



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

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

SEP 9 2005

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Frank D. Slaveter, Manager
National Technical Compliance
Nissan North America, Inc.
P. O. BOX 191
Gardena, CA 90247-4504

NVS-212cag
EA05-012

Dear Mr. Slaveter:

This letter is to inform you that the Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) has upgraded Preliminary Evaluation (PE05-019) to an Engineering Analysis (EA05-012) to investigate allegations of injuries to fingers while moving the second row seat back in model year (MY) 2004 Nissan Quest vehicles manufactured by Nissan North America, Inc. As part of this investigation, this letter requests certain information from Nissan.

This office has received five reports of finger injuries on MY 2004 Nissan Quest vehicles. These reports allege the consumer was injured while adjusting a second row seat. While moving the second row seat rearward, the plastic shields that cover the seat adjuster gear mechanism move in a scissor-like action and create a pinch point that can trap and/or pinch the consumer's hand or finger(s). An electronic copy of each of these reports has been emailed to you and is enclosed with this letter.

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

Subject vehicles: all MY 2004 Nissan Quest vehicles, manufactured for sale or lease in the United States.

Subject component(s): all second row folding seat assemblies in the subject vehicles.

- **Nissan:** Nissan North America, Inc., 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 Nissan (including all business units and persons previously referred to), who are or, in or after 2002 were



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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:** Complainants allege injuries to their fingers while adjusting the second row seat.
 - **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 Nissan, 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 Nissan 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 Nissan has previously provided a document to ODI, Nissan 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 Nissan'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 Nissan has manufactured for sale or lease in the United States that were not previously provided to ODI in its response to ODP's PEIR letter for PE05-019. Separately, for each subject vehicle manufactured to date by Nissan, state the following:
 - a. Vehicle identification number (VIN);
 - b. Model;
 - c. Model Year (MY);
 - d. Date of manufacture;
 - e. Date warranty coverage commenced; and
 - f. 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."

2. State the number of each of the following, received by Nissan, or of which Nissan 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 Nissan is or was a party to the arbitration; and
- f. Lawsuits, both pending and closed, in which Nissan is or was a defendant or codefendant.

For subparts "a" through "c," 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 Nissan'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.

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. Nissan'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. VIN;
 - e. Model and model year;
 - f. Vehicle mileage at time of incident;
 - g. Incident date;
 - h. Report or claim date;
 - i. Whether property damage is alleged;
 - j. Number of alleged injuries, if any; and
 - k. Number of alleged fatalities, if any.

Provide this information in Microsoft Access 2000, or a compatible format, entitled **"COMPLAINT DATA."**

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 Nissan 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 Nissan 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. Nissan'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 or statements 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."

6. Describe in detail the search criteria used by Nissan to identify the claims described 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 Nissan 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) related to the alleged defect that Nissan 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. Provide this information in Microsoft Excel or compatible format.
7. Produce copies of all service, warranty, and other documents or communications that relate to, or may relate to, the alleged defect in the subject vehicles, that Nissan has issued to any dealers, regional or zone offices, field offices, fleet purchasers, or other entities. This includes, but is not limited to, service bulletins, advisories, informational documents, training documents, service voicemails, or other documents or communications, with the exception of standard shop manuals. Also include the latest draft copy of any service communication or document that Nissan is planning to issue within the next 120 days. Organize the documents or communications chronologically by action.
8. 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, Nissan. 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.

9. In Nissan's response to Request No. 4 of the Preliminary Evaluation Information Request (PEIR) letter, Nissan denies the claim presented by Jessica Jones and Ralph Jones. In the Thirteenth Separate Defense, Nissan states: "Any damages and/or injuries which plaintiffs may have sustained were caused by the improper, abnormal, unforeseeable and unintended use of the vehicle..." Explain in detail the basis for this statement and how the second row seat can be adjusted in an "improper, abnormal, unforeseeable and unintended use." Provide sketches where appropriate.
10. In Nissan's response to Request No. 5 of the PEIR letter, Nissan mentioned that a Customer Satisfaction Initiative "involved the replacement of the original handle in the subject vehicles. As of July 1, 2005, 27,911 replacements have been made by dealers (approximately 77%)." Provide the following information:
 - a. The number and percent of vehicles, to date, that had handle 1 replaced with handle 2.
 - b. The tracking process for handle 2 replacement (i.e. how was the answer to question 10a calculated?).
 - c. How Nissan notified the customer about the Customer Satisfaction Initiative.
 - d. Under what conditions the customer will receive the repairs defined in the Customer Satisfaction Initiative bulletin.
11. In Nissan's response to Request No. 12 of the PEIR letter, Nissan stated that, "In the case of the one injury attributed to handle number two, it is believed that the operator, who was positioned outside the vehicle, was attempting to fold the seat flat into the floor by using the wrong handle." To further clarify this statement, provide the following:
 - a. Provide a picture or diagram of the subject seat assembly showing all handles and levers that are designed for moving the seat forward and rearward, adjusting the seat back position and for folding the seat to the floor. Identify the function of each handle and lever. Show the direction of rotation or movement for each handle and lever when operated.
 - b. Using the diagram above as reference, describe the correct procedure for moving the seat forward or rearward.
 - c. Using the diagram above as reference, describe the correct procedure for folding the seat to the floor.
 - d. With respect to the injury complaint described above, identify the handle that Nissan refers to as the "wrong handle" and identify the handle that Nissan believes would have been the proper handle for folding the seat flat into the floor.
 - e. Provide any additional information that Nissan believes is important to clarify Nissan's understanding of the reason for the operator's injury while using handle number two.
12. Identify any subject vehicles that Nissan bought back from the owner because of the alleged defect. For each buyback, including any buybacks before and after Nissan's response dated July 8, 2005, provide the following information:

- a. VIN;
- b. Model Year;
- c. Vehicle owner or fleet name (and fleet contact person);
- d. Owner's address;
- e. Owner's telephone number (include area code);
- f. Vehicle mileage at time of repair;
- g. Repairing dealer's or facility's name;
- h. Repairing dealer's address;
- i. Repairing dealer's telephone number (include area code);
- j. Status of vehicle (repaired, totaled, etc);
- k. Current location of the vehicle;
- l. Brief summary of dealer/technician findings and/or conclusions;
- m. Name of the Nissan employee who authorized the buyback;
- n. Identify any non-dealer report, assessment, analysis, study, test, evaluation or investigation performed by, or on behalf of, any Nissan employee or representative on the buyback.
- o. Date of the buyback;
- p. State the rationale for the buyback;
- q. Describe the actions taken by Nissan with the buyback, i.e. what did Nissan do with/to the buyback;
- r. Discuss of any follow up or "other actions" taken with the buybacks.

Provide this information in Microsoft Access 2000, or a compatible format, entitled **"BUYBACKS."**

For each buyback identified in Request Number 12, provide copies of all documents related to "a" through "r." Organize the documents separately by VIN.

This letter is being sent to Nissan 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. Nissan's failure to respond promptly and fully to this letter could subject Nissan 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 \$5,000 per day, with a maximum of \$15 million for a related series of violations, for failing or refusing to perform an act required under 49 U.S.C. § 30166. This includes failing to respond to ODI information requests.

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

Nissan's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office by **October 28, 2005**. Please refer to EA05-012 in Nissan's response to this letter. If Nissan finds that it is unable to provide all of the information requested within the time allotted, Nissan must request an extension from Thomas Cooper at (202) 366-5218 no later than five business days before the response due date. If Nissan 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 Nissan then has available, even if an extension has been granted.

If Nissan 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, Nissan 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 (68 Fed. Reg. 44209 et seq; July 28, 2003), to the Office of Chief Counsel (NCC-111), National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, S.W., Washington, D.C. 20590. Nissan 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.

If you have any technical questions concerning this matter, please call Cynthia Glass of my staff at (202) 366-2920.

Sincerely,



Kathleen C. DeMeter, Director
Office of Defects Investigation
Enforcement

Enclosure: VOQ identification numbers:
10114164, 10108368, 10082935, 10050838, 10118747