

VOLKSWAGEN

GROUP OF AMERICA

VIA SECURE FILE LINK to Dan.Rabinovitz@dot.gov

Daniel Rabinovitz
Office of the Chief Counsel
National Highway Traffic Safety Administration
1200 New Jersey Ave.
Washington, DC 20590

Chris Sandvig	Name
Director	Title
Group Customer Protection	Department
[REDACTED]	Phone
Chris.Sandvig@vw.com	e-mail

September 22, 2024 Date

**Subject: Request for Confidentiality, 49 CFR Part 512 – Additional Response to
Follow-up AEB Response PE23017**

Dear Mr. Rabinovitz:

Volkswagen Group of America, Inc. ("Volkswagen") is submitting information to NHTSA's Office of Chief Counsel in response to follow-up questions to AEB Response to PE 23017. There were two files that were inadvertently not included in the previous response .

Volkswagen requests that the documents identified below be afforded confidential treatment and be protected from release to the public pursuant to 49 C.F.R. Part 512 and Exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4), ("FOIA Exemption 4"). The documents contain information that would cause substantial competitive harm and is not information customarily released to the public. 49 C.F.R. § 512.15(b), (e), 5 U.S.C. § 552(b)(4). Under applicable case law, information is protected under FOIA Exemption 4 if the information was provided under an assurance of privacy and the information is customarily held private or closely held by the submitter. *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2363 (2019). Volkswagen also notes that certain documents may contain personally identifiable information that should be withheld from public disclosure pursuant to FOIA Exemption 6. 5 U.S.C. § 552(b)(6).

Volkswagen is providing the below information under assurances that the information is private as NHTSA has provided no "express or implied indications" that it will publicly disclose the information. *Argus Leader*, 139 S. Ct. at 2363. From experience, Volkswagen understands that NHTSA's practice is to treat information as confidential that is submitted in response to Information Requests from the Agency during the course of an investigation. This practice is particularly true in cases where the submitter treats the information as confidential, release of the information would cause substantial competitive harm to the submitter, and is information not customarily released. In this instance, Volkswagen treats this information as confidential, is the type of information customarily kept private, and has not been released to outside parties. Further, given the technical details, internal design, and testing standards and results, release of such documents to the public would cause substantial competitive harm to Volkswagen.

The following documents, and documents contained within the provided folders, are the subject of this request:

VOLKSWAGEN

GROUP OF AMERICA

Documents:

- DescriptionEnduranceRun.xlsx
- DescriptionColumnsMisuse.xlsx

In accordance with NHTSA's instructions in the Information Request, Volkswagen is submitting redacted "public versions" of this submission to the secure file link. Please note that Volkswagen has only provided the native, German documents in confidential form. Volkswagen translated these documents into English. To the extent there are conflicts or difference in interpretations caused by translation, the original German documents shall prevail.

Volkswagen is requesting subject documents be granted confidential treatment for a period of ten (10) years. If a request for disclosure of any or all of this information is received by NHTSA, Volkswagen respectfully requests notification of each such request and, if necessary, an opportunity to further explain the reasons why such materials are entitled to protection from release under FOIA.

A Certificate in Support of this Request for Confidentiality is attached.

Please contact me at [REDACTED], if you would like to discuss any aspects of this submission.

Sincerely,

[REDACTED]

Chris Sandvig
Director
Group Customer Protection
Volkswagen Group of America

Enclosures:

1. Certificate in Support of Request for Confidentiality

VOLKSWAGEN

GROUP OF AMERICA

APPENDIX 1 CERTIFICATE IN SUPPORT OF REQUEST FOR CONFIDENTIALITY

I, Chris Sandvig, pursuant to the provisions of 49 CFR Part 512, state as follows:

- (1) I am Chris Sandvig, Director, Group Customer Protection, and I am authorized by Volkswagen Group of America, Inc. ("Volkswagen") to execute this certificate on its behalf;
- (2) I certify that the information contained in the below listed documents and folders are confidential and proprietary data and is being submitted with the claim that it is entitled to confidential treatment under 5 U.S.C. 522(b)(4) (as incorporated by reference in and modified by the statute under which the information is being submitted);

Documents:

- RQ23-007 Submission DB_CONFIDENTIAL.accdb
- VWGoA_Q4_Field reports_CONFIDENTIAL.7z
- VWGoA_Q4_Search criteria keywords_CONFIDENTIAL.pdf
- VWGoA_Q6_Search criteria keywords_CONFIDENTIAL.pdf
- VWGoA_Q10_Filelisting_CONFIDENTIAL.xlsx
- VWGoA_Q11a through 11e_response_CONFIDENTIAL.xlsx
- VWGoA_Q12a through 12c_response_CONFIDENTIAL.xlsx
- VWGoA_Q13a response_CONFIDENTIAL.pdf

- (3) I hereby request that the identified confidential information contained in the attached documents be protected for ten years;
- (4) This certification is based on information provided by the responsible Volkswagen 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 Volkswagen or its affiliates;
- (5) Based upon that information, to the best of my knowledge, information and belief, the information for which Volkswagen has claimed confidential treatment has never been released or become available outside Volkswagen or its affiliates;
- (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 Volkswagen or its affiliates because of unauthorized or inadvertent disclosure; and
- (7) I certify under penalty of perjury that the foregoing is true and correct.

Executed on this February 27, 2024.

Chris Sandvig
Director
Group Customer Protection
Volkswagen Group of America