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October 3, 2019

VIA FEDERAL EXPRESS

Dr. Stephen Ridella, Director
National Highway Traffic Safety Administration
Office of Defects Investigation
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Re: NEF-103no; EA19-001 – Response to Agency Information Request

Dear Mr. Ridella:

On behalf of Hyundai Motor Company ("HMC"), enclosed is Hyundai Motor America's ("HMA") Response to the July 16, 2019, Information Request with regard to EA19-001, an inquiry opened on April 19, 2019 by the NHTSA Office of Defects Investigation ("ODI") as to Kia Motors America, Chrysler (FCA US LLC), Mitsubishi Motors North America, Inc., HMA, TRW Automotive, Inc. (ZF TRW), Honda (American Honda Motor Co.), and Toyota Motor Corporation. In regards to HMA, this pursuit involves model year ("MY") 2013-19 Sonata and MY 2013-19 Sonata Hybrid vehicles equipped with Airbag Control Units ("ACU") manufactured by ZF-TRW and Mobis that contained the DS84 Application Specific Integrated Circuit ("ASIC") with circuit protection. For vehicles without circuit protection, specifically MY 2011-2012 Sonata and Sonata Hybrid vehicles, HMA filed recall (NHTSA Campaign No. 18V-137) and ZF-TRW has filed its own Part 573 report.

I. Preliminary Statement and Chronology

In February 2012, HMA was notified of a collision involving a MY 2011 Hyundai Sonata vehicle in which an allegation of Advanced Airbag system ("AAS") non-deployment was made. In June 2012, HMA inspected the vehicle and found no crash event data was recorded. HMA communicated with the supplier, ZF TRW, and enlisted its assistance to assess the findings. Further inspection of the ACU indicated electrical overstress ("EOS") inside the unit's ASIC had occurred, which, at that time, was attributed to numerous aftermarket accessories installed and operating in the vehicle.

In May 2015, HMA was notified of a collision involving a MY 2011 Hyundai Sonata in which a similar allegation of AAS non-deployment was made. In October 2015, HMA inspected the vehicle. The ACU was found to be non-communicative. Subsequent analysis by ZF TRW indicated internal damage was potentially caused by EOS. HMA conducted a U.S. marketplace search of incidents of similar nature and circumstance, but no incidents other than the two that HMA received in February 2012 and May 2015 were identified. HMA then began monitoring for specific crash events containing similar facts and circumstances as the two vehicles identified thus far.

Between July and November 2016, HMA received two additional reports of collisions involving MY 2011 Hyundai Sonata vehicles in which similar allegations of AAS non-deployments were made. HMA began to reassess its prior analysis. HMA again enlisted the assistance of ZF TRW to investigate the ACU's recovered from the incident vehicles. ZF TRW confirmed the recovered ACU from one of the vehicles as being potentially damaged internally by EOS. Furthermore, HMC determined, upon examination of the unique facts and circumstances associated with each incident, that it was possible that AAS deployment was not warranted.

HMA's investigation was ongoing when, in November 2017, NHTSA's Office of Defects Investigation ("ODI") contacted HMA to obtain follow-up information in connection with one of the four vehicles under investigation. HMA responded to ODI's request and continued analysis of all available information surrounding each incident. During this time period, ODI and HMA continued to communicate and exchange information.

In December 2017, HMA engaged a third-party engineering firm to study and analyze the facts and circumstances surrounding its investigation and reassessment.

On February 21, 2018, Hyundai met with ZF TRW to discuss its reassessment. HMA and ZF TRW noted that the circumstances associated with this defect mechanism bore similarities to those related to recall campaign 16V-668, where EOS appeared to be a root cause of airbag non-deployment in significant frontal crashes in certain Fiat Chrysler vehicles. ZF TRW asserted that EOS on the ACU could be caused by negative transients originating from certain vehicle components, such as the wire harness connecting the ACU to the frontal crash sensors, and could be prevented by circuit protection installed in ACU's used by later model year (2013+) Hyundai Sonatas. On February 22, 2018, based on information received from known incidents, HMA convened its Technical Committee with a recommendation to voluntarily conduct a safety recall on model year 2011 Hyundai Sonata vehicles, while continuing its investigation into potential causes of EOS and its effect on AAS deployment.

Thereafter HMA contacted ODI and requested an in-person discussion at NHTSA headquarters in Washington, D.C. On March 9, 2018, HMA met with ODI to discuss the facts and data known to date, the foundation for HMA's recall scope at the time of filing its Part 573 report, information and tentative conclusions reached by HMA's third-party engineering firm, and HMA's preliminary understanding of the defect mechanism, which consisted of the tentative conclusion that the root cause of the failure was likely to involve a component/equipment issue (as opposed to a vehicle systems issue). This conclusion was based on the relative susceptibility of the subject ACU to EOS due to the lack of Schottky diodes, a feature included in subsequent ACU versions provided by ZF TRW starting with model year 2013 and later Hyundai Sonata and Sonata Hybrid vehicles.

HMA voluntarily proposed an accelerated, 30-day plan to conduct crash testing with the intent to replicate the EOS mechanism in the subject ACU, identify its source, and study its effect on AAS deployment in high-energy frontal collisions. NHTSA ODI concurred with HMA's proposed plan.

Between March 19, 2018 and March 28, 2018, HMA conducted seven crash tests developed by both HMC Research and Development department and HMA's third-party engineering firm. Representatives from NHTSA were in attendance at the crash testing. During this time, HMA and NHTSA communicated regularly on status, tentative views, and next steps. Hyundai was able to replicate EOS damage to the ACU in three of the seven crash tests, with at least one of the confirmed EOS events resulting in the inability of the AAS to deploy. Of the three crash tests that produced ACU's with evident EOS damage, Hyundai observed wire harness damage in two of these tests. There was no observed vehicle abnormality that could have caused EOS in the third test.

On April 3, 2018, HMA and NHTSA ODI discussed the results and preliminary conclusions arising from Hyundai's crash testing, along with all other information available to both HMA and NHTSA to date.

On April 11th and 12th, 2018, Hyundai, NHTSA, and ZF TRW representatives analyzed three ACUs from the HMA crash tested vehicles at ZF TRW Global Electronics Headquarters in Farmington Hills, Michigan. The analysis showed that, in all three ACUs, an internal electrical short occurred on the 5-volt VCC line of the DS84 ASIC. One of the three ACUs contained visible evidence of EOS.

On April 18, 2018, based on an analysis of all information to date, HMA reconvened its Technical Committee and made the determination to expand its vehicle scope to include all model year Sonata and Sonata Hybrid vehicles equipped with ACUs that do not contain Schottky diode circuit protection.

On September 11, 2018, Hyundai met with ODI to discuss its plan and preparation for deploying the safety recall remedy. After further discussions with the agency surrounding the recall remedy, Hyundai launched the recall campaign on October 5, 2018.

On October 18, 2018, per previous discussions and agreements with the agency, Hyundai submitted its response to ODI's Information Request regarding PE18-003. As of the date of that response, Hyundai was aware of four incidents in the U.S. market alleging the subject condition. EOS was observed inside the ACUs involved in three of these crashes. Hyundai continued to actively investigate all incidents, and remained in close communication with NHTSA regarding this condition.

On April 19, 2019, ODI opened this EA as to Kia Motors America, Chrysler (FCA US LLC), Mitsubishi Motors North America, Inc., HMA, TRW Automotive, Inc. (ZF TRW), Honda

(American Honda Motor Co.), and Toyota Motor Corporation. According to NHTSA's April 19, 2019 opening resume, the investigation focuses on ACU manufactured by ZF TRW, the Tier 1 supplier to HMA and the other affected OEMs. On July 16, 2019, NHTSA issued its IR in this matter, and following discussions between HMA and NHTSA, it was agreed that HMA would have an extension of time up to and including Friday, October 4, 2019 to submit its responses to the IR.

II. Confidential Business Information

Please note that some of the responses contain confidential business information of which HMA is requesting confidential treatment. A copy of the response with the confidential information redacted is provided with this letter. A copy of the response containing the confidential information is being sent to the Office of Chief Counsel.

Additionally, Hyundai believes NHTSA's policy is to protect the privacy of individuals under exemption 6 of the Freedom of Information Act, 5 U.S.C. Section 552(b)(6). The name, address, and other personal information of owners or other individuals, including Hyundai personnel, contained in any of the attachments in this response should not be made available to the public. Therefore, Hyundai is not requesting confidential treatment for this information pursuant to 49 CFR, Part 512, but we believe any private information concerning individuals should not be made public.

III. General Objections

The General Objections set forth below are incorporated by reference into Hyundai's responses to the Information Request. These General Objections are deemed continuing as to each subpart of the Request, and are not waiver, nor in any way limited, by the specific responses to a subpart, nor should the failure to specifically incorporate the General Objections be construed as a waiver. Moreover, any applicable, good faith objection not raised in this section shall not be interpreted as a waiver.

The information provided in this response is current as of September 27, 2019. Hyundai has made a good faith effort to collect the information necessary to respond to the Information Request and reserves the right to supplement this response. Hyundai reserves the right to recapture privileged or otherwise protected or exempted documents that may have been inadvertently produced in response to this Information Request. Any inadvertent production of privileged material is not, and should not be interpreted as, a waiver of any applicable privilege.

In accordance with this request, HMA has conducted reasonable, good faith searches of corporate records available from those departments knowledgeable about the subject matter of this inquiry. However, the definition of "document(s)" in the Information Request is unreasonably

broad, vague, and ambiguous in the context of the information sought by this Information Request. Furthermore, Hyundai understands that the requests are seeking information related to vehicles manufactured for sale in the United States only.

Hyundai's response to this Information Request was based on searches of locations where documents determined to be responsive to the information request would normally be found and in consultation with current personnel knowledgeable about the information requested. As a result, the scope of this search did not include, nor could it reasonably include, a definition of "Hyundai" in the Information Request as "all of its past and present officers and employees, whether assigned to principal offices or any field or other location, including all divisions, subsidiaries (whether or not incorporated) and affiliated enterprises and all of headquarters, regional, zone and other offices and their employees, and all agents, contractors, consultants, attorneys and law firms and other persons engaged directly or indirectly (e.g., employee of a consultant) by or under the control of Hyundai (including all business units and persons previously referred to), who are or, in or after January 2008, were involved in any way with any of the following related to the alleged defect in the subject vehicles:

a. Design, engineering, analysis, modification or production (e.g. quality control);
b. Testing, assessment or evaluation;
c. Consideration, or recognition of potential or actual defects, reporting, record-keeping and information management (e.g., complaints, field reports, warranty information, part sales), analysis, claims, or lawsuits; or
d. Communication to, from or intended for zone representatives, fleets, dealers, or other field locations, including but not limited people who have the capacity to obtain information from dealers."

IV. Specific Responses

1. State the number of vehicles equipped with the subject component Hyundai has manufactured for sale or lease in the United States by the following:
   a. Model Year;
   b. Model;
   c. Supplier of the subject component (TRW or Mobis); and
   d. The part number(s) (service and engineering) of the subject component.

   Provide the table in Microsoft Access 2010, or compatible format, entitled "PRODUCTION DATA"

Response to Request 1:

Please refer to the following table for Hyundai's response to Request 2:

Make	Model		Units Manufactured	Supplier	Part Number
Hyundai	Sonata	2013	287,912	TRW	95910-3Q000 95910-C2000 95910-C2100
		2014	132,507		
		2015	240,667		
		2016	165,378		
		2017	151,216		
		2018	125,183		
		2019	89,064		
	Sonata Hybrid (HEV)	2013	25,582	Mobis	95910-4R010 95910-E6500 95910-E6600
		2014	11,503		
		2015	17,191		
		2016	20,216		
		2017	13,240		
		2018	2,270		
		2019	3,093		

Accordingly, please find "PRODUCTION DATA.accdb" in the folder "Request 1" on the CD-ROM enclosed in this response.

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2. State, by model, model year, and alleged defect category, (i.e., A, B, C, etc.), the number of each of the following, received by Hyundai, or of which Hyundai is otherwise aware, which relate to, or may relate to, the alleged defect due to subject component in the subject vehicles:
   a. Consumer complaints, including those from fleet operators;
   b. Field reports, including dealer field reports;
   c. Reports involving a crash, injury or fatality;
   d. Reports involving a fire;
   e. Property damage claims;
   f. Third-party arbitration proceedings where Hyundai is or was a party to the arbitration; and
   g. Lawsuits, both pending and closed, in which Hyundai is or was a defendant or codefendant.

For subparts "a" through "f, / g," state the total number of each item (e.g., consumer complaints, field reports, etc.) separately. Multiple incidents involving the same vehicle are to be counted separately. Multiple reports of the same incident are also to be counted separately (i.e., a consumer complaint and a field report involving the same incident in which a crash occurred are to be counted as a crash report, a field report and a consumer complaint).

In addition, for items "c" through "f, / g," provide a summary description of the alleged problem and causal and contributing factors and Hyundai's assessment of the problem, with a summary of the significant underlying facts and evidence. For items "e / f" and "f, / g," identify the parties to the action, as well as the caption, court, docket number, and date on which the complaint or other document initiating the action was filed.

Response to Request 2:

As of the date of this response, HMA has not identified any complaints, reports, claims, notices, or other matters that relate to the alleged defect in the subject vehicles.

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3. Separately, for each item (complaint, report, claim, notice, or matter) within the scope of your response to Request No.2, state the following information:
   a. Hyundai's file number or other identifier used;
   b. The category of the item, as identified in Request No.2 (i.e., consumer complaint, field report, etc.);
   c. Vehicle owner or fleet name (and fleet contact person), street address, email address and telephone number;
   d. Vehicle's VIN;
   e. Model year;
   f. Vehicle's mileage at time of incident;
   g. Incident date;
   h. Report or claim date;
   i. Whether a crash is alleged;
   j. Whether property damage is alleged;
   k. Number of alleged injuries, if any;
      i. The AIS score of the injuries,
      ii. Description of injury and location;
   l. Number of alleged fatalities, if any;
   m. Supplier of the subject component; and
   n. All applicable indicators for the Alleged Defect (items A through H, as identified above).

Provide this information in Microsoft Access, or a compatible format, entitled "REQUEST NUMBER TWO DATA."

Response to Request 3:

As of the date of this response, HMA has not identified any complaints, reports, claims, notices, or other matters that relate to the alleged defect in the subject vehicles that was within the scope of our response to Request No. 2.

4. Produce copies of all documents related to each item within the scope of Request No.2. Organize the documents separately by category (i.e., consumer complaints, field reports, etc.) and describe the method Hyundai used for organizing the documents. Describe in detail the search methods and search criteria used by Hyundai to identify the items in response to Request No.2.

Response to Request 4:

As of the date of this response, HMA has not identified any complaints, reports, claims, notices, or other matters that relate to the alleged defect in the subject vehicles that was within the scope of our response to Request No. 2.

5. Describe all assessments, analyses, tests, test results, studies, surveys, simulations, investigations, inquiries and/or evaluations (collectively, "actions") that relate to, or may relate to, the alleged defect in the subject vehicles that have been conducted, are being conducted, are planned, or are being planned by, or for, Hyundai. For each such action, provide the following information:
   a. Action title or identifier;
   b. The actual or planned start date;
   c. The actual or expected end date;
   d. Brief summary of the subject and objective of the action;
   e. Engineering group(s)/supplier(s) responsible for designing and for conducting the action; and
   f. Brief summary of the findings and/or conclusions resulting from the action.

Response to Request 5:

Accordingly, please refer to the attachments in the folder "Request 5" on the CD-ROM enclosed in this response.

6. Testing my multiple parties indicates that negative voltage transients, with respect to chassis ground, on the satellite sensor signal wires are capable of producing the EOS damage to the DS84 ASIC which leads to resets and/or shutdown of the ACU during crash events. Separately from Response 5, describe all assessments, analyses, tests, test results, studies, surveys, simulations, investigations, inquiries and/or evaluations (collectively,

"actions") that relate to, or may relate to, the alleged defect which evaluates performance of the Subject Component ACU designs and/or peer ACU designs, from any ACU supplier including ZF, for transient voltage susceptibility on the satellite crash sensor, battery power, or ground wires, that have been conducted, are being conducted, are planned, or are being planned by, or for, Hyundai. For each such action, provide the following information:

a. Action title or identifier;
b. The actual or planned start date;
c. The actual or expected end date;
d. Brief summary of the subject and objective of the action;
e. Engineering group(s)/supplier(s) responsible for designing and for conducting the action; and
f. Copies of all procedures used to conduct the tests, along with a list of test equipment utilized for the tests; and
g. A summary of the findings and/or conclusions resulting from the action.

Response to Request 6:

Accordingly, please refer to the attachments in the folder "Request 6" on the CD-ROM enclosed in this response.

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7. For every Subject Component ACU design which shares a similar satellite sensor protection design (i.e. equivalent circuit protection devices providing similar levels of negative transient protection), and for each ACU design or modified design (including intermediated harnesses) used as a remedy repair for vehicles previously recalled for the Alleged Defect, provide the following: information:

a. A simplified ACU circuit showing the protection devices for each satellite sensor line along with any current limiting devices incorporated into the ACU power circuitry separate from the satellite sensor communications lines. Additionally, the data sheet for each device shown in the circuit diagram shall be included with this submission;
b. The level of negative transient protection specified, in both voltage level and duration at that voltage level. If available, include a voltage versus duration curve (i.e. the envelope) depicting the protection capability. If the negative transient protection has been evaluated using a different electrical measurement/metric (i.e. current, power, or other parameter), provide a detailed explanation of the parameter used and provide duration and parameter versus duration information as requested above for voltage; and
c. All actions identified in Response 6(a) which apply to each particular ACU design.

Response to Request 7:

Accordingly, please refer to the attachments in the folder "Request 7" on the CD-ROM enclosed in this response.

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8. Provide the following information for each unique part number identified in Response 1(e):
   a. Original design specification sent to supplier;
   b. All modifications or changes made by, or on behalf of, Hyundai in the design, material composition, manufacture, quality control, supply, or installation of the subject component, from the start of production to date, which relate to, or may relate to, the alleged defect in the subject vehicles;
   c. The date or approximate date on which the modification or change was incorporated into vehicle production;
   d. A detailed description of the modification or change;
   e. Whether the modified component can be interchanged with earlier production components; and
   f. The applicable simplified circuit identified in Response 7.

Response to Request 8:

Accordingly, please refer to the attachments in the folder "Request 8" on the CD-ROM enclosed in this response.

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9. For the subject vehicles, provide for each model and model year, a list of all possible fault codes and/or diagnostic trouble codes stored in the ACU or other modules located anywhere on the vehicle which could be associated with the alleged defect. For each fault code provide:
   a. The identifier for the code;
   b. The module or other hardware which contains the code;
   c. A description of the code;
   d. The conditions which result in the code being set; and
   e. The tools, software, and procedure required to download the code.

Response to Request 9

Accordingly, please refer to the attachments in the folder "Request 9" on the CD-ROM enclosed in this response.

10. Produce engineering drawings, photos, and/or documents for each unique design version of the Subject Vehicles related to the electrical wiring configurations forward of the firewall:
    a. Original design specification
    b. Modified design specification
    c. Location(s) of the front impact sensors; and
    d. Description of every unique bundle cross-section;
        i. Descriptions of each wire in the bundle cross-section;
        ii. Indicate whether the wire is connected to the ACU and whether the wire also connects to a DS84 ASIC;
        iii. The voltage and current load specifications for each wire;
        iv. Description of any electrical shielding technique applied to a wire or a sub-group of wires (twisted pair, foil shielding, etc.).

Also, provide the above information for any modification or change that Hyundai is aware of which may be incorporated into vehicle production with the next 120 days.

Response to Request 10

Accordingly, please refer to the attachments in the folder "Request 10" on the CD-ROM enclosed in this response.

11. Furnish Hyundai's assessment of the alleged defect in the subject vehicle, including:
    a. The causal or contributory factor(s);
    b. The failure mechanism(s);
    c. The failure mode(s);
    d. Any prior safety recalls Hyundai has conducted to address EOS-related failures of the subject ACU, the remedy that was utilized in that recall action, and how, in Hyundai's assessment, that action addresses any residual risk of an EOS failure of the DS84 ASIC;
    e. The risk to motor vehicle safety that it poses; and
    f. What warnings, if any, the operator and the other persons both inside and outside the vehicle would have that the alleged defect was occurring or subject component was malfunctioning.

Response to Request 11

The subject vehicles are equipped with ACU's containing Schottky protection devices that address the alleged defect as it is best understood to be. These ACU's are updated versions of older ACU's installed in MY 2011-2012 Hyundai Sonata and Sonata Hybrid vehicles that did not contain any protection devices, and for which Hyundai conducted recall 18V-137. For more information, please see HMA's defect information report, pursuant to 49 C.F.R. Part 573, as amended, dated

April 18, 2018, as well as Hyundai's assessment of the alleged defect involving unprotected ACU's, please see HMA's previous response to PE18-003. Hyundai's continued best, good faith understanding continues to be that these filters are effective in mitigating the applicable risks, within the meaning of the Safety Act and applicable law, by filtering negative transients from satellite sensor communication lines. This is evidenced by, among other things, the collective analysis completed to date, the record in the agency's investigation, as well as the lack of incidents related to the alleged defect in the field on MY 2013-2019 Sonata and Sonata Hybrid vehicles.

Sincerely,

[redacted]

Wayne Gates
Hyundai Motor America
Director, Engineering and Design Analysis

Attachments: CD-ROM "ATT1"

Certificate of Corporate Responsibility for Reports

I, Wayne Gates, pursuant to the provisions of 49 U.S.C. § 30166, state as follows:

1. I am the Director for Engineering and Design Analysis and I am authorized by Hyundai Motor America ("HMA") to execute this certificate on its behalf;

2. I have reviewed the submission and, based on my knowledge, the submission does not contain any untrue statement of a material fact; or omit to state a material fact necessary in order to make the statements made not misleading, in light of the circumstances under which such statements were made.

3. I directed that a good faith inquiry be conducted that would be reasonably calculated to assure that the answers and production of documents are complete and correct, and that documents within the possession, custody, and control of HMA be searched diligently for information and documents responsible to the Information Request and produced to NHTSA.

4. I also directed that a team representing HMA work with HMA's parent company, Hyundai Motor Company ("HMC"), to obtain further information and documents responsive to the Information Request. Based on information provided to me, it is my understanding that HMW made good faith inquiry to obtain information and to collect documents needed to respond to the Information Request.

5. Based on information provided to me, inquiry has been made of the persons and offices reasonably calculated to have responsive information and documents, and the answers to the Information Request are correct based upon HMA's investigation to date.

6. HMA's investigation is ongoing, HMA reserves the right to supplement or clarify these responses if it deems appropriate to do so.

7. I certify under penalty of perjury that the foregoing is true and correct.

Executed on this the 3rd day of October, 2019.

[redacted]

Wayne Gates
Director
Engineering and Design Analysis

Babst | Calland
Attorneys at Law

October 3, 2019

VIA FedEx

Mr. Jonathan Morrison, Chief Counsel
Office of Chief Counsel
National Highway Traffic Safety Administration
West Building W41-227
1200 New Jersey Avenue, SE
Washington D.C. 20590

Re: Hyundai Motor America – Request for Confidential Treatment – EA19-001

Dear Mr. Morrison,

On behalf of Hyundai Motor America ("HMA"), we request confidential treatment for information submitted in response to the July 16, 2019, Information Request with regard to EA19-001, an inquiry opened on April 19, 2019 by NHTSA's Office of Defects Investigation ("ODI"), into certain Chrysler, Honda, Hyundai, Kia, Mitsubishi, and Toyota vehicles equipped with air bag control units ("ACU") produced by TRW Automotive, Inc. ("ZF TRW"). In regards to HMA, this pursuit involves model year ("MY") 2013-19 Sonata and MY 2013-19 Sonata Hybrid vehicles equipped with ACUs manufactured by ZF TRW and Mobis that contained the DS84 Application Specific Integrated Circuit ("ASIC") with circuit protection. For vehicles without circuit protection, specifically MY 2011-2012 Sonata and Sonata Hybrid vehicles, HMA filed a recall (NHTSA Campaign No. 18V-137) and ZF-TRW has filed its own Part 573 report.

Along with this request, HMA is submitting the company's Response to the July 16, 2019, Information Request as well as a CD-ROM including attachments to such Response. Responses containing confidential information are marked with "CONF BUS INFO" in the file name as certain files and materials, and embedded files, cannot be marked internally, as provided in 49 C.F.R. § 512.6(c)(2). HMA intends that this marking applies to all information in the file, including embedded files that could not be individually marked.

HMA asserts the information submitted in these response is protected from public disclosure pursuant to 5 U.S.C. § 552(b)(4) ("Exemption 4") and 49 C.F.R. § 512.15(d) and (e). HMA seeks confidential treatment for types of information that is regularly and properly protected by the agency in other submissions. HMA seeks permanent confidential treatment for this information in its entirety.

Generally, Exemption 4 protects trade secrets and privileged or confidential commercial or financial information. It 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).

The standard for confidential information had previously been set forth by the D.C. Circuit in *National Park & Conservation Ass'n v. Morton*, stating that commercial and financial information that is required to be submitted to a federal agency "is 'confidential' for purposes of the exemption if disclosure of the information is likely to have either of the following effects: (1) to impair the Government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained." 498 F.2d 765, 770 (D.C. Cir. 1974). The documents for which HMA is seeking confidential treatment qualify as confidential under the *National Park* standard.

In addition, the United States Supreme Court's recent decision in *Food Marketing Institute v. Argus Leader Media*, No. 18-481 (U.S. June 24, 2019) further supports HMA's position through its holding that FOIA allows a federal agency to withhold from disclosure records submitted by a private entity where the submitter keeps the records secret and the agency promises to keep the records from disclosure. HMA customarily keeps private the information described this letter, and HMA believes that the agency has assured HMA and other private entities that it will keep from disclosure the type of information referenced in this letter. Whether analyzed under *National Park* or *Food Marketing Institute*, the documents for which HMA is seeking confidential treatment qualify as confidential and should be protected from public disclosure pursuant to Exemption 4.

The documents for which HMA is seeking confidential treatment are responses prepared by HMA and HMA counsel, in connection with ODI's July 16, 2019, Information Request with regard to EA19-001. These responses contain confidential business information including internal company engineering standards, specifications, drawings, and wiring diagrams. These engineering documents include information related to motor vehicle form, function, integration, and materials, among others, that may be shared with suppliers for approval design drawings. These engineering documents also include quality assurance standards used in engineering inspections and testing. The engineering documents contain proprietary information that, if released, would cause competitive harm to HMA by enabling its competitors to recreate or copy such designs. These responses also inform and reflect on HMA's internal corporate processes and decision-making in connection with the company's vehicles. The responses include identification and justification for test procedures and results, which, if released, would allow insight into how HMA analyzes component design, durability, and reliability, for improved product performance. The release of these responses could cause substantial harm to HMA if the

information was disclosed to the public and competitive harm if HMA's competitors received such confidential, proprietary information related to the company's vehicle designs, processes, and procedures, as wells as proprietary technical information and data.

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

Please contact me if you have any questions with regard to this confidentiality request.

Sincerely,

[redacted]

Timothy H. Goodman
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Washington, DC 20004
(202) 853-3465
tgoodman@babstcalland.com
Counsel for Hyundai Motor America

Attachments

1. Letter to Dr. Stephen Ridella re. NEF-103no; EA19-001 – Response to Agency Information Request
2. CD-ROM labeled "ATT1 (CONF BUS INFO)"

Certificate in Support of Request for Confidentiality

I, Wayne Gates, pursuant to the provisions of 49 C.F.R. Part 512, state as follows:

1. I am the Director for Engineering and Design Analysis and I am authorized by Hyundai Motor America ("HMA") to execute this certificate on its behalf;

2. I certify that the information contained in the attached document 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) (as incorporated by reference in and modified by the statute under which the information is being submitted);

3. I hereby request that the information contained in the enclosed be protected on a permanent basis;

4. This certification is based on the information provided by the responsible HMA 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 HMA;

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

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 HMA 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 October 3, 2019.

[redacted]

Wayne Gates
Director
Engineering and Design Analysis
Hyundai Motor America