

JUL 23 2012

Jan Urbahn, General Manager
Safety Engineering and Intelligent Transportation Systems
BMW of North America, LLC
P.O. Box 1227
Westwood, NJ 07675-1227

Re: Request for Confidential Treatment/EA11-003

Dear Mr. Urbahn:

This letter responds to your December 22, 2011 request for confidential treatment for BMW of North America, LLC ("BMW") information submitted to the National Highway Traffic Safety Administration in the above-referenced investigation. You request that these materials be granted confidential treatment indefinitely.

The information BMW submitted consists of product design data, engineering or technical specifications, material property information, and information regarding testing and analyses.

You explain that the above information is customarily not released to the public by BMW and that disclosure of the information in these files would be likely to cause BMW to suffer substantial competitive harm.

I am granting your request.

Because these documents were submitted to the agency in response to an agency IR, I reviewed your claim for confidential treatment under the test in *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974). Under that test, information is confidential under Exemption 4 of the Freedom of Information Act (FOIA) 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.

BMW contends that the information in its submission contains valuable information that reveals specific details pertaining to BMW's internal evaluation and analyses methodologies. BMW contends that the information contained in its submission could be used by a competitor to compare, evaluate, or improve its products without having to expend its own resources. I concur with your assertion that the information in BMW's submission, if released, would be likely to cause substantial competitive harm and grant your request for confidential treatment for these materials.

Subject to the conditions described below, this grant will remain in effect indefinitely.

This grant of confidential treatment is subject to certain conditions. 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)). Furthermore, this information may be disclosed if such disclosure would be in the public interest, pursuant to the procedures established in 49 C.F.R. § 512.23.

Sincerely,

Original Signed By

Otto G. Matheke, III
Senior Attorney

