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Motor Vehicle Safety Defects and Recalls

Defects and Recalls



Think your vehicle
has a defect?

- » FILE A COMPLAINT
- » ONGOING INVESTIGATIONS
- » CHECK FOR RECALLS

What Every Vehicle
Owner Should Know

HOTLINE

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Introduction

Approximately 42,000 lives are lost annually on our Nation's highways. Traffic crashes are the primary cause of debilitating injuries in the United States and the number one killer of Americans under the age of 34. In addition to staggering emotional costs, the annual economic loss to society because of these crashes, in terms of worker productivity, medical costs, insurance costs, etc., is estimated at more than \$150 billion. Clearly, there is a need for dramatic improvement in motor vehicle safety. Getting unsafe vehicles off the road is integral to improving safety and saving lives.

The National Traffic and Motor Vehicle Safety Act (originally enacted in 1966 and now recodified as 49 U.S.C. Chapter 301) gives the Department of Transportation's National Highway Traffic Safety Administration (NHTSA) the authority to issue vehicle safety standards and to require manufacturers to recall vehicles that have safety-related defects or do not meet Federal safety standards. Since then, more than 390 million cars, trucks, buses, recreational vehicles, motorcycles, and mopeds, as well as 46 million tires, 66 million pieces of motor vehicle equipment, and 42 million child safety seats have been recalled to correct safety defects.

Manufacturers voluntarily initiate many of these recalls, while others are either influenced by NHTSA investigations or ordered by NHTSA via the courts. If a safety defect is discovered, the manufacturer must notify NHTSA, as well as vehicle or equipment owners, dealers, and distributors. The manufacturer is then required to remedy the problem at no charge to the owner. NHTSA is responsible for monitoring the manufacturer's corrective action to ensure successful completion of the recall campaign.

Purpose

The purpose of this booklet is to answer the most commonly asked questions about how and why recall campaigns are initiated, and to inform consumers of their rights and responsibilities when a vehicle or item of motor vehicle equipment is recalled. In these pages, you'll discover how to report a safety-related problem to NHTSA, as well as how participation by citizens like you helps to keep motor vehicles as safe as possible. See the following section for comprehensive answers to some of the most frequently asked questions (FAQs) NHTSA receives on recalls.

Frequently Asked Questions (FAQs) on Recalls

When Is a Recall Necessary?

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- ◆ When a motor vehicle or item of motor vehicle equipment (including tires) does not comply with a Federal Motor Vehicle Safety Standard.
- ◆ When there is a safety-related defect in the vehicle or equipment.

Federal Motor Vehicle Safety Standards set minimum performance requirements for those parts of the vehicle that most affect its safe operation (brakes, tires, lighting) or that protect drivers and passengers from death or serious injury in the event of a crash (air bags, safety belts, child restraints, energy absorbing steering columns, motorcycle helmets). These Federal Standards are applicable to **all** vehicles and vehicle-related equipment manufactured or imported for sale in the United States (including U.S. territories) and certified for use on public roads and highways.

What Is a Safety-Related Defect?

The United States Code for Motor Vehicle Safety (Title 49, Chapter 301) defines motor vehicle safety as “the performance of a motor vehicle or motor vehicle equipment in a way that protects the public

against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.” A defect includes “any defect in performance, construction, a component, or material of a motor vehicle or motor vehicle equipment.” Generally, a safety defect is defined as a problem that exists in a motor vehicle or item of motor vehicle equipment that:

- ◆ poses a risk to motor vehicle safety, and
- ◆ may exist in a group of vehicles of the same design or manufacture, or items of equipment of the same type and manufacture.

Examples of Defects Considered Safety-Related

- ◆ Steering components that break suddenly, causing partial or complete loss of vehicle control.
- ◆ Problems with fuel system components, particularly in their susceptibility to crash damage, which result in leakage of fuel and may cause vehicle fires.
- ◆ Accelerator controls that break or stick.
- ◆ Wheels that crack or break, which may result in loss of vehicle control.
- ◆ Engine cooling fan blades that break unexpectedly, causing injury to people working on a vehicle.
- ◆ Windshield wiper assemblies that fail to operate properly.
- ◆ Seats and/or seat backs that fail unexpectedly during normal use.
- ◆ Critical vehicle components that break, fall apart, or separate from the vehicle, causing potential loss of vehicle control or injury to people inside or outside the vehicle.
- ◆ Wiring system problems that result in a fire or loss of lighting.
- ◆ Car ramps or jacks that may collapse and cause injury to someone working on a vehicle.
- ◆ Air bags that deploy under conditions for which they are not intended to deploy.

- ◆ Child safety seats that contain defective safety belts, buckles, or components that create a risk of injury not only in a vehicle crash, but also in the nonoperational safety of a motor vehicle.

Examples of Defects NOT Considered Safety Related

- ◆ Air conditioners and radios that do not operate properly.
- ◆ Ordinary wear of equipment that has to be inspected, maintained, and replaced periodically. Such equipment includes shock absorbers, batteries, brake pads and shoes, and exhaust systems.
- ◆ Nonstructural or body panel rust.
- ◆ Quality of paint or cosmetic blemishes.
- ◆ Excessive oil consumption.

How Can I Report a Safety Problem to NHTSA?

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If you think your vehicle or equipment may have a safety defect, reporting it to NHTSA is an important first step to take to get the situation remedied and make our roads safer. If the agency receives similar reports from a number of people about the same product, this could indicate that a safety-related defect may exist that would warrant the opening of an investigation. In order to make it convenient for consumers to report any suspected safety defects to NHTSA, the agency offers three ways to file such complaints.

Vehicle Safety Hotline

NHTSA operates the U.S. Department of Transportation's (DOT) Vehicle Safety Hotline telephone service to collect accurate and timely information from consumers on vehicle safety problems. You can call 1-888-327-4236 or 1-800-424-9393 toll free from anywhere in the United States, Puerto Rico, and the Virgin Islands to register complaints or receive recall information about a vehicle. The Hotline also has Spanish-speaking representatives and offers a dedicated number, 1-800-424-9153, for use by persons with hearing impairments.

When you call the Hotline to report a vehicle-related safety issue, you will be asked to provide certain critical information that agency technical staff needs to evaluate the problem. The information you provide is filed on a Vehicle Owner's Questionnaire (VOQ), entered into the agency's consumer-complaint database, and forwarded to NHTSA technical staff for evaluation.

VOQs filed through the Hotline will be mailed to you for verification of data. In addition, you will receive an explanation of how your report will be used, as well as a request for written authorization allowing NHTSA to provide your personal identifiers (e.g., name, address and telephone number) to the manufacturer of the alleged defective product you own. Note that you are not required to provide such authorization. However, sometimes sharing this information with the manufacturer can help facilitate the recall process.

Safercar.gov

You can also report a vehicle safety issue to NHTSA online at our vehicle safety Web site: www.safercar.gov. Select "File a Complaint" within the Defects and Recalls section of the home page. The information you submit via the Web site is recorded in VOQ format, entered into our consumer complaint database, and provided to our technical staff for evaluation.

When you fill out a VOQ online, you will be given the option of checking a box to authorize or not authorize the release of your personal identifiers to the manufacturer of the alleged defective product you own. Again, while you are not required to provide such authorization, doing so can sometimes help facilitate the recall process.

U.S. Mail

To report a safety complaint to NHTSA by mail, send your letter to:

U.S. Department of Transportation
National Highway Traffic Safety Administration
Office of Defects Investigation (NVS-210)
400 Seventh Street SW.
Washington, DC 20590

How Will My Report Be Used?

Information you provide on the questionnaire is entered into the NHTSA consumer complaint automated database, and catalogued according to vehicle make, model, model year, manufacturer, and the affected part, assembly, or system. These reports, with the consumer's personal identifiers removed, are listed on www.nhtsa.dot.gov/cars/problems and updated weekly. Citizen and consumer reports help NHTSA and manufacturers to determine if a safety recall is warranted, and also provide motorists with valuable information about potential safety problems currently under review.

Will I Be Contacted?

In some cases, an investigator from the Office of Defects Investigation (ODI) may call to clarify or verify information from your report. Unfortunately, the large volume of reports received by the agency does not permit a return call for each report filed.

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Questions about whether your concern involves an investigation or recall are best answered by contacting the DOT Vehicle Safety Hotline or by viewing our Web site.

NHTSA technical staff conducts a continuous analysis of these reports to determine whether an unusual number of complaints of potential safety-related problems have been received on any specific line of vehicles, tires, or equipment (e.g., child safety seats, jacks, trailer hitches, etc.). The number of reported complaints and the severity of the consequences are carefully reviewed by technical staff and measured against the number of vehicles (or items of equipment) manufactured, and how many years the vehicles or equipment have been in service.

This ongoing evaluation process allows NHTSA technical staff to determine whether complaints represent isolated reports or a trend. If a trend is suspected and a problem has a potential for causing a risk to safety, the agency will open an investigation for more detailed analysis of the problem.

How Many Reports Must Be Filed Before NHTSA Investigates an Issue?

There is no established number. Agency technical experts review each and every call, letter, and online report of an alleged safety problem filed with NHTSA. Although NHTSA has no jurisdiction over defects that are not safety-related, it does review each report that suggests a potential safety defect involving groups of motor vehicles or vehicle equipment.

How Does NHTSA Conduct an Investigation?

The agency's Office of Defects Investigation investigative process consists of four parts:

- ◆ Screening – A preliminary review of consumer complaints and other information related to alleged defects to decide whether to open an investigation.
- ◆ Petition Analysis – An analysis of any petitions calling for defect investigations and/or reviews of safety-related recalls.
- ◆ Investigation – The investigation of alleged safety defects.
- ◆ Recall Management – Investigation of the effectiveness of safety recalls.

This four-step process is outlined below:

1. Screening

Under the screening process, available information – including but not limited to Vehicle Owner's Questionnaires (submitted through the Vehicle Safety Hotline, Internet or U.S. Mail), e-mail, additional letters, anonymous reports, and manufacturer-submitted information – is reviewed by the Defects Assessment Division (DAD). DAD also reviews incoming service bulletins and other documents prepared by the manufacturers to identify foreign safety recalls, customer satisfaction campaigns, consumer advisories, and similar campaigns that should have been conducted as safety recalls in the United States. If DAD determines the available information indicates a safety-related trend or that a catastrophic failure is developing, this information is presented to a panel of ODI staff for a recommendation on whether to open a safety defect investigation.

2. Petition Analyses

Any person may submit a petition requesting NHTSA to open an investigation into an alleged safety defect. After conducting a technical analysis of such a petition, ODI informs the petitioner whether it has been granted or denied. If the petition is granted, a defect investigation is opened. If the petition is denied, the reasons for the denial are published in the Federal Register. Similarly, a person may submit a petition requesting NHTSA to hold a hearing on whether a manufacturer has reasonably met its obligation to notify and/or remedy a safety defect or noncompliance with a Federal motor vehicle safety standard. If the petition is granted, a hearing is held to assess the matter and decide what corrective action should be taken. If the petition is denied, the reasons for the denial are published in the Federal Register.

3. Investigation

Investigations are conducted in two phases: the Preliminary Evaluation and the Engineering Analysis.

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◆ Preliminary Evaluation (PE)

Most PEs are opened on the basis of information submitted by DAD, but they may be opened on the basis of other information as well. During the PE phase, ODI obtains information from the manufacturer (including, but not limited to, data on complaints, crashes, injuries, warranty claims, modifications, and part sales) and determines whether further analysis is warranted. At this stage, the manufacturer has an opportunity to present its views regarding the alleged defect. PEs are generally resolved within four months from the date they are opened. They are either closed on the basis that further investigation is not warranted, or because the manufacturer has decided to conduct a recall. In the event that ODI believes further analysis is warranted, the PE is upgraded to an Engineering Analysis.

◆ Engineering Analysis (EA)

During an EA, ODI conducts a more detailed and complete analysis of the character and scope of the alleged defect. The EA builds on information collected during the PE and supplements it with appropriate

inspections, tests, surveys, and additional information obtained from the manufacturer and suppliers. ODI attempts to resolve all EAs within one year from the date they are opened, but some complex investigations require more time. At the conclusion of the EA, the investigation may be closed if the manufacturer has notified the agency that it will conduct a safety recall or if the agency has not identified a safety-related defect. However, if ODI believes that the data developed indicates that a safety-related defect exists, the ODI investigator prepares a briefing to be presented to a panel of experts from throughout the agency for peer review. If the agency panel concurs with ODI's recommendation that a recall should be conducted, ODI notifies the manufacturer of the panel's concurrence and may, if appropriate, provide a final opportunity for the manufacturer to present new analysis or data. ODI then sends a Recall Request Letter to the manufacturer.

4. Recall Management

The Recall Management Division (RMD) maintains the administrative records for all safety recalls, and monitors these recalls to ensure that the scope is appropriate, and that the recall completion rate and remedy are adequate. NHTSA's monitoring of recall performance may lead to the opening of a recall investigation if the facts appear to indicate a problem with the recall adequacy or execution. A recall investigation can result in expanding the scope of previously announced recalls, or in the adjustment of existing recall remedies.

What Happens When NHTSA Determines a Safety Defect Exists?

If the manufacturer declines to conduct a recall in response to the Recall Request Letter, the Associate Administrator for Enforcement may issue an Initial Decision that a safety-related defect exists. An Initial Decision will be followed by a Public Meeting, at which the manufacturer and interested members of the public can present information and arguments on the issue. Prior to the Public Meeting, the manufacturer is sent copies of all information on which the

Government's decision is based. A copy of the file is also made available for public inspection in the agency's Technical Information Services (TIS) Office.

During the meeting itself, the manufacturer may attempt to refute the Government's evidence in addition to presenting new information. Public interest groups, other manufacturers, trade associations, and consumers may also present information that will be considered and evaluated by NHTSA's Administrator in making a final decision on whether a safety-related defect exists. The entire investigative record is then presented to NHTSA's Administrator, who may issue a Final Decision that a safety defect exists and order the manufacturer to conduct a recall.

If NHTSA Makes a Final Decision, Can the Manufacturer Challenge That Decision?

Yes. Once the agency has made a final decision of a safety-related defect and ordered a manufacturer to recall, the manufacturer may challenge that order in a Federal District Court.

The agency can also go to court to compel a manufacturer to comply with its order. Once a case is in court, the burden of proof lies with the agency. In other words, the agency's evidence that a defect exists and that it is safety-related must be sufficient in the opinion of the court to outweigh evidence to the contrary presented by the manufacturer.

While the case is in the courts, however, the manufacturer may be required to notify consumers by letter that the agency did make a final decision of a safety defect, but that the manufacturer is contesting the decision.

Do Manufacturers Ever Initiate Recalls without a Government Order?

Yes. Most decisions to conduct a recall and remedy a safety defect are made voluntarily by manufacturers prior to any involvement by NHTSA. Through their own tests, inspection procedures, and information-gathering systems, manufacturers often discover that a safety defect exists or that the requirements

of a Federal safety standard have not been met. The manufacturer is obligated to report such findings to the Government and take appropriate action to correct the problem. However, as vehicles age with use, certain design and performance problems may occur that prompt vehicle owners to file complaints with NHTSA. The many reports received by the public form the basis for NHTSA's defect investigations, which often result in significant safety recalls.

How Will I Be Notified If a Recall Is Ordered or Initiated?

Within a reasonable time after the determination of a safety defect or noncompliance, manufacturers must notify, by first-class mail, all registered owners and purchasers of the affected vehicles of the existence of the problem and give an evaluation of its risk to motor vehicle safety. The manufacturer must explain to consumers the potential safety hazards presented by the problem. Names of vehicle owners are obtained from State motor vehicle offices. The letter must also instruct consumers on how to get the problem corrected, remind them that corrections are to be made at no charge, inform them when the remedy will be available, how long the remedy will take to perform, and whom to contact if there is a problem in obtaining the free recall work. If you do not receive a letter of notification from the vehicle manufacturer but think that your vehicle might be involved in a recall campaign, call the Vehicle Safety Hotline at 888-327-4236 or 800-424-9393, visit the NHTSA www.safercar.gov Web site, or contact the manufacturer or your dealer.

Manufacturers of motor vehicle equipment, particularly tires and child safety seats, maintain lists of owners who have registered their products with the manufacturer. When product or equipment recalls are initiated, the manufacturer uses these lists to directly notify owners. Product and equipment manufacturers may also be required to notify the public of recalls through a variety of additional methods (e.g., advertisements, point-of-purchase posters, etc.) to ensure that as many owners as possible are aware of the recalls. If you are unsure whether your tire or child safety seat is the subject of a recall, you may

contact the manufacturer, call the Vehicle Safety Hotline, or log onto www.safercar.gov and click on “Check for Recalls.”

How Are Problems with Recalled Vehicles or Equipment Remedied?

Once a safety-defect determination is made, the law gives the manufacturer three options for correcting the defect – repair, replacement, or refund. In the case of a vehicle recall, the manufacturer may choose to repair the vehicle at no charge; replace the vehicle with an identical or similar vehicle; or refund the purchase price in full, minus a reasonable allowance for depreciation. In the case of equipment, including tires and child safety seats, the manufacturer may either repair or replace the affected equipment at no charge to the consumer.

If I Pay for Needed Repairs before a Recall Is Initiated, Am I Entitled to Reimbursement?

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Yes, under certain conditions. Manufacturers are required to provide reimbursement for certain costs incurred by owners to remedy safety defect conditions prior to a recall. Vehicle manufacturers are required to reimburse owners for costs incurred to remedy a defect based on either (1) the date NHTSA opens its Engineering Analysis, or (2) one year prior to the manufacturer’s notification of a defect to NHTSA, whichever is earlier. The closing date of eligibility for reimbursement of repair of a motor vehicle is 10 days after the manufacturer mails the last of the owner notices informing owners of a safety defect recall and cost-free remedy. For replacement of equipment, the closing date is either the same as for motor vehicles or 30 days after the manufacturer’s closing of its efforts to provide public notice of the existence of a defect, whichever is later. Documentation of the costs is required for reimbursement. While the current reimbursement policy is a relatively new requirement, manufacturers have in the past often voluntarily agreed to absorb such costs, provided customers could prove the pre-recall repairs remedied the defect in question.

Are There Any Limitations to My Right to Have My Vehicle Remedied at No Charge?

Yes. There is a limitation based on the age of the vehicle. In order to be eligible for a free remedy, the vehicle cannot be more than 10 years old on the date the defect or noncompliance is determined. Under the law, the age of the vehicle is calculated from the date of sale to the first purchaser. For example, if a defect is found in 2003 and a recall ordered, manufacturers are required to make the correction available at no charge only for vehicles purchased new in 1994 through 2003. However, consumers should realize that even though manufacturers are not obligated to remedy safety defects in older cars, a safety problem might still exist. If you receive notification of a defect on a vehicle older than 10 years, take the responsibility to have your car repaired at your own expense – and eliminate unnecessary safety risks.

Also, if the manufacturer challenges the agency's final decision of a safety defect, there is no obligation for the manufacturer to remedy the defect while the case is in court. If you decide to have your vehicle remedied at your own expense while the case is pending and the court upholds NHTSA's final decision, you may be entitled to reimbursement. (Be sure to save all receipts and paperwork so that you can prove the repairs were made.) However, if the court ultimately rules the defect is not safety related, Federal law does not require that the manufacturer reimburse you for the repair work.

What About Tire Recalls?

The law requires tire manufacturers to repair or replace at no cost to the consumer only those tires purchased within five years of the defect or noncompliance determination. Furthermore, in order to obtain free replacement or repair of a recalled tire, consumers must bring the tire to the dealer within 60 days of receiving the recall notification letter from the manufacturer. If replacements are not available when you present your recalled tires, obtain a written acknowledgment from the dealer, and keep it until the dealer notifies you that there are more tires in stock.

What if a Dealer Denies My Right to Have a Recalled Vehicle Remedied at No Charge?

If a dealer refuses to repair your vehicle in accordance with the recall letter you received from the manufacturer, you should immediately notify the manufacturer. In most cases, contractual agreements between a manufacturer and its dealers require all dealers to honor the recall and remedy defects at no extra charge – regardless of where the vehicle or equipment was originally purchased.

Under the law, if a vehicle recall has been initiated, consumers are entitled to the remedy without charge and within a reasonable time. In most cases, there will be a time lag between the date of the manufacturer's decision that a recall is warranted or the agency's final decision, and the date the remedy is available to consumers.

This time is provided to allow manufacturers to identify owners of vehicles or equipment included in the recall, develop remedial procedures, instruct dealers on how to repair the defect, distribute the parts necessary for repair or replacement to the dealerships, and send letters to consumers informing them how the recall campaign will be conducted. A dealer is not required by law to remedy a defect in a vehicle brought in for repair before this date.

Although consumers demanding immediate correction may feel they are not receiving satisfactory resolution of the problem, there is no legal recourse available at this stage – patience is the only alternative. In instances where a manufacturer needs extended time to develop a remedy, the agency may require the manufacturer to send an interim notice to consumers that contains any short-term actions that the consumer may take to lessen the likelihood that the defect will occur.

Once a Recall Is Initiated, Can I Take Independent Legal Action for Injuries I May Have Suffered?

Yes. The law specifically states that the recall remedies are in addition to other available legal remedies. To determine specific State law remedies, you should consult a lawyer, your State attorney general, or your local district attorney's office.

Where Can I Find Additional Information on Recalls and Other Vehicle Safety Issues?

Both the Hotline and the agency's www.safercar.gov Web site are designed to make it faster and easier for you to file a safety-related complaint with NHTSA. However, both also serve as important sources of information about recalled vehicles, recalled equipment such as child safety seats, and ongoing safety defect investigations. In addition, the Hotline and www.safercar.gov can provide you with updated NHTSA 5-star crash test results for both new and used vehicles, information about safety bulletins, advice about which new vehicles are equipped with side air bags and/or electronic stability control, and a variety of other vehicle safety information.

Think your vehicle or child safety seat has a safety defect?

If so, please contact us to file a complaint
by one of the three methods listed below:

Visit

www.safercar.gov

Call

888-327-4236

Mail

**NHTSA, Office of Defects Investigation (NVS-210)
400 7th St., SW
Washington, DC 20590**

*All complaints are carefully reviewed
by our team of safety experts.
We welcome your input.*



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people saving people