

Section

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TITLE 49--TRANSPORTATION

CHAPTER V--NATIONAL HIGHWAY TRAFFIC
SAFETY ADMINISTRATION, DEPARTMENT
OF TRANSPORTATION

PART 512_CONFIDENTIAL BUSINESS INFORMATION--Table of Contents

Subpart E_Agency Treatment of Information Claimed To Be Confidential

Sec. 512.23 Under what circumstances may NHTSA publicly release confidential information?

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

(1) Information obtained under chapter 325, 327, 329 or 331 of title 49 of the United States Code (formerly under the Motor Vehicle Information and Cost Savings Act) may be disclosed when that information is relevant to a proceeding under the chapter under which the information was obtained.

(2) Information obtained under chapter 301 of title 49 of the United States Code (49 U.S.C. Sec. 30101 et seq.), relating to the establishment, amendment, or modification of Federal motor vehicle safety standards, may be disclosed when relevant to a proceeding under the chapter.

(3) Except as specified in the next sentence, information obtained under Chapter 301 of title 49 of the United States Code (49 U.S.C. 30101 et seq.), related to a possible defect or noncompliance, shall be disclosed when the Administrator decides the information will assist in carrying out sections 30117(b) and 30118 through 30121 of title 49 or is required to be disclosed under 30118(a) of title 49, except as provided in paragraph (a)(4) of this section.

(4) No information will be disclosed under paragraph (a) of 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 will be given at least twenty (20) working days before the day of release, unless the Administrator finds that shorter notice is in the public interest. The notice under this paragraph will include a statement of the Administrator's reasons for deciding to disclose the information, and will afford the submitter of the information an opportunity to comment on the contemplated release of the information. The Administrator may also give notice of the contemplated release of information to other persons and may allow these persons the opportunity to comment. In making the determination to release information pursuant to this section, the Administrator will consider ways to release the information that will

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cause the least possible adverse effects to the submitter.

(b) Notwithstanding any other provision of this part, information that has been determined or claimed to be confidential may be released:

(1) To a committee of Congress;

(2) Pursuant to an order of a court of competent jurisdiction;

(3) To the Office of the Secretary, U.S. Department of

Transportation and other Executive branch offices or other Federal agencies in accordance with applicable laws;

- (4) With the consent of the submitter of the information; and
- (5) To contractors, if necessary for the performance of a contract with the agency or any Federal agency, with specific prohibitions on further release of the information.

Appendix A to Part 512--Certificate in Support of Request for Confidentiality

Certificate in Support of Request for Confidentiality

I -----, pursuant to the provisions of 49 CFR part 512, state as follows:

- (1) I am (official's name, title) and I am authorized by (company) to execute this certificate on its behalf;
- (2) I certify that the information contained in (pertinent document(s)) 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) (as incorporated by reference in and modified by the statute under which the information is being submitted);
- (3) I hereby request that the information contained in (pertinent document(s)) be protected for (requested period of time);
- (4) This certification is based on the information provided by the responsible (company) 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 (company);
- (5) Based upon that information, to the best of my knowledge, information and belief, the information for which (company) has claimed confidential treatment has never been released or become available outside (company); (except as hereinafter specified);
- (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 (company) 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 the ----- day of -----, ----- . (If executed outside of the United States of America: I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct). (signature of official)

Appendix B to Part 512--General Class Determinations

The Chief Counsel has determined that the following types of information would presumptively be likely to result in substantial competitive harm if disclosed to the public:

- (1) Blueprints and engineering drawings containing process and production data where the subject could not be manufactured without the blueprints or engineering drawings except after significant reverse engineering;
- (2) Future specific model plans (to be protected only until the date on which the specific model to which the plan pertains is first offered for sale); and
- (3) Future vehicle production or sales figures for specific models (to be protected only until the termination of the production period for the model year vehicle to which the information pertains).

[68 FR 44228, July 28, 2003, as amended at 69 FR 21425, Apr. 21, 2004]

Appendix C to Part 512--Early Warning Reporting Class Determinations

- (a) The Chief Counsel has determined that the following information required to be submitted to the agency under 49 CFR 579, subpart C, will cause substantial competitive harm and will impair the government's ability to obtain this information in the future if released:
 - (1) Reports and data relating to warranty claim information;
 - (2) Reports and data relating to field reports, including dealer reports and hard copy reports;
 - (3) Reports and data relating to consumer complaints; and

(4) Lists of common green identifiers.

(b) In addition, the Chief Counsel has determined that the following information required to be submitted to the agency under 49 CFR 579, subpart C, will cause substantial competitive harm if released: Reports of production numbers for child restraint systems, tires, and vehicles other than light vehicles, as defined in 49 CFR 579.4(c).

(c) The Chief Counsel has determined that the disclosure of the last six (6) characters, when disclosed along with the first eleven

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(11) characters, of vehicle identification numbers reported in information on incidents involving death or injury pursuant to the reporting of early warning information requirements of 49 CFR part 579 will constitute a clearly unwarranted invasion of personal privacy within the meaning of 5 U.S.C. 552(b)(6).

[68 FR 44228, July 28, 2003, as amended at 69 FR 21425, Apr. 21, 2004]

Appendix D to Part 512--OMB Clearance

The OMB clearance number for this regulation is 2127-0025.