

§512.14

the public within the meaning of this part and may preclude any claim for confidential treatment. The Chief Counsel may notify a submitter of information or, if applicable, a third party from whom the information was obtained, of inadequacies regarding a claim for confidential treatment and may allow the submitter or third party additional time to supplement the submission, but has no obligation to provide either notice or additional time.

(b) If the submitter does not provide the certificate required under §512.4(b) of this part or any supporting information required under §512.4(c) of this part, or if the information is insufficient to establish that the information should be afforded confidential treatment under the confidentiality standards set out in §512.15 of this part, a request that such information be treated confidentially may be denied. The Chief Counsel may notify a submitter of information of inadequacies in the supporting information and may allow the submitter additional time to supplement the showing, but has no obligation to provide either notice or additional time.

Subpart D—Agency Determination

§512.14 Who makes the confidentiality determination?

The Chief Counsel will determine whether an item of information will be afforded confidential treatment under this part.

§512.15 How will confidentiality determinations be made?

Information may be afforded confidential treatment if the Chief Counsel determines that:

- (a) The information is a trade secret;
- (b) Public disclosure of the information would be likely to cause substantial harm to the competitive position of the submitter;
- (c) Public disclosure of the information would be likely to impair NHTSA's ability to obtain necessary information in the future;
- (d) The information was provided to NHTSA voluntarily and was not customarily released to the public by the person from whom it was obtained; or

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(e) The information is otherwise entitled to protection, pursuant to 5 U.S.C. 552(b).

§512.16 Class determinations.

(a) The Chief Counsel may issue class determinations of categories of information to be entitled to confidential treatment if the Chief Counsel determines that one or more characteristics common to each item of information in that class, will, in most cases, result in identical treatment, and further that it is appropriate to treat all such items as a class for one or more purposes under this part. Once a class determination is made, the Chief Counsel will publish the new class determination in the FEDERAL REGISTER.

(b) The Chief Counsel may amend, modify, or terminate any class determination established under this section. These changes will be published in the FEDERAL REGISTER.

(c) Class determinations made by the Chief Counsel are listed in Appendices B and C to this Part.

(d) A class determination may state that all of the information in the class:

- (1) Is or is not governed by a particular section of this part or by a particular set of substantive criteria of this part;
- (2) Satisfies one or more of the applicable substantive criteria; or
- (3) Satisfies one or more of the substantive criteria, but only for a certain period of time.

§512.17 How long should it take to determine whether information is entitled to confidential treatment?

(a) When information claimed to be confidential is requested under the Freedom of Information Act, the determination will be made within twenty (20) working days after NHTSA receives such a request or within thirty (30) working days in unusual circumstances as provided under 5 U.S.C. 552(a)(6)(A). However, these time periods may be extended by the Chief Counsel for good cause shown or on request from any person. An extension will be made in accordance with 5 U.S.C. 552(a)(6)(A), and will be accompanied by a written statement setting out the reasons for the extension.