Anatomy Of A Recall

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The recall and removal of unsafe motor vehicles from our roadways has become a priority in lowering the tragic loss of life and serious injuries on our nation’s highways.

FACT: Motor vehicle crashes are the number one killer of Americans under age 34.

In 2004, more than 42,000 lives were lost and over 2 million disabling injuries occurred on American roadways. In the United States, motor vehicle crashes are the primary cause of trauma induced paralysis and spinal cord injuries. The socioeconomic cost/loss of these crashes is estimated at $150 billion annually. These staggering statistics dictate a need for improved motor vehicle safety.

Since 1966, more than 300 million vehicles, over 40 million tires and nearly 85 million motor vehicle components, including child seats, have been recalled by the National Highway Traffic Safety Administration (NHTSA). NHTSA has the authority to issue and enforce Federal Motor Vehicle Safety Standards (FMVSS). NHTSA also has the ability to recall vehicles or vehicle components that are not in compliance with FMVSS.

FMVSS are regulations written in terms of minimum safety performance requirements for motor vehicles or items of motor vehicle equipment. These requirements are specified in such a manner “that the public is protected against unreasonable risk of crashes occurring as a result of the design, construction, or performance of motor vehicles and is also protected against unreasonable risk of death or injury in the event crashes do occur.” –Excerpt from NHTSA’s legislative mandate under Title 49 of the United States Code, Chapter 301-Part 571.

A Safety-Related Defect Is An Issue

NHTSA has defined a safety-related defect as an issue that exists in a motor vehicle or item of motor vehicle equipment that:

• Poses a risk to motor vehicle safety, and/or
• May exist in a group of vehicles of the same design or manufacture, or items of equipment of the same type and manufacture NHTSA has outlined the following examples as defects that could initiate a recall:
  • 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, that result in leakage of fuel and possibly cause vehicle fires
  • Accelerator controls that break or stick
  • Service brake failure or brake component failures causing a partial or complete loss of brake efficiency
  • Wheels that crack or break, resulting in loss of vehicle control
  • Engine cooling fan blades that break unexpectedly causing injury to persons working on a vehicle
  • Windshield wiper assemblies that fail to operate or malfunction
  • Seats and/or seat backs that fail unexpectedly during normal use
  • Critical vehicle components that break, fall apart, or separate from the vehicle causing loss of vehicle control or injury to persons inside or outside the vehicle
  • Wiring system problems that result in a fire or loss of lighting
• Car ramps or jacks that collapse causing injury to someone working on a vehicle
• Air bags that deploy under conditions for which they are not designed 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 non-operational safety of a motor vehicle

When a defect or non-compliance(s) is present in a vehicle or vehicle component, NHTSA or the manufacturer can initiate a recall. Recalls are necessary when a safety defect exists or when a motor vehicle or component of a motor vehicle fails to comply with a FMVSS.

Safety Defect To Vehicle Recall

Vehicle/vehicle component recalls are initiated in two different manners. The first is a voluntary recall from the vehicle/component manufacturer. The second is a recall through NHTSA.

The Voluntary Recall

Most recalls conducted through a manufacturer are initiated without any involvement from NHTSA. Manufacturers conduct inspections and perform tests on their vehicles that uncover safety defects or when FMVSS are not being met. The manufacturer is obligated to report any defects or non-compliance of FMVSS to NHTSA. The manufacturer is also obligated to remediate the defect, at no charge to the vehicle owner, and prevent future occurrences of the defect.

The NHTSA Recall

As vehicles age, certain vehicle systems may exhibit design and performance issues that are reported to NHTSA by the vehicle owners. These reported issues lead to the second way in which safety recalls are conducted: NHTSA recalls, which are conducted in several phases.

The NHTSA Investigation

NHTSA begins the recall process by first conducting an investigation. NHTSA investigates every phone call, letter and Internet consumer complaint posted on their web-site to determine if a possible defect or safety issue exists. This information is entered into a database, which is updated weekly and reviewed to evaluate the number of complaints and the severity of the potential defect. The number of complaints is compared to the number of vehicle(s)/vehicle equipment manufactured and how long the vehicle(s)/vehicle equipment has been in service with the potential defect or non-compliance issue. NHTSA will further evaluate the data and determine if the reported incidents are isolated or if a trend is developing. If NHTSA suspects a trend and the potential defect is a potential safety hazard, this information will then be presented to the NHTSA’s Office of Defects Investigation (ODI).

The Office Of Defects Investigation

The ODI conducts their investigation(s) in two phases. They will initiate a Preliminary Evaluation (PE) followed by an Engineering Analysis (EA) if they determine a safety defect exists.

The Preliminary Evaluation

The PE is usually initiated with the data collected from consumer complaints. During this phase the ODI will request information from the manufacturer of the vehicle/component. This information may include data on complaints, fires, crashes, injuries, warranty claims, modifications and part sales. NHTSA will also contact
other manufacturers to conduct a “peer review.” A peer review consists of information submitted by manufacturers who construct similar vehicles or equipment as the manufacturer of the alleged defect. This information assists NHTSA in determining the limitation(s) of a product/design or if a defect exists. The following is an example of how a peer review was utilized to assist NHTSA in making a determination of a defect versus product/engineering limitations.

Example: December 2004, NHTSA initiated a preliminary evaluation (PE) with Volkswagen of America regarding inadvertent side/thorax airbag deployment from a non-collision impact to the vehicle. NHTSA also contacted other vehicle manufacturers requesting their information regarding the same allegation of inadvertent side/thorax airbag deployment. The result of NHTSA’s investigation revealed other manufacturers had a similar number of deployments. NHTSA concluded a defect did not exist and the inadvertent deployments were resultant of the non-collision impact.

During this phase the manufacturer has the opportunity to initiate the recall or comment in regard to the alleged defect. PEs usually take between three to four months to complete. They are closed on the basis that no safety issue/defect exists or because the manufacturer has decided to conduct a recall. When ODI believes further analysis is necessary and the manufacturer does not initiate the recall, the PE is upgraded to an EA.

The Engineering Analysis

The Engineering Analysis (EA) is a more in-depth evaluation of the safety issue/defect. During this phase the ODI utilizes the information obtained during the PE and conducts tests, evaluations, and surveys. Like the PE, the manufacturer can initiate the recall during this phase. EAs take approximately a year to conduct, at which point the manufacturer may initiate a recall or the investigation may be closed if there is no evidence of a safety-related defect or non-compliance. If the information and data collected by ODI reveals a defect does exist and warrants a recall, the principal investigator will prepare a report to be reviewed by experts throughout NHTSA. If the experts concur with the findings and agree a recall is necessary, ODI will send the manufacturer a Recall Request Letter. This letter is to inform the manufacturer of ODI’s findings and to request the manufacturer to voluntarily recall the defective vehicle/component.

When The Vehicle Manufacturer Refuses To Conduct A Recall

If the vehicle or component manufacturer refuses to conduct the recall, NHTSA will issue an initial decision that a safety-defect exists. A public hearing will be held at which point the manufacturer and interested public safety groups can present information relevant to the defect. Prior to the hearing the manufacturer will be forwarded all of the information, analysis and findings obtained to make the decision that a defect exists. This information is also available to the public. During the hearing, the manufacturer has the right to present new evidence that may refute the evidence/findings of the ODI. All of this information is utilized in NHTSA’s final decision as to whether a safety defect exists. If the final decision is that a defect exists and the manufacturer declines to conduct a recall, NHTSA will order the manufacturer to conduct a recall.

What About The Consumer?

A consumer must be notified, by the manufacturer via first class mail, of a safety defect or FMVSS noncompliance within a reasonable time. This notice is sent to all registered vehicle owners/ purchasers of the affected vehicle(s), via the states’ division of motor vehicles. This is why it is extremely important to send in the registration card for child restraint seats. The notice from the manufacturer to the consumer must indicate the following:

- The potential risk of the defect/non-compliance
- Hazards presented by the defect/non-compliance
- Instructions/corrective action(s) implemented by the manufacturer to correct/remedy the defect/non-
compliance

- Reiterate to the consumer the corrective action is performed at no charge
- Inform the consumer when it will be available and how long it will take to perform
- Who to contact if they are experiencing difficulty in obtaining the remedy

Summation

As we see, the initiation of a recall can be a lengthy process. The vehicle/component manufacturer has the advantage of conducting the recall at the first indication a defect or non-compliance exists, thus remedying the defect and lowering the possibility of injury to consumers. Vehicle and component manufacturers working in conjunction with NHTSA can help remove unsafe and defective vehicles from the roadways and significantly reduce the tragic loss of life and serious injuries.

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