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

APR - 5 2007

400 Seventh Street, S.W.
Washington, D.C. 20590

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. Christopher J. Tinto, Vice President
Toyota Motor North America, Inc.
Technical and Regulatory Affairs
601 Thirteenth Street, NW
Suite 910 South
Washington, DC 20005

NVS-213dsy
PE07-016

Dear Mr. Tinto:

This letter is to inform you that the Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) has opened a Preliminary Evaluation (PE07-016) to investigate incidents of vehicle runaway due to interference between the Lexus accessory floor mat (all-weather floor mat) and the accelerator pedal in model year (MY) 2007 Lexus ES350 vehicles manufactured by Toyota Motor North America, Inc., and to request certain information.

This office has received ten vehicle owner questionnaires (VOQs) reports of unwanted acceleration in MY 2007 Lexus ES350 vehicles. Information collected by ODI indicates that at least five[1] of these incidents appear to have been caused by interference between the Lexus all-weather rubber accessory floor mat and the accelerator pedal. In each incident the pedal was apparently trapped by the floor mat after the driver pressed the accelerator pedal to a wide open throttle (WOT) or near WOT position. A field investigation conducted by ODI confirmed that the all-weather mat can trap the accelerator pedal in such a position. The drivers in these incidents all reported vehicle runaway events of varying duration in which they were able to slow the vehicle with the brakes, but in some incidents could not bring it to a stop or turn the engine off. In some cases the driver reported that the brakes were applied multiple times which may have depleted the power assist reservoir (vacuum booster), thus increasing the brake pedal effort required to stop the vehicle. In addition, some of the drivers reportedly were unable to stop the engine by pressing the engine control button and or were unable to disengage the transmission by shifting into a non-drive gear position. Three crashes with a total of 7 injuries

[1] Of the five reports not reflected in this count; one involves an aftermarket (non-Toyota) rubber floor mat, one complainant has not responded to multiple contact requests, and three other reports are currently under review to determine if they are related or not.

are alleged in the complaints relating to the all-weather floor mats. An electronic copy of each report is included on the enclosed CD-ROM for your information and a list of the five VOQs appear at the end of this document.

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

- **Subject vehicles:** all MY 2007 Lexus ES350 manufactured for sale or lease in the United States.

- **Subject component:** all Toyota optional equipment (accessory) all-weather floor mats manufactured for use on the subject vehicles.

- **Toyota:** Toyota Motor North America, Inc., and all of its past and present officers and employees, whether assigned to its principal offices or any of its field or other locations, including all of its 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 the control of Toyota (including all business units and persons previously referred to), who are or, in or after 2004, were involved in any way with any of the following related to the alleged defect in the subject 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.

- **Alleged defect:** Allegations of A) excessive engine speed and or power output without the driver pressing on the accelerator pedal or, B) the engine speed and or power output failing to decrease when the accelerator pedal was no longer being depressed or, C) the subject component interfering with the operation of the throttle pedal.

- **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 Toyota, 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 Toyota 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," "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 alleged defect, certain information is required. Pursuant to 49 U.S.C. § 30166, please provide numbered responses to the following information requests. Insofar as Toyota has previously provided a document to ODI, Toyota may produce it again or identify the document, 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 Toyota's response to each request, identify the source of the information and indicate the last date the information was gathered.

1. State, by model and model year, the number of subject vehicles Toyota has manufactured for sale or lease in the United States. Separately, for each subject vehicle manufactured to date by Toyota, state the following:

   a. Vehicle identification number (VIN);
   b. Whether the vehicle was supplied by Toyota with the subject component (i.e., the vehicle was ordered with Port of Entry installed all-weather mats)[2];
   c. Date of manufacture;
   d. Date warranty coverage commenced; and
   e. 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 2000, or a compatible format, entitled "PRODUCTION DATA." See Enclosure 1, Data Collection Disc, for a pre-formatted table which provides further details regarding this submission.

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;
   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.

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[2] See Request 12 regarding Port of Entry installed mats.

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), address, and telephone number;
   d. Vehicle's VIN;
   e. Vehicle's make, model and model year;
   f. Vehicle's mileage at time of incident;
   g. Incident date;
   h. Report or claim date;
   i. Whether the vehicle was inspected by Toyota as a result of the incident;
   j. Number of floor mats installed in the driver's footwell;
   k. Type(s) of mat(s) installed in the driver's footwell (none, carpet, rubber/all-weather, both carpet and rubber, unknown, etc.);
   l. Manufacturer of mat(s) installed in driver's footwell (Toyota, aftermarket, unknown, etc.);
   m. Person/entity who installed the driver's side floor mat (dealer, owner, unknown, etc.);
   n. Whether the driver's side floor mat is alleged to be the cause of the incident;
   o. Whether Toyota has determined the driver's side floor mat was the cause of the incident;
   p. Whether a crash is alleged;
   q. Whether property damage is alleged;
   r. Number of alleged injuries, if any; and
   s. Number of alleged fatalities, if any.

   Provide this information in Microsoft Access 2000, or a compatible format, entitled "REQUEST NUMBER TWO DATA." See Enclosure 1, Data Collection Disc, for a pre-formatted table which provides further details regarding this submission.

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.

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) and telephone number;
   c. VIN;
   d. Repair date;

e. Vehicle mileage at time of repair;
f. Repairing dealer's or facility's name, telephone number, city and state or ZIP code;
g. Labor operation number;
h. Problem code;
i. Replacement part number(s) and description(s);
j. Concern stated by customer; and
k. Comment, if any, by dealer/technician relating to claim and/or repair.

Provide this information in Microsoft Access 2000, or a compatible format, entitled "WARRANTY DATA." See Enclosure 1, Data Collection Disc, for a pre-formatted table which provides further details regarding this submission.

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.

7. Produce copies of all service, warranty, service parts, and other documents that relate to, or may relate to the subject component, the retail sale of the subject component, or the alleged defect in the subject vehicles, that Toyota has issued to any dealers, regional or zone offices, field offices, fleet purchasers, or other entities. This includes, but is not limited to, bulletins, advisories, informational documents, training documents, or other documents or communications, with the exception of standard shop manuals. Also include the latest draft copy of any communication that Toyota is planning to issue within the next 120 days.

8. Produce copies of any consumer letters or other documents that relate to, or may relate to the subject component or the alleged defect in the subject vehicles, that Toyota has issued to any operators, owners or lessees of the subject vehicles. This includes, but is not limited to, bulletins, advisories, informational documents, training documents, or other documents or communications. Also include the latest draft copy of any communication that Toyota is planning to issue within the next 120 days.

9. Describe all assessments, analyses, tests, test results, studies, surveys, simulations, investigations, inquiries and/or evaluations (collectively, "actions") that relate to, or may relate to, the alleged defect in the subject vehicles that have been conducted, are being conducted, are planned, or are being planned by, or for, Toyota. 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. Engineering group(s)/supplier(s) responsible for designing and for conducting the action; and
f. 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.

10. Describe all modifications or changes made by, or on behalf of, Toyota in the design, material composition, manufacture, quality control, supply, or installation of the subject component, from the start of production to date, which relate to, or may relate to, the alleged defect in the subject vehicles. For each such modification or change, provide the following information:

    a. The date or approximate date on which the modification or change was incorporated into vehicle production;
    b. A detailed description of the modification or change;
    c. The reason(s) for the modification or change;
    d. The part numbers (service and engineering) of the original component;
    e. The part number (service and engineering) of the modified component;
    f. Whether the original unmodified component was withdrawn from production and/or sale, and if so, when;
    g. When the modified component was made available as a service component; and
    h. Whether the modified component can be interchanged with earlier production components.

    Also, provide the above information for any modification or change that Toyota is aware of which may be incorporated into vehicle production within the next 120 days.

11. State the number of subject components that Toyota has sold, either through service parts sales or through Port of Entry vehicle processing, that may be used in the subject vehicles by component name, part number (both service and engineering/production), model and model year of the vehicle in which it is used and month/year of sale. State whether Toyota has prohibited wholesale or retail sale of any subject component part number and, if so, state the date of sales prohibition, and the reason the prohibition was implemented. For each component part number, provide the supplier's name, address, and appropriate point of contact (name, title, and telephone number). Also identify by make, model and model year, any other vehicles of which Toyota is aware that contain the identical component, whether installed in production or in service, and state the applicable dates of production or service usage.

12. Describe Toyota's vehicle ordering process that results in the subject vehicle having the subject component included with the vehicle during Port of Entry (POE) operations. Describe all POE processes that involve floor mats (including carpet or non-subject floor mats) and whether or not any process involves placing floor mats in the driver's footwell of the vehicle. State the location of each POE where subject vehicles are processed and for each provide contact details (name, title, company affiliation, and phone number) for an individual knowledgeable of subject vehicle POE operations.

13. Produce a copy of the installation instruction and any other documentation (including packing materials if pertinent) provided when the subject component is purchased as a service part. Also produce copies of any documents discussing the proper installation of floor mats in general (of any type, for subject and non-subject vehicles) especially any which include precautions or warnings regarding improper installation, and or any hazards or detrimental results that may occur if improper installation is performed. State the intended recipient of each document and how it is made available.

14. Describe in detail the operation of the engine control push-button (labeled "Engine Start Stop" and located on the driver's side of the instrument panel) when the vehicle is at rest (stopped) including how its functionality is effected by brake pedal application and gear shift position. Describe in detail any changes in the button's functionality that occurs when the vehicle is in motion (as opposed to at rest).

15. State whether there are any normal operating conditions (such as certain throttle positions and or engine/vehicle speeds, and excluding a failure of the shift control system and or an internal transmission component) that can prevent the transmission from disengaging a forward drive gear when the shift lever is moved from the Drive to Neutral position. If so, state the conditions under which this could occur.

16. Furnish Toyota's assessment of the alleged defect in the subject vehicle, including:

    a. The causal or contributory factor(s);
    b. The risk to motor vehicle safety that it poses;
    c. The adequacy of the warnings provided to the subject component installer regarding the installation of the subject component and the potential hazards that could result; and
    d. The reports included with this inquiry, including for each whether Toyota has determined if the vehicle had improperly installed all-weather mats, and if so whether Toyota has determined who installed the mats incorrectly.

This letter is being sent to Toyota 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. Toyota's failure to respond promptly and fully to this letter could subject Toyota 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 $6,000 per day, with a maximum of $16,375,000 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 71 Fed. Reg. 28279 (May 16, 2006)). This includes failing to respond to ODI information requests.

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

Toyota's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office by May 23, 2007. **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 PE07-016 in Toyota's response to this letter and in any confidentiality request submitted to the Office of Chief Counsel. If Toyota finds that it is unable to provide all of the information requested within the time allotted, Toyota must request an extension from me at (202) 366-5207 no later than five business days before the response due date. If Toyota 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 Toyota then has available, even if an extension has been granted.

If Toyota 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, Toyota 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-113), National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, S.W., Washington, D.C. 20590. Toyota 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 Scott Yon (scott.yon@dot.gov) and to ODI_IRresponse@dot.gov when Toyota sends its response to this office and indicate whether there is confidential information as part of Toyota response.

If you have any technical questions concerning this matter, please call Scott Yon of my staff at (202) 366-0139.

Sincerely,

Jeff Quandt, Chief
Vehicle Control Division
Office of Defects Investigation

List of referenced VOQs (5): 10186045, 10183821, 10182749, 10182245, 10180658

Enclosure 1, consisting of one CD ROM titled Data Collection Disc containing three MS Access database files (response format examples) and one file (Adobe PDF format) summarizing the 5 VOQ reports.