

Pt. 512

49 CFR Ch. V (10–1–05 Edition)

4.1 The following exhibits were offered by the respondent(s), received in evidence, and marked as herein indicated:

[Identification number and brief description of each exhibit]

The authenticity of these exhibits has been stipulated.

4.2 The following exhibits were offered by the respondent(s) and marked for identification. There was reserved to Complaint Counsel and party intervenors, if any, the right to object to their receipt in evidence on the grounds stated:

[Identification number and brief description of each exhibit. State briefly ground of objection, e.g., competency, relevancy, materiality]

5. ADDITIONAL ACTIONS.

The following additional action was taken:

[Amendments to pleadings, agreements of the parties, disposition of motions, separation of issues of liability and remedy, etc., if necessary]

6. LIMITATIONS AND RESERVATIONS.

6.1 Each of the parties has the right to further supplement the list of witnesses not later than ten (10) days prior to trial by furnishing opposing counsel with the name and address of the witness and general subject matter of his or her testimony and filing a supplement to this pretrial order. Thereafter additional witnesses may be added only after application to the Presiding Officer, for good cause shown.

6.2 Rebuttal witnesses not listed in the exhibits to this order may be called only if the necessity of their testimony could not reasonably be foreseen ten (10) days prior to trial. If it appears to counsel at any time before trial that such rebuttal witnesses will be called, notice will immediately be given to opposing counsel and the Presiding Officer.

6.3 The probable length of hearing is _____ days. The hearings will be commenced on the _____ day of _____, 19____, at _____ o'clock _____ M. at (location) _____.

6.4 Prehearing briefs will be filed not later than 5:00 p.m. on _____. (Insert date not later than ten (10) days prior to hearing.) All anticipated legal questions, including those relating to the admissibility of evidence, must be covered by prehearing briefs.

This prehearing order has been formulated after a conference at which counsel for the respective parties appeared. Reasonable opportunity has been afforded counsel for corrections or additions prior to signing. It will control the course of the hearing, and it may not be amended except by consent of the parties and the Presiding Officer, or by order of the Presiding Officer to prevent manifest injustice.

(Presiding Officer's Name)

(Presiding Officer's Title)

APPROVED AS TO FORM AND SUBSTANCE

Date: _____.

Complaint Counsel.

Attorney for Respondent(s).

NOTE: Where intervenors appear pursuant to §511.17 the prehearing order may be suitably modified; the initial page may be modified to reflect the intervention.

PART 512—CONFIDENTIAL BUSINESS INFORMATION

Subpart A—General Provisions

Sec.

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Subpart E—Agency Treatment of Information Claimed To Be Confidential

- 512.20 How does the agency treat information submitted pursuant to this part before a confidentiality determination is made?
- 512.21 How is information submitted pursuant to this part treated once a confidentiality determination is made?
- 512.22 Under what circumstances may NHTSA modify a grant of confidentiality?
- 512.23 Under what circumstances may NHTSA publicly release confidential information?

APPENDIX A TO PART 512—CERTIFICATE IN SUPPORT OF REQUEST FOR CONFIDENTIALITY

APPENDIX B TO PART 512—GENERAL CLASS DETERMINATIONS

APPENDIX C TO PART 512—EARLY WARNING REPORTING CLASS DETERMINATIONS

APPENDIX D TO PART 512—OMB CLEARANCE

AUTHORITY: 49 U.S.C. 322; 5 U.S.C. 552; 49 U.S.C. 30166; 49 U.S.C. 30167; 49 U.S.C. 32307; 49 U.S.C. 32505; 49 U.S.C. 32708; 49 U.S.C. 32910; 49 U.S.C. 33116; delegation of authority at 49 CFR 1.50.

SOURCE: 68 FR 44228, July 28, 2003, unless otherwise noted.

Subpart A—General Provisions

§512.1 Purpose and scope.

The purpose of this part is to establish the procedures and standards by which NHTSA will consider claims that information submitted to the agency is entitled to confidential treatment under 5 U.S.C. 552(b), most often because it constitutes confidential business information as described in 5 U.S.C. 552(b)(4), and to address the treatment of information determined to be entitled to confidential treatment.

§512.2 Applicability.

(a) This part applies to all information submitted to NHTSA, except as provided in paragraph (b) of this section, for which a determination is sought that the material is entitled to confidential treatment under 5 U.S.C. 552(b), most often because it constitutes confidential business information as described in 5 U.S.C. 552(b)(4), and should be withheld from public disclosure.

(b) Information received as part of the procurement process is subject to the Federal Acquisition Regulation, 48 CFR Chapter 1, as well as this part. In any case of conflict between the Federal Acquisition Regulation and this part, the provisions of the Federal Acquisition Regulation prevail.

§512.3 Definitions.

Whenever used in this part:

(a) *Administrator* means the Administrator of the National Highway Traffic Safety Administration.

(b) *Chief Counsel* means the Chief Counsel of the National Highway Traffic Safety Administration.

(c) *Confidential business* information means trade secrets or commercial or financial information that is privileged or confidential, as described in 5 U.S.C. 552(b)(4).

(1) A *trade secret* is a secret, commercially valuable plan, formula, process, or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort.

(2) Commercial or financial information is considered confidential if it has not been publicly disclosed and:

(i) If the information was required to be submitted and its release is likely to impair the Government's ability to obtain necessary information in the future, or is likely to cause substantial harm to the competitive position of the person from whom the information was obtained; or

(ii) if the information was voluntarily submitted and is the kind of information that is customarily not released to the public by the person from whom it was obtained.

(d) NHTSA means the National Highway Traffic Safety Administration.

(e) "*Substantial competitive harm*" includes "*significant competitive damage*" under Chapter 329 of Title 49 of the United States Code, Automobile Fuel Economy, 49 U.S.C. 32910(c).