

NISSAN

NISSAN NORTH AMERICA, INC.

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COUNSEL

July 8, 2005

Mr. Thomas Cooper, Chief
Vehicle Integrity Division
Office of Defects Investigation
National Highway Traffic Safety Administration
400 Seventh Street S.W.
Washington, D.C. 20590

Re: NVS-212cag
PE05-019

Dear Mr. Cooper:

Enclosed is Nissan's response to the referenced NHTSA Information Request of April 28, 2005 concerning the Agency's Investigation of 2004 model year Nissan Quest vehicles.

The attached reply responds by first stating each question, then the response. Please contact us if you have any questions.

Sincerely,



Frank D. Slaveter
Senior Manager
Technical Compliance

Enclosures



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18601 South Figueroa St.
Gardena, California 90248-4500
Mailing Address: P.O. Box 191
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July 8, 2005

Jacqueline Glassman
Office of Chief Counsel
National Highway Traffic Safety Administration
NCC-110, Room 5219
400 Seventh St. S.W.
Washington, D.C. 20590

Re: Request for Confidential Treatment Pursuant to 49 CFR Part 512 for Certain Documents Provided in Response to NYS-212cas: PE05-019

Dear Ms. Glassman:

The Office of Defects Investigation ("ODI") has requested Nissan North America, Inc. ("Nissan") to provide certain information in connection with the matter referenced above, and Nissan is responding to this Information Request under separate cover. This submission includes an appendix of confidential attachments, which Nissan is submitting to the Office of Chief Counsel in accordance with NHTSA's regulations. Nissan is hereby requesting that the confidential attachments be permanently protected from public release pursuant to 49 CFR Part 512.

This cover letter sets forth the justifications for Nissan's request for confidential treatment. Nissan has prepared a table that provides the justifications for the confidential material. The table is attached to this letter as an appendix. The table refers to the categorized justifications in the cover letter where appropriate and uses numerical codes which are set forth below.

The confidential documents and information fall within the following categories: confidential business information (category "1" in the accompanying table); evaluation and remediation protocols (category "2" in the accompanying table); test results, analyses and protocols (category "3" in the accompanying table); and design information and performance factors and standards (category "4" in the accompanying table). The legal justifications for each category of confidential documents are provided below. As you will note in the accompanying table, many documents qualify as confidential for more than one reason.

Nissan treats all of the information at issue in this letter confidentially. Nissan does not publish or disseminate this type of information, except for certain limited disclosure to Nissan's suppliers which are made subject to confidentiality agreements or other

understandings that the suppliers will maintain the information in strictest confidence. Moreover, Nissan limits access to the information to specific employees.

We enclose a certification from Johnson Controls, Inc. Nissan requests that the Johnson Controls documents be granted confidential treatment on a permanent basis. Disclosure of the information would cause Nissan and its supplier substantial competitive harm, and there is no foreseeable time in the future when such disclosure would not inure to the competitive advantage of Nissan's competitors and cause Nissan substantial competitive harm.

1. Confidential Business Information

The information in this category relates to Nissan's product, design, development, evaluation, testing, protocols for product development, and manufacturing and quality control processes. It also includes such information from suppliers. Confidential treatment for this information is warranted because its release would permit a competitor to duplicate Nissan's efforts with respect to product design, research, development, and manufacturing protocols and standards without incurring the substantial investment involved in reverse engineering or in developing their own protocols and standards. See *Worthington Compressors, Inc. v. Castle*, 662 F.2d 45, 52 (D.C. Cir. 1981) (in deciding whether to withhold information pursuant to Exemption 4, consideration should be given to "whether release of the requested information, given its commercial value to competitors and the cost of acquiring it through other means, will cause substantial competitive harm to the business that submitted it"); see also, e.g., *Public Citizen Health Research Group v. FDA*, 997 F. Supp. 56, 63 (D.D.C. 1998) (finding competitive harm based in part on the fact that disclosure would allow competitors "to follow in [the submitter's] footsteps, and thereby get a competitive product to the market sooner than otherwise"). Accordingly, because the release of the information in this category would result in "substantial harm to the competitive position" of Nissan, it is entitled to protection from public disclosure. *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974). See also, e.g., *Critical Mass Energy Project v. NCR*, 975 F.2d 871, 878 (D.C. Cir. 1992); *Occidental Petroleum v. SEC*, 873 F.2d 325, 341 (D.C. Cir. 1989) (information relating to product development is "valuable intellectual property" entitled to protection from public disclosure under Exemption 4).

2. Evaluation and Remediation Protocols

Some of the submitted material contains highly sensitive information that may reveal Nissan's protocols and processes for identifying, evaluating, and remedying potential problems in its products. It also includes such information from suppliers. Disclosing such information would allow Nissan's competitors to duplicate Nissan's design, research, and remediation protocols without incurring the substantial expense associated with developing their own protocols. This information, therefore, is commercially valuable, and its release would cause Nissan substantial competitive harm. See *Worthington Compressors, Inc. v. Castle*, 662 F.2d 45, 52 (D.C. Cir. 1981) (in determining whether information should be withheld pursuant to Exemption 4, consideration should be given to "whether release of the requested information, given its commercial value to competitors, and the cost of acquiring it through other means, will cause substantial competitive harm to the business that submitted it"); *Public Citizen Health Research Grp. v. FDA*, 997 F. Supp. 56, 63 (D.D.C. 1998) (finding competitive harm based on the fact that disclosure would allow competitors "to follow in [the submitters'] footsteps, and thereby get a competitive product to the

market sooner than otherwise"), *aff'd in part & rev'd in part*, 185 F.3d 898 (D.C. Cir. 1999). "Valuable Intellectual property," such as this Information, is protected from disclosure under Exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4). *Occidental Petroleum Corp. v. SEC*, 873 F.2d 325, 341 (D.C. Cir. 1989).

3. Design Information and Performance Factors and Standards

Some of the documents reveal competitively sensitive and highly valuable design and performance factor information of Nissan and its suppliers. A number of the documents set forth key design elements for the subject vehicles, and others reveal the performance factors that Nissan considers significant in developing and marketing products. Like the other information in this submission, the design and standards information reflected in these documents is the product of Nissan's years of experience in the industry and reflects substantial investments of time and money in its development. Thus, disclosure of the information would be a windfall to Nissan competitors (especially to new market entrants), as well as to would-be suppliers, because it would enable them to incorporate design elements and to discover the performance standards that Nissan considers significant without incurring the substantial time and expense necessary to develop their own designs and standards. As a result, Nissan would suffer substantial competitive harm. *See, e.g., Worthington Compressors*, 662 F.2d at 51 ("Because competition in business turns on the relative costs and opportunities faced by members of the same industry, there is a potential windfall for competitors to whom valuable information is released under FOIA. If those competitors are charged only minimal FOIA retrieval costs for the information, rather than the considerable costs of private reproduction, they may be getting quite a bargain. Such bargains could easily have competitive consequences not contemplated as part of FOIA's principal aim of promoting openness in government.") (footnote omitted); *Public Citizen II*, 185 F.3d at 905. In addition, some of the documents are entitled to protection pursuant to NHTSA's class determination contained in Appendix B to Part 512. *See* 49 CFR Part 512, Appendix B, (1).

* * * *

Ms. Glassman
July 8, 2005
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Nissan requests that the information discussed above be granted confidential treatment on a permanent basis. Disclosure of the information would cause Nissan and its suppliers substantial competitive harm, and there is no foreseeable time in the future when such disclosure would not inure to the competitive advantage of Nissan's competitors and cause Nissan substantial competitive harm.

If you need any clarifications or additional information, please contact me. If you receive a request for disclosure of these documents before you have completed your review of our claim for confidential treatment, Nissan respectfully requests notification of the request and an opportunity to provide further justification for the confidential treatment of this information, if warranted.

Should you or your staff have any questions or concerns regarding this request, please contact me at (310) 771-5465. Thank you for your consideration in this matter.

Sincerely,



Frank D. Slaveter
Senior Manager, Technical Compliance
Nissan North America, Inc.

Enclosures

CERTIFICATE IN SUPPORT OF REQUEST FOR CONFIDENTIALITY

I, Frank D. Slaveter, pursuant to the provision of 49 CFR 512, state as follows:

- (1) I am Frank D. Slaveter, Senior Manager, Technical Compliance and I am authorized by Nissan North America, Inc. (NNA) to execute this document.
- (2) I certify that the information contained in the attached documents is confidential and proprietary and is being submitted with the claim that it is entitled to confidential treatment under 5 U.S.C. Section 522(b)(4) (as incorporated by reference in and modified by the statute under which the information is being submitted.)
- (3) I hereby request that the information contained in Nissan's response be protected on a permanent basis.
- (4) This certification is based on the information provided by the responsible Nissan personnel who have authority in the normal course of business to release the information for which a claim of confidentiality has been made to ascertain whether such information has ever been released outside Nissan.
- (5) Based upon that information, to the best of my knowledge, information and belief, the information for which Nissan has claimed confidential treatment has never been released or become available outside Nissan or its suppliers.
- (6) I make no representations beyond those contained in this certificate and, in particular, I make no representations as to whether this information may become available outside Nissan because of unauthorized or inadvertent disclosure; and
- (7) I certify under penalty of perjury that the foregoing is true and correct. Executed on this 8th day of July 2005.



Frank D. Slaveter
Senior Manager, Technical Compliance
Nissan North America, Inc.

Nissan Request For Confidential Treatment

Confidential Item Number	Confidential Attachment	Page Number	Title	Date	
1	M	M1	2nd Row Fore Aft Handle	7/30/2003	
2	M	M2 - M8	Handle Images	7/30/2003	Im
3	M	M9 - M11	Design Note For Production	9/9/2003	
4	M	M12 - M14	Design Note For Production	9/10/2003	
5	M	M15 - M18	Petersen, Martin	2/17/2004	
6	M	M19 - M22	UL 2nd Row Seat Handle	2/3/2004	

*** The categories are summarized as follows:**

1. Confidential business information: includes documents relating to product material and other engineering standards; material selection; standards for
2. Evaluation and remediation protocols; includes documents relating to the
3. Design information and performance factors and standards: includes documents relating to product material and other engineering specifications; material selection; and standards

Response to

PE05-019

INTRODUCTION

In accordance with discussions with the Agency's Thomas Cooper, an extension of time was granted until July 8, 2005 to respond to this Information Request ("IR"). Nissan appreciates the Agency's courtesy in this regard.

In responding to this Information Request ("IR"), Information has been obtained from those places within Nissan likely to contain such information in the regular and ordinary course of business. When a particular Request seeks "documents" as defined in the IR, reasonable, good faith searches have also been made of corporate records in those places likely to maintain them in the regular and ordinary course of business.

The definitions of "documents" and "Nissan", however, are unreasonably broad, vague and ambiguous in the context of the information sought by this IR. For example, "calendars", "appointment books", "financial statements" and "personnel records" would not contain owner complaints, field reports or other information sought by Question 2 pertaining to the alleged defect. Therefore, searches were not made for such "documents", inasmuch as they would not likely contain responsive information. In addition, Nissan has not provided information from persons or entities over which it does not ordinarily exercise control. Nissan understands this IR to seek information on vehicles manufactured for sale in the United States.

Responses are provided after each question, and Attachments are utilized as appropriate. The source of information used as a basis for the data in each Attachment, including the date the data were updated and retrieved, is identified at the beginning of each Attachment, as applicable. If a document itself is the source for the requested information and it is provided, we assume no further source identification is called for. If a document, drawing or component is requested, or if no responsive information is available, we assume no further source identification is called for.

With regard to claims of privilege, Nissan understands that it is acceptable to the Agency for Nissan to identify specific categories of privileged documents rather than any specific document. These specific categories are: 1) communications between outside counsel and Nissan Legal Department employees, other Nissan employees, or other Nissan-represented parties in litigation and claims; 2) communications between Nissan Legal Department employees and other Nissan employees or other Nissan-represented parties in litigation or claims; 3) notes and other work product of outside counsel or of Nissan Legal Department employees concerning communications with Nissan employees or consultants, and the work product of those employees or consultants done for or at the request of outside counsel or Legal Department employees; and 4) other categories to be identified later as necessary. For any privileged documents that are not included in these categories, such documents, if any, will be specifically identified on a separate privilege index at a later time. To the extent that a document is furnished, Nissan is not asserting a privilege claim for that document, although the disclosure of such document does not waive the attorney-client privilege or work-product protection with respect to other documents prepared in connection with the specific litigation or claim or other litigation or claims. In addition, in submitting such documents, we reserve our right to claim the attorney-client privilege and/or work-product protection with respect to analyses that may be prepared subsequently in

connection with these and other cases. Also, we understand documents specifically related to the preparation of the responses are not sought.

Nissan believes NHTSA's policy is to protect the privacy of individuals under exemption 6 of the Freedom of Information Act, 5 U.S.C. Section 552(b)(6). We understand that name, address, and other personal information of owners or other individuals, including Nissan personnel, contained in any of the attachments in this response will not be made available to the public. Therefore, Nissan is not requesting confidential treatment for this information pursuant to 49 CFR, Part 512, but we believe any private information concerning individuals should not be made public.

* * * * *

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

- a. Vehicle Identification number (VIN);
- b. Make;
- c. Model;
- d. Classification (sedan, wagon);
- e. Model Year;
- f. Date of manufacture;
- g. Date warranty coverage commenced; and
- h. 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."

The number of the subject vehicles manufactured for sale or lease in the United States is as follows:

- 2004 Quest vehicles: 65,522

The information requested in 1.a through 1.h is provided, when known, in a file titled "PRODUCTION DATA (PE05019).mdb" on a CD enclosed as Attachment A.

2. State the number of each of the following, received by Nissan, or of which Nissan are 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 an 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 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 "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 Nissan's assessment of the problem, with a summary of the significant underlying facts and evidence. For items "d" 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.

The number of each of the referenced items in 2.a through 2.c, received by Nissan, or of which Nissan is otherwise aware, which relate to, or may relate to, the alleged defect in the subject vehicles, is contained in Attachment B. Multiple incidents involving the same vehicle have been counted separately. Multiple reports of the same incident have also been counted separately, so there are duplicate counts in several categories.

There are no applicable property damage claims or third party arbitration proceedings responsive to 2.d or 2.e.

Summary information for items 2.c and 2.f are contained in Attachment E.

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. Vehicle's VIN;
- e. Vehicle's make, model, classification and model year;
- f. Vehicle's 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".

The information requested in 3.a through 3.k is provided, when known, in the following file: "COMPLAINT DATA (PE05019).mdb", on a CD enclosed as Attachment B.

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.

Nissan understands this question to request copies of the specific consumer complaint documents, field report documents, and lawsuit documents (such as the initial legal complaint) for those items included within the response to Request No. 2 above. Customer complaints are contained in Attachment C. Field reports are contained in Attachment D. Claims and lawsuit information is contained in Attachment F. The documents are organized by the date Nissan received the information.

5. State, by model, classification 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 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 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".

The main purpose of the warranty system is to reimburse dealers for performing warranty repairs. Claims are submitted by dealers through an on-line computer system through the use of a set of codes. The codes are designed to allow flexibility for their use and, as such, do not supply a significant amount of information about why a particular repair was made, or specific details about the nature of the repair itself.

Further, the warranty system is not designed to and cannot be used to process claims from dealers that relate to the alleged defect ("injuries to fingers..."). Therefore, no responsive information would be expected to be found in the system. Nonetheless, a search was conducted using the criteria outlined in response to Item 6 below, and there were no applicable paid warranty or other claims found, as requested.

In addition, as noted in response to Request No. 7 below, a Customer Satisfaction Initiative had been undertaken with regard to Quest models, and one aspect of this program 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%). Nissan can provide more detailed information about these replacements if the agency so requests.

6. Describe in detail the search criteria used by Nissan 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 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) 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.

The search criteria used by Nissan are outlined in Attachment G.

Copies of the applicable warranties for the subject vehicle are contained in Attachment H. There are no extended warranties applicable to the subject vehicles as we understand this request. Nissan offers "Security Plus" service contract plans on Nissan vehicles and are available for separate purchase by customers. Information about Nissan's Security Plus programs is contained in Attachment I. As of May 6, 2005, there are 21,552 MY2004 Quests covered by Security Plus contracts.

7. Produce copies of all service, warranty, and other documents 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, 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 Nissan is planning to issue within the next 120 days.

Nissan has located a service bulletin with a revision concerning the 2004 Quest Customer Satisfaction Initiative that, among other things, replaced the second row seat(s) fore/aft adjustment handle with an updated one. The two versions of this service bulletin are provided in Attachment J. Nissan recently extended this program with a communication also included in the Attachment. Nissan currently has no other communications that it is planning to issue within the next 120 days.

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.

"Actions" that relate to, or may relate to, the alleged defect are contained in Confidential Attachment M and are arranged chronologically. Information responsive to Items 8.a through 8.f is outlined in these materials.

9. Describe all modifications or changes made by, or on behalf of, Nissan in the design, material composition, manufacture, quality control, supply, or installation of the subject component for the subject vehicles, 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 Nissan is aware of which may be incorporated into vehicle production within the next 120 days.

The following changes were made in the design or specifications for the subject component:

- a. Production Implementation: December 10, 2003;
 - b. Modification to orientation of the release lever from horizontal to vertical;
 - c. The reason for the modification or change: to improve design
 - d. The part numbers (service and engineering) of the original component:
RH/LH: 88346-5Z000, 88346-5Z001, 88346-5Z002
 - e. The part number (service and engineering) of the modified component: no changes
 - f. The original component was withdrawn from production on December 10, 2003
 - g. The modified component was made available as a service component before June 2004
 - h. The modified component can be interchanged with earlier production components
-
- a. Production implementation: June 28, 2004;
 - b. The release lever design was modified to have a larger size and "cup" configuration
 - c. The reason for the modification or change: to improve design
 - d. The part numbers of the original component:
RH/LH: 88346-5Z000, 88346-5Z001, 88346-5Z002
 - e. The part number of the modified component:
RH: 88346-5Z110, 88346-5Z111, 88346-5Z112
LH: 88572-5Z100, 88572-5Z101, 88572-5Z102
 - f. The original component was withdrawn from production on June 28, 2004
 - g. The modified component was made available as a service component in August 2004
 - h. The modified component can be interchanged with earlier production components

Nissan is not aware of any modifications or changes to the subject component which may be incorporated into vehicle production within the next 120 days.

10. Produce one each of the following:

- a. Exemplar drawings of each design version of the subject component; and
- b. Exemplar drawings of any kits that have been released, or developed, by Nissan for use in service repairs to the subject component/assembly which relate, or may relate, to the alleged defect in the subject vehicles.
- c. One sample of the seat release handle used in the MY 2004 Quest minivan.

d. One sample of the seat release handle used in the MY 2005 Quest minivan.

Drawings of the subject component are included in Attachment K. There is no service kit for the subject vehicles. Items 10.c and 10.d are being shipped under the same cover.

11. Provide Nissan's assessment of the complaint and injury trend of the subject vehicles compared to the previous (MY 2003) and succeeding (MY 2005) model year Quest vehicles regarding the alleged defect. Provide a diagram and photograph of the subject component on each of the MY 2003, 2004 and 2005 Quest vehicles.

The Quest minivan was not produced for model year 2003. For the previous generation of the Quest, which was produced for model years 1999 through 2002, the design and operation of the second row seat is entirely different from that of the current generation Quest and, therefore, not comparable. Photographs of the subject components for 2004 and 2005 model years are provided in Attachment L. See response to Item 12 for Nissan's assessment.

12. Furnish Nissan's assessment of the alleged defect in the subject vehicle, including:

- a. The causal or contributory factor(s):
- b. The failure mechanism(s):
- c. The failure mode(s):
- d. The effect(s) of the failure:
- e. The risk(s) to consumer safety that it poses:
- f. A description of the analysis process used to assess items "a" through "e", and:
- g. The reports included with this inquiry.

As referenced in the response to item number 9, the subject Quest vehicles are equipped with one of three second row seat fore/aft adjustment handles. The original design handle is horizontal to the floor, while the subsequent handle is vertical in reference to the floor. The current handle contains a "cup" into which the seat occupant places their fingers to operate the adjustment lever. For clarity, we will refer to the original design as handle number one, the vertical style handle as handle number two and the cupped handle as handle number three.

Beginning on June 23, 2004 Nissan initiated a Customer Satisfaction Initiative involving several improvements for the subject Quest vehicles. One of these improvements was replacing handle number one with handle number two. Approximately 77% of the original production handles have been replaced by handle number two as a result of this service action to date. Handle number two was also used on production vehicles beginning December 10, 2003 and handle number three was introduced into production beginning June 28, 2004. As a result, only a small portion of the subject Quest population remains equipped with handle number one.

Nissan has reviewed the complaints of finger injury and has concluded that all of the injuries except one occurred on seats equipped with the original production handle¹. 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

¹ One incident appears to have involved a number two handle which, for reasons not known, was oriented in a horizontal position like a number one handle.

the wrong handle. There have been no other injuries reported using handle number two. There are no reports of injury associated with handle number three.

With handle one, the customer operation of the lever in some cases and subsequent orientation of their fingers is different than expected. Nissan believes the causal factor for these injuries has been remedied by the Customer Satisfaction Initiative and production changes. The one injury associated with handle number two appears to be an anomaly, as this is the only complaint involving handle number two.