

# DAIMLERCHRYSLER

WASHINGTON, DC 20590  
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OFFICE OF CHIEF  
COUNSEL

DaimlerChrysler Corporation  
Stephan J. Speth  
Director  
Vehicle Compliance & Safety Affairs

September 13, 2006

Mr. Anthony M. Cooke  
Chief Counsel  
National Highway Traffic Safety Administration  
400 Seventh Street, S.W., Rm. 5219  
Washington, D.C. 20590

Re: Request for Confidential Treatment for Information Provided in EA06-011

Dear Mr. Cooke:

DaimlerChrysler Corporation ("DCC") is submitting information to the NHTSA Office of Defects Investigation in connection with the above-referenced proceeding. Based on a careful review of the submission, DCC has determined that some of the information (as set forth more fully below) would cause DCC to suffer substantial competitive harm if disclosed. Therefore, DCC is submitting the information, together with this request for confidential treatment and the certificate required by your regulations, to the Office of Chief Counsel.

The information required by Part 512 is set forth below.

**A. Description of the Information (49 C.F.R. § 512.8(a))**

DCC is seeking confidential treatment for confidential manufacturing process information.

**B. Confidentiality Standard (49 C.F.R. § 512.8(b))**

This submission is subject to the substantial-competitive-harm standard set forth in 49 C.F.R. § 512.15(b) for information that a submitter is required to provide to the agency.

**C. Justification for Confidential Treatment (49 C.F.R. § 512.8(c))**

This agency's regulations and Exemption 4 of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b)(4), protect the confidentiality of information that would be likely to cause substantial competitive harm to the submitter if disclosed. *See, e.g.,* 49 C.F.R. § 512.15(b); *Nat'l Parks & Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974). FOIA Exemption 4 was enacted to prevent disclosures that would "eliminate much of the time and effort that would otherwise be required to bring to market a product competitive with the [submitter's] product." *Public Citizen Health Research Grp. v. FDA*, 185 F.3d 898, 905 (D.C. Cir. 1999). "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." *Worthington Compressors, Inc. v. Costle*, 662 F.2d 45, 51 (D.C. Cir. 1981). Substantial competitive harm also may result from disclosures that would reveal a firm's "operational strengths and weaknesses" to competitors. *See Nat'l Parks & Conservation Ass'n v. Kleppe*, 547 F.2d 673, 684 (D.C. Cir. 1976). The information at issue here should be protected under these principles.

The documents for which confidential treatment is being sought set forth detailed manufacturing process information. They reveal not only the manufacturing process for the components at issue in the above-referenced investigation, but more generally how DCC structures and internally disseminates information about its manufacturing procedures. The disclosure of such information could assist competitors in improving their own manufacturing procedures, thereby enabling DCC's rivals to bring competitive products to market at lower cost and more quickly than they otherwise could. In addition, the documents could reveal competitively-valuable information about DCC's operational capacities.

**D. Class Determination (49 C.F.R. § 512.8(d))**

No class determination applies to this information.

**E. Duration For Which Confidential Treatment Is Sought (49 C.F.R. § 512.8(e))**

Because DCC anticipates that the information will retain its competitive value indefinitely, DCC requests that the information be accorded confidential treatment permanently.


**F. Contact Information (49 C.F.R. § 512.8(f))**

Please direct all inquiries and responses to the undersigned at the address, telephone number, and email address shown on the first page of this letter.

\* \* \*

If you receive a request for disclosure of the information for which confidential treatment is being sought before you have completed your review of our request, DCC respectfully requests notification of the request(s) and an opportunity to provide further justification for the confidential treatment of this information, if warranted.

Sincerely,

  
Stephan J. Speth

cc: Kathleen DeMeter

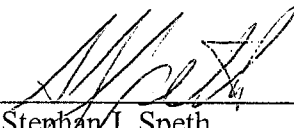
Attachment and Enclosures

## Certificate in Support of Request for Confidentiality

I, Stephan J. Speth, pursuant to the provisions of 49 C.F.R. Part 512, state as follows:

- (1) I am DaimlerChrysler Corporation's Director, Vehicle Certification, Compliance and Safety Affairs and I am authorized by DaimlerChrysler Corporation to execute documents on behalf of DaimlerChrysler Corporation;
- (2) I certify that the information contained in the indicated document is confidential and proprietary data and is being submitted with the claim that it is entitled to confidential treatment under 5 U.S.C. 552(b)(4);
- (3) I hereby request that the information contained in the indicated document be protected on a permanent basis;
- (4) This certification is based on the information provided by the responsible DaimlerChrysler Corporation 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 DaimlerChrysler Corporation;
- (5) Based upon that information, to the best of my knowledge, information and belief the information for which DaimlerChrysler Corporation has claimed confidential treatment has never been released or become available outside DaimlerChrysler Corporation, except for disclosures to selected suppliers under agreements to preserve the confidentiality of the information..
- (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 DaimlerChrysler Corporation because of unauthorized or inadvertent disclosure (except as stated in paragraph 5); and
- (7) I certify under penalty of perjury that the foregoing is true and correct.

Executed on this 13th day of September, 2006.

  
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Mr. Stephan J. Speth