

Ford Motor Company

Automotive Safety Office  
Environmental & Safety Engineering

September 23, 2011

Mr. Oakley Kevin Vincent  
Chief Counsel  
Office of the Chief Counsel  
National Highway Traffic Safety Administration  
1200 New Jersey Avenue SE, Room W41-322  
Washington, DC 20590

Dear Mr. Vincent:

Subject: Request Under 49 CFR Part 512 for Confidential Treatment of Information  
Regarding EA11-009

This letter requests confidential treatment and supports Ford's claim of confidentiality for confidential business information in accordance with 49 CFR § 512.8 and 5 U.S.C. § 552(b)(4).

This information is provided in response to a September 8, 2011 discussion with Mr. Jeff Quandt of the Office of Defects Investigation, in which the agency requested that Ford submit an update of Ford's ongoing testing that relates to the agency's EA11-009 investigation. Two copies of confidential information are attached. A redacted copy is not being provided because the entirety of the document is confidential.

On July 15, 2011, Ford submitted the results of testing conducted through July 11, 2011, for which the agency granted confidential protection from public disclosure on August 15, 2011. For purposes of continuity and consistency, Ford is resubmitting the prior test results along with the new test results. We are including the prior grant for reference.

The agency granted Ford's previous request for confidentiality on August 15, 2011, in accordance with the voluntary disclosure standard of *Critical Mass Energy Project v. Nuclear Regulatory Comm'n*, 975 F.2d 871 (D.C. Cir. 1992).

In extension of the prior grant, Ford again requests protection from public disclosure for the updated document because the document contains confidential business information within the meaning of 49 C.F.R. § 512.3 and 512.15, and meets the following requirements:

1. Voluntary Disclosure Test (established in *Critical Mass Energy Project v. Nuclear Regulatory Comm'n*, 975 F.2d 871 (D.C. Cir 1992), and its progeny, and set forth in 49 CFR § 512.15(c),(d). The document is being submitted voluntarily, and the public



disclosure of the information would be likely to impair NHTSA's ability to obtain necessary information in the future.

2. The document contains information that is not customarily released to the public by Ford.

Additionally, Ford believes the document meets the standard for confidential protection for competitive business harm under *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) and 49 C.F.R. § 512.15(b), but believes, consistent with the prior grant by the agency, that such a request is unnecessary for the similar document.

Should the agency determine that this document be reviewed under the competitive harm standard, Ford submits that the document contains confidential business information, the public disclosure of which would likely cause substantial competitive harm to Ford because it includes Ford's test results that are part of an ongoing root cause analysis. The information provided could be used by Ford's competitors to improve their products and processes without the investment of the significant resources made by Ford.

Ford documents of the type stated are maintained under a record keeping system which is intended to control dissemination of this material within Ford, and to assure that the material is not disseminated outside of Ford, except as described in the attached certification (Attachment 2), which is made pursuant to 49 CFR § 512.4(b).

A compact disc containing copies of the documents is labeled "CONFIDENTIAL" and documents contained in the electronic files are marked "ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION" in the top margin.

Ford requests that this document be granted confidential treatment by the agency for a period of ten years. Earlier disclosure of these documents, in Ford's opinion, would result in substantial competitive harm.

In the event that the agency should conclude that all or part of the submitted information is not to be given confidential treatment, Ford asks the agency to provide reasonable notice of not less than ten working days prior to any contemplated disclosure in order that Ford may pursue such legal remedies as it may choose. Please direct all written notices to me at Ford Motor Company, Suite 400, Fairlane Plaza South, 330 Town Center Drive, Dearborn, Michigan 48126. Please direct all non-written communication to Mr. Alan Prescott, Esq. in Ford's Office of the General Counsel who may be contacted by telephone at (313) 390-5621.

Thank you for your continuing courtesy.

Sincerely,



Steven M. Kenner

Attachments



**CERTIFICATE IN SUPPORT OF REQUEST  
FOR CONFIDENTIALITY**

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

1. I am Assistant Director, Global Automotive Safety Compliance, Automotive Safety Office, and I am authorized by Ford Motor Company (Ford) to execute this certificate on its behalf;
2. The information contained in the attachment to Ford's letter to NHTSA's Office of the Chief Counsel dated September 23, 2011, contains confidential and proprietary data and is submitted with the claim that it is entitled to confidential treatment under 5 U.S.C., § 552(b)(4);
3. A member of my staff has inquired of the responsible Ford personnel who have authority in the normal course of business to release the type of information for which a claim of confidentiality has been made to ascertain whether such information has ever been released outside Ford;
4. Based upon such inquiries, to the best of my knowledge, information and belief, the information for which Ford has claimed confidential treatment has never been released or become available outside Ford except as hereinafter specified:
  - Portions of these documents may have been or may be shared with Ford suppliers with the expectation that they will be kept confidential.
  - During the course of defending itself in litigation, Ford may have been, or may be required to produce such information.
5. 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 Ford because of unauthorized or inadvertent disclosure, except as stated in Paragraph 4; and
6. I certify under penalty of perjury that the foregoing is true and correct. Executed on this the twenty third day of September, 2011.



R. A. Nevi