

NISSAN

NISSAN NORTH AMERICA, INC.

Corporate Office
P.O. Box 685001
Franklin, TN 37068-5001
Telephone: 615.725.1000

January 30, 2009

Mr. Thomas Z. Cooper, Chief
Vehicle Integrity Division
Office of Defects Investigation
National Highway Traffic Safety Administration
1200 New Jersey Avenue SE.
Washington, D.C. 20590

Re: PE08-065; NVS-212lhs

Dear Mr. Cooper:

Enclosed is Nissan's response to the referenced NHTSA Information Request concerning the Agency's investigation of certain 2003 through 2007 model year Nissan Murano vehicles.

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

Sincerely,



for John Gibbons
Senior Manager
Technical Compliance

Enclosures

Response to

PE08-065

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 in those places likely to maintain them in the regular and ordinary course of business. Nissan has searched for and produced records that were created up to and on the date this Information Request was received, December 8th, 2008.

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 Request 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 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 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 any appropriate sub-group, the number of subject vehicles manufactured by Nissan 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. Model Year;
 - e. Date of manufacture;
 - f. Date warranty coverage commenced; and
 - g. 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 information requested in 1.a through 1.g is provided, when known, in a file titled, "PRODUCTION DATA.mdb" on a CD 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:
 - a. Consumer complaints, including those from fleet operators;
 - b. Field reports, including dealer field reports;
 - c. Reports involving a crash, injury, or fatality, based on claims against the manufacturer involving a death or injury, notices received by the manufacturer alleging or proving that a death or injury was caused by a possible defect in a subject vehicle, property damage claims, consumer complaints, or field reports;
 - d. Property damage claims, alleged to have resulted from alleged defect;
 - e. Third-party arbitration proceedings where Nissan is or was a party to the arbitration; and
 - f. Lawsuits, both pending and closed, in which Nissan is or was a defendant or codefendant.

For subparts "a" through "c," state the total number of each item (e.g., consumer complaints, field reports, etc.) separately. Multiple incidents involving the same vehicle are to be counted separately. Multiple reports of the same incident are also to be counted separately (i.e., a consumer complaint and a field report involving the same incident in which a crash occurred are to be counted as a crash report, a field report and a consumer complaint).

In addition, for items "c" through "f," provide a summary listing 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 was filed to initiate the action.

The information requested in Question 2a-f is provided, when known, in the following file: "Question 2.doc" on a CD enclosed as Attachment A.

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. The category of the item, as identified in Request No. 2 (i.e., consumer complaint, field report, etc.);
 - b. Vehicle owner or fleet name (and fleet contact person), address, and telephone number;
 - c. Vehicle's VIN;
 - d. Vehicle's make, model and model year;
 - e. Vehicle's mileage at time of incident;
 - f. Incident date;
 - g. Report or claim date;
 - h. Whether a loss of vehicle control or crash is alleged;
 - i. Whether property damage is alleged;
 - j. Number, type and severity 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 "REQUEST NUMBER TWO DATA."

The information requested in 3.a through 3.k is provided, when known, in the following file: "REQUEST NUMBER TWO DATA.xls", on a CD 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.

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. Consumer complaints, field reports, and the claim summary are contained in a folder on a CD in Attachment A titled "REQUEST NUMBER TWO DOCUMENTS". The documents are organized by the date Nissan received the information.

5. State, by model and any appropriate sub-group, a total count for all of the following categories of claims, collectively, that have been paid by Nissan to date that relate to, or may relate to, the alleged defect in the subject vehicles: warranty claims; extended warranty claims; claims for good will services that were provided; field, zone, or similar adjustments and reimbursements; and warranty claims or repairs made in accordance with a procedure specified in a technical service bulletin or customer satisfaction campaign.

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

- a. Nissan's claim number.
- b. Vehicle owner or fleet name (and fleet contact person) and telephone number;

- c. VIN;
- d. Repair date;
- e. Vehicle mileage at time of repair;
- f. Repairing dealer's or facility's name, telephone number, city and state or ZIP code;
- g. Labor operation number;
- h. Problem code;
- i. Replacement part number(s) and description(s);
- j. Concern 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.

Within the limitations of our warranty system as it relates to the subject matter of this inquiry, the total count for all of the categories of paid warranty claims, as described in Request No. 5, is contained in Attachment B. In addition, the information requested in 5.a and 5.c through 5.k is provided, when known, in a file titled, "WARRANTY DATA.xls" on a CD enclosed in Attachment B. Owner information requested by item 5.b is not present in the warranty system.

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 to identify the claims identified in response to Request No. 5 are outlined in Attachment B.

Copies of the applicable warranties for the subject vehicles are contained in Attachment C. ~~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" service contract plans is contained in Attachment D.~~

7. Produce copies of all service, warranty, and other documents that relate to, or may relate to, the alleged defect in the subject vehicles, issued by Nissan 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.

All documents related to Request No. 7 are contained in Attachment E. Nissan is not currently planning any communications that would be responsive to Request No. 7 in 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 Attachment F and are arranged chronologically. Information responsive to items 8.a through 8.f is contained within the attached documents.

9. Provide a complete engineering description and appropriate engineering specifications of the subject components installed in the subject vehicles. Identify by MY, make, and model, all other vehicles equipped with identical subject components, manufactured for sale or lease by Nissan in the United States. For each other MY, make and model of vehicles equipped with identical subject components, provide separate counts of the numbers of consumer complaints, field reports, and warranty claims received by Nissan to date.

The seat base frame is mounted to the seat track to form a unit that allows fore/aft and height/tilt adjustments of the seat cushion (seat lifter link slide assembly). The driver's side seat position can be adjusted by means of several electric motors attached to the seat base frame. The seat pan, which is the structure portion of the seat cushion, is attached to seat base frame brackets by means of a stud and a nut located at each corner of the seat base frame.

A drawing of the seat assembly is contained in Attachment G. The [redacted] models equipped with identical subject components.

10. Provide two samples of the subject component; one sample of a non-failed unit and one sample of a failed unit.

[redacted] samples [redacted] over.

11. 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:

- 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 number(s) (service and engineering) of the original component;
- e. The part number(s) (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 GM (sic) is aware of which may be incorporated into vehicle production within the next 120 days.

A description of modifications or changes is contained in Attachment H.

Nissan [redacted] within the next 120 days [redacted] on the subject vehicles).

12. Provide Nissan's assessment of the alleged defect in the subject vehicles, 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.

Warranty and customer reports indicate that on a [REDACTED] of 2002-2003 Muranos, the left (outboard) rear [REDACTED] have cracked due to fatigue stress. An in [REDACTED] study revealed that this occurs when [REDACTED] stress of the [REDACTED]. (See [REDACTED]) The rate and level of fatigue stress is influenced by occupant weight, aggressive driving style, and/or frequency of vehicle cornering. If the subject condition occurs, the rigid seat pan and the remaining three brackets continue to provide adequate seat strength. Also, the seat tracks are unaffected, seat movement is limited in range, and studies demonstrate that the ability to maintain vehicle control is not affected.

The subject vehicles have traveled approximately 17,298,596,121 miles with no reported accidents or substantiated injuries related to the subject condition. The vehicles were dynamically tested at Nissan's test track with a simulated condition. During the test, the left rear driver's seat bracket was replaced with a block that could be pulled out while a subject was driving the vehicle. The subject had no advanced knowledge that the experiment was seat movement. When the supporting block was unexpectedly pulled out, there was not one instance of loss of vehicle control. The block was pulled during several different vehicle maneuvers. (See Attachment F, F214-F219 and F238)

Nissan also conducted tests to confirm the seat structure performance by applying the FMVSS seat strength requirements to a seat with the subject condition. The tests demonstrate that there is more than adequate seat anchorage strength with the subject condition and the vehicles meet or exceed all FMVSS requirements (See Attachment F, F220-224, F228-F234, and F235-F237).

* [REDACTED] reveals that dealers are, and have been, successfully performing the [REDACTED] on customer vehicles. A [REDACTED] bracket has been redesigned and improved. This redesigned part is also used [REDACTED] in 2002 through [REDACTED] Muranos.

Given the forgoing, Nissan believes that a safety related defect does not exist in the subject vehicles.

ATTACHMENT A

CD with Information Related to Requests 1,2,3,4 and 11

This attachment contains a CD containing the information related to Request Numbers 1, 2, 3, 4, and 11. The information was obtained from the Consumer Affairs database, the Tech Line Database, the legal department database and the field reports database as of December 8th, 2008. The databases and Legal Files are updated daily.

ATTACHMENT B

Warranty Claims Data

Warranty claims data were gathered from Warranty database as of December 8th, 2008

The total counts of warranty claims are as follows: 2,534 representing 2,453 unique VINs

The search criteria used by Nissan to identify the claims identified in response to Request Nos. 5 & 6 is as follows:

Vehicle Information

Murano

2003-2007 Model Year

Part Numbers Beginning With The Following:

87450

87473

87400

Word Search in Comments

Bar

Bracket

Frame

Mount

Rod

Weld

ATTACHMENT C

Vehicle Warranties

ATTACHMENT D

Security Plus service contracts

ATTACHMENT E

Dealer Communications

ATTACHMENT F

Actions

ATTACHMENT G

Specifications

January 30, 2009

Otto Matheke, Esq.
Office of Chief Counsel
National Highway Traffic Safety Administration
NCC-111, W41-227
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Re: Request for Confidential Treatment Pursuant to 49 CFR Part 512 for Certain Documents Provided in Response to NVS-212lhs; PE08-065

Dear Mr. Matheke:

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 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 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.

Also included are confidential documents still needed to be translated (referenced with an asterisk (*) in the Vaughn index). Nissan is in the process of translating these documents and requests the confidentiality determination on these documents to be withheld until the translations can be completed and submitted to the Chief's Counsel's Office. Specifically, located in Attachment F, these documents are marked with the following numbers:

F34-F35
F28-F29
F138
F125-F128
F159-F175
F214-F219
F220-F224
F228-F229
F230-F231
F232-F234

The attached confidential documents and information generally contain confidential business information. More specifically, many of the confidential documents 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. 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.

Nissan is in the process of obtaining a signed certification from, Johnson Controls and will provide it as soon as it is received by Nissan. Nissan requests that the Johnson Control 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.

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. Costle*, 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 documents for which Nissan requests confidentiality contain 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 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. Costle*, 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. It also includes such information from suppliers. Releasing these materials would give a competitor the fruits of Nissan's tests and test developmental strategies 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 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).

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).

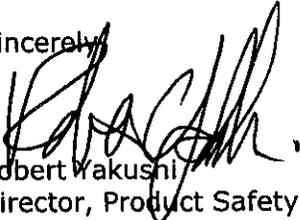
* * * *

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 me at (615) 725-6394. Thank you for your consideration in this matter.

Sincerely,



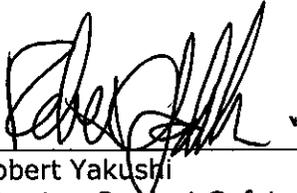
Robert Wakushi
Director, Product Safety, Environmental
Nissan North America, Inc.

Enclosures

CERTIFICATE IN SUPPORT OF REQUEST FOR CONFIDENTIALITY

I, Robert Yakushi pursuant to the provision of 49 CFR 512, state as follows:

- (1) I am Robert Yakushi Director, Product Safety, Environmental 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 30th day of January, 2009.



Robert Yakushi
Director, Product Safety, Environmental
Nissan North America, Inc.