

MAR 11 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 December 10, 2003, in which you request confidential treatment for the materials submitted by DaimlerChrysler Corporation (DC) and enclosed with your letter. The materials contain information that was provided by DC employees to NHTSA investigators at a December 9, 2003 meeting. 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, test analyses, drawings depicting design changes and written descriptions of these design changes. DC indicates release of the information contained in the submission would provide competitors with detailed insights into testing methods, test protocols, product evaluation and design methods 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. The information presented here, in my opinion, falls within the scope of a previous NHTSA information request. 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 internal product evaluation methods, test protocols, test procedures, design changes and evaluation of these design changes. If made publicly available, this information 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,

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Otto G. Matheke, III
Staff Attorney

