

David D. Dillon  
Sr. Manager  
Product Investigations & Campaigns

November 12, 2010

Mr. O. Kevin Vincent  
Chief Counsel  
National Highway Traffic Safety Administration  
1200 New Jersey Ave., SE, Room W41-227  
Washington, DC 20590

Re: Request for Confidential Treatment of Business Information Submitted in PE10-031

Dear Mr. Vincent:

Chrysler Group LLC (“Chrysler Group”) is submitting information to the NHTSA Office of Defects Investigation (“ODI”) in connection with the above referenced investigation. Based on a careful review of the submission, Chrysler Group has determined that some of the information is confidential and should be accorded confidential treatment under this agency’s regulations at 49 C.F.R. Part 512 and Exemption 4 of the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552(b)(4).<sup>1</sup> Therefore, Chrysler Group is submitting the enclosed CDs together with this request for confidential treatment to the Office of Chief Counsel.

The information required by Part 512 is set forth below.

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

The business information for which confidential treatment is being sought is developmental testing in Enclosure 6B- 301 Developmental Crash Tests Conf Bus Info. The confidential business information within the developmental testing documents in Enclosure 6B has been identified with brackets and the table attached to this letter identifies the Folder and Bates pages for this information. This information contains the developmental designs that Chrysler engineers deemed necessary to run through full vehicle crash tests. Enclosure 6C – Summary of 301 Crash Tests also contains developmental design information in a column that has been highlighted, Bates page #PE10-031-Chrysler-005527-9. A CAE study of design proposals is located in Enclosure 6G – A10 CAE Study Conf Bus Info, Bates page #PE10-031-Chrysler-004763-4791. Enclosure 7B – Subject Component Design History

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<sup>1</sup> Chrysler Group has taken steps to assure that the CDs are free of any errors or defects that would prevent NHTSA from opening the files on the discs. If, however, the agency is unable to open the files, Chrysler Group respectfully requests that the agency inform Chrysler Group of the issue, so that Chrysler Group may take steps to supply NHTSA’s Office of Chief Counsel with a disc that is fully functional.

Conf Bus Info contains the design changes of the subject components, Bates page #PE10-031-Chrysler-005530. Enclosure 8B – Subject Vehicle Graphics Conf Bus Info contains the engineering drawings of the subject vehicles fuel system components, Bates page #PE10-031-Chrysler-004828-005497.

**B. Confidentiality Standard (49 C.F.R. § 512.8(b))**

This submission is subject to the substantial competitive harm standard set forth in 49 C.F.R. § 512.15(b) for information that a submitter is required to provide to the agency.

**C. Justification for Confidential Treatment (49 C.F.R. § 512.8(c))**

This agency's regulations and Exemption 4 of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b)(4), protect the confidentiality of information that would be likely to cause substantial competitive harm to the submitter if disclosed. *See, e.g.* 49 C.F.R. § 512.15(b) *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974). FOIA Exemption 4 was enacted to prevent disclosures that would "eliminate much of the time and effort that would otherwise be required to bring to market a product competitive with the [submitter's] product." *Public Citizen Health Research Grp. v. FDA*, 195 F.3d 898, 905 (D.C. Cir. 1999) "Because competition in business turns on the relative costs and opportunities faced by members of the same industry, there is a potential windfall for competitors to whom valuable information is released under FOIA. If those competitors are charged only minimal FOIA retrieval costs for the information, rather than the considerable costs of private reproduction, they may be getting quite a bargain. Such bargains could easily have competitive consequences not contemplated as part of FOIA's principal aim of promoting openness in government." *Worthington Compressors, Inc. v. Costle*, 662 F.2d 45, 51 (D.C. Cir. 1981). Substantial competitive harm also may result from disclosures that would reveal a firm's "operational strengths and weaknesses" to competitors. *See Nat'l Parks & Conservation Ass'n v. Kleppe*, 547 F.2d 673, 684 (D.C. Cir. 1976). The information at issue here should be protected under these standards.

There is developmental testing information and developmental design studies and analysis in this submission. NHTSA has recognized that developmental testing information should be protected under Exemption 4. Such information could enable a competitor to develop and upgrade its own testing protocols and improve its design decisions.

The design history summary would reveal information about the design and manufacturing process changes to the subject components, the timing of such changes, the reasons for the changes, and the process by which such changes were made. Thus, these documents reveal information about the design and manufacturing process, as well as lead-time and operational capacity information, which could enable competitors to improve their own designs and manufacturing processes. Furthermore, the disclosure of the reasons for various design

changes could provide competitively valuable information about the underlying designs and design philosophies.

The engineering drawings contain the detailed design specifics for various components of two vehicles. Competitors could use this design information to improve their own designs without incurring the time and expense associated with independent design efforts. As a result, Chrysler Group's competitors could bring to market their products much quicker and at less cost.

**D. Class Determination (49 C.F.R. § 512.8(d))**

The engineering drawings fall within the class determination for "blueprints and engineering drawings." 49 C.F.R. Part 512, App. B(1).

**E. Duration for Which Confidential Treatment is Sought (49 C.F.R. § 512.8(e))**

Because Chrysler Group anticipates that the information will be competitively valuable indefinitely, Chrysler Group requests that the information be accorded confidential treatment permanently.

**F. Contact Information (49 C.F.R. § 512.8(f))**

Please direct all inquiries and responses to the undersigned at:

800 Chrysler Drive, CIMS 482-00-91  
Auburn Hills, MI 48326  
248-512-0087  
dd28@chrysler.com

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If you receive a request for disclosure of the information for which confidential treatment is being sought before you have completed your review of our request, Chrysler respectfully requests notification of the request(s) and an opportunity to provide further justification for the confidential treatment of this information, if warranted.

Sincerely,



David D. Dillon

cc: Scott Yon  
Lawrence Hershman

Attachment and Enclosures

**Enclosure 6B – 301 Developmental Crash Tests Conf Bus Info**  
**CONFIDENTIAL DOCUMENTS TABLE**  
**ZJ VC TESTS CONF BUS INFO**

ENCLOSURE	FILE/DOCUMENT NAME	BATES PAGE
VC ___ CBI	VC ____ CONF BUS INFO	#PE10-031-Chrysler-
3741	3741	002201, 3, 7
3989	3989	002209, 11, 14, 16
4119	4119	002227, 30, 31, 33, 35, 53, 67
4193	4193	002318, 32, 39
4239	4239	002382, 386, 389, 403, 406, 417
4281	4281	002461, 64, 65, 67, 68, 70, 71
4887	4887	2474, 77, 81
4955	4955	002483, 85, 87
5046	5046	002496, 499, 501, 504
5169	5169	002530, 32, 35
5199	5199	002537, 39, 42
5208	5208	002546, 48, 52
5210	5210	002554, 56, 60
5243	5243	002562, 64, 67, 68
5339	5339	002570, 72, 75, 76, 79, 81
5380	5380	002583, 85, 86, 89
5441	5441	002592, 594, 601
5493	5493	002632, 34, 37
5681	5681	002639, 41, 46
5789	5789	002648, 50, 54
5854	5854	002656, 58, 64
5890	5890	002666, 68, 71
5926	5926	002673, 75, 79
5927	5927	002681, 83, 87

**ENCLOSURE 6B – 301 Developmental Crash Tests Conf Bus Info**  
**CONFIDENTIAL DOCUMENTS TABLE**  
**WJ VC TESTS CONF BUS INFO**

ENCLOSURE	FILE/DOCUMENT NAME	BATES PAGE
VC ___ CBI	VC ____ CONF BUS INFO	#PE10-031-Chrysler-
6073	6073	004234
6225	6225	004237
6402	6402	004240, 43
6666	6666	004246
6821	6821	004249
6909	6909	004253
6943	6943	004256
6948	6948	004259
7449	7449	004261
8299	8299	004264, 66
8306	8306	004277, 79, 82
8324	8324	004294, 96
8327	8327	004306, 08
8390	8390	004318, 20
8393	8393	004331, 33
8656	8656	004341, 43, 47, 50
8938	8938	004423, 25, 31
9062	9062	004519, 21, 24, 29
9410	9410	004592, 597, 608, 643, 650
9479	9479	004683, 87
9494	9494	004693, 96
9496	9496	004703, 08
9497	9497	004715, 19
9513	9513	004726, 31
9514	9514	004738, 43
9519	9519	004751, 56

### Certificate in Support of Request for Confidentiality

I, David D. Dillon, pursuant to the provisions of 49 C.F.R. Part 512, state as follows:

- (1) I am Chrysler Group LLC's Senior Manager, Product Investigations & Campaigns and I am authorized by Chrysler Group LLC to execute documents on its behalf;
- (2) I certify that the information contained in the attached documents 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);
- (3) I hereby request that the information contained in the indicated documents be protected on a permanent basis;
- (4) This certification is based on the information provided by the responsible Chrysler Group LLC 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 Chrysler Group LLC;
- (5) Based upon that information, to the best of my knowledge, information and belief, the information for which Chrysler Group LLC has claimed confidential treatment has never been released or become available outside Chrysler Group LLC, except to certain contractors of Chrysler Group LLC with the understanding that such information must be maintained in strict confidence;
- (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 Chrysler Group LLC because of unauthorized or inadvertent disclosure (except as stated in paragraph 5); and
- (7) I certify under penalty of perjury that the foregoing is true and correct.

Executed on this 12<sup>th</sup> day of November, 2010

  
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David D. Dillon