



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

1200 New Jersey Avenue SE  
Washington, DC 20590

**MAY 05 2014**

**Via USPS Certified Mail and Email**

Mr. John Thomas  
General Manager  
Sands Chevrolet Surprise  
16991 W. Waddell Rd.  
Surprise, AZ 85388

NVS-215aa  
AQ14-001  
13V-173

**Re: Audit of Safety Recall Campaign Completion for New Vehicles**

Dear Mr. Thomas:

The National Highway Traffic Safety Administration (NHTSA) received information suggesting that your dealership sold and delivered at least one new model year (MY) 2013 Chevrolet Malibu 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 13V-173 (also referenced as GM campaign 13136) were not made prior to delivery to purchasers. This recall concerns certain model year 2012 and 2013 Buick Regal and Lacrosse vehicles and certain model year 2013 Chevrolet Malibu Eco vehicles manufactured from November 16, 2010, through December 4, 2012. These vehicles, equipped with eAssist, may have a condition in which the Generator Control Module (GCM) may not function properly. This could cause a gradual loss of battery charge and the illumination of the malfunction indicator light. If the vehicle continues to be driven, the engine may stall and/or the vehicle may not start. In addition, there may be a burning or melting odor, smoke, and possibly a fire in the trunk.

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 Sands Chevrolet Surprise (defined below) has complied with the prohibition on sales and delivery of unremedied new vehicles subject to safety recalls.

A copy of the Part 573 Defect and Noncompliance Report that General Motors LLC (GM) submitted to NHTSA, as well as a copy of GM's recall communication to its dealerships, is enclosed with this letter.



## DEFINITIONS

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

1. “Sands Chevrolet Surprise” means Sands Chevrolet Surprise, 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 Sands Chevrolet Surprise (including all business units and persons previously referred to).
2. The term “GM” means General Motors LLC.
3. 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.
4. The terms “you” or “your” refer to Sands Chevrolet Surprise.
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 Sands Chevrolet Surprise and those persons purporting to act for Sands Chevrolet Surprise;
    - 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 13V-173” means the safety recall GM is conducting through its dealerships to remedy certain model year 2012 and 2013 Buick Regal and Lacrosse vehicles and certain model year 2013 Chevrolet Malibu Eco vehicles manufactured from November 16, 2010, through December 4, 2012. These vehicles, equipped with eAssist, may have a condition in which the Generator Control Module (GCM) may not function properly. This could cause a gradual loss of battery charge and the illumination of the malfunction indicator light. If the vehicle continues to be driven, the engine may stall and/or the vehicle may not start. In addition, there may be a burning or melting odor, smoke, and possibly a fire in the trunk.
10. 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.
11. 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 in 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.

In order for my staff to evaluate whether or not Sands Chevrolet Surprise has complied with the Safety Act’s provision that a dealer not sell a recalled vehicle unless the recall remedy has been performed, certain information is required. Pursuant to 49 U.S.C § 30166, please provide numbered responses to the following information requests. 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.

## INFORMATION REQUESTS

Please repeat the applicable request verbatim above each response. After your response to each request, identify the source of the information and indicate the last date the information was gathered.

1. Identify any and all notices or communications Sands Chevrolet Surprise received from GM (including, but not limited to, notifications, service bulletins, stop sales instructions, reports, and letters, whether paper or electronic (such as through any GM interactive network)) concerning safety recall 13V-173. For each notice or communication you identify, state: (a) its date; (b) the date Sands Chevrolet Surprise received it; (c) the type of the notice or communication (e.g., stop sale notice, recall notice, dealer bulletin, etc.); the number of affected units GM identified as within Sands Chevrolet Surprise's possession, if any.

Produce a copy of each notice you received and identified in response to question number 1.

2. Produce copies of all communications, other than those already identified and produced in your response to information request no. 1, between Sands Chevrolet Surprise and GM concerning safety recall 13V-173. For each such communication, state: (a) its date; (b) the date Sands Chevrolet Surprise received it; and (c) the type of the notice or communication (e.g., stop sale notice, recall notice, dealer bulletin, etc.).
3. Identify, by stating the model, model year, and vehicle identification number ("VIN"), each and every new vehicle subject to safety recall 13V-173 of which Sands Chevrolet Surprise did or does have possession from April 22, 2013, through present.

For each vehicle you identify, state the following:

- a. The date on which Sands Chevrolet Surprise took possession of the vehicle;
- b. The disposition of the vehicle (e.g., sold, leased, still in inventory, etc.);
- c. The date of the disposition you identified in (b);
- d. The date on which the vehicle left the possession of Sands Chevrolet Surprise (e.g., delivery date to purchaser);
- e. Whether the recall remedy was performed on the vehicle. "Recall remedy" refers to the inspection and repair procedures GM instructed Sands Chevrolet Surprise to perform under the recall;
- f. The date on which the recall remedy was performed on the vehicle;

- g. The name and address of the entity that performed the recall remedy on the vehicle (e.g., Sands Chevrolet Surprise).

Provide your responses in a table in Microsoft Access or Excel entitled "Vehicles 13V-173."

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

This letter is being sent to Sands Chevrolet Surprise pursuant to 49 U.S.C. § 30166(b), (e), which authorizes NHTSA to conduct any investigation that may be necessary to enforce Chapter 301 of Title 49 and to request reports. It constitutes a new request for information.

Sands Chevrolet Surprise's failure to respond promptly and fully to this letter could subject Sands Chevrolet Surprise 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.) The Vehicle Safety Act, as amended, 49 U.S.C. § 30165(a)(3), provides for civil penalties of up to \$7,000 per violation per day, with a maximum of \$35,000,000 for a related series of daily violations, for failing or refusing to perform an act required under 49 U.S.C. § 30166. This includes failing to respond completely, accurately, and in a timely manner to ODI information requests. The maximum civil penalty of \$7,000 per violation per day is established by 49 CFR 578.6(a)(3). The maximum civil penalty of \$35,000,000 for a related series of daily violations of 49 U.S.C. § 30166 is authorized by 49 U.S.C. § 30165(a)(3) as amended by § 31203(a)(1)(B) of the Moving Ahead for Progress in the 21<sup>st</sup> Century Act, Public Law 112-141.

If Sands Chevrolet Surprise 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, Sands Chevrolet Surprise does not submit one or more requested documents or items of information in response to this information request, Sands Chevrolet Surprise must provide a privilege log identifying each document or item withheld, and stating the date, subject or title, 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.

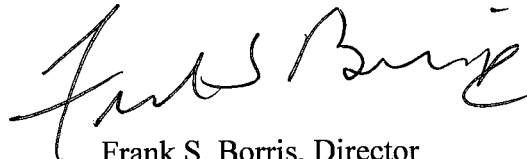
All documents should be bates stamped unless they are to be provided in Microsoft Access or Microsoft Excel format. This includes documentation that Sands Chevrolet Surprise links electronically to any of the spreadsheets it produces in response to these requests. Unless otherwise stated, please provide documents in chronological order.

Sands Chevrolet Surprise's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office **no later than three weeks from the date of this letter**. If Sands Chevrolet Surprise finds that it is unable to provide all of the information requested within the time allotted, Sands Chevrolet Surprise must request an extension from me at (202) 366-8089 no later than five business dates before the response due date. If Sands Chevrolet Surprise 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 Sands Chevrolet Surprise then has available, even if an extension has been granted.

If Sands Chevrolet Surprise 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, Sands Chevrolet Surprise 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, to the Office of Chief Counsel (NCC-111), National Highway Traffic Safety Administration, Room W41-326, 1200 New Jersey Ave., SE, Washington, D.C. 20590. Sands Chevrolet Surprise 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 is claimed to be confidential has been deleted. Please remember that the words "CONFIDENTIAL BUSINESS INFORMATION" 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. If you submit a request for confidentiality for all or part of your response to this IR that is in an electronic format (e.g., CD-ROM), your request and associated submission must conform to the requirements in NHTSA's Confidential Business Information Rule regarding submissions in electronic formats (49 CFR 512.6(c)).

If you have any questions concerning this matter, please call Jennifer Timian, Chief of the Recall Management Division, at (202) 366-0209.

Sincerely,



Frank S. Borris, Director  
Office of Defects Investigation  
Enforcement

Enclosures