

February 12, 2024

Ms. Sophie Shulman
Deputy Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, D.C. 20590

VIA EMAIL

NEF-101sah
PE23-022

Subject: Request for Confidential Treatment of Certain Information Submitted by General Motors LLC to the National Highway Traffic Safety Administration on February 12, 2024.

Dear Ms. Shulman:

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 February 12, 2024.

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

On February 12, 2024, GM transferred certain confidential materials (the “**Confidential Information**”) electronically via CBI Portal to Daniel Rabinovitz at the NHTSA Office of Chief Counsel and electronically via SLFTS transfer¹ to Sharon Yukevich at the NHTSA Office of Defects Investigation.

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

- **Public copy:** GM’s electronic submission contains a folder labeled G243269_1_GM. This folder contains a redacted public PDF copy of the requested information. GM has redacted the PDF to remove the Confidential Information.
- **Nonpublic copy:** GM’s electronic submission also contains a folder labeled G243269_2_GM_CONF. This folder contains an unredacted nonpublic PDF copy of the requested information. The pages that contain Confidential Information are stamped either “Entire Page GM Confidential Business Information.” For files in native format the filename includes CONF.

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>.

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 NHTSA, it is GM's expectation that NHTSA 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)

Certain portions of the Confidential Information were created by and provided to GM by LG Energy Solutions ("LGES"), and ON Semiconductor ("ON Semi"). This material discloses the analysis and evaluation methodology performed by LGES and ON Semi for GM at GM's direction; it is highly sensitive information that, like the other Confidential Information in the presentation, GM does not customarily provide to the public. As required by 49 CFR § 512.9, GM has enclosed a third-party certification signed by LGES and ON Semi.

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.

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

Please direct all inquiries and responses to this request to: Kimberly Martin (kim.1.martin@gm.com), General Motors LLC, Cole Engineering Center, 29427 Louis Chevrolet Rd., Warren, MI 48093, [REDACTED].

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,

[REDACTED]

Kimberly S. Martin
Lead External Investigator
External Investigations

cc: Sharon Yukevich
Tanya Topka
Sean A. Hays
Daniel Rabinovitz

Reference:

Supporting Certificate of Kimberly S. Martin
Supporting Certificate of LG Energy Solutions
Supporting Certificate of ON Semiconductor