

DEC - 4 2008

Mr. William R. Willen
Managing Counsel
Product Regulatory Office
American Honda Motor Co., Inc.
1919 Torrance Boulevard
Torrance, CA 90501-2746

Re: Reconsideration of Confidentiality Determination/PE08-026

Dear Mr. Willen:

This responds to your October 29, 2008, request for reconsideration of the National Highway Traffic Safety Administration's denial of confidential treatment for American Honda Motor Co., Inc. (Honda) information submitted in response to an information request in the above-referenced investigation. By letter dated September 29, 2008, Mr. Otto Matheke denied confidential treatment for materials originating from a third party, Stabilus, based upon Honda's failure to provide a certification from that third party as required by agency regulations. See 49 CFR § 512.9.

Honda now provides the requisite certificate from Stabilus and requests reconsideration of the denial for the third party data. Honda requests permanent confidential treatment for this information.

I am granting your request.

As Honda was required to submit this information, I reviewed your claim under the test set forth in *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) and its progeny. Under *National Parks*, information concerning a commercial or financial matter may be withheld under Exemption 4 of the Freedom of Information Act (FOIA) if disclosure of the information would be likely to cause substantial competitive harm to the submitter, or is likely to impair the Government's ability to obtain necessary information in the future. *Id.* at 770.

The information at issue is a development drawing of the 2005 Honda Odyssey Power Liftgate Strut. Honda's original request for confidential treatment contended that the drawing is proprietary and contains product development information. In Honda's view disclosure of this data—which is not customarily made public—would result in significant competitive damage to Honda.

The release of the drawing would be likely to cause Stabilus and Honda to suffer substantial competitive harm. Therefore, as noted above, Honda's request for confidential treatment of this information is granted. Subject to the following conditions, this grant of confidential treatment will remain in effect on a permanent basis.

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 the procedures established by our regulations (49 C.F.R. § 512.22(b)).

Honda's request for reconsideration has been delegated to the undersigned for decision. My decision is administratively final and no further administrative reconsideration or appeal is available.

Sincerely yours,

Original Signed By

Lloyd S. Guerci
Assistant Chief Counsel
Litigation and Enforcement Division

