

**UNITED STATES DEPARTMENT OF TRANSPORTATION
NATIONAL HIGHWAY TRAFFIC SAFETY
ADMINISTRATION**

1200 New Jersey Avenue,
SE
West Building, W41-326
Washington, DC 20590

In re:	)
	)
EA14-002	)
Kia Sorento	)
Sunroofs	)

**TOYOTA'S RESPONSE TO GENERAL ORDER
DIRECTED TO MANUFACTURERS**

Toyota Motor Engineering & Manufacturing North America, Inc. ("TEMA"), on its behalf and on behalf of Toyota Motor Corporation (collectively "Toyota") submit these Responses to NHTSA's General Order Directed to Manufacturers ("General Order") of April 14, 2016 and as clarified in an email of April 21, 2016 from [REDACTED]. Toyota's Responses are set forth below and are based upon good faith efforts to investigate and collect information. Toyota reserves the right to amend or supplement its response with additional information.

Requests

- 1. Describe the history of panoramic sunroofs in the vehicles you manufacture. Your response should include, but not be limited to, the reason(s) you decided to add panoramic sunroofs as an option, the model(s) and model year for which you first offered this option, and the timeline of the development and decision-making that led to the introduction of panoramic sunroofs.**

RESPONSE 1:

Toyota first offered the panoramic sunroof as an option for Model Year 2004 Lexus

RX. The principal reasons why Toyota decided to add it as an option are as follows:

- Enhance customer choice and vehicle marketability
- Larger opening and more interior headroom
- Enhance the spaciousness of the cabin
- More light to rear-seat passengers

The timeline of the development and decision making that led to the initial introduction of panoramic sunroofs is provided electronically on DVD in PDF format entitled “CONFIDENTIAL Response 1.pdf” stored in the folder “Attachment-Response 1”.

- 2. Identify and enumerate the total population of vehicles you manufactured that contain a panoramic sunroof as original equipment. Your response should be broken down by make, model, and model year.**

RESPONSE 2:

The number of vehicles with a panoramic sunroof manufactured for sale in the United States and federalized territories as of March 31st, 2016 is provided in the following table.

MAKE	MODEL	MY										
		2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
LEXUS	ES	-	11,889	5,435	1,238	1,978	1,328	818	5,011	3,433	2,035	8,384
	RX	6	11	38	18	-	-	-	-	-	-	8,879
TOYOTA	HIGHLANDER	-	-	-	-	-	-	-	-	9,716	25,016	8,907
	PRIUS	-	-	-	-	40,041	15,354	16,982	15,801	10,227	10,217	-
	SCION TC	80,576	76,488	54,835	27,182	19,788	18,637	21,188	22,930	20,680	20,663	10,222
	VENZA	-	-	-	21,694	22,821	19,575	8,338	18,331	10,798	10,744	-

Note: Toyota Scion tC population includes two types of panoramic sunroof designs (fixed and moveable).

- For each panoramic sunroof identified in your Response to Request No. 2, provide the following information: (i) the name and contact information for the sunroof manufacturer; (ii) the number of glass panels; (iii) the size of the glass panel(s) (length x width in centimeters); (iv) the thickness of the glass panel(s) (millimeters); and (v) the standard to which the sunroof was manufactured. Your response should include an explanation of any changes made between models and model years.

RESPONSE 3:

The information responsive to “i” through “iv” is provided electronically on DVD in PDF format entitled “CONFIDENTIAL Response 3i – iv.pdf” stored in the folder “Attachment – Response 3.”

With regard to safety standards to which the sunroof was manufactured, all of the identified panoramic sunroofs were manufactured to comply with FMVSS 205, Glazing Materials.

An explanation of changes to the panoramic roof assemblies is provided electronically on DVD in PDF format entitled “CONFIDENTIAL Response 3 Design Changes.pdf” stored in the folder “Attachment – Response 3.”

- Identify, by make, model, and model year, the number of incidents involving an allegation that a panoramic sunroof has spontaneously shattered, and state the number of injuries or fatalities associated with such incidents.

RESPONSE 4:

The number of incidents and associated number of injuries involving an allegation that a panoramic sunroof has spontaneously shattered are provided electronically on DVD in PDF format entitled "Response 4.pdf" stored in the folder "Attachment-Response 4." Multiple incidents involving the same vehicle are counted separately, and multiple reports confirmed to be of the same single incident are counted together as one incident. Toyota is not aware of any fatalities involving an allegation that a panoramic sunroof has spontaneously shattered.

- 5. File a report of every incident involving an allegation that a panoramic sunroof has shattered spontaneously in a vehicle manufactured by you, of which you are aware by any means (including but not limited to consumer complaints, lawsuits, and media reports). The report shall include the following information: (i) the date on which you were first notified or learned of the incident; (ii) the name of the individual involved in the incident; (iii) the contact information for counsel representing that individual (if applicable); (iv) the make, model, and model year of the vehicle; (v) the vehicle identification number (VIN); (vi) the date, location, and description of the incident (including whether the vehicle was stationary or in motion when the incident occurred); (vii) the number and description of any injuries or fatalities; (viii) a summary of your current understanding as to the nature of the incident and/or the cause of the breakage (including whether a rock or other item of road debris was found); and (ix) a summary of any other information relevant to your investigation of the incident. Your report should be in the format attached as Exhibit A.**

RESPONSE 5:

A report of every incident involving an allegation that a panoramic sunroof has shattered is provided electronically on DVD in PDF format entitled "Response 5 Exhibit A.pdf" stored in the folder "Attachment – Response 5". The response is based on data available as of 4/26/2016 for the 49 states and 5/25/2016 for Hawaii and Puerto Rico. Multiple incidents involving the same vehicle are counted separately, and multiple reports confirmed to be of the same single incident are counted together as one. The description of the incident came from various data sources, including unverified Vehicle Owner

Questionnaires and contacts with Toyota's Customer Relations department.

General Statement

In responding to the General Order, reasonable, good faith searches have been made of corporate records where such documents and information would ordinarily be expected to be found and to which Toyota would ordinarily refer when looking for such information. Toyota's Response is based on information obtained from those departments and employees most knowledgeable about the subject matter of this inquiry and most likely to have responsive information in the regular and ordinary course of business. Toyota reserves the right to amend, supplement, or clarify its Response to reflect additional information as it is produced and/or discovered.

Toyota notes that the Definitions and Instructions could appear to obligate Toyota to search for information or documents not within its possession, custody, or control, including the proffered definition of "You" and "Your" in paragraph 5 of the Definitions as encompassing "all of your past and present officers and employees, whether assigned to their principal offices or any of their field or other locations, including all of their divisions, subsidiaries (whether or not incorporated) and affiliated enterprises and all of their 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 your control (including all business units and persons previously referred to)." Adherence to these Definitions and Instructions would require an unduly burdensome and extraordinarily costly search for information involving persons or entities not under Toyota's direct control and persons and entities not reasonably likely to have

possession, custody, or control of responsive information different from those produced hereunder. Accordingly, Toyota's search for information does not extend beyond those employees, directors, officers, and other persons subject to Toyota's direct control who are reasonably likely to possess non-privileged information.

Toyota is not asserting privilege over any information being provided, but reserves the right to claim privilege when appropriate. Toyota notes that the courts have upheld the privilege in the FTC context, and that NHTSA's authority closely tracks that of the FTC. *See FTC v. Boehringer Ingelheim Pharmaceuticals, Inc.*, 898 F. Supp. 2d 171, 175 (D.D.C. 2012); *FTC v. GlaxoSmithKline*, 294 F.3d 141, 145-48 (D.C. Cir. 2002) (both declining to enforce FTC subpoenas seeking documents protected by the attorney-client and work product privileges); *United States v. Firestone*, 455 F. Supp. 1072, 1089 (1978) (NHTSA's information-gathering authority under the Safety Act tracks the FTC's authority to compel information and therefore "cases concerning the FTC's power are of some relevance."). The United States Supreme Court has indeed cautioned against creating novel exceptions to privileges because it would introduce "substantial uncertainty" and "could contribute to the general erosion" of privileges "without reference to common-law principles of 'reason and experience.'" *Swidler & Berlin v. United States*, 524 U.S. 399, 409-10 (1998).

Toyota has identified those documents protected from public disclosure as Confidential Business Information, and has submitted a Confidentiality Request and Certificate as required by the agency's regulations.