INFORMATION REDACTED PURSUANT TO THE FREEDOM OF INFORMATION ACT (FOIA), 5 U.S.C. 552(B)(6)

FOLEY
FOLEY & LARDNER LLP

ATTORNEYS AT LAW
WASHINGTON HARBOUR
3000 K STREET, N.W.
SUITE 600
WASHINGTON, D.C. 20007-5109
202.672.5300 TEL
202.672.5399 FAX
WWW.FOLEY.COM

WRITER'S DIRECT LINE
202.672.5542
cgrigorian@foley.com EMAIL

May 23, 2025

Via U.S. DOT's SLFTS

Peter Simshauser
Chief Counsel
National Highway Traffic Safety Administration
W41-227
1200 New Jersey Avenue, SE
Washington, D.C. 20590

Re: Natural Gas Fuel Systems LLC, doing business as Cummins Clean Fuel Technologies – Request for Confidential Treatment for Initial Response to April 9, 2025 Information Request – EA25003-01

Dear Mr. Simshauser:

This letter serves as the request for confidential treatment by Natural Gas Fuel Systems LLC, doing business as Cummins Clean Fuel Technologies (CCFT) with respect to the enclosed information responding to the National Highway Traffic Safety Administration's (NHTSA's) information request dated April 9, 2025.

In accordance with 49 CFR 512.5, CCFT is submitting the enclosed information with the file names and, where possible, portions of its contents marked "CONFIDENTIAL BUSINESS INFORMATION." Also enclosed is a Certificate in Support of Confidentiality. Because CCFT is submitting this information via the U.S. Department of Transportation's "Secure Large File Transfer Solution" (SLFTS), the request includes a single copy of the confidential information.

As set forth below, CCFT requests confidential treatment for the enclosed information on the grounds that it contains trade secrets and/or confidential, proprietary information that is closely held by CCFT, and that disclosure would likely subject CCFT to substantial competitive harm. *See* 49 C.F.R. § 512.3(c)(1) and (2); *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2364 (2019) (FOIA Exemption 4 protects information that "is customarily kept private, or at least closely held, by the person imparting it"); *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974) ("commercial or financial matter is 'confidential' . . . if disclosure of the information is likely to . . . cause substantial harm to the competitive position of the person from whom the information was obtained."); *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1288 (D.C. Cir. 1983) (a trade secret is a "secret, commercially valuable plan, formula, process or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort"); *Center for Auto Safety v. Nat'l Hwy. Traffic Safety Admin.*, 93 F. Supp. 2d 1, 16 (D.D.C. 2000),

[redacted]

remanded for further proceedings, 244 F.3d 144 (D.C. Cir. 2001) (air bag specifications representing "years of research and development and enormous financial investment" not subject to FOIA disclosure).

Specifically, CCFT is requesting confidential treatment for the following:

- CCFT's response to Req. No. 2 includes the file "CCFT Response to IR PE25003-01 Req. No. 2_CBI.pdf," which contains detailed information related to customer complaints.
- CCFT's response to Req. No. 3 includes the file "CCFT Response to IR PE25003-01 Req. No. 3_CBI.xlsx," which contains detailed complaint information including customer and vehicle information.
- CCFT's response to Req. No. 4 includes a folder named "CCFT Response to IR PE25003-01 Req. No. 4_CBI," which contains documents supporting the confidential information submitted in response to Req. No. 3, including customer and vehicle information, photographs and videos related to repairs and inspections, and other information used in reviewing, diagnosing, and addressing customer complaints.
- CCFT's response to Req. No. 5 includes the file "CCFT Response to IR PE25003-01 Req. No. 5_CBI.xlsx" and supporting documents, which contain detailed information on warranty and similar claims.

This information includes confidential design, manufacturing, and investigation information; and it is "customarily kept private" and "closely held" by CCFT. *See, Food Marketing Institute v. Argus Leader Media, supra*. As the Agency is aware, the automotive industry is highly competitive and closely guards against public disclosure of such information. Disclosure of this information would provide competitors with valuable information concerning investigation processes, detailed customer information, and claims analysis. Such disclosure would, in turn, compromise CCFT's competitive position by, among other things, reducing or eliminating its competitors' investment of time and resources in improving their products. Accordingly, CCFT requests that this information be granted confidential treatment for an indefinite period of time.

[redacted]

Please contact me if you have any questions or need additional information.

Sincerely,

[redacted]

Christopher H. Grigorian

Enclosures

cc: Ashley Simpson (NHTSA NCC)
Michael Goldstone (CCFT)
R. Nicholas Englund (Foley & Lardner)

[redacted]