



GENERAL MOTORS LLC  
Global Vehicle Safety

January 12, 2021

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

*VIA EMAIL*  
USG 5003  
EA20-002  
GM/NHTSA TDD Mtg

**Re: Request for Confidential Treatment of Certain Information Submitted by General Motors LLC to the National Highway Traffic Safety Administration on January 12, 2021**

Dear Mr. Morrison:

This letter requests confidential treatment under 49 C.F.R. part 512 and Exemption 4 of the Freedom of Information Act (5 U.S.C. § 552(b)(4)) (“**FOIA**”) for certain confidential materials submitted by General Motors LLC (“**GM**”) to the National Highway Traffic Safety Administration (“**NHTSA**”) on January 12, 2021.

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

On January 12, 2021, GM transferred certain confidential materials (the “**Confidential Information**”) electronically via person-to-person transfer<sup>1</sup> to Dan Rabinovitz at the NHTSA Office of Chief Counsel and Chris Lash at the NHTSA Office of Defects Investigation. Chris Lash requested that GM submit this information to NHTSA during a meeting on January 6, 2021. GM’s submission relates to information discussed at the January 6<sup>th</sup> Technical Deep Dive meeting regarding EA20-002.

The Confidential Information contains the following files:

1. 

**B. Production format (49 C.F.R. §§ 512.5 and 512.6)**

GM’s production is in PDF format. Each page of the production is stamped “GM Confidential Business Information.” GM is requesting confidential treatment for its entire submission. For this reason, GM is not submitting a redacted public copy.

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<sup>1</sup> GM submits this material electronically pursuant to NHTSA’s modified part 512 submission procedures published at <https://www.nhtsa.gov/coronavirus/submission-confidential-business-information>.

**C. Basis for confidential treatment (49 C.F.R. §§ 512.8(b) and 512.8(c))**

GM's request for confidential treatment is governed by FOIA Exemption 4, which shields from mandatory disclosure "confidential" commercial or financial information. 5 U.S.C. § 552(b)(4); *see also* 49 C.F.R. § 512.15(d). The Confidential Information qualifies as "confidential" under FOIA Exemption 4 because GM does not customarily release or otherwise provide the Confidential Information or information like the Confidential Information to the public. *See Food Mktg. Inst. v. Argus Leader Media*, 139 S. Ct. 2356 (2019).

GM treats the Confidential Information as confidential and proprietary, and makes it available only on an as-needed basis to authorized GM and supplier personnel. GM utilizes numerous systems and processes that limit access to and prevent unauthorized disclosures of the Confidential Information, including: (i) password-protected electronic record-keeping systems; (ii) security systems that limit physical access to GM electronic and hard-copy record-storage facilities; and (iii) information-security training that emphasizes the importance of preventing unauthorized disclosures of information like the Confidential Information. Based on past experience with the Agency, it is GM's expectation that the Agency will keep the Confidential Information confidential, in accordance with *Food Marketing Institute*.

The documents in GM's submission may also contain personally identifiable information ("PII") (e.g., vehicle registration information or VIN, employee names, and customer/employee contact information) that is exempt from public disclosure under FOIA exemptions three and six. 5 U.S.C. § 552(b)(3); *id.* at § 552(b)(6). Consistent with long-standing practice, GM is submitting these documents with unredacted PII with the understanding that NHTSA (or GM, if NHTSA prefers) will redact any PII before disclosing these documents to the public.

**D. Information obtained from a third party (49 C.F.R. § 512.9)**

The Confidential Information was created by and provided to GM by Nikon Metrology Inc. ("Nikon"). This material discloses CT scanning performed by Nikon for GM at GM's direction; it is highly sensitive information that GM does not customarily provide to the public. As required by 49 CFR § 512.9, GM has enclosed a third-party certification signed by Nikon.

**E. Applicable class determinations (49 C.F.R. § 512.8(d))**

The Confidential Information is not subject to a Class Determination.

**F. Duration of confidential treatment (49 C.F.R. § 512.8(e))**

Because GM does not anticipate ever customarily disclosing this kind of information to the public, GM requests that NHTSA treat the Confidential Information as confidential without a time limitation.

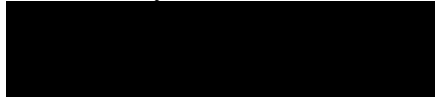
Letter to Jonathan C. Morrison  
USG5003 Confidentiality Request  
January 12, 2021  
Page 3 of 3

**G. Contact information (49 C.F.R. § 512.8(f))**

Please direct all inquiries and responses to this request to: Tim Cochran, General Motors LLC, Cole Engineering Center, 29427 Louis Chevrolet Rd., Warren, MI 48093, 586-441-8004.

If NHTSA receives a request to disclose the Confidential Information, GM respectfully requests notification and an opportunity to provide, if necessary, additional support for its position that the Confidential Information is entitled to confidential treatment under FOIA.

Sincerely,



Timothy Cochran  
Senior Manager, External Investigations

cc: Mr. Greg Magno  
Mr. Chris Lash  
Mr. Bill Collins

**Attachments**

Attachment A: Supporting Certificate of Timothy Cochran  
Attachment B: Supporting Certificate of Jim Clark

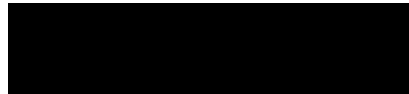
## **Attachment A**

Supporting Certificate of Timothy Cochran

**CERTIFICATE IN SUPPORT OF REQUEST FOR CONFIDENTIALITY**

I, Timothy Cochran, pursuant to the provisions of 49 C.F.R. § 512, state as follows:

- (1) I am the Senior Manager of External Investigations of General Motors LLC and am authorized to execute this certificate on its behalf.
- (2) I certify that the Confidential Information (as defined in GM's letter to Mr. Jonathan C. Morrison dated January 12, 2021) 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) and 49 C.F.R. § 512.
- (3) I hereby request that the Confidential Information be protected without a time limitation.
- (4) This certification is based on information provided to me by the GM personnel who have responsibility for the documents that contain the Confidential Information.
- (5) Based on that information, to the best of my knowledge, information, and belief, the Confidential Information has never been released or made available outside GM except to authorized GM contractors, suppliers, confidential advisors, and other third parties who are legally obligated to maintain the confidentiality of the Confidential Information.
- (6) I make no representations beyond those contained in this certificate and, in particular, I make no representations regarding unauthorized or inadvertent disclosures of the Confidential Information.
- (7) I certify under penalty of perjury that the foregoing is true and correct. Executed on January 12, 2021



Timothy Cochran  
Senior Manager, External Investigations

## **Attachment B**

Supporting Certificate of Jim Clark

**CERTIFICATE IN SUPPORT OF REQUEST FOR CONFIDENTIALITY**

I, [Jim Clark], pursuant to the provisions of 49 C.F.R. § 512, state as follows:

- (1) I am the [President] of Nikon Metrology, Inc. (NMI) and am authorized to execute this certificate on its behalf.
- (2) I certify that the Confidential Information (as defined in GM's letter to Mr. Jonathan C. Morrison dated January 12, 2021) that was supplied to GM by NMI is confidential and proprietary data under 5 U.S.C. 552(b)(4) and 49 C.F.R. § 512.
- (3) This certification is based on information provided to me by the NMI personnel who have responsibility for the documents that contain the Supplier Confidential Information.
- (4) Based on that information, to the best of my knowledge, information, and belief, the Supplier Confidential Information has never been released or made available outside of NMI and GM except as required by law.
- (5) I make no representations beyond those contained in this certificate and, in particular, I make no representations regarding the potential for unauthorized or inadvertent disclosures of the Supplier Confidential Information.
- (6) I certify under penalty of perjury that the foregoing is true and correct. Executed on January 12, 2021.

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[Jim Clark]  
Nikon Metrology, Inc.