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February 25, 2010

OFFICE OF CHIEF
COUNSEL

BY AIR COURIER

Mr. O. Kevin Vincent
Chief Counsel
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE, Room W41-227
Washington, DC 20590

Re: PE09-030: Reconsideration of Partial Denial of
Request for Confidential Treatment

Dear Mr. Vincent:

Pursuant to 49 C.F.R. § 512.19, Isuzu Manufacturing Services of America, Inc. ("Isuzu") hereby seeks reconsideration of portions of a partial denial of confidential treatment in the above-referenced matter. The partial denial of confidential treatment was issued by NHTSA in a letter from Otto G. Matheke, III, dated January 25, 2010. Isuzu received Mr. Matheke's letter on January 28, 2010.

Isuzu seeks reconsideration of the denial of confidential treatment for two of the items ("k-6" and "k-7") in Enclosure 11 to Isuzu's September 22, 2009 supplement to its initial response to the information request in the above-referenced matter. The items are General Motors documents, and the denial of confidential treatment for those items was based on Isuzu's omission of a certification from General Motors, as is required under Section 512.9. *See* 49 C.F.R. § 512.9.

Isuzu regrets the omission of the General Motors certification. In the press of compiling the material that Isuzu submitted to NHTSA on September 22, 2009, Isuzu overlooked the third-party certification requirement. To remedy this deficiency, Isuzu is attaching a certification executed on behalf of General Motors and requests that NHTSA now consider the request for confidential treatment of the information.

As Mr. Matheke noted, NHTSA did not substantively review Isuzu's request for confidential treatment of the General Motors documents. To facilitate NHTSA's review, Isuzu will now set forth the information required by Part 512 that supports a claim for confidential treatment of the General Motors information.

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

The information for which confidential treatment is being sought consists of two General Motors documents that set forth, in great detail, proprietary corrosion test standards and procedures.

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

This submission is governed by the confidentiality standard set forth in 49 C.F.R. § 512.15(b) for information that a submitter is legally obligated to provide the agency. Under this standard, confidential treatment is provided if the disclosure of the information would be likely to result in substantial harm to the competitive position of the submitter.

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

Part 512 and FOIA Exemption 4 protect the confidentiality of information that would be likely to cause substantial competitive harm to the submitter if disclosed. *See* 49 C.F.R. § 512.15(b); *see also, e.g., 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 for which Isuzu is requesting confidential treatment should be withheld under these standards.

The General Motors testing information would, if disclosed, reveal competitively valuable information about General Motors' product development and validation techniques and the test protocols and standards employed by General Motors. This information could be used by competitors to improve their own product development and validation processes and to refine their testing and analytic techniques without making the substantial investments in time and money associated with independent development of such techniques and expertise. As a result, competitors could use the information to bring competitive products to market faster and at less expense, and to refine their product development and validation processes at lower cost, than they otherwise could. The information also would shed light on General Motors' operational capabilities, which would be valuable to competitors in developing strategies to compete against General Motors.

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

None of the information is subject to a class determination.

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

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

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

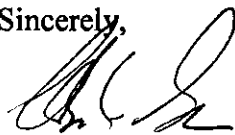
Please direct all inquiries to the undersigned at the address and telephone number on the letterhead.

* * *

As noted above, a certificate in support of confidentiality executed on behalf of General Motors is attached to this letter. Because the information was previously submitted to the Office of Chief Counsel with a request for confidential treatment, we are not resubmitting it with this letter. If, however, you want us to resubmit copies of the information to facilitate the review of this request for reconsideration, please do not hesitate to contact me.

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

Sincerely,



Adam C. Sloane

Enclosure

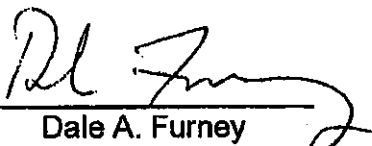


GENERAL MOTORS LLC
Global Interior and Safety Center

CERTIFICATE IN SUPPORT OF
REQUEST
FOR CONFIDENTIALITY

I, Dale A. Furney, pursuant to the provisions of 49 CFR Part 512, state as follows:

- (1) I am an Engineering Group Manager of Product Investigations of General Motors and am authorized to execute this certificate on its behalf.
- (2) I certify that the information contained in the documents identified in the Isuzu letter dated February 19, 2010 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) and 49 C.F.R. Part 512.
- (3) I hereby request that the information be protected without a time limitation.
- (4) This certification is based on the information provided by the responsible GM personnel who have responsibility for the documents being provided to NHTSA for which a claim of confidentiality has been made.
- (5) Based on that information, to the best of my knowledge, information and belief, the information for which GM has claimed confidential treatment has never been released or made available outside GM, GM joint venture partners, including Isuzu, and supplier or customer personnel.
- (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 GM because of unauthorized or inadvertent disclosure.
- (7) I certify under penalty of perjury that the foregoing is true and correct. Executed on this the 19th day of February 2010.


Dale A. Furney
Engineering Group Manager
Product Investigations