

SEP 9 2005

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Paul Fabien
Ford Motor Company
Suite 1400
Parklane Towers West
Three Parklane Blvd.
Dearborn, MI 48126

Re: Amended Request for Confidential Treatment of Information Provided in
Response to PE04-070

Dear Mr. Fabien:

This is in response to James P. Vondale's letter of April 15, 2005 requesting confidential treatment for certain information that Ford Motor Company (Ford) provided in response to the above agency inquiry. This request replaces Ford's December 3, 2004 request for confidential treatment. In this amended request, Ford seeks confidential treatment for the documents included electronically in Appendix J, which is contained on a single CD-ROM. Ford states that it maintains this information in a record keeping system designed to control the information's dissemination and requests confidential treatment for a period of ten (10) years.

As to the information contained in Appendix J, Ford asserts that it contains documents that are not customarily released to the public by Ford and are confidential business information that are exempt from disclosure pursuant to 49 CFR § 512.15, 5 U.S.C. § 552(b)(4), and 49 U.S.C. § 30167. Ford claims that the disclosure of the documents in Appendix J would likely cause substantial competitive harm to Ford (as contemplated in 49 CFR § 512.15, 5 U.S.C. § 552(b)(4), and 49 U.S.C. § 30167). In Attachment I, Ford organizes the submitted documents into a chart with eight (8) folders and provides the type of document in each tab, the document description and the basis for confidential treatment.

Ford states that the documents contained in folder "8. Supplier Capabilities Relationships" in Appendix J are supplier (Visteon, Siemens VDO Automotive Corporation, and Honeywell) documents which contain confidential and proprietary information provided to Ford during the course of the internal process by which Ford and its suppliers study and

resolve issues communicated to Ford by its customers. Ford states that such documents are maintained in a record keeping system designed to control the information's dissemination and your letter provides Appendix A certifications from Visteon, Siemens VDO Automotive Corporation, and Honeywell.

Ford asserts that the submitted documents in Appendix J concern the internal process by which Ford and its suppliers study, assess and resolve issues reported by customers, and if disclosed, could be used by competitors to improve their own products and processes without the need to invest similar resources. It also asserts that Appendix J includes Ford's warranty analysis and internal studies that would be used by competitors to identify quality issues and modify competitive strategies to Ford's detriment. In addition, Ford claims that Appendix J includes its internal businesses processes, practices and methods for determining root cause and future concerns that could be used by competitors to improve their own products and processes without the need to invest substantial resources. Lastly, Ford states that Appendix J contains cost information that could be used by competitors to identify quality issues and modify competitive strategies to the detriment of Ford.

I have decided to grant your request in part and deny it in part.

Because the information contained in Appendix J was submitted to the agency in response to the above information request, we reviewed your claim for confidential treatment under the test announced in *National Parks & Conservation Ass'n v. Morton (National Parks)*, 498 F.2d 765 (D.C. Cir. 1974) and its progeny. Under that test, information is confidential under Exemption 4 of the Freedom of Information Act (FOIA) if its disclosure is likely to cause substantial competitive harm to the submitter or to impair the government's ability to collect the information in the future.

Ford's request also relies in part on 49 U.S.C. § 30167. This reliance is misplaced. Section 30167 is the agency's disclosure provision and details the manner in which NHTSA may disclose information to the public. It does not operate as a separate means to protect or otherwise withhold information from disclosure.

In order for the agency to withhold the submitted information from disclosure under Exemption 4, Ford must show that the disclosure likely would cause substantial competitive harm or that disclosure is likely to impair the agency's ability to obtain similar data in the future. *National Parks*, 498 F.2d at 770.

As described above, Ford's submission includes cost information, documents relating to Ford's supplier capabilities and relationship, studies by Ford and its suppliers to determine the root cause of the alleged defect, engineering design specifications, engineering design and manufacturing processes, internal test procedures and specifications, design release and change information, design/engineering specifications, analyses of warranty data trends and information concerning Ford's business practices relating to product concerns. This information is not readily available to the public. Further, the agency believes that the disclosure of this detailed information would be likely to cause Ford to suffer substantial

competitive harm. Accordingly, I am granting confidential treatment to the majority of the contents that you have identified as confidential in Appendix J.

I have decided, however, not to accord confidential treatment to portions of Tabs 4 (PE04-070 100132, 100161, 100297, 100498 and 100517) and 8 (PE04-070 100616, 100617, 103446, 103455 and 103456). These items consist of photographs of parts without significant detail (PE04-070 100132), a map of the United States with claims data (PE04-070 100161), industry wide data (PE04-070 100297), complaint information (PE04-070 103455, 103456), a document with the word "APPENDIX" (PE04-070 100517), a spreadsheet of part numbers (PE04-070 100616), the mileage and customer information portion of the spreadsheet titled "Module Database Table" (PE04-070 100617), a title page with a photograph of a subject vehicle (PE04-070 103446) and a history of actions that are likely to be publicly available (PE04-070 100498). As to these items, Ford has not demonstrated that the disclosure of this information would be likely to cause Ford to suffer substantial competitive harm. Ford has not identified the harm, explained the likelihood of the harm, or why that harm should be viewed as substantial as required under Exemption 4. Accordingly, I am denying confidential treatment as to this information.

Subject to the conditions below, this partial grant of confidential treatment will remain in effect for the period of time requested (ten years).

This partial 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
Senior Attorney

