



JUN 13 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 EA 11-005

Dear Mr. Urbahn:

This letter responds to your November 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.

BMW provided this information voluntarily. Accordingly, I have reviewed your request under the principles set forth in *Critical Mass Energy Project v. Nuclear Regulatory Comm'n*, 975 F.2d 871 (D.C.Cir.1992). Under the test set forth in *Critical Mass*, financial or commercial information provided to the government on a voluntary basis is "confidential" for purposes of Exemption 4 of the Freedom of Information Act (5 U.S.C. § 552(b)(4)) if it is the kind of information that would customarily not be released to the public by the submitter. Your request indicates that the information contained in the materials you submitted is information that BMW would not customarily release to the public. Review of the information indicates that it is not publicly available. Accordingly, I am granting your request for confidential treatment to the information contained in your submission.

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 CFR 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 CFR 512.10. If necessary, you will be notified prior to the release of any

information under the procedures established by our regulations. 49 CFR 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 CFR 512.23.

Sincerely,

**Original Signed By**

Otto G. Matheke, III  
Senior Attorney

