

Subpart B—Submission Requirements

§512.4 When requesting confidentiality, what should I submit?

Any person submitting information to NHTSA, other than information in a class identified in Appendix C of this Part, and requesting that the information be withheld from public disclosure pursuant to 5 U.S.C. 552(b) shall submit the following:

- (a) The materials for which confidentiality is being requested, in conformance with §§512.5, 512.6, and 512.7 of this part;
- (b) The Certificate, in the form set out in Appendix A to this part;
- (c) Supporting information, in conformance with §512.8; and
- (d) Any request for an extension of time, made in accordance with §512.11.

§512.5 How many copies should I submit?

(a) Except as provided for in subsection (c), a person must send the following in hard copy or electronic format to the Chief Counsel when making a claim for confidential treatment covering submitted material:

- (1) A complete copy of the submission, and
- (2) A copy of the submission containing only the portions for which no claim of confidential treatment is made and from which those portions for which confidential treatment is claimed has been redacted, and
- (3) Either a second complete copy of the submission or, alternatively, those portions of the submission containing the material for which confidential treatment is claimed and any additional information the submitter deems important to the Chief Counsel's consideration of the claim.

(4) If submitted in electronic format, a copy of any special software required to review materials for which confidential treatment is requested and user instructions must also be provided.

(b) A person filing comments to a rulemaking action must additionally submit to the rulemaking docket a copy of the submission containing only the portions for which no claim of confidential treatment is made and from which those portions for which con-

fidential treatment is claimed has been redacted.

(c) Any person submitting blueprints or engineering drawings need only provide an original version with their submission.

§512.6 How should I prepare documents when submitting a claim for confidentiality?

(a) Information claimed to be confidential must be clearly identified to enable the agency to distinguish between those portions of the submission claimed to constitute confidential business information and those portions for which no such claim is made.

(b) The word “CONFIDENTIAL” must appear on the top of each page containing information claimed to be confidential.

(1) If an entire page is claimed to be confidential, the submitter must indicate clearly that the entire page is claimed to be confidential.

(2) If the information for which confidentiality is being requested is contained within a page, the submitter shall enclose each item of information that is claimed to be confidential within brackets: “[].”

(3) If submitted in electronic format, a comparable method to of identifying the information claimed to be confidential may be used. If submitted on CD-ROM or other format, the item containing the information shall be labeled as containing confidential information.

§512.7 Where should I send the information for which I am requesting confidentiality?

A claim for confidential treatment must be submitted in accordance with the provisions of this regulation to the Chief Counsel of the National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, SW., Washington, DC 20590.

§512.8 What supporting information should I submit with my request?

When requesting confidentiality, the submitter shall:

- (a) Describe the information for which confidentiality is being requested;

(b) Identify the confidentiality standard(s) under which the confidentiality request should be evaluated, in accordance with §512.15;

(c) Justify the basis for the claim of confidentiality under the confidentiality standard(s) identified pursuant to paragraph (b) of this section by describing:

(1) Why the information qualifies as a trade secret, if the basis for confidentiality is that the information is a trade secret;

(2) What the harmful effects of disclosure would be and why the effects should be viewed as substantial, if the claim for confidentiality is based upon substantial competitive harm;

(3) What significant NHTSA interests will be impaired by disclosure of the information and why disclosure is likely to impair such interests, if the claim for confidentiality is based upon impairment to government interests;

(4) What measures have been taken by the submitter to ensure that the information is not customarily disclosed or otherwise made available to the public, if the basis for confidentiality is that the information is voluntarily submitted; and

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

(d) Indicate if any items of information fall within any of the class determinations included in Appendix B to this Part;

(e) Indicate the time period during which confidential treatment is sought; and

(f) State the name, address, and telephone number of the person to whom NHTSA's response and any inquiries should be directed.

Subpart C—Additional Requirements

§512.9 What are the requirements if the information comes from a third party?

Where confidentiality is claimed for information obtained by the submitter from a third party, such as a supplier, the submitter is responsible for obtaining from the third party the information that is necessary to comply with §512.4 of this part, including a certifi-

cate in the form set out in Appendix A to this Part.

§ 512.10 Duty to amend.

The submitter shall promptly amend any supporting information provided under §512.4 if the submitter obtains information upon the basis of which the submitter knows that the supporting information was incorrect when provided, or that the supporting information, though correct when provided to the agency, is no longer correct and the circumstances are such that a failure to amend the supporting information is in substance a knowing concealment.

§512.11 What if I need an extension of time?

If a person is unable to submit the necessary information required under §512.4 at the time the claimed confidential information is submitted to NHTSA, then that person may request an extension of time. Any request for an extension shall explain the reason for the extension of time and the length of time requested.

§512.12 What if I am submitting multiple items of information?

Any certificate provided under §512.4(b) of this part, and any supporting information provided under §512.4(c) of this part, may be used to support a claim for confidential treatment of more than one item of information. However, general or nonspecific assertions or analysis may be insufficient to form an adequate basis for the agency to find that the information is entitled to confidential treatment, and may result in the denial of the claim.

§512.13 What are the consequences for noncompliance with this part?

(a) If the submitter fails to comply with §512.4 of this part at the time the information is submitted to NHTSA or does not request an extension of time under §512.11, the claim for confidentiality may be waived, unless the agency is notified or otherwise becomes aware of the claim before the information is disclosed to the public. If the information is placed in a public docket or file, such placement is disclosure to