



NHTSA
WASHINGTON, DC 20590

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2011 OCT 17 P 12:44

OFFICE OF CHIEF
COUNSEL

October 14, 2011

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

Re: Request for Confidential Treatment of Business Information Submitted for Peer Review EA11-001.03

Dear Mr. Vincent:

Chrysler Group LLC (“Chrysler Group”) is submitting information to the NHTSA Office of Defects Investigation (“ODI”) in connection with the above referenced investigation, which concerns certain trucks manufactured by General Motors Corporation. Chrysler Group is submitting the information in response to a request for “peer vehicle” information from Chrysler Group. This request was made in a letter, dated August 9, 2011, from Mr. Frank Borris, Director of the Office of Defects Investigation, Enforcement, to Mr. David D. Dillon of Chrysler Group. Based on a careful review of the submission, Chrysler Group has determined that some of the information in the submission is confidential and should be accorded confidential treatment under this agency’s regulations at 49 C.F.R. Part 512 and Exemption 4 of the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552(b)(4).¹ Therefore, Chrysler Group is submitting the enclosed CDs together with this request for confidential treatment to the Office of Chief Counsel.

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

The business information for which confidential treatment is being sought is provided in Enclosures 3 CONF BUS INFO, 5 CONF BUS INFO, 6 CONF BUS INFO, 9 CONF BUS INFO, 12 CONF BUS INFO, and 13 CONF BUS INFO. Enclosure 3 contains customer CAIR complaints, legal summaries, and an Access database containing customer complaint

¹ Chrysler Group has taken steps to assure that the CDs are free of any errors or defects that would prevent NHTSA from opening the files on the discs. If, however, the agency is unable to open the files, Chrysler Group respectfully requests that the agency inform Chrysler Group of the issue, so that Chrysler Group may take steps to supply NHTSA’s Office of Chief Counsel with a disc that is fully functional.

information. The CAIR complaints are in a pdf document in which partial confidentiality is being sought for Bates page # EA11-001.03 – Chrysler – 028, 038, 041, 046, 051, 052, 058, 063, 064, 065, 069, 072, 081, 084, 086, 088, 091, 099, 101, 108, and 109, while entire page confidentiality is being sought for the following Bates page # EA11-001.03 – Chrysler – 001-027, 030-037, 039, 042-045, 048-050, 053-057, 060-062, 066-068, 071, 073-080, 083, 089-090, 093-094, 096, 098, 102-107, and 110-113. (The information for which confidential treatment is being sought is contained in the yellow-lined boxes). In addition, Enclosure 3 contains legal summaries (Bates page # EA11-001.03 – Chrysler – 114-115) and a Microsoft Access Database entitled, “REQUEST NUMBER THREE DATA (EA11-001.03) CONF BUS INFO.mdb, which contains customer complaint data. (Chrysler Group has not been able to Bates stamp the Microsoft Access document provided). Enclosure 5 consists of a Microsoft Access Database entitled, “WARRANTY DATA (EA11-001.03) CONF BUS INFO.mdb, containing warranty claim data. (Chrysler Group has not been able to Bates stamp the Microsoft Access document provided). Enclosure 6 includes service contract/warranty data (Bates page # EA11-001.03 – Chrysler – 116) and Enclosure 9 is a pdf document consisting of supplier information, material description, part numbers, and the component change history (Bates page # EA11-001.03 – Chrysler – 117-121). Finally, Enclosures 12 and 13 consist of engineering standards (Bates page # EA11-001.03 – Chrysler – 122-161).

The table attached to this letter identifies the documents, their location, and Bates page numbers.

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

NHTSA treats “peer vehicle” submissions as voluntary. Accordingly, this submission is subject to the voluntary submission standard set forth in 49 C.F.R. § 512.15(d).

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

This agency has a long-established practice of treating “peer vehicle” submissions as voluntary. Under FOIA Exemption 4 and this agency’s regulations, voluntarily-submitted information is exempt from disclosure if it is the kind of information that the submitter does not customarily disclose to the public.

Chrysler Group does not customarily disclose to the public information like that for which it is seeking confidential treatment, and Chrysler Group takes steps to prevent its dissemination outside the company. Indeed, even if this information were subject to the substantial-competitive-harm standard, it would qualify for confidential treatment because the engineering standards and related information would provide competitors with valuable design, materials, and manufacturing process information that they could use to improve their own design and material decisions, enhance their manufacturing quality process, and assess Chrysler Group’s operational capacities, all at Chrysler Group’s expense.

The disclosure of the extended service contracts that Chrysler Group has sold would give competitors an unfair advantage over Chrysler Group. In enacting the FOIA, Congress was particularly concerned about the need to protect, among other things, "business sales statistics." H.R. Rep. No. 1497, 89th Cong., 2d Sess. 10, *reprinted in* 1966 U.S.C.C.A.N. 2418, 2427; *see also* S. Rep. No. 813, 89th Cong., 2d Sess. 9 (1964). Information about Chrysler Group's sales of extended service contracts could be used by competitors to determine Chrysler Group's market share in the extended service contract market. Such market share information has been protected from disclosure by Exemption 4. *See Lion Raisins Inc. v. U.S. Dep't of Agric.*, 354 F.3d 1072, 1081 (9th Cir. 2004). Here, confidential treatment should be accorded because information about Chrysler Group's sales and market share in the highly-competitive extended service contract market could be combined with publicly-available information about the terms and conditions of Chrysler Group's contracts to give competitors insights into consumer preferences and the effects of differences in extended service contract prices and terms on market share. This, in turn, could facilitate the efforts of competitors to develop strategies to increase their own market penetration at Chrysler Group's expense.

Congruently, the change history summary would reveal information about the design and manufacturing process changes to the subject component, the timing of such changes, the reasons for the changes, and the process by which such changes were made. Thus, these documents reveal information about the design and manufacturing process, as well as Chrysler Group's leadtime and operational capacity information, which could enable competitors to improve their own designs and manufacturing processes, and compete more effectively against Chrysler Group.

In addition, the protection features and materials information in the submission could be used by competitors in making design and materials choices. This, in turn, would enable them to bring competitive products to market faster and more cheaply than they could without this information.

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

The information is not subject to a Class Determination.

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

Because Chrysler Group anticipates that it will never adopt a custom of disclosing this kind of information, Chrysler Group requests that the information be accorded confidential treatment permanently.

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

Please direct all inquiries and responses to the undersigned at:

800 Chrysler Drive, CIMS 482-00-91
Auburn Hills, MI 48326
248-512-0087
dd28@chrysler.com

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

Sincerely,



David D. Dillon

cc: Frank Borris

Attachment and Enclosures

EA11-001.003 CONFIDENTIAL DOCUMENTS CHART

QUESTION # SOURCE	ENCLOSURE	FILE/DOCUMENT NAME	DOCUMENT DESCRIPTION	BATES PAGE #	CONFIDENTIALITY JUSTIFICATION
3 Chrysler	Enclosure 3 CONF BUS INFO	EA11-001.003 CAIRS Report.pdf	Customer Complaints	EA11- 001.03 – Chrysler – 001 thru 113	Chrysler does not customarily disclose this information to the public.
3 Chrysler	Enclosure 3 CONF BUS INFO	EA11-001.003 Legal Summaries.pdf	Legal Summaries	EA11- 001.03 – Chrysler – 114 thru 115	Chrysler does not customarily disclose this information to the public.
3 Chrysler	Enclosure 3 CONF BUS INFO	REQUEST NUMBER THREE DATA (EA11- 001.003) CONF BUS INFO.mdb	Customer Complaints	Unable to Bates Stamp	Chrysler does not customarily disclose this information to the public.
5 Chrysler	Enclosure 5 CONF BUS INFO	WARRANTY DATA (EA11-001.003) CONF BUS INFO.mdb	Warranty Claim Data	Unable to Bates Stamp	Chrysler does not customarily disclose this information to the public.
6 Chrysler	Enclosure 6 CONF BUS INFO	1999-2003 Ram Extended Warranty Volumes.pdf	Service Warranties Data	EA11- 001.03 – Chrysler – 116	Chrysler does not customarily disclose this information to the public. Also, the number of service contracts that Chrysler has sold would give competitors insight into Chrysler's market share of these contracts. They could use that information to adjust the price of their contracts to unfairly compete against Chrysler.
9 Chrysler	Enclosure 9 CONF BUS INFO	1999-2003 Dodge Ram Brake Tube Information.pdf	Brake line suppliers, material description, part numbers and change history	EA11- 001.03 – Chrysler – 117 thru 121	Chrysler does not customarily disclose this information to the public. Also, competitors could determine the design specifics of the subject component and improve

QUESTION # SOURCE	ENCLOSURE	FILE/DOCUMENT NAME	DOCUMENT DESCRIPTION	BATES PAGE #	CONFIDENTIALITY JUSTIFICATION
					their own designs to compete more effectively against Chrysler.
12 Chrysler	Enclosure 12 CONF BUS INFO	Engineering Standard ms1806-k-7-8- 1998.pdf	Engineering material and process designs standards.	EA11- 001.03 – Chrysler – 122 thru 125	Chrysler does not customarily disclose this information to the public. Also, competitors could determine the design specifics of the subject component and improve their own designs to compete more effectively against Chrysler.
12 Chrysler	Enclosure 12 CONF BUS INFO	Engineering Standard ms1806-l-11-25- 2002.pdf	Engineering material and process designs standards.	EA11- 001.03 – Chrysler – 126 thru 130	Chrysler does not customarily disclose this information to the public. Also, competitors could determine the design specifics of the subject component and improve their own designs to compete more effectively against Chrysler.
12 Chrysler	Enclosure 12 CONF BUS INFO	Engineering Standard ps8688-f-5-98.pdf	Engineering material and process designs standards.	EA11- 001.03 – Chrysler – 131 thru 143	Chrysler does not customarily disclose this information to the public. Also, competitors could determine the design specifics of the subject component and improve their own designs to compete more effectively against Chrysler.
13 Chrysler	Enclosure 13 CONF BUS	Engineering Standard cscorrosion-A-4-03.pdf	Engineering standard for	EA11- 001.03 –	Chrysler does not customarily disclose this

QUESTION # SOURCE	ENCLOSURE	FILE/DOCUMENT NAME	DOCUMENT DESCRIPTION	BATES PAGE #	CONFIDENTIALITY JUSTIFICATION
	INFO		corrosion	Chrysler - 144 thru 152	information to the public. Also, competitors could determine the design specifics of the subject component and improve their own designs to compete more effectively against Chrysler.
13 Chrysler	Enclosure 13 CONF BUS INFO	Engineering Standard lp461h117-B-8-99.pdf	Engineering standard for corrosion	EA11- 001.03 - Chrysler - 153 thru 161	Chrysler does not customarily disclose this information to the public. Also, competitors could determine the design specifics of the subject component and improve their own designs to compete more effectively against Chrysler.

Certificate in Support of Request for Confidentiality

I, David D. Dillon, pursuant to the provisions of 49 C.F.R. Part 512, state as follows:

- (1) I am Chrysler Group LLC's Senior Manager, Product Investigations & Campaigns and I am authorized by Chrysler Group LLC to execute documents on its behalf;
- (2) I certify that the information contained in the attached documents 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);
- (3) I hereby request that the information contained in the indicated documents be protected on a permanent basis;
- (4) This certification is based on the information provided by the responsible Chrysler Group LLC personnel who have authority in the normal course of business to release the information for which a claim of confidentiality has been made to ascertain whether such information has ever been released outside Chrysler Group LLC;
- (5) Based upon that information, to the best of my knowledge, information and belief, the information for which Chrysler Group LLC has claimed confidential treatment has never been released or become available outside Chrysler Group LLC, except to certain contractors of Chrysler Group LLC with the understanding that such information must be maintained in strict confidence;
- (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 Chrysler Group LLC because of unauthorized or inadvertent disclosure (except as stated in paragraph 5); and
- (7) I certify under penalty of perjury that the foregoing is true and correct.

Executed on this 14th day of October, 2011



David D. Dillon