



U.S. Department
of Transportation

National Highway
Traffic Safety
Administration

JUL - 1 2010

1200 New Jersey Avenue, SE
Washington, DC 20590

Erika Z. Jones
Mayer Brown LLP
1999 K Street, N.W.
Washington, D.C. 20006-1101

Re: Nissan Infinity FX Odometers

Dear Ms. Jones:

This letter responds to your letter of April 2, 2010 by which you seek, on behalf of Nissan North America (Nissan), concurrence by the National Highway Traffic Safety Administration (NHTSA) that Nissan can remedy a programming error in the odometers of certain vehicles without running afoul of the federal odometer anti-tampering laws (49 U.S.C. § 32701 *et seq.*). Nissan proposes to adjust the odometer readings on MY 2007-2008 Infinity FX model vehicles (subject vehicles) downward to account for a programming error, described below, in a specific way that would not be treated as a violation of Federal odometer anti-tampering laws, and would not require designation of the vehicles as "true mileage unknown" at the time of their next sale.

Based upon the representations made by you in your April 2 letter and during our meeting on March 18, 2010, we understand the relevant facts to be as follows. Nissan has learned that odometer system components in the subject vehicles were improperly programmed and, as a result, their odometer systems accrue miles 3.58% faster than they would if they had been programmed properly. The subject vehicles have an electronic module known as the Integrated Amplifier, which the odometer system uses to convert vehicle speed information from the Vehicle Dynamic Control unit into pulses that can be read by the instrument cluster and translated into miles traveled. This conversion is based in part upon the tire radius programmed into the Integrated Amplifier. A programming error in the Integrated Amplifier inputs a tire radius of 389.46 mm, which is larger than the actual nominal radius of the tires of 376 mm. The net result is higher than actual accrual of mileage on the odometer.

Nissan represents that it has developed a software tool that effects a reprogramming of the subject vehicles' Integrated Amplifier with the proper vehicle nominal tire radius and adjusts the odometer system to reflect accurate vehicle miles traveled based on the correct tire radius. Nissan claims the tool will have built-in security linking the tool to an individual VIN that is included in the subject population, ensuring the tool can be used only on subject vehicles and only one time per VIN.

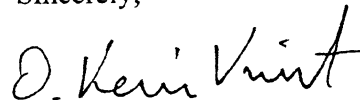
The Agency is satisfied that the proposed reprogramming by Nissan would yield the actual mileage traveled by the vehicles. This decision is based on the fact that Nissan has informed the agency that it can edit the programmed nominal tire radius so that the actual vehicle mileage travelled will be displayed on the vehicle odometer.

In these circumstances, and without making a determination that would be precedent, NHTSA agrees to not initiate an enforcement action against Nissan if it initiates an odometer adjustment to MY 2007-2008 Infinity FX vehicles as described in your letter of April 2, 2009. I wish to emphasize that this letter is applicable only to Nissan, and only to the particular circumstances described in your letter. No other person or entity may rely on this letter to defend any other action or activity.

The Agency's statements in this letter are based upon the representations that you have made to us and are strictly limited to those representations. Any different, changed or omitted facts or conditions might require us to reach a different conclusion. This letter is directed only to the person requesting it. Others may not rely on it and the Agency's application of the statute is subject to change in the future.

If you need additional information, please do not hesitate to contact David Case of my staff at (202) 366-2239 or via email at david.case@dot.gov.

Sincerely,



O. Kevin Vincent
Chief Counsel