

Chad E. Clark
Senior Attorney
NAVISTAR
4201 Winfield Road
Warrenville, IL 60555

DEC 10 2008

Re: Request for Confidential Treatment/EA07-016

Dear Mr. Clark:

This responds to your November 24, 2008, letter requesting confidential treatment for Workhorse Custom Chassis, LLC (Workhorse) information submitted to the agency in the above-referenced investigation. Workhorse's request states, among other things, that it submitted the information voluntarily and that the data, as information that Workhorse does not customarily release to the public, is entitled to confidential treatment. You request confidential treatment for the submitted information in its entirety, indefinitely.

I have decided to grant your request.

The information provided by Workhorse was not submitted in response to any formal agency request or other legal requirement. Therefore, Workhorse provided this information voluntarily and I reviewed your request under the principles set forth in *Critical Mass Energy Project v. Nuclear Regulatory Comm'n*, 975 F.2d 871 (D.C. Cir. 1992). Under the test set forth in *Critical Mass*, financial or commercial information provided to the government on a voluntary basis is "confidential" for purposes of FOIA Exemption 4 if it is the kind of information that would customarily not be released to the public by the submitter.

Your request indicates that the submitted information is that which Workhorse would not customarily release to the public. Examination of the data indicates that the information is confidential and not publicly available. I am granting Workhorse's request for confidential treatment to the submitted information.

This grant of confidential treatment is subject to certain conditions. The information may be disclosed under 49 CFR § 512.22 based upon newly discovered or changed facts, and you must inform the agency of any changed circumstances that may affect the protection of the information (49 CFR § 512.10). If necessary, you will be notified prior to the release of any information under the procedures established by our regulations (49 CFR § 512.22(b)).

Sincerely,

Original Signed By

Otto G. Matheke, III
Senior Attorney

