



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

Memorandum

TO: PE19-015 Public File

DATE: December 13, 2019

RE: Notice of Confidential Response to Information Request

Alternative 1: investigation with a single IR—

The response to the Office of Defect Investigation's information request in this investigation is subject to a request for confidential treatment pursuant to 49 C.F.R. Part 512, *Confidential Business Information*. Since the request for confidential treatment covers the response in its entirety, no public version of the response is available. See 49 U.S.C. § 30167; 49 C.F.R. Part 512, Subpart E.

**NISSAN GROUP
OF NORTH AMERICA**



NISSAN NORTH AMERICA, INC.

Corporate Headquarters

Franklin, TN 37068

Mailing Address
Franklin, TN 37068-5001

Telephone

December 13, 2019

Mr. Scott Yon
Office of Defects Investigation
National Highway Traffic Safety Administration
Washington, D.C.

Rec'd 12/16/19

Re: PE19-015; NEF-102ig

Dear Mr. Yon,

Enclosed is Nissan's response to the referenced NHTSA Information Request of October 25, 2019 concerning the Agency's investigation of allegations involving front passenger OCS mats in certain Nissan vehicles.

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

Sincerely,

Manager
Technical Compliance

Enclosures

NISSAN GROUP
OF NORTH AMERICA



NISSAN NORTH AMERICA, INC.

Corporate Headquarters

Franklin, TN

Mailing Address

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Telephone

December 13, 2019

Jonathan C. Morrison
Office of Chief Counsel
National Highway Traffic Safety Administration
Washington, D.C.

**Re: Request for Confidential Treatment Pursuant to 49 CFR Part 512 for
Certain Documents Provided in Response to NEF-102iq; PE19-015**

Dear Mr. Morrison:

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. Nissan's response includes an appendix of attachments including Confidential Attachment E, which Nissan is submitting to the Office of Chief Counsel in accordance with NHTSA's regulations. Nissan is hereby requesting that the confidential attachment be permanently protected from public release pursuant to 49 C.F.R. 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 treatment. The table is attached to this letter as an appendix. The table refers to the categorized justifications and uses numerical codes which are set forth below.

The attached confidential document and information generally contains confidential business information. More specifically, the information can be categorized as: evaluation and remediation protocols (category "1" in the accompanying table); test results, analyses and protocols (category "2" in the accompanying table); and design information and performance factors and standards (category "3" in the accompanying table). The legal justifications for each category of confidential documents are provided below.

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.

Confidential Business Information

Documents reflecting Nissan's internal product and design standards, development strategies, evaluation methods, testing protocols for product development, and manufacturing and quality control processes contain confidential, competitively sensitive information that Nissan does not disclose publicly. 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). The attached document for which Nissan requests confidentiality contains confidential business information. For the reasons described above, and more specifically below, Nissan requests these documents be granted confidential treatment.

1. 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 may include 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).

2. Test Results, Analyses, and Protocols

The information for which confidential treatment is sought includes highly sensitive information about Nissan's test results, protocols, and analyses of its products. Releasing these materials would give a competitor the fruits of Nissan's tests and test developmental strategies, analyses, and protocols without having to incur the substantial costs associated with the development of their own analyses and test results, thereby enabling them to bring competitive products to market sooner and to improve their own development procedures at the expense of Nissan. Disclosure of this information would "eliminate much of the time and effort that would otherwise be required to bring to market a product competitive with [Nissan's products]. This is clearly the type of competitive harm envisioned in Exemption 4 * * *," *Public Citizen Research Grp. v. FDA*, 185 F.3d 898, 905 (D.C. Cir. 1999) ("*Public Citizen II*").

3. Design Information and Performance Factors and Standards

Some of the information reveals competitively sensitive and highly valuable design and performance factor information of Nissan. It sets forth key design elements for the subject vehicles, and reveals 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).

* * * *

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 Kathleen Roth at [REDACTED]@nissan-usa.com. Thank you for your consideration in this matter.

[REDACTED]
[REDACTED]
Manager, Technical Compliance
Nissan North America, Inc.

Enclosures

CERTIFICATE IN SUPPORT OF REQUEST FOR CONFIDENTIALITY

I, [REDACTED], pursuant to the provisions of 49 CFR 512, state as follows:

- (1) I am [REDACTED], 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 confidential business information contained in Nissan's response to the ODI Information Request (PE19-015) 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 13th day of December, 2019.

[REDACTED]

Manager, Technical Compliance
Nissan North America, Inc.

Response to



INTRODUCTION

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 that are likely to contain responsive information in those places where such records are likely to be found. We have not checked such documents as "calendars", "appointment books", "financial statements" and "personnel records" even though they are included in the definition of "documents" because such documents would not contain owner complaints, field reports, technical analyses or other information sought by Request 2 pertaining to the alleged defect. We have also searched for responsive documents and information only with respect to vehicles manufactured for sale in the United States, which we understand to be the scope for which the IR seeks information. Nissan has searched for and produced records that were created through October 25, 2019.

Responses are provided after each request, 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 or 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, and unless the production of that document is inadvertent, 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.

* * * * *

The National Highway Traffic Safety Administration (NHTSA) in its Preliminary Evaluation PE19-015 has requested materials from Nissan North America, Inc. ("NNA"). In regards to NHTSA's questions and requests in [REDACTED] NHTSA sought information on subject vehicles identified as "All vehicles that use the subject component manufactured by Nissan for sale or lease in the United States, including, but not limited to, the District of Columbia, and current U.S. territories and possessions." NNA has determined the subject vehicle scope to include the 2011-2012 model year Nissan LEAF vehicles. NHTSA has specifically requested information related to the front passenger seat OCS mat incorporated in the passenger seat cushion that may fail, causing the passenger side air bag to not operate as intended, or otherwise prevent the air bag from deploying in a vehicle crash of sufficient severity, and when the air bag should not otherwise be suppressed.

1. State, by model and model 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. Model Year;
 - c. Subject component part number and design version installed as original equipment;
 - 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 2010, or a compatible format, entitled "PRODUCTION DATA."

Table 1. Production Data Summary

MAKE	MODEL	2011	2012
NISSAN	LEAF	8,781	11,693

The information requested in 1(a) through 1(f) is provided, when known, in a Microsoft Access database titled "[REDACTED] DATA" that contains a table titled "Q1_PRODUCTION_DATA" which can be found on a disc enclosed as Attachment A.

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:

For subparts "a" through "f", 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.

- a. Consumer complaints, including those from fleet operators:

Table 2. Consumer Complaints Summary

Make	Model	Total Complaints
NISSAN	LEAF	37

- b. Field reports, including dealer field reports:

Table 3. Field Reports Summary

Make	Model	Total Complaints
NISSAN	LEAF	6

- c. Reports involving a crash, injury, or fatality:

NNA found zero (0) reports involving a crash, injury, or fatality, which relate to, or may relate to, the alleged defect in the subject vehicles.

- d. Property damage claims:

NNA found zero (0) reports of property damage claims, which relate to, or may relate to, the alleged defect in the subject vehicles.

- e. Third-party arbitration proceedings where Nissan is or was a party to the arbitration; and

NNA found zero (0) third party arbitration proceedings where Nissan is or was a party to the arbitration, which relate to, or may relate to, the alleged defect in the subject vehicles.

- f. Lawsuits, both pending and closed, in which Nissan is or was a defendant or codefendant.

NNA found zero (0) lawsuits, pending or closed, in which Nissan is or was a defendant or co-defendant, which relate to, or may relate to, the alleged defect in the subject vehicles.

The answers given to Request No. 2 above were gathered from Nissan's data and are current as of October 25, 2019.

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:
- Nissan's file number or other identifier used;
 - The category of the item, as identified in Request No. 2 (i.e., consumer complaint, field report, etc.);
 - Vehicle owner or fleet name (and fleet contact person), street address, email address and telephone number;
 - Vehicle's VIN;
 - Vehicle's make, model and model year;
 - Vehicle's mileage at time of incident;
 - Incident date;
 - Report or claim date;
 - Whether a crash is alleged;
 - Whether property damage is alleged;
 - Number of alleged injuries, if any; and
 - Number of alleged fatalities, if any.

Provide this information in Microsoft Access 2010, or a compatible format, entitled "REQUEST NUMBER TWO DATA."

The information available to Nissan requested in 3(a) through 3(l) is provided in a Microsoft Access database titled [REDACTED] DATA" which contains a table titled "Q3_REQUEST_NUMBER_TWO_DATA" on a disc enclosed as Attachment A.

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. Describe in detail the search methods and search criteria used by Nissan to identify the items in response to Request No. 2.

Documents requested within the scope of "Request No. 2" are being produced on a disc, enclosed as Attachment B in a folder titled "REQUEST NUMBER 2 DOCUMENTS". The documents are organized by category and stored as Adobe pdf files.

The search criteria used by Nissan to identify the documents in response to "Request No. 2" are set forth in Attachment C.

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.

Table 5. Warranty Data Summary

MAKE	MODEL	2011	2012
NISSAN	LEAF	27	17

[REDACTED]

Separately, for each such claim, state the following information:

- a. Nissan's claim number;
- b. Vehicle owner or fleet name (and fleet contact person), street address, email address 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(s);
- h. Problem code(s);
- i. Diagnostic trouble code(s);
- j. Replacement part number(s) and description(s);
- k. Concern stated by customer;
- l. Cause as stated on the repair order;
- m. Correction as stated on the repair order; and
- n. Additional comments, if any, by dealer/technician relating to claim and/or repair.

Provide this information in Microsoft Access 2010, or a compatible format, entitled "WARRANTY DATA."

The information available to Nissan requested in 5(a) through 5(n) is provided in a Microsoft Access database titled "[REDACTED] DATA" containing a table titled "Q5_WARRANTY_DATA" on a disc enclosed as Attachment A.

6. Describe in detail the search methods and search criteria used by Nissan to identify the claims in response to Request No. 5, including the labor operations, problem codes, diagnostic trouble 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, diagnostic trouble codes and diagnostic trouble code descriptions applicable to the alleged defect in the subject vehicles. State whether the diagnostic trouble codes are automatically reported to the warranty database electronically or manually entered into the warranty database by a claims administrator.

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 to identify the claims identified in response to Request No. 5 are set forth in Attachment C.

Descriptions of each labor operation code, problem code and part number are provided in the "Q5_WARRANTY_DATA" table included in Attachment A.

The requested new vehicle warranty coverage documents are on a disc enclosed as Attachment B in a folder titled "WARRANTY INFORMATION BOOKLETS" stored as Adobe pdf files.

Table 6. New Vehicle Warranty Coverage

	Nissan LEAF 2011-2012
Basic Coverage	36mo/36,000mi
Corrosion Coverage	60mo/unlimited mileage
Powertrain Coverage	60mo/60,000mi
EV System Coverage	60mo/60,000mi
Lithium-ion Battery Coverage	96mo/100,000mi
Seat Belt	120mo/unlimited mileage

Table 7. Extended Warranty Summary

Make	Model	Model Year	Certified Pre-Owned	Gold Preferred	Silver Preferred	Coverage
NISSAN	LEAF	2011	495	2,233	35	Up to 8 years, 120,000 miles
NISSAN	LEAF	2012	2,012	1,260	1,654	

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 not issued nor has any current plan to issue any documents to dealers, regional or zone offices, field offices, fleet purchasers or other entities that relate to, or may relate to, the alleged defect in the subject vehicles.

8. Describe all assessments, analyses, tests, test results, studies, surveys, simulations, investigations, inquiries and/or evaluations (collectively, "actions"), including any statistical analyses intended to project future failure frequencies 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:
- Action title or identifier;
 - The actual or planned start date;
 - The actual or expected end date;
 - Brief summary of the subject and objective of the action;
 - Engineering group(s)/supplier(s) responsible for designing and for conducting the action; and
 - 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.

The information requested in 8.a through 8.f is provided, when known, in a file titled "[REDACTED]_LIST_OF_ACTIONS.pdf" and is enclosed in Confidential Attachment E. Copies of the documents related to the actions are also attached in Confidential Attachment E in a file titled "ZE0 OCS Sensor - Pre Investigation.pdf".

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, 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:
- The date or approximate date on which the modification or change was incorporated into vehicle production;
 - A detailed description of the modification or change;
 - The reason(s) for the modification or change;
 - The part number(s) (service and engineering) of the original component;
 - The part number(s) (service and engineering) of the modified component;
 - Whether the original unmodified component was withdrawn from production and/or sale, and if so, when;
 - When the modified component was made available as a service component; and
 - 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.

Nissan has not performed any modifications relating to the alleged defect in the subject vehicles from the start date of production.

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

10. State the number of each of the following that Nissan has sold 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 (including the cutoff date for sales, if applicable):
- Subject component(s); and
 - Any kits that have been released, or developed, by Nissan for use in service repairs to the subject component/assembly.

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 Nissan is aware that contain the identical component, whether installed in production or in service, and state the applicable dates of production or service usage.

The information available to Nissan requested in 10.a and 10.b is provided in a Microsoft Access database titled "[REDACTED] DATA" which contains a table titled "Q10_RESPONSE" on a disc enclosed as Attachment A.

Table 8. Supplier Contact Information

PART NUMBER	SUPPLIER'S NAME	SUPPLIER'S ADDRESS	SUPPLIER'S POINT OF CONTACT NAME	SUPPLIER'S POINT OF CONTACT TITLE	SUPPLIER'S POINT OF CONTACT PHONE NUMBER
87300-3NA0A	Continental	[REDACTED]	[REDACTED]	Quality Manager	[REDACTED]
87300-3NA3A		St Tlajomulco de			
87300-3NA8A		Zuñiga, JAL [REDACTED]			

It is our understanding that the OCS mat is manufactured by IEE and supplied by Continental. The contact information for IEE is as follows:

SUPPLIER'S NAME	SUPPLIER'S ADDRESS	SUPPLIER'S POINT OF CONTACT NAME	SUPPLIER'S POINT OF CONTACT TITLE	SUPPLIER'S POINT OF CONTACT PHONE NUMBER
IEE	[REDACTED] Auburn Hills, MI [REDACTED]	[REDACTED]	Engineering Director	[REDACTED]

Nissan is not aware of any other vehicles that contain the identical component, whether installed in production or in service.

11. 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 risk to motor vehicle safety that it poses;
- e. What warnings, if any, the operator and the other persons both inside and outside the vehicle would have that the alleged defect was occurring or subject component was malfunctioning; and
- f. The reports included with this inquiry.

Nissan's assessment of the alleged defect is still ongoing. Nissan has not yet determined the existence of any product defect or the root cause of the reported issue.

Nissan has determined that the incident rate for the alleged defect is approximately 0.42%, which is substantially lower than the incident rate observed in previous investigations of Occupant Classification Systems sensors ([REDACTED] and [REDACTED]), even though the subject vehicles have significantly more time in service at the time of the investigation. Nissan is not aware of any allegations that involve an air bag non-deployment due to the alleged defect.

The field data consistently shows, when applicable, that the driver of the vehicle is alerted to an issue with the front passenger seat OCS mat with a continuously blinking warning light in the dashboard, as well as a lit Passenger Air Bag Warning Indicator (PABI).



Nissan is actively investigating the alleged defect and will continue to monitor any claims and update its assessment as warranted.

* * * * *



ATTACHMENT C

Request 2 and Request 5 Search Criteria

Data submitted subject to Requests 2 and 5 was gathered from relevant databases as of October 25, 2019. The search criteria used by NNA to identify the claims identified in response to Request No. 2 & No. 5 is as follows:

Model years: 2011-2012

Models: The specific model was defined using NML Production code ZEO (LEAF)

Verbatim Keyword Search

Relevant verbatim must contain:

- A. At least one word from the following list:
B1018, B1021, REPLACE SEAT, SEAT REPLACE, ENTIRE SEAT, CUSHION, OCS SENSOR, OCCUPANT SENSOR, SEAT PRESSURE SENSOR, OCS MAT, AIRBAG SENSOR, AIR BAG SENSOR
AND
- B. At least one word from the following list:
LIGHT, LAMP, INDICATOR, ON/OFF SWITCH, DISABLE, OCCUPANT CLASSIFICATION, OCS, OCS SENSOR, OCCUPANT SENSOR, SEAT PRESSURE SENSOR, OCS MAT, AIRBAG SENSOR, AIR BAG SENSOR
AND
- C. At least one word from the following list:
SRS, AIRBAG, AIR BAG, OCS SENSOR, OCCUPANT SENSOR, SEAT PRESSURE SENSOR, OCS MAT, AIRBAG SENSOR, AIR BAG SENSOR

Warranty information was additionally filtered for claims that involved a replacement of the OCS sensor/seat.

The resulting data was reviewed for relevancy to the request. Any non-relevant documents were removed. Any documents where relevancy could not be determined because the verbatim was too vague are included in the submission.

Descriptions of the parts, trouble codes, and labor operation codes are included in the data attached in Attachment A responsive to Request 5.

* * * * *

Response to



INTRODUCTION

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 that are likely to contain responsive information in those places where such records are likely to be found. We have not checked such documents as "calendars", "appointment books", "financial statements" and "personnel records" even though they are included in the definition of "documents" because such documents would not contain owner complaints, field reports, technical analyses or other information sought by Request 2 pertaining to the alleged defect. We have also searched for responsive documents and information only with respect to vehicles manufactured for sale in the United States, which we understand to be the scope for which the IR seeks information. Nissan has searched for and produced records that were created through October 25, 2019.

Responses are provided after each request, 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 or 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, and unless the production of that document is inadvertent, 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.

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The National Highway Traffic Safety Administration (NHTSA) in its Preliminary Evaluation [REDACTED] has requested materials from Nissan North America, Inc. ("NNA"). In regards to NHTSA's questions and requests in [REDACTED], NHTSA sought information on subject vehicles identified as "All vehicles that use the subject component manufactured by Nissan for sale or lease in the United States, including, but not limited to, the District of Columbia, and current U.S. territories and possessions." NNA has determined the subject vehicle scope to include the 2011-2012 model year Nissan LEAF vehicles. NHTSA has specifically requested information related to the front passenger seat OCS mat incorporated in the passenger seat cushion that may fail, causing the passenger side air bag to not operate as intended, or otherwise prevent the air bag from deploying in a vehicle crash of sufficient severity, and when the air bag should not otherwise be suppressed.

1. State, by model and model 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. Model Year;
 - c. Subject component part number and design version installed as original equipment;
 - 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 2010, or a compatible format, entitled "PRODUCTION DATA."

Table 1. Production Data Summary

MAKE	MODEL	2011	2012
NISSAN	LEAF	8,781	11,693

The information requested in 1(a) through 1(f) is provided, when known, in a Microsoft Access database titled "[REDACTED] DATA" that contains a table titled "Q1_PRODUCTION_DATA" which can be found on a disc enclosed as Attachment A.

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:

For subparts "a" through "f", 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.

- a. Consumer complaints, including those from fleet operators;

Table 2. Consumer Complaints Summary

Make	Model	Total Complaints
NISSAN	LEAF	37

- b. Field reports, including dealer field reports;

Table 3. Field Reports Summary

Make	Model	Total Complaints
NISSAN	LEAF	6

- c. Reports involving a crash, injury, or fatality;

NNA found zero (0) reports involving a crash, injury, or fatality, which relate to, or may relate to, the alleged defect in the subject vehicles.

- d. Property damage claims;

NNA found zero (0) reports of property damage claims, which relate to, or may relate to, the alleged defect in the subject vehicles.

- e. Third-party arbitration proceedings where Nissan is or was a party to the arbitration; and

NNA found zero (0) third party arbitration proceedings where Nissan is or was a party to the arbitration, which relate to, or may relate to, the alleged defect in the subject vehicles.

- f. Lawsuits, both pending and closed, in which Nissan is or was a defendant or codefendant.

NNA found zero (0) lawsuits, pending or closed, in which Nissan is or was a defendant or co-defendant, which relate to, or may relate to, the alleged defect in the subject vehicles.

The answers given to Request No. 2 above were gathered from Nissan's data and are current as of October 25, 2019.

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:
- Nissan's file number or other identifier used;
 - The category of the item, as identified in Request No. 2 (i.e., consumer complaint, field report, etc.);
 - Vehicle owner or fleet name (and fleet contact person), street address, email address and telephone number;
 - Vehicle's VIN;
 - Vehicle's make, model and model year;
 - Vehicle's mileage at time of incident;
 - Incident date;
 - Report or claim date;
 - Whether a crash is alleged;
 - Whether property damage is alleged;
 - Number of alleged injuries, if any; and
 - Number of alleged fatalities, if any.

Provide this information in Microsoft Access 2010, or a compatible format, entitled "REQUEST NUMBER TWO DATA."

The information available to Nissan requested in 3(a) through 3(l) is provided in a Microsoft Access database titled "[REDACTED] DATA" which contains a table titled "Q3_REQUEST_NUMBER_TWO_DATA" on a disc enclosed as Attachment A.

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. Describe in detail the search methods and search criteria used by Nissan to identify the items in response to Request No. 2.

Documents requested within the scope of "Request No. 2" are being produced on a disc, enclosed as Attachment B in a folder titled "REQUEST NUMBER 2 DOCUMENTS". The documents are organized by category and stored as Adobe pdf files.

The search criteria used by Nissan to identify the documents in response to "Request No. 2" are set forth in Attachment C.

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.

Table 5. Warranty Data Summary

MAKE	MODEL	2011	2012
NISSAN	LEAF	27	17

Separately, for each such claim, state the following information:

- a. Nissan's claim number;
- b. Vehicle owner or fleet name (and fleet contact person), street address, email address 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(s);
- h. Problem code(s);
- i. Diagnostic trouble code(s);
- j. Replacement part number(s) and description(s);
- k. Concern stated by customer;
- l. Cause as stated on the repair order;
- m. Correction as stated on the repair order; and
- n. Additional comments, if any, by dealer/technician relating to claim and/or repair.

Provide this information in Microsoft Access 2010, or a compatible format, entitled "WARRANTY DATA."

The information available to Nissan requested in 5(a) through 5(n) is provided in a Microsoft Access database titled "[REDACTED] DATA" containing a table titled "Q5_WARRANTY_DATA" on a disc enclosed as Attachment A.

6. Describe in detail the search methods and search criteria used by Nissan to identify the claims in response to Request No. 5, including the labor operations, problem codes, diagnostic trouble 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, diagnostic trouble codes and diagnostic trouble code descriptions applicable to the alleged defect in the subject vehicles. State whether the diagnostic trouble codes are automatically reported to the warranty database electronically or manually entered into the warranty database by a claims administrator.

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 to identify the claims identified in response to Request No. 5 are set forth in Attachment C.

Descriptions of each labor operation code, problem code and part number are provided in the "Q5_WARRANTY_DATA" table included in Attachment A.

The requested new vehicle warranty coverage documents are on a disc enclosed as Attachment B in a folder titled "WARRANTY INFORMATION BOOKLETS" stored as Adobe pdf files.

Table 6. New Vehicle Warranty Coverage

	Nissan LEAF 2011-2012
Basic Coverage	36mo/36,000mi
Corrosion Coverage	60mo/unlimited mileage
Powertrain Coverage	60mo/60,000mi
EV System Coverage	60mo/60,000mi
Lithium-ion Battery Coverage	96mo/100,000mi
Seat Belt	120mo/unlimited mileage

Table 7. Extended Warranty Summary

Make	Model	Model Year	Certified Pre-Owned	Gold Preferred	Silver Preferred	Coverage
NISSAN	LEAF	2011	495	2,233	35	Up to 8 years, 120,000 miles
NISSAN	LEAF	2012	2,012	1,260	1,654	

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 not issued nor has any current plan to issue any documents to dealers, regional or zone offices, field offices, fleet purchasers or other entities that relate to, or may relate to, the alleged defect in the subject vehicles.

8. Describe all assessments, analyses, tests, test results, studies, surveys, simulations, investigations, inquiries and/or evaluations (collectively, "actions"), including any statistical analyses intended to project future failure frequencies 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:
- Action title or identifier;
 - The actual or planned start date;
 - The actual or expected end date;
 - Brief summary of the subject and objective of the action;
 - Engineering group(s)/supplier(s) responsible for designing and for conducting the action; and
 - 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.

The information requested in 8.a through 8.f is provided, when known, in a file titled "[REDACTED]_LIST_OF_ACTIONS.pdf" and is enclosed in Confidential Attachment E. Copies of the documents related to the actions are also attached in Confidential Attachment E in a file titled "ZE0 OCS Sensor - Pre Investigation.pdf".

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, 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:
- The date or approximate date on which the modification or change was incorporated into vehicle production;
 - A detailed description of the modification or change;
 - The reason(s) for the modification or change;
 - The part number(s) (service and engineering) of the original component;
 - The part number(s) (service and engineering) of the modified component;
 - Whether the original unmodified component was withdrawn from production and/or sale, and if so, when;
 - When the modified component was made available as a service component; and
 - 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.

Nissan has not performed any modifications relating to the alleged defect in the subject vehicles from the start date of production.

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

10. State the number of each of the following that Nissan has sold 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 (including the cutoff date for sales, if applicable):
- Subject component(s); and
 - Any kits that have been released, or developed, by Nissan for use in service repairs to the subject component/assembly.

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 Nissan is aware that contain the identical component, whether installed in production or in service, and state the applicable dates of production or service usage.

The information available to Nissan requested in 10.a and 10.b is provided in a Microsoft Access database titled "[REDACTED] DATA" which contains a table titled "Q10_RESPONSE" on a disc enclosed as Attachment A.

Table 8. Supplier Contact Information

PART NUMBER	SUPPLIER'S NAME	SUPPLIER'S ADDRESS	SUPPLIER'S POINT OF CONTACT NAME	SUPPLIER'S POINT OF CONTACT TITLE	SUPPLIER'S POINT OF CONTACT PHONE NUMBER
87300-3NA0A	Continental	[REDACTED]	[REDACTED]	Quality Manager	[REDACTED]
87300-3NA3A		St Tlajomulco de			
87300-3NA8A		Zuñiga, JAL [REDACTED]			

It is our understanding that the OCS mat is manufactured by IEE and supplied by Continental. The contact information for IEE is as follows:

SUPPLIER'S NAME	SUPPLIER'S ADDRESS	SUPPLIER'S POINT OF CONTACT NAME	SUPPLIER'S POINT OF CONTACT TITLE	SUPPLIER'S POINT OF CONTACT PHONE NUMBER
IEE	[REDACTED] Auburn Hills, MI [REDACTED]	[REDACTED]	Engineering Director	[REDACTED]

Nissan is not aware of any other vehicles that contain the identical component, whether installed in production or in service.

11. 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 risk to motor vehicle safety that it poses;
- e. What warnings, if any, the operator and the other persons both inside and outside the vehicle would have that the alleged defect was occurring or subject component was malfunctioning; and
- f. The reports included with this inquiry.

Nissan's assessment of the alleged defect is still ongoing. Nissan has not yet determined the existence of any product defect or the root cause of the reported issue.

Nissan has determined that the incident rate for the alleged defect is approximately 0.42%, which is substantially lower than the incident rate observed in previous investigations of Occupant Classification Systems sensors ([REDACTED] and [REDACTED]), even though the subject vehicles have significantly more time in service at the time of the investigation. Nissan is not aware of any allegations that involve an air bag non-deployment due to the alleged defect.

The field data consistently shows, when applicable, that the driver of the vehicle is alerted to an issue with the front passenger seat OCS mat with a continuously blinking warning light in the dashboard, as well as a lit Passenger Air Bag Warning Indicator (PABI).

Nissan is actively investigating the alleged defect and will continue to monitor any claims and update its assessment as warranted.

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ATTACHMENT CRequest 2 and Request 5 Search Criteria

Data submitted subject to Requests 2 and 5 was gathered from relevant databases as of October 25, 2019. The search criteria used by NNA to identify the claims identified in response to Request No. 2 & No. 5 is as follows:

Model years: 2011-2012

Models: The specific model was defined using NML Production code ZE0 (LEAF)

Verbatim Keyword Search

Relevant verbatim must contain:

- A. At least one word from the following list:
B1018, B1021, REPLACE SEAT, SEAT REPLACE, ENTIRE SEAT, CUSHION, OCS SENSOR, OCCUPANT SENSOR, SEAT PRESSURE SENSOR, OCS MAT, AIRBAG SENSOR, AIR BAG SENSOR
AND
- B. At least one word from the following list:
LIGHT, LAMP, INDICATOR, ON/OFF SWITCH, DISABLE, OCCUPANT CLASSIFICATION, OCS, OCS SENSOR, OCCUPANT SENSOR, SEAT PRESSURE SENSOR, OCS MAT, AIRBAG SENSOR, AIR BAG SENSOR
AND
- C. At least one word from the following list:
SRS, AIRBAG, AIR BAG, OCS SENSOR, OCCUPANT SENSOR, SEAT PRESSURE SENSOR, OCS MAT, AIRBAG SENSOR, AIR BAG SENSOR

Warranty information was additionally filtered for claims that involved a replacement of the OCS sensor/seat.

The resulting data was reviewed for relevancy to the request. Any non-relevant documents were removed. Any documents where relevancy could not be determined because the verbatim was too vague are included in the submission.

Descriptions of the parts, trouble codes, and labor operation codes are included in the data attached in Attachment A responsive to Request 5.

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