

JAN 14 2004

Stephan J. Speth
Director
Vehicle Compliance & Safety Affairs
800 Chrysler Drive
CIMS 482-00-91
Auburn Hills, MI 48326-2757

Re: Confidentiality Determination/EA03-011

Dear Mr. Speth:

This is in response to your letter dated August 18, 2003, in which you request confidential treatment for the materials submitted by DaimlerChrysler Corporation (DC) and enclosed with your letter. The materials were submitted by DC following a meeting with NHTSA officials regarding the above-captioned matter. You request that the materials be granted confidential treatment "permanently."

The materials for which you request confidential treatment are described in your letter as test results, test protocols and test analyses. DC indicates release of the information contained in the submission would provide competitors with detailed insights into the testing methods and strategies developed at significant cost to DC. Your letter also indicates that the aforementioned information, if disclosed, would cause DC to suffer substantial competitive harm.

I have decided to grant DC 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 DC claims is entitled to confidential treatment. The materials at issue depict DC's test methods, test protocols and test results. Release of this information would, as your letter suggests, provide DC's competitors with substantial insight into DC's test processes, test choices, test execution and test results at little or no expense. This information, if revealed, could cause competitive harm to DC.

As requested, 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)).

Sincerely,

(s)

Otto G. Matheke, III
Staff Attorney

