



December 10, 2021

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

VIA EMAIL

G231621

NEF-101sly
EA20-002

Subject: Request for Confidential Treatment of Certain Information Submitted by General Motors LLC to the National Highway Traffic Safety Administration on December 10, 2021

Dear Ms. Carlson:

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 December 10, 2021.

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

On December 10, 2021, GM transferred certain confidential materials relating to Engineering Analysis 20-002 Actions 8G and 9A (the “**Confidential Information**”). The Confidential Information will be transferred electronically via Secure Transfer Link¹ to Daniel Rabinovitz at the NHTSA Office of Chief Counsel and Sharon Yukevich at the Office of Defects Investigation.

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

I have enclosed two folders that each contain electronic copies of GM’s response to NHTSA’s September 16, 2021 information request (“**IR**”) relating to Engineering Analysis 20-002 Actions 8G and 9A:

- **Public copy:** GM’s electronic submission contains a folder labeled G231651_1_GM. This folder contains a redacted public copy of the requested information. GM has redacted the files to remove the Confidential Information.
- **Nonpublic copy:** GM’s electronic submission also contains a folder labeled G231651_2_GM_CONF. This folder contains an unredacted nonpublic copy of the requested information. The pages that contain Confidential Information are

¹ 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>.

stamped either “Entire Page GM Confidential Business Information,” “Entire Page Supplier Confidential Business Information” or both. Files provided in native format have CON in the filename.

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

The Confidential Information may be subject to a Class Determination.

E. 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.

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

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

Letter to Ms. Ann Carlson
EA20-002 8G/9A Confidentiality Request
December 10, 2021

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

Timothy Cochran, Senior Manager
External Investigations

cc: Tanya Topka
Sharon Yukevich

Attachments

Attachment A: Supporting Certificate of Timothy Cochran

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 at 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 Ms. Ann Carlson dated December 10, 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 December 10, 2021.

Timothy Cochran

Timothy Cochran
Senior Manager
GM External Investigations