

NOV 13 2003

Lyndon R. Lie
Director
Product Investigations
General Motors Corporation
30500 Mound Road
Warren, MI 48090-9055

Re: Confidentiality Determination / EA03-005

Dear Mr. Lie:

This is in response to your letter dated August 27, 2003 requesting confidential treatment for information provided to the agency related to the above-referenced investigation. The materials contain responses to a National Highway Traffic Safety Administration (NHTSA) Information Request pertaining to the above-captioned matter. Although General Motors (GM) has requested that this information be kept confidential, its request does not specify the duration of the requested grant.

The materials for which you request confidential treatment consist of engineering drawings and test reports for suspension components that are the subject of the above captioned investigation. GM indicates that release of the drawings and test results would provide competitors with detailed insights into the design choices and production processes of GM products. In your view, release of the drawings would allow competitors of GM to obtain data that they could only otherwise obtain at considerable cost. Therefore, release of the information would cause GM to suffer substantial competitive harm.

I have decided to grant GM confidential treatment for these materials.

The information submitted was requested pursuant to 49 USC § 30166, which authorizes the agency to conduct investigations and require manufacturers to submit reports. Therefore, because the information was not submitted voluntarily, I have reviewed your submission under the competitive harm standard set forth in *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974).

I have decided to grant confidential protection for the information GM claims is entitled to confidential treatment. The materials at issue depict GM's provide insight into GM's design choices, material selection, production processes and product evaluation procedures.

Release of this information would, as your letter suggests, provide GM's competitors with substantial insight into GM's design processes, design choices, design execution and product evaluation methodologies at little or no expense. This information, if revealed, could cause competitive harm to GM.

This grant of confidential treatment is indefinite. However, it is also subject to the various provisions of Part 512 that specify the circumstances under which otherwise confidential information can be disclosed.

This grant of confidential treatment is subject to certain conditions. The information may be disclosed under 49 CFR § 512.22 based upon newly discovered or changed facts, and you must inform the agency of any changed circumstances that may affect the protection of the information (49 CFR § 512.10)). If necessary, you will be notified prior to the release of any information under the procedures established by our regulations (49 CFR § 512.22(b)).

If you disagree with this determination, you may request reconsideration. To request reconsideration, you must submit additional written justification with the certification required by 49 CFR § 512.18(b) within 20 working days after the receipt of this letter. Such justification must show the particular competitive harm to your company from the disclosure of the information for which confidentiality has been denied and contain any legal arguments and citations upon which you rely (49 CFR § 512.8). Should we receive no justification within the required period of time, your submitted information will be placed in the public file.

Sincerely,

OS
Otto G. Matheke, III
Staff Attorney

