source identification is called for.

Toyota is not providing privileged documents that may be responsive to this Information Request. With regard to claims of privilege, Toyota understands that it is acceptable to the Agency for Toyota to identify specific categories of privileged documents rather than any specific document within those categories. These categories include: (a) communications between outside counsel and employee’s of Toyota’s Legal Department, other Toyota employees, or employees of parties represented by Toyota in litigation and claims; (b) communications

between employees of Toyota's Legal Department and other Toyota employees, or employees of parties represented by Toyota in litigation and claims; (c) notes and other work product of outside counsel or of employees of Toyota's Legal Department , including work product of employees or consultants done for or at the request of outside counsel or Toyota's Legal Department. For any privileged documents that are not included in these categories, if any, Toyota will provide a privilege log identifying any such document under separate cover. Toyota is not claiming a legal privilege for any documents provided with this response; however, Toyota does not waive the legal privilege or work-product protection with respect to other documents that may have been prepared in connection with a specific litigation or claim. In addition, Toyota may assert the attorney-client privilege or claim protection under the work-product protection for analyses or other documents that may be prepared in connection with litigation or claims in the future.

Toyota understands that NHTSA will protect any private information about persons that is contained in the Attachments to this response, based on privacy considerations. Such private information includes data such as names, addresses, phone or fax numbers, email addresses, license plate numbers, driver's license numbers and the last 6 digits of a vehicle's VIN.