



## TC025

# FAMA Fire Apparatus Safety Recall Guidance

Prepared by the FAMA Technical Committee

This guide does not endorse any manufacturer or product





## Summary

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In April of 2015, FAMA submitted a letter of interpretation to the National Highway Traffic Safety Administration. Based on our interpretation of the NHTSA regulations, we felt that safety defects of items not related to the highway traffic aspects of a fire apparatus would not fall within NHTSA's recall authority. NHTSA responded with a letter of interpretation that asserts NHTSA's authority over anything that is a part of the apparatus at the time of manufacture.

Both request and response are included in this document. The official response is available on-line at <https://isearch.nhtsa.gov/>. Search on the word FAMA.

During the redacting process the NHTSA letters become corrupted with the software replacing certain symbols with a question mark. The response in this document has been cleaned up to the best of our ability. The official response is the one you will find on the NHTSA website.



## FAMA Request for Interpretation



Hogan Lovells US LLP  
Columbia Square  
555 Thirteenth Street, NW  
Washington, DC 20004  
T +1 202 637 5600  
F +1 202 637 5910  
www.hoganlovells.com

O. Kevin Vincent, Esq.  
Chief Counsel  
National Highway Traffic Safety Administration  
1200 New Jersey Avenue, SE  
Washington DC 20590

Re: Recall responsibility for work equipment on motor vehicles

Dear Mr. Vincent:

This letter is submitted on behalf of the Fire Apparatus Manufacturer's Association (FAMA), whose members produce fire trucks used throughout the United States. FAMA requests that the agency provide guidance with regard to the recall responsibilities associated with fire-related work equipment installed on fire trucks. Although the companies that manufacture fire trucks, and potentially other types of mobile work-related equipment, will continue to analyze each potential issue on a case-by-case basis, the industry requests guidance to ensure calibration with the agency's expectations.

Fire trucks fall within the category of work-related equipment that must use the public roads to achieve their work purpose. There is no question that aspects of the vehicle that relate directly to its use on the public roads (such as wheels) or that may pose a risk to motor vehicle safety (such as fires) are subject to the federal Motor Vehicle Safety Act. The question, however, arises with regard to equipment that is not operative during travel and that only operates as work equipment once the vehicle reaches the work site. Such equipment includes, but is not limited to, aerial ladders that are fully attached during travel or light towers that are elevated and operated only once the truck reaches the emergency site, or – in the case of refrigerated trucks, temperature control devices that protect food from contamination.

The agency has a long history of distinguishing between "work equipment" and "motor vehicles," recognizing that there are mobile platforms essentially transporting equipment between work sites.<sup>1</sup> The primary purpose of a fire truck, for example, is to

<sup>1</sup> FAMA's members do not contend that these vehicles are not "motor vehicles" under the Vehicle Safety Act, and subject to the notification and remedy provisions when there are defects or noncompliances that might impact the risk of a crash or a fire, or increase the risk of injury in the event of a crash. The question here is solely whether failures associated solely with work equipment that is not used during travel is subject to the notification and remedy requirements of the Vehicle Safety Act when the failure does not give rise to a risk associated with motor vehicle safety.

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# TC025

## Safety Recall Guidance

- 4 -

transport fire-fighting equipment to the site of a fire. It is obviously important for the fire trucks to travel safely over the public roads, and fire truck manufacturers conduct safety recalls under the authority of the Vehicle Safety Act to address any defects that may impair their ability to travel safely to the site of a fire.

Once at the work-site, however, the nature of the platform changes. The equipment installed on the platform becomes paramount. The manufacturers of these fire-fighting platforms, as well as the fire stations that use the equipment, understand the importance of ensuring the equipment remains in safe operating condition. The type of equipment at issue, however, does not independently meet the definition of "motor vehicle equipment" under the Vehicle Safety Act, and therefore does not appear to be subject to the notification and recall provisions of the Vehicle Safety Act. FAMA seeks confirmation of this position.

The Vehicle Safety Act defines "motor vehicle equipment" as:

- (A) any system, part, or component of a motor vehicle as originally manufactured;
- (B) any similar part or component manufactured or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a motor vehicle; or
- (C) any device or an article or apparel, including a motorcycle helmet and excluding medicine or eye-glasses prescribed by a licensed practitioner, that--
  - (i) is not a system, part, or component of a motor vehicle; and
  - (ii) is manufactured, sold, delivered, or offered to be sold for use on public streets, roads, and highways with the apparent purpose of safeguarding users of motor vehicles against risk of accident, injury, or death.

49 USC 30102(a)(7).

The type of equipment at issue is not an inherent part of the motor vehicle structure. Even with regard to motor vehicles that are produced originally as fire trucks, the work equipment aspects are added to the underlying chassis and vehicle structure and typically during more final stages of the manufacturing process. The addition of the equipment impacts certain aspects of motor vehicle safety, such as braking performance and lighting, but the work equipment itself is not a fundamental part of the vehicle's function as a motor vehicle. Nor does the type of work equipment at issue operate for the purpose of "safeguarding users of motor vehicles against risk of accident, injury, or death." Instead, the purpose of the equipment is to perform other work functions not related in any way to motor vehicle safety.



- 5 -

Accordingly, FAMA's members seek confirmation that, as long as the following conditions are met, a failure in work equipment attached to or incorporated into a motor vehicle is not subject to the notification and remedy provisions of the Vehicle Safety Act:

- (1) The equipment at issue relates to the work equipment attached to or incorporated into the vehicle and is not related to the ability to travel on the public roads or the performance of the vehicle as it travels on the public roads;
- (2) The failure at issue does not pose: (1) any risk of fire (broadly defined to include all "thermal events"), (2) any risk of equipment detaching or failing into the roadway, (3) any risk during road travel that the equipment could extend outside the normal width, length, or height of the vehicle, or (4) any risk of leakage from the vehicle onto the roadways.

We appreciate your attention to this matter and the ability to calibrate this issue with the agency's expectations. We would be happy to discuss this question with you in more detail.

Very Truly Yours,

Jacqueline Glassman



## NHTSA Response

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Jacqueline Glassman  
King & Spalding  
1700 Pennsylvania Avenue, NW, Suite 200  
Washington, DC 20006-4707

Dear Ms. Glassman:

This responds to your April 1, 2015 letter on behalf of the Fire Apparatus Manufacturer's Association (FAMA) requesting guidance as to whether work equipment installed on a fire truck that is inoperative during travel, and only operative once the fire truck reaches a work site, is "motor vehicle equipment" under the National Traffic and Motor Vehicle Safety Act (the Safety Act) and therefore subject to the Safety Act's recall notification and remedy provisions. As part of this request, you specifically ask NHTSA to confirm your view that, provided work equipment meets certain conditions and does not pose certain risks, it is not subject to the Safety Act's recall notification and remedy provisions.

Your position is not supported by the law and NHTSA does not confirm that position. As your letter states, a fire truck is a "motor vehicle." As explained below, the term "motor vehicle equipment" unambiguously includes equipment installed in or on a motor vehicle regardless of whether it is related to the vehicle's operation during travel or only used when the vehicle is stationary. All motor vehicle equipment is subject to the Safety Act's recall notification and remedy provisions.

### **"Motor Vehicle Equipment" under the Safety Act**

The term "motor vehicle equipment" is defined in the Safety Act as:

- (A) any system, part, or component of a motor vehicle as originally manufactured;
- (B) any similar part or component manufactured or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a motor vehicle; or
- (C) any device or an article or apparel, including a motorcycle helmet and excluding medicine or eyeglasses prescribed by a licensed practitioner that--
  - (i) is not a system, part, or component of a motor vehicle; and
  - (ii) is manufactured, sold, delivered, or offered to be sold for use on public streets, roads, and highways with the apparent purpose of safeguarding users of motor vehicles against risk of accident, injury, or death.

49 U.S.C. 30102(a)(8). [\[1\]](#)

There is no requirement that "motor vehicle equipment" be an "inherent" or "fundamental" part of a motor vehicle's structure. Nor does the definition of "motor vehicle equipment" exclude equipment that does not relate to the vehicle's operation during travel or that does not function while the vehicle is in motion. (See 49 U.S.C. 30102(a)(8).) Moreover, such an exclusion would be inconsistent with the statutory definition of "motor vehicle safety," which expressly includes "nonoperational safety of a motor vehicle." 49 U.S.C. 30102(a)(8).





It is not uncommon for NHTSA to investigate and for manufacturers to recall vehicles or equipment for nonoperational safety defects. *See, e.g.,* PE15-007 (investigating recreational vehicle entry steps that may unexpectedly fail in a manner that causes a loss of balance and increases the risk of personal injury); AQ15-002 (investigating timeliness and scope of reporting a defect in aerial boom arms and manufacturer's compliance with other reporting requirements under the Safety Act and related regulations). [2]

### **Work Equipment for Which You Request Guidance**

Your letter provides various examples of work equipment installed on a fire truck and seeks guidance on whether such work equipment that is inoperative during travel, and only operative once the fire truck reaches a work site, is subject to the Safety Act's recall notification and remedy provisions. It is. Under the plain language of the Safety Act, such equipment is "motor vehicle equipment."

Work equipment installed on a fire truck at the time it was delivered to the first retail purchaser is a "system, part or component of a motor vehicle as originally manufactured." *See* 49 U.S.C. 30102(a)(8)(A); *accord* 49 U.S.C. 30102(b)(1)(C) (providing that under the Safety Act's recall notification and remedy provisions, "original equipment" is "motor vehicle equipment . . . installed in or on a motor vehicle at the time of delivery to the first purchaser"). Work equipment installed on a fire truck after it is delivered to the first retail purchaser is a "similar part or component manufactured or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a motor vehicle." *See* 49 U.S.C. 30102(a)(8)(A); *accord* 49 U.S.C. 30102(b)(1)(D) (providing that under the Safety Act's recall notification and remedy provisions, "replacement Equipment" is "motor vehicle equipment . . . that is not original equipment").

All motor vehicle equipment is subject to the requirements of the Safety Act and associated regulations, including the recall obligations of notification and remedy. *See* 49 U.S.C. 30118 30120. That includes the obligation to conduct recalls for defects related to nonoperational safety of a motor vehicle. *See* 49 U.S.C. 30102(a)(8) (defining "motor vehicle safety" to include "nonoperational safety of a motor vehicle"); 30118 30120 (recall notification and remedy requirements).

I hope this information is helpful. If you have any further questions, please contact Stephen Hensch of my staff at (202) 366-2262.

Sincerely,

Paul A. Hemmersbaugh  
Chief Counsel  
Dated: 1/4/17  
Ref: 49 U.S.C. 30102

[1] Formerly 49 U.S.C. 30102(a)(7). In December 2015, The Fixing America's Surface Transportation (FAST) Act redesignated this paragraph to (a)(8). Pub. L. No. 114 94, 24109(b) (2015).

[2] These NHTSA investigation files are available at [www.safercar.gov](http://www.safercar.gov).