



June 9, 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
PE21-010

Subject: Request for Confidential Treatment of Certain Information Submitted by General Motors LLC to the National Highway Traffic Safety Administration on June 9, 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 May 27, 2021.

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

On May 27, 2021, GM transferred electronic copies of GM’s response to NHTSA’s April 14, 2021 information request (“IR”) relating to Preliminary Evaluation 21-010. GM sent these files electronically via P2P transfer to Daniel Rabinovitz at the NHTSA Office of Chief Counsel and Chris Lash at the Office of Defects Investigation. On June 9, 2021, GM transferred electronic copies of a supplement to the IR response submitted on May 27, 2021 for PE21-010 Request 8, as stated in the original response letter.

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

File: Q8B_233618_CONF (Nonpublic copy): The file labeled Q8B_233618_CONF contains a complete, nonpublic PDF copy of GM’s response to the IR. The pages that contain Confidential Information are stamped “Entire Page GM Confidential Business Information.”. Files provided in native format have CONF in the filename. GM’s response to NHTSA’s interrogatories in the IR was sent on May 27, 2021 under the file titled “G233619 PE21-010 Response Letter.pdf.” GM is requesting confidential treatment for this document, and each page is stamped “GM 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. Applicable class determinations (49 C.F.R. § 512.8(d))

Certain portions of the Confidential Information may also be subject to a Class Determination.

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

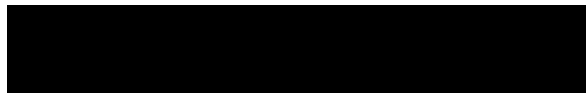
Because GM does not anticipate ever customarily disclosing this kind of information to the public, GM requests that NHTSA treat the Confidential Information as confidential without a time limitation.

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.

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,

A large black rectangular redaction box covering the signature area.

Letter to Ms. Ann Carlson
PE21-010 Confidentiality Request
June 9, 2021

External Investigations

cc: Tanya Topka
Chris Lash
Kevin Miller

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 June 9, 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 June 9, 2021.



Timothy Cochran
Senior Manager
GM External Investigations

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