

JUN 17 2013

CERTIFIED MAIL -- RETURN RECEIPT REQUESTED

M. Carmen Benavides, Director
Product Investigations and Safety Regulations
General Motors LLC
Mail Code 480-210-2V1
30001 Van Dyke Avenue
Warren, MI 48090-9020

Re: Request for Confidential Treatment in Response to EA 12-005

Dear Ms. Benavides:

This responds to your February 18, 2013 request for confidential treatment for General Motors LLC (GM) information submitted in response to an Office of Defects Investigation information request (IR) in EA12-005. GM requests that documents stamped "GM Confidential Business Information" included in the CD-ROM labeled "N120335 EA-12-005 ATT_2_GM_Conf Reply Date 02/18/2013" attached to its response to the IR be granted confidential treatment. GM did not specify the length of time for which it is seeking confidential treatment. Accordingly, I construe your request as seeking confidential treatment indefinitely.

GM seeks confidential treatment for information that it considers to be confidential business information and that is not released to the public. This information is marked confidential in electronic submissions contained on CD-ROMs.

I have reviewed your submission, including the materials that you claim are entitled to confidential treatment and the arguments that you assert in support of your claims. While I have not reached a conclusion regarding each individual argument that you assert, I conclude that, with the exception of the compliance test data and vehicle-to-vehicle test information discussed below, the materials for which you requested confidentiality are entitled to confidential treatment pursuant to Exemption 4 of the Freedom of Information Act, 5 U.S.C. §552(b)(4).

With regard to the compliance test data included in your request, the agency has long taken the position that, although testing is not required before certification, testing conducted for purposes of certification of compliance should not be withheld from public disclosure. While we recognize that such test results may have competitive consequence, the agency believes that the public's interest in having access to a company's basis for certification outweighs the manufacturer's more limited interest in protecting competitively

sensitive information that may be contained in the compliance testing. Further, we do not believe that disclosure will discourage such testing or discourage the development of other means of documenting compliance (such as computer modeling). Section 30115 requires a good faith basis and exercise of reasonable care in certification of compliance and, by documenting that basis, manufacturers generally are able to justify their certification should it be later questioned.

Section 30167(a)(4) of the Vehicle Safety Act provides the agency with the authority to disclose otherwise confidential information “when the Secretary of Transportation decides that disclosure is necessary to carry out section 30101.” Section 30101, in turn, sets forth the purpose of the Vehicle Safety Act, which “is to reduce traffic accidents and deaths and injuries resulting from traffic accidents,” including through the prescription of vehicle safety standards. Section 30115 requires certification to those safety standards and Section 30112 prohibits the sale of noncompliant vehicles.

NHTSA’s investigations ensure compliance with those statutory provisions and with the federal motor vehicle safety standards. To the extent a company based that compliance on vehicle testing, the public has a strong interest in access to that information. We believe the public’s access to information relating to the manufacturer’s compliance with legal obligations to meet the federal motor vehicle safety standards, including its margin of compliance, outweighs the potential competitive harm flowing from the disclosure of such compliance information. We will not protect from disclosure test data that forms the basis for certification with federal motor vehicle safety standards. Accordingly, your request for confidential treatment for the compliance documents listed in Appendix A to this letter is denied.

I am also denying your request for a number of documents relating to internal GM product development standards and testing for fuel system integrity. These documents, Q_06_CPPO 8A-2-82.pdf, Q_06_CPPO-8A-1-82.pdf, Q_06_Fuel System Reg Performance Objective.pdf and Q_06_GMUTS R-8A-8.pdf, describe performance objectives and test procedures that have been employed by GM in developing vehicles over a considerable period of time. As noted above, section 30167(a)(4) authorizes disclosure of otherwise confidential information when such disclosure is necessary to carry out section 30101. I have determined that disclosure of the performance objectives and test procedures in the foregoing documents, which illustrate GM activities to mitigate the risk of post-crash fires in its products, will further the purposes of section 30101.

This partial 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. 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. 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).

If you disagree with the partial denial of your request noted above, you may request reconsideration. If you seek reconsideration, your request must be addressed to NHTSA's Chief Counsel and filed within 20 working days after the receipt of this letter. 49 CFR 512.19(a). Any such request should contain additional justification supporting your claims for confidential treatment consistent with 49 CFR Part 512 and applicable case law.

Sincerely,

Original Signed By

Otto G. Matheke, III
Senior Attorney

NHTSA:NCC-111:NEnglund:65263:cyt:6/14/13
DRAFT NE 6/10/13; rev w/LG edits by NE 6/13/2013
NCC-111: subj, om, cyt **NCC13-000880**
NVS-213 S. Yon, P. Ong
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Appendix A – COMPLIANCE TEST REPORTS

Q_06_1995 GMT330 FMVSS 301.pdf	Q_06_c8823.pdf
Q_06_B5J06-14B.pdf	Q_06_c8928.pdf
Q_06_B5J06-23B.pdf	Q_06_c9194.pdf
Q_06_B5J13-01B.pdf	Q_06_1994 ST FMVSS 301.pdf
Q_06_C9586.pdf	
Q_06_C9618.pdf	
Q_06_C9656.pdf	
Q_06_1996 GMT330 FMVSS 301.pdf	
Q_06_B6J05-02.pdf	
Q_06_C10109.pdf	
Q_06_1997 GMT330 FMVSS301.pdf	
Q_06_1998 GMT330 301.pdf	
Q_06_A8J23-10.pdf	
Q_06_A8J25-11.pdf	
Q_06_A8J25-12.pdf	
Q_06_c11469.pdf	
Q_06_c11582.pdf	
Q_06_c11765.pdf	
Q_06_1999 GMT330 301.pdf	
Q_06_1999 GMT330 301.pdf	
Q_06_2000 GMT330 FMVSS 301.pdf	
Q_06_A1L05-01.pdf	
Q_06_A1L05-60.pdf	
Q_06_c12956.pdf	
Q_06_ST-2001-MVSS301-0002.pdf	
Q_06_ST-2002-MVSS301-0001.pdf	
Q_06_A3L20-02.pdf	
Q_06_C13745.pdf	
Q_06_C13823.pdf	
Q_06_2002 GMT360 MVSS301.pdf	
Q_06_41X71004.pdf	
Q_06_c13075.pdf	
Q_06_03ST0-092.pdf	
Q_06_2004 st15506 v8 301 judg let.pdf	
Q_06_2005 305_360_370 301 RI2 Judg Letter.pdf	
Q_06_2005i 360 Saab 301 RI Judg Letter.pdf	
Q_06_C14889-R.PDF	
Q_06_2006 360 TBSS 301 Judg Letter.pdf	
Q_06_2006 360_370 301 Judg Letter.pdf	
Q_06_2007 360 TBSS 301 Judg Letter.pdf	
Q_06_2007 360_370 301 Judg Letter.pdf	
Q_06_05st0-082-00.pdf	
Q_06_2008360TBSS301JudgLetter.pdf	
Q_06_2008GMT360370301JudgLetter.pdf	
Q_06_43L1702.pdf	
Q_06_c13985.pdf	
Q_06_2005-02-01-0017.pdf	
Q_06_C15354.pdf	
Q_06_1993 ST FMVSS 301.pdf	
Q_06_62J02-03.pdf	
Q_06_62J03-39.pdf	
Q_06_63J02-02.pdf	