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OFFICE OF CHIEF
COUNSEL

February 28, 2013

Mr. Otto G. Matheke III
Chief Counsel
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE, Room W41-227
Washington, DC 20590

SALES DIVISION
6400 KATELLA AVENUE
CYPRESS, CALIFORNIA 90630-5208
(714) 372-6000
TELEFAX (714) 373-1020
mitsubishicars.com

MAILING ADDRESS:
P.O. BOX 6400
CYPRESS, CALIFORNIA 90630-0064

Re: EA12-005: Request for Confidential Treatment

Dear Mr. Matheke III:

Today, Mitsubishi Motors of North America, Inc. ("MMNA") is submitting a response to an information request in the above-referenced investigation. After careful review, MMNA has concluded that certain portions of Document 5 and the entirety of Documents 2, 3, 4, and 6 are competitively sensitive and should be withheld from public disclosure under 49 C.F.R. Part 512 and Exemption 4 of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b)(4). In addition, as discussed below, some of the documents also include personal information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy. Such information is exempt from disclosure under FOIA Exemption 6, 5 U.S.C. § 552(b)(6).

Accordingly, MMNA hereby requests that certain portions of Document 5 and the entirety of Documents 2, 3, 4, and 6 be accorded confidential treatment. In accordance with 49 C.F.R. § 512.6(c), we have marked the five documents with sequential page numbers. The chart below indicates the sequential numbering for the documents:

Document No	Sequential # - Confidential Treatment Requested for Pages
2	1 - 244
3	245
4	246 - 376
5	377 - 386
6	387 - 1084

The information required by Part 512 is set forth below. A certificate in support of confidentiality has been executed on behalf of MMNA and is attached.

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

Documents 2 through 6 set forth highly confidential investigative techniques, business processes, and administrative procedures used by MMNA in the handling of quality issues concerning

MMNA's products. In addition, as result of the application of these procedures and processes, the documents set forth confidential data and information concerning MMNA's products. The documents also set forth proprietary design and design change information, and Documents 5 through 6 include information that is subject to the Class Determination for engineering drawings set forth in paragraph 1 of Appendix B of Part 512. Finally Documents 6 include the names of personnel at a subsidiary of Mitsubishi Motors Corporation ("MMC"), as well as their position titles and statements of their opinions.

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

This submission is subject to the substantial-competitive-harm standard set forth in 49 C.F.R. § 512.15(b). In addition, the personal information described above is subject to FOIA Exemption 6.

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

Part 512 and FOIA Exemption 4 protect the confidentiality of information that would be likely to cause substantial competitive harm to the submitter if disclosed. *See* 49 C.F.R. § 512.15(b); *see also, e.g., Nat'l Parks & Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974). FOIA Exemption 4 was enacted to prevent disclosures that would "eliminate much of the time and effort that would otherwise be required to bring to market a product competitive with the [submitter's] product." *Public Citizen Health Research Grp. v. FDA*, 185 F.3d 898, 905 (D.C. Cir. 1999). "Because competition in business turns on the relative costs and opportunities faced by members of the same industry, there is a potential windfall for competitors to whom valuable information is released under FOIA. If those competitors are charged only minimal FOIA retrieval costs for the information, rather than the considerable costs of private reproduction, they may be getting quite a bargain. Such bargains could easily have competitive consequences not contemplated as part of FOIA's principal aim of promoting openness in government." *Worthington Compressors, Inc. v. Costle*, 662 F.2d 45, 51 (D.C. Cir. 1981). Substantial competitive harm also may result from disclosures that would reveal a firm's "operational strengths and weaknesses" to competitors. *See Nat'l Parks & Conservation Ass'n v. Kleppe*, 547 F.2d 673, 684 (D.C. Cir. 1976). The information for which MMNA is requesting confidential treatment merits protection from disclosure under these standards.

The documents at issue here would, if disclosed, reveal competitively valuable information about MMNA's investigative product assessment and remediation processes, business processes, and administrative procedures, which are used by MMNA in handling quality issues relating to MMNA's products. This information could be used by competitors to improve their own product evaluation, testing, and analytic techniques and approaches without making the substantial investments in time and money associated with independent development of such techniques and expertise. As a result, competitors could use the information to bring competitive products to market faster and at less expense, and to address product evaluation issues at lower cost, than they otherwise could. The information also would shed light on MMNA's operational capabilities, which would be valuable to competitors in developing strategies to compete against MMNA.



The design history and change information could be used by competitors to obtain insights into MMNA's design philosophy and the specific design features of MMNA's products as they have evolved over time. Such valuable information could enable competitors to compete far more effectively against MMNA and to evaluate their own materials and design options for similar components without incurring the costs associated with independent design evaluations. The disclosure of this information, as well as the detailed drawings and specifications set forth in some of the documents, could enable competitors to replicate MMNA's designs, evaluate the performance of a variety of possible design options, and avoid much of the trial and error that is typically involved in the independent design of competitive products. As a result, competitors would obtain a windfall that would reduce the overall cost and development time for competitive products, to the substantial competitive harm of MMNA.

The information also should be protected from disclosure because it would provide valuable insights into the MMNA's business practices and its approaches to the evaluation of and relations with suppliers. Competitors could use such information in evaluating MMNA's business capacities and in selecting and negotiating with potential suppliers. Furthermore, the release of the information could affect MMNA's negotiations with suppliers.

In addition, the very titles of the documents being submitted today are themselves competitively valuable because they set forth the kinds of product evaluation and remediation procedures and assessments performed by MMNA. A competitor could use such information to benchmark its own product evaluation processes and determine areas that need to be explored and developed in refining those procedures. This information also would provide competitively valuable insights into the operational capacities of MMNA.

As noted above, some of the documents include the names of personnel at a subsidiary of MMC, together with their position titles and statements of their opinions. The disclosure of such information constitute a clearly unwarranted invasion of their privacy. Accordingly, that information should be withheld pursuant to FOIA Exemption 6.

Finally, MMNA has determined that any non-exempt information contained in Documents 2, 3, 4, and 6 is so inextricably intertwined with exempt information that segregation of any such non-exempt information is impractical and would result in the disclosure of essentially meaningless fragments of information to the public. Accordingly, MMNA is requesting confidential treatment for those documents in their entirety.

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

The engineering drawings and specifications in this submission are subject to the Class Determination set forth in paragraph 1 of Appendix B of Part 512.

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

Because the information will retain its competitive value indefinitely, MMNA requests that the information be accorded confidential treatment permanently.



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

Please direct all inquiries to:

Kurt Kurata
Manager, Service Technical Resources
Mitsubishi Motors North America, Inc.
Telephone: (714) 934 - 3514
Email: KKurata@mmsa.com

* * *

As noted above, a certificate in support of confidentiality is attached to this letter. We have marked each page of the documents in accordance with NHTSA's regulations.

As noted in the opening statement and the last paragraph of Section C, above, MMNA is seeking confidential treatment for certain portions of Document 5 and for Documents 2, 3, 4, and 6 in their entirety. Accordingly, MMNA is submitting two copies of the confidential disk containing the information, but is not submitting a redacted version of Documents 2 through 6 for the public file.

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

Sincerely,



Don Swearingen
Vice President, Fixed Operations
Mitsubishi Motors North America, Inc.
Telephone: (714) 372-6110
Email: DSwearingen@mmsa.com



I Don Swearingen, pursuant to the provisions of 49 CFR part 512, state as follows:

(1) I am Don Swearingen, Vice President of Fixed Operations, and I am authorized by Mitsubishi Motors of North America (MMNA) to execute this certificate on its behalf;

(2) I certify that information contained in certain portions of Document 5 and the entirety of Documents 2, 3, 4, and 6 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 certain portions of Document 5 and the entirety of Documents 2, 3, 4, and 6 be protected indefinitely;

(4) This certification is based on the information provided by the responsible Mitsubishi Motors Corporation (MMC) 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 MMC or MMNA;

(5) Based upon that information, to the best of my knowledge, information and belief, the information for which MMNA has claimed confidential treatment has never been released or become available outside MMC or MMNA except for NHTSA.

(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 MMC or MMNA 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 the 28th day of February, 2013.


(Signature)

