



November 8, 2013

Mr. Jeffrey L. Quandt, Chief
Vehicle Controls Division (VCD), NVS-213
U.S. Department of Transportation

National Highway Traffic Safety Administration (NHTSA)
Office of Defects Investigation (ODI)
Room W48-312
1200 New Jersey Avenue SE
Washington, D.C. 20590

Reference: NVS-213swm; PE13-010; email request from the NHTSA dated
September 26, 2013

Dear Mr. Quandt:

Attached is Chrysler Group LLC's response to the additional information requested for referenced inquiry. This response contains additional data not requested in the original PE. In performing the analysis, reaching its conclusions and by providing the information contained herein, Chrysler Group LLC is not waiving its claim to attorney work product and attorney-client privileged communications.

Sincerely,

A handwritten signature in black ink that reads "Kristin Kolodge".

Kristin J. Kolodge

Attachment and Enclosures

Kristin Kolodge
Sr. Manager
Product Investigations & Campaigns

November 8, 2013

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 in Relation to PE13-010

Dear Mr. Vincent:

Chrysler Group LLC (“Chrysler”) is voluntarily submitting a supplemental response in relation to PE13-010, entitled, “PE13-010 Response - 08Nov2013 Supplement CBI.pdf” and supporting documents. A request for a copy of these documents was made during emails on September 26, 2013 and October 23, 2013, from Jeffrey Quandt to Kristin Kolodge of Chrysler in connection with the ongoing PE13-010 investigation. Based on a careful review of the submission, Chrysler has determined that 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 is submitting the enclosed CDs together with this request for confidential treatment to the Office of Chief Counsel.

The information required by Part 512 is set forth below.

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

The business information for which confidential treatment is being sought is contained in the response document, entitled “PE13-010 Response - 08Nov2013 Supplement CBI.pdf” (Bates page #: PE13-010 Supplemental Response – Chrysler – 01-02). Enc 1 Matl Spec PE13-010 Supplement CBI contains five material specification documents (Bates page #:

¹ Chrysler 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 respectfully requests that the agency inform Chrysler of the issue, so that Chrysler may take steps to supply NHTSA’s Office of Chief Counsel with a disc that is fully functional.

PE13-010 Supplemental Response – Chrysler – 03-11). Enc 2 Stress Level PE13-010 Supplement CBI consists of one document with Chrysler’s analysis (Bates page #: PE13-010 Supplemental Response – Chrysler – 12-22). Enc 3 Estimated Crack Init Supplement CBI contains one document with Chrysler’s analysis (Bates page #: PE13-010 Supplemental Response – Chrysler – 23-25). Enc 4 Susp Points Supplement CBI is a single document with design detail information (Bates page #: PE13-010 Supplemental Response – Chrysler – 26). Enc 5 2003 MY Vehicle Volumes Supplement CBI consists of a single Access database document, entitled “Enc 5 PRODUCTION DATA 2003MY CBI .mdb”. This document cannot be Bates numbered and, therefore, has been labeled confidential business information in the document title.

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))

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))

Information is voluntarily submitted if the agency did not invoke its authority to compel the submission of the information, even if the agency had such authority. *See Parker v. Bureau of Land Management*, 141 F. Supp. 2d 71, 78 n.6 (D.D.C 2001) (“In addition to possessing the authority to compel submission, the agency must also exercise that authority in order for a submission to be deemed mandatory.”); U.S. Dept. of Justice, Guide to the Freedom of Information Act at 279 (2009) (http://www.justice.gov/oip/foia_guide09/exemption4.pdf) (“Furthermore, the existence of agency authority to require submission of information does not automatically mean such a submission is ‘required’; the agency authority must actually be exercised in order for a particular submission to be deemed ‘required.’”). At no time did Jeffrey Quandt purport to invoke NHTSA’s authority to compel the submission of the information for which Chrysler is seeking confidential treatment.

Information submitted voluntarily should be accorded confidential treatment if it is the type of information that is not customarily disclosed by the submitter to the public. Chrysler does not ever, much less customarily, disclose to the public, the problem solving assessments and analysis, engineering design information, material specifications, and internal processes included in this submission.

Even if this information were submitted under compulsion, it properly would be withheld under 49 C.F.R. § 512.15(b), because its disclosure would cause substantial harm to Chrysler’s competitive position. The information for which Chrysler is seeking confidential treatment reveals details about how Chrysler plans and conducts technical analyses of

product issues. The documents reveal the steps that Chrysler takes in evaluating products and the specific components of Chrysler's root cause analyses. If this information is disclosed, competitors could improve their own product evaluation processes without incurring the time and expense that would be required for them to independently develop their own product analysis expertise. The information also would reveal competitively valuable information about Chrysler's operational capacities.

Chrysler is seeking confidential treatment for the entire document entitled, "Enc 2 Stress Level PE13-010 CBI.pdf". Normally, Chrysler does not request confidential business treatment for title pages; however, in this instance, the title reveals the type of analysis that Chrysler has performed. The disclosure of such information would enable competitors to refine their own product evaluation, remediation, and improvement procedures without incurring the costs normally required for independent development of such procedures, and also would provide information about Chrysler Group's operational strengths.

These are precisely the kinds of harmful effects that FOIA Exemption 4 was intended to prevent. *See, e.g., Worthington Compressors, Inc. v. Costle*, 662 F.2d 45, 51 (D.C. Cir. 1981) ("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 principle aim of promoting openness in government."); *see also Nat'l Parks & Conservation Ass'n v. Kleppe*, 547 F.2d 673, 684 (D.C. Cir. 1976) (Exemption 4 may be invoked to prevent the substantial competitive harm that can be expected from disclosures that would inform competitors about a firm's "operational strengths and weaknesses"); *People for the Ethical Treatment of Animals v. U.S. Dep't of Agric.*, No. Civ-03 C 195-SBC, 2005 WL 1241141, at *7 (D.D.C. May 24, 2005) (similar). The D.C. Circuit also has recently noted that information that could be used by competitors "to improve their own manufacturing and quality control systems" merits protection under FOIA Exemption 4. *See United Technologies Corp. v. U.S. Dep't of Def.*, 601 F.3d 557, 564 (D.C. Cir. 2010).

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 the information for which confidential treatment is being sought is the kind of information that Chrysler does not anticipate ever customarily disclosing to the public, Chrysler requests that the information be accorded confidential treatment permanently. Similarly, because the disclosure of the information would be likely to cause substantial harm

to Chrysler's competitive position well into the future, the information should be protected from disclosure permanently if the agency deems the substantial-competitive-harm standard applicable.

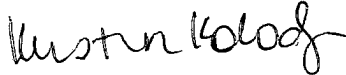
F. Contact Information (49 C.F.R. § 512.8(f))

Please direct all inquiries and responses to the undersigned at:

800 Chrysler Drive, CIMS 482-00-91
Auburn Hills, MI 48326
248-512-0087
kjs9@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,



Kristin Kolodge

cc: Jeffrey Quandt

Attachment and Enclosures

PE13-010 SUPPLEMENT CONFIDENTIAL DOCUMENTS CHART

ENCLOSURE	FILE/DOCUMENT NAME	DOCUMENT DESCRIPTION	BATES PAGE #	CONFIDENTIALITY JUSTIFICATION
CONF BUS INFO	PE13-010 Response - 08Nov2013 Supplement CBI.pdf	Informal Response to Questions emailed by NHTSA	PE13-010 Supplemental Response – Chrysler – 01-02	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.
Enc 1 Matl Spec PE13-010 Supplement CBI	MS-2418-p-ARCHIVED.pdf	Material Specifications	PE13-010 Supplemental Response – Chrysler – 03-07	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.
	MS-2418-q-Change History.pdf	Change History	PE13-010 Supplemental Response – Chrysler - 08	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.
	MS-2418-r-Change History.pdf	Change History	PE13-010 Supplemental Response – Chrysler - 09	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.
	MS-2418-s-Change History.pdf	Change History	PE13-010 Supplemental Response – Chrysler - 10	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.

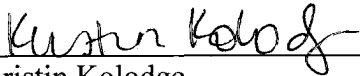
ENCLOSURE	FILE/DOCUMENT NAME	DOCUMENT DESCRIPTION	BATES PAGE #	CONFIDENTIALITY JUSTIFICATION
Enc 1 Matl Spec PE13-010 Supplement CBI	MS-2418-t-Change History.pdf	Change History	PE13-010 Supplemental Response – Chrysler - 11	Chrysler Group does not customarily disclose to the public information like that for which it is seeking confidential treatment, and Chrysler Group takes steps to prevent its dissemination outside the company.
Enc 2 Stress Level PE13-010 Supplement CBI	Enc 2 Stress Level PE13-010 CBI.pdf	Finite element analysis of a ZB Viper rear suspension knuckle	PE13-010 Supplemental Response – Chrysler – 12-22	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.
Enc 3 Estimated Crack Init Supplement CBI	Enclosure 3 Estimated Crack Init.pdf	Internal metallurgical analysis	PE13-010 Supplemental Response – Chrysler – 23-25	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.
Enc 4 Susp Points Supplement CBI	Enclosure 4 Susp Points.pdf	Design Details	PE13-010 Supplemental Response – Chrysler - 26	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.
Enc 5 2003 MY Vehicle Volumes Supplement CBI	Enc 5 PRODUCTION DATA 2003MY CBI .mdb	Vehicle Production Data	Chrysler is unable to Bates Stamp this document. For this reason, it is labeled CBI in the document name.	Chrysler does not customarily disclose this information to the 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.

Certificate in Support of Request for Confidentiality

I, Kristin Kolodge, 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 8th day of November, 2013



Kristin Kolodge