



Safety Recalls

Frequently Asked Questions¹

Q What is a federal motor vehicle safety recall?

A The National Traffic and Motor Vehicle Safety Act (the Act) gives the National Highway Traffic Safety Administration (NHTSA) the authority to set safety standards for new motor vehicles built for the U.S. market. Motor vehicles determined either (1) to be noncompliant with a federal safety standard or (2) to have safety-related defects may be recalled. Vehicle manufacturers (OEMs) initiate most safety recalls, with a minority being influenced or ordered by NHTSA. Tens of millions of vehicles and parts are recalled in a typical year. Given their expertise, training and investment in necessary tools and information, franchised dealers remedy nearly all recalled vehicles, thereby helping to promote public safety. *Note:* federal emissions recalls, OEM “policy” campaigns and service bulletins are not federal safety recalls.

Q How does federal law restrict the sale of new vehicles subject to a safety recall?

A Federal law imposes a “stop sale” on all *new*, undelivered vehicles and parts subject to safety recalls. Once a dealer receives a safety recall notice, affected *new* vehicles or parts may not be delivered until the defect or noncompliance is remedied. But the Act also mandates that OEMs both (1) reimburse dealers for the cost of remedying recalls and (2) pay them at least 1 percent per month of the OEM’s or distributor’s selling price, prorated from the date of the dealer recall notice until the date the dealer has access to the parts and/or instructions needed to remedy the recall.

¹ The information provided in this document is general guidance relating to vehicle recalls; it is not, and should not be construed as, legal advice. Dealers must consult with their own legal counsel to obtain individualized advice about their specific circumstances. Furthermore, the information provided here relates only to federal laws and regulations. State law may impose additional obligations and restrictions on dealers about which dealers should consult with their legal counsel.

Q Is there a single source of vehicle safety recall status information?

A The NHTSA website www.safercar.gov/vinlookup allows anyone to search safety recalls by model year, make, model and vehicle identification number (VIN). This look-up function reflects information from the VIN-searchable, public-facing safety recall websites of light-duty OEMs selling more than 25,000 vehicles per year in the U.S. (Smaller volume and commercial truck OEMs are not in the look-up.) OEMs must post recall status information on their websites concurrent with the creation of each new recall letter recipient list, describe each unremedied safety recall applicable to a particular VIN dating back at least 15 years and update their sites at least once every seven days.

Search results will show whether a vehicle is covered by an incomplete recall(s), whether a remedy is available and/or whether there are no incomplete recalls. The website does not detail recalls for which a remedy has been completed. Mobile applications of the look-up are available, but the site does not yet accept automated and “batched” search submissions. Use of the built-in “Print” button should result in a screenshot with the date/time on it.





Does the Act restrict the sale of used vehicles subject to a safety recall?



No, the Act does not prohibit the sale (by dealers or anyone else) of used vehicles subject to unremediated safety recalls. (It does, however, prohibit the sale of used parts subject to recall.) Despite the Act's lack of a used-vehicle sales prohibition, franchised dealers should consider the following:

In-Brand Vehicles

- Since dealer service departments are authorized, trained and equipped to remedy safety recalls for the brands the dealer represents, the used inventory of those brands should be checked routinely for unremediated safety recalls and any found should be performed prior to resale. If the remedy or parts are not available for a particular recalled vehicle, a dealer considering its resale (at retail or wholesale) prior to performing the remedy should consult with legal counsel about the advisability of doing so.
- NADA recommends dealers provide a recall status notice to *all* prospective in-brand used-vehicle purchasers, whether or not the vehicle is subject to an unremediated safety recall. The notice should be provided together with a current screenshot of the VIN-specific look-up from www.safercar.gov discussed above. Actual purchasers should be asked to provide a written acknowledgment that they received the recall status notice. In addition to the www.safercar.gov screenshot, recall status notices may (1) reference whether the vehicle is subject to an OEM “stop sale” directive, (2) state when a remedy may become available, and (3) make disclaimers as to the accuracy of the information being disclosed, among other things. Dealers should consult with legal counsel regarding the precise language to be used in such notices. NADA does not offer a model recall status notice as the language of such could vary from state to state; however, some state and metro dealer associations do offer a model notice.
- Dealers may periodically receive OEM “stop sale” notices covering used vehicles in inventory. When the remedy or parts are not available for a recall subject to an OEM “stop sale,” it is prudent to

refrain from selling (at retail or wholesale) a covered in-brand vehicle until the recall is remedied. Alternatively, dealers considering the resale of such vehicles should consult with legal counsel about the advisability of doing so, especially as the sale may violate the terms and conditions of a franchise agreement and/or may undermine the OEM's product liability indemnity. *Note:* OEMs may (voluntarily or pursuant to state law) offer compensation to their dealers for at least some of the costs associated with these “stop sales.”

- On occasion, dealers may receive from their OEMs recall notices with “stop drive” precautions applicable to certain used vehicles in inventory. Dealers should not resell used vehicles subject to a “stop drive” (either at retail or at wholesale) until the recall is remedied.

Off-Brand Vehicles

- NADA recommends dealers provide a recall status notice to *all* prospective purchasers of off-brand used vehicles, whether or not they are subject to an unremediated safety recall. The notice should be provided together with a current screenshot of the VIN-specific look-up from www.safercar.gov discussed above. Actual purchasers should be asked to provide a written acknowledgment that they received the recall status notice. In addition to the www.safercar.gov screenshot, recall status notices may (1) if known, reference whether the vehicle is subject to an OEM “stop sale” directive, (2) if known, state when a remedy may become available, (3) note the location and contact information of dealers authorized to do recall repairs on the vehicle, and (4) make disclaimers as to the accuracy of the information being disclosed, among other things. Dealers should consult with legal counsel regarding the precise language to be used in such notices. NADA does not offer a model recall status notice as the language of such could vary from state to state; however, some state and metro dealer associations do offer a model notice.
- Dealers may periodically learn of OEM “stop sale” notices covering off-brand used vehicles in inventory (e.g., through the VIN look-up tool described below or via the media). Where a dealer has actual

knowledge of an OEM “stop sale” applicable to an off-brand vehicle in that dealer’s inventory, it may be prudent to refrain from selling the vehicle until it can be remedied. Dealers considering the resale of such vehicles should consult with legal counsel about the advisability of doing so.

- On occasion, a dealer may learn (e.g., through the VIN look-up tool described below or from the media) that an off-brand vehicle in its inventory is subject to an OEM recall notice with a “stop drive” precaution. Dealers with actual knowledge of a “stop drive” should not resell used vehicles subject to it (either at retail or at wholesale) until the recall is remedied.

Q Does the NHTSA VIN look-up site impose additional requirements on dealers?

A The www.safercar.gov/vinlookup site does not directly impose new mandates on dealers. However, prudence dictates that dealers check the NHTSA (or applicable OEM-specific VIN look-up site) prior to purchasing and reselling vehicles. For the reasons explained above, dealers should periodically check the recall status of used vehicles in inventory, pull a current screenshot and provide a recall status notice to prospective used-vehicle purchasers and obtain an acknowledgment of receipt from actual purchasers.

Q Are there rental and sales restrictions for recalled rental vehicles?

A Yes, rental companies with an average of 35 or more vehicles in a rental fleet (in a calendar year) may *not* rent or sell vehicles with unremediated safety recalls. (This restriction does not apply to vehicles over 10,000 lbs). Regardless of the size of a dealer’s rental fleet, dealers are encouraged to:

- use www.safercar.gov/vinlookup or a manufacturer VIN-specific look-up tool to regularly check the recall status of *all* rental and loaner vehicles;

- refrain from renting or loaning *any* vehicle subject to an unremediated safety recall if the manufacturer has stated in the recall notice that the vehicle *should not be driven*; and
- disclose to prospective renters or borrowers the recall status of all other rental or loaner vehicles.

Q What’s the best course of action to take with service customers?

A Federal law effectively requires franchised dealers to notify in-brand service customers of open recalls on their vehicles (e.g., an XYZ dealer servicing an XYZ vehicle). Although this provision technically only applies where a dealer’s OEM has specifically mandated in its franchise agreement that such notifications be given, dealers should consider giving notices of open recalls for **every** in-brand vehicle serviced. Customers may occasionally refuse to have safety recall remedies performed, in which case dealers should not do the work surreptitiously but should document and obtain an acknowledgement of the customer’s refusal of recall work. Dealers should also document when a service vehicle is subject to a federal safety recall but the remedy or parts are unavailable.



Please direct any questions on this matter to
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