


NVS-200
C. Glass


CERTIFIED MAIL – RETURN RECEIPT REQUESTED

FEB 27 2008

Stephan J. Speth, Director
Chrysler LLC
800 Chrysler Drive
CIMS 482-00-91
Auburn Hills, MI 48326-2757

Re: Request for Confidential Treatment for Information Provided in PE07-052

Dear Mr. Speth:

This responds to your December 13, 2007, request for confidential treatment submitted by Chrysler LLC (“Chrysler”) for information given in response to an agency information request regarding engine compartment fires in MY 2007 Pacificas. The information for which you request confidential information is contained on two, identical CD-ROMs dated December 13, 2007, and entitled PE07-052 Chrysler Confidential Business Information.

I am granting your request in part and denying it in part.

I have reviewed your request to determine if it conforms to the requirements of 49 C.F.R. Part 512. For several documents, Chrysler noted that Bates numbering was not possible. However, your letter does not address the issue of marking the pages of the documents in Enclosure 11 as confidential. Section 512.6(c)(2) of 49 C.F.R. provides:

(c) Submissions in electronic format--

(2) Confidential portions of electronic files submitted in other than their original format must be marked "Confidential Business Information" or "Entire Page Confidential Business Information" at the top of each page. If only a portion of a page is claimed to be confidential, that portion shall be designated by brackets. Files submitted in their original format that cannot be marked as described above must, to the extent practicable, identify confidential information by alternative markings using existing attributes within the file or means that are accessible through use of the file's associated program. When alternative markings are used, such as font changes or symbols, the submitter must use one method consistently

for electronic files of the same type within the same submission. The method used for such markings must be described in the request for confidentiality. Files and materials that cannot be marked internally, such as video clips or executable files or files provided in a format specifically requested by the agency, shall be renamed prior to submission so the words "Confidential Bus Info" appears in the file name or, if that is not practicable, the characters "Conf Bus Info" or "Conf" appear...

Except for the "thumbs.db" file, all of the files in Enclosure 11 are .jpg screenshots of images produced by an application known as the "Chrysler Data Visualizer." These .jpg format files do not appear to be in their original format and Chrysler has not asserted otherwise. Because they are not in their original format, they must be marked "Confidential Business Information" or "Entire Page Confidential Business Information" at the top of each page. I would note that placing text inside a .jpg file is easily accomplished with any number of commonly available image viewing and editing programs. Accordingly, your request for confidential treatment for the .jpg files in Enclosure 11 is denied in view of Chrysler's failure to follow NHTSA's regulations. I have not reviewed the substance of your claim for confidentiality for Enclosure 11.

I reviewed Chrysler's claim for confidential treatment of the remaining documents and applied the test from *National Parks & Conservation Ass'n v. Morton*, 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, 5 U.S.C. § 552(b)(4), if its disclosure would be likely to cause substantial competitive harm to the submitter or to impair the government's ability to collect the information in the future.

You contend that the submitted material in Enclosures 8-10 consists of documents showing assembly process, design failure mode effects and analysis, design illustration showing process change, manufacturing control plans, as well as a change notice and change notice summary. Chrysler claims this information would allow competitors to determine design and operational procedure specifics that could be used to assist competitors in improving their own systems to more effectively compete with Chrysler.

After review of Chrysler's submission, I have determined that release of the information described in your request, with the exception of the documents described below, would be likely to cause Chrysler to suffer substantial competitive harm. Therefore, I am according confidential treatment to the materials described in your request relating to Enclosures 8-10 except as follows.

I am denying your request for confidentiality for 3.8L Power Steering Overview AMPS.pdf: Bates Pg. PE07-052-Chrysler-009-10

The first page contains sketches of a 3.8L engine's power steering system without confidential details and the second page is a process sheet including the words "Overview Ref." without further instruction.

I am denying confidential treatment in part for the following documents in Enclosures 9 and 10:

Power Steering Fill AMPS.pdf: Bates Pg. PE07-052-Chrysler-0011-12
Secure PS Lines to Gear 4.0L AMPS.pdf: Bates Pg. PE07-052-Chrysler-0211-213
Secure PS Lines to Gear 4.0L AMPS.pdf: Bates Pg. PE07-052-Chrysler-0219-221


For these documents, the figures found on page 1 lack detail or specifications and are simple drawings equivalent to those found in service manuals (A similar conclusion may also be drawn about .jpg files in Enclosure 11). The figures are not blueprints, process sheets or detailed assembly instructions whose release would be likely to cause Chrysler to suffer competitive harm.

Subject to the following conditions, this partial grant of confidential treatment will remain in effect indefinitely. The information may be disclosed under 49 C.F.R. § 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 C.F.R. § 512.10). If necessary, you will be notified prior to the release of any information under procedures established by our regulations (49 C.F.R. § 512.22(b)).

If you disagree with this partial denial, you may request reconsideration. If you seek reconsideration, your request must be addressed to NHTSA's Chief Counsel and filed within 20 working days after the receipt of this letter (49 C.F.R. § 512.19(a)). Any such request must comply with NHTSA's regulations and should contain additional justification supporting your claims for confidential treatment consistent with 49 C.F.R. Part 512 and applicable case law.

Sincerely,

Lloyd S. Guerci

 Otto G. Matheke, III
Senior Attorney

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