(c) Disclosure of the information would be likely to impair other protectable government interests.

§ 512.6 Determination of confidential treatment.

(a) The decision as to whether an item of information shall be afforded confidential treatment under this part is made by the Office of Chief Counsel.

(b) Copies of documents submitted to NHTSA under § 512.4(a)(5), from which information claimed to be confidential or privileged has been deleted, are placed in the public file or docket pending the resolution of the claim for confidential treatment.

(c) When information claimed to be confidential or privileged is requested under the Freedom of Information Act, the determination of confidentiality is made within ten working days after NHTSA receives such a request, or within twenty working days in unusual circumstances as provided under 5 U.S.C. 552(a)(6).

(d) For information not requested pursuant to the Freedom of Information Act, the determination of confidentiality is made within a reasonable period of time at the discretion of the Chief Counsel.

(e) The time periods prescribed in paragraph (c) of this section may be extended by the Chief Counsel for good cause shown on the Chief Counsel's own motion, or on request from any person. An extension is made only in accordance with 5 U.S.C. 552, and is accompanied by a written statement setting out the reasons for the extension.

(f) If the Chief Counsel believes that information which a submitter of information asserts to be within a class of information set out in appendix B is not within that class, the Chief Counsel:

(1) Notifies the submitter of the information that the information does not fall within the class as claimed, and briefly explains why the information does not fall within the class; and

(2) Renders a determination of confidentiality in accordance with paragraph (g) of this section.

(g) A person submitting information to NHTSA with a request that the information be withheld from public disclosure as confidential or privileged business information is given notice of the Chief Counsel's determination regarding the request as soon as the determination is made.

(1) If a request for confidentiality is granted, the submitter of the information is notified in writing of that determination and of any appropriate limitations.

(2) If a request for confidentiality is denied in whole or in part, the submitter of the information is notified in writing of that decision, and is informed that the information will be made available to the public not less than ten working days after the submitter of the information has received notice of the denial of the request for confidential treatment, if practicable, or some earlier date if the Chief Counsel determines in writing that the public interest requires that the information be made available to the public on such earlier date. The written notification of a denial specifies the reasons for denying the request.

(h) There will be no release of information processed pursuant to this section until the Chief Counsel advises the appropriate office(s) of NHTSA that the confidentiality decision is final according to this section, § 512.7 or § 512.9.

§ 512.7 Petitions for reconsideration upon denial of a request for confidential treatment.

(a) A submitter of information whose request for confidential treatment is denied may petition for reconsideration of that denial. Petitions for reconsideration must be addressed to and received by the Office of Chief Counsel prior to the date on which the information would otherwise be made available to the public. The determination by the Chief Counsel upon such petition for reconsideration shall be administratively final.

(b) If the submission of a petition for reconsideration is not feasible by the date on which the information would otherwise be made available to the public, a request for an extension of time in which to submit a petition, accompanied by an explanation describing the reason for the request and the length of time needed, must be received by the Office of Chief Counsel by

that date. The Chief Counsel determines whether to grant or deny the extension and the length of the extension.

(c) Upon receipt of a petition or request for an extension, the Chief Counsel shall postpone making the information available to the public in order to consider the petition, unless the Chief Counsel determines in writing that disclosure would be in the public interest.

(d) If a petition for reconsideration is granted, the petitioner is notified in writing of that determination and of any appropriate limitations.

(e) If a petition for reconsideration is denied in whole or in part or a request for an extension for additional time to submit a petition for reconsideration is denied, the petitioner is notified in writing of that denial, and is informed that the information will be made available to the public not less than ten working days after the petitioner has received notice of the denial of the petition, if practicable, or some earlier date if the Chief Counsel determines in writing that the public interest requires that the information be made available to the public on such earlier date. The written notification of a denial specifies the reasons for denying the petition.

§512.8 Modification of confidentiality determinations.

(a) A determination that information is confidential or privileged business information remains in effect in accordance with its terms, unless modified by a later determination based upon:

(1) Newly discovered or changed facts,

(2) A change in the applicable law,

(3) A class determination under §512.10, or

(4) A finding that the prior determination is clearly erroneous.

(b) If NHTSA believes that an earlier determination of confidentiality should be modified based on one or more of the factors listed in paragraph (a)(1) through (a)(4) of this section, the submitter of the information is notified in writing that NHTSA has modified its earlier determination and of the reasons for that modification, and is informed that the information will be made available to the public in not less than ten working days from the date of receipt of notice under this paragraph. The submitter may seek reconsideration of the modification pursuant to §512.7.

§512.9 Release of confidential business information.

(a) Information that has been claimed or determined to be confidential business information under §§512.4, 512.6 or 512.7 may be disclosed to the public by the Administrator notwithstanding such determination or claim if disclosure would be in the public interest as follows:

(1) Information obtained under Part A, Subchapter I of the National Traffic and Motor Vehicle Safety Act, relating to the establishment, amendment, or modification of Federal motor vehicle safety standards, may be disclosed when relevant to a proceeding under the part.

(2) Information obtained under Part B, Subchapter I of the National Traffic and Motor Vehicle Safety Act, relating to motor vehicle safety defects, and failures to comply with applicable motor vehicle safety standards, may be disclosed if the Administrator determines that disclosure is necessary to carry out the purposes of the Act.

(3) Information obtained under title I, V or VI of the Motor Vehicle Information and Cost Savings Act may be disclosed when that information is relevant to a proceeding under the title under which the information was obtained.

(b) No information is disclosed under this section unless the submitter of the information is given written notice of the Administrator's intention to disclose information under this section. Written notice is normally given at least ten working days before the day of release, although the Administrator may provide shorter notice if the Administrator finds that such shorter notice is in the public interest. The notice under this paragraph includes a statement of the Administrator's reasons for determining to disclose the information, and affords the submitter of the information an opportunity to comment on the contemplated release of information. The Administrator may