

§510.5 Information gathering hearings.

(a) NHTSA may issue a subpoena to compel any person, sole proprietorship, partnership, corporation, or other entity to provide information at an information gathering hearing. The subpoenas are used for the purpose of obtaining testimony from a witness under oath and obtaining relevant documents and things. The Administrator, or a NHTSA employee designated by the Administrator, presides at the hearing. Information gathering hearings are open to the public unless the presiding officer rules otherwise, and the hearings are stenographically reported.

(b) In addition to the presiding officer, one or more other persons may comprise the panel. Each member of the panel may question any witness at the hearing. No person who is not a member of the panel may ask questions of a witness. However, any person may submit to the panel, in writing, proposed questions to be asked of a witness. A member of the panel may pose these questions to the witness if that member deems the questions useful and appropriate. Proposed questions may be submitted to the panel at any time before or during the course of the hearing.

(c) The stenographic record of each witness's testimony will be available to the public, unless the testimony was not given publicly and the witness requests confidential treatment for some or all of his or her testimony. When an oral request for confidential treatment is made during the course of a witness's testimony, the presiding officer may order the hearing closed to the public at that point and continue the questioning of the witness, or may note the request for confidentiality and direct the witness not to answer the question at that time, but require the witness to answer the question in writing within some specified period, or take such other action as the presiding officer deems appropriate. If a request for confidential treatment is made, the release of the record is governed by the applicable laws or regulations relating to the handling of allegedly confidential information. To the extent that some or all of a witness's testimony is

not publicly available, that witness may procure a copy of his or her testimony as recorded upon payment of lawfully prescribed costs.

(d)(1) Any person who is required by subpoena or designated by an entity that is required by subpoena to provide information at an information gathering hearing conducted under this section may be accompanied, represented, and advised by counsel. Any member of the bar of a Federal court or the courts of any State or Territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, and any representative, official, or employee of the sole proprietorship, partnership, corporation or other entity under subpoena may act as counsel.

(2) A witness appearing in response to subpoena may confer in confidence with his or her counsel or representative concerning any questions asked of the witness. If such witness, counsel, or representative objects to a question, he or she shall state the objection and basis therefor on the record.

(e) The presiding officer at an information gathering hearing takes all necessary action to regulate the course of the hearing, to avoid delay, and to assure that reasonable standards of orderly and ethical conduct are maintained. In any case in which counsel for or a representative of a witness has refused to comply with the presiding officer's directions, or to adhere to reasonable standards of orderly and ethical conduct in the course of a hearing, the presiding officer states on the record the reasons given, if any, for the refusal and, if the presiding officer is someone other than the Administrator, immediately reports the refusal to the Administrator. The Administrator thereupon takes such action as the circumstances warrant.

(f) Where appropriate, the procedures established in this subsection may be utilized in informal hearings conducted by NHTSA pursuant to its authority under sections 152 and 156 of the Safety Act (15 U.S.C. 1412, 1416) to receive data, views and arguments concerning alleged safety-related defects. The rights accorded to witnesses in this subsection may also be accorded to witnesses who appear voluntarily at such hearings.