

**Before the Committee on Commerce, Science, and Transportation
Subcommittee on Consumer Protection, Product Safety, and Insurance
United States Senate**

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Identifying and Investigating Vehicle Safety Defects

**Statement of
The Honorable Calvin L. Scovel III
Inspector General
U.S. Department of Transportation**



Chairman McCaskill and Members of the Subcommittee:

Thank you for the opportunity to testify on the National Highway Traffic Safety Administration's (NHTSA) efforts to identify and investigate vehicle safety defects. As you know, several high-profile cases of safety defects—notably at Toyota Motor Company and General Motors—have prompted the public, Congress, and the media to question whether the automotive industry and NHTSA's Office of Defects Investigation (ODI) have acted in a timely manner to address safety defects. Since 2002, our office has issued three audit reports with recommendations to enhance ODI's vehicle defect identification processes.¹ Most recently, we reported major weaknesses in these processes—including a lack of systematic procedures for tracking consumer complaints and for documenting significant investigative decisions. At the Secretary's request, we plan to initiate an audit building on our previous reviews of NHTSA's efforts to identify and investigate vehicle safety defects.

Today, I will focus on the status of NHTSA's actions to address major weaknesses that we reported in 2011. In addition, I will discuss our efforts to support strong action against companies that elect to withhold critical safety data from NHTSA.

IN SUMMARY

In 2011, we reported that ODI needed to improve its processes for identifying vehicle safety defects. Notably, NHTSA's central database for safety defect information did not track the disposition of consumer complaints—ODI's primary means for determining whether an investigation is warranted. We identified similar weakness in processes for determining when to use third-party assistance, documenting investigation information, and assessing workforce needs. NHTSA has taken actions to address our recommendations for enhancing these processes (see attachment 1). However, one recommendation remains outstanding—conducting a workforce assessment for determining the number and most effective mix of staff needed to achieve ODI's objectives. In addition, our investigative efforts can help lead to strong sanctions against companies that withhold critical safety data from NHTSA. Investigators from the Office of Inspector General (OIG) participated in the criminal probe of Toyota, which recently forfeited \$1.2 billion for intentionally concealing information on vehicle defects from NHTSA. We will continue to assess NHTSA's efforts to identify and investigate vehicle safety defects and stand ready to investigate allegations of wrongdoing by auto manufacturers.

¹ *Review of the Office of Defects Investigation* (OIG Report Number MH-2002-071), Jan. 3, 2002; *Follow-Up Audit of the Office of Defects Investigation* (OIG Report Number MH-2004-088), Sept. 23, 2004; *Process Improvements Are Needed for Identifying and Addressing Vehicle Safety Defects* (OIG Report Number MH-2012-001), Oct. 6, 2011. OIG reports are available on our Web site at: www.oig.dot.gov.

BACKGROUND

NHTSA administers highway safety and consumer programs intended to save lives, prevent injuries, and reduce economic costs resulting from motor vehicle crashes. The National Traffic and Motor Vehicle Safety Act authorizes NHTSA to issue vehicle safety standards and to require manufacturers to recall vehicles and equipment that have safety-related defects or that do not meet Federal safety standards.

ODI conducts tests, inspections, and investigations to identify safety defects in motor vehicles and equipment. Based on its findings, NHTSA can require manufacturer recalls notifying the public and correcting the defects. When conducting investigations, ODI can request that manufacturers provide data on complaints, injuries, warranty claims, modifications, parts sales, and other items. Attachment 2 describes ODI's investigative processes.

To conduct its work, ODI uses NHTSA's Advanced Retrieval of Tire, Equipment, and Motor Vehicle Information System, or Artemis, which provides a central repository of data on motor vehicle and motor vehicle equipment defects. Artemis captures consumer complaints, manufacturer recalls and early warning reporting, documentation related to safety defect investigations, and information from other Government agencies. Some Artemis data is made available to the public through a Web site.²

NHTSA HAS TAKEN ACTIONS TO STRENGTHEN ITS PROCESSES FOR VEHICLE DEFECT INVESTIGATIONS

In 2011, we reported major weaknesses in NHTSA's vehicle defect identification processes. Specifically, ODI needed to improve its processes for (1) recommending investigations of potential defects, (2) determining when to use third-party assistance, (3) documenting investigation information, and (4) ensuring an adequate and well-trained workforce. In response to our recommendations, NHTSA has implemented more robust defect investigation processes. However, the effects of these process enhancements are unknown and depend on whether ODI systematically uses and applies the new processes when conducting its analyses and investigations. Additionally, NHTSA has yet to complete a workforce assessment for determining the number and most effective mix of ODI staff. We will continue to assess NHTSA's processes for identifying and investigating vehicle safety defects and will follow up on our past work as needed.

² www.safercar.gov

NHTSA Lacked Adequate Processes for Recommending Investigations of Potential Safety Defects

Consumer complaints are ODI’s primary means for determining whether an investigation is warranted. However, Artemis did not track whether complaints were reviewed within established timelines or used to support investigations. As a result, ODI could not demonstrate the extent to which consumer complaints prompted recommendations for investigations. Further, ODI did not use Artemis to track evidence supporting potential defects, and its Defect Assessment Panel³ did not thoroughly document its decisions on which risks to investigate. For example, ODI did not upload prepared investigation proposals⁴ into Artemis or track their disposition using a central database. As a result, the factors and analyses ODI considered when determining whether to open investigations were not delineated, leaving ODI’s decisions open to interpretation and subject to questions after the fact.

We made three recommendations to address weaknesses in ODI’s processes for recommending investigations, and NHTSA took sufficient action to address these recommendations (see table 1). For example, NHTSA modified Artemis to track complaint reviews and established a case management system to maintain pre-investigation data.

Table 1. Status of OIG Recommendations Related to NHTSA’s Processes for Recommending Investigations of Potential Safety Defects

Recommendation	Status	Actions Taken
Revise the pre-investigation processes to ensure that the review of each complaint is recorded and that complaints are tracked to associated investigations in Artemis.	Closed June 19, 2012	ODI provided documentation demonstrating that: <ul style="list-style-type: none"> • Artemis tracks complaint reviews (who and when), • all relevant complaint numbers are included in the resume for each phase of an investigation, and • investigation process documents have been updated to reflect these policy changes.
Establish pre-investigation processes for retaining and storing pre-investigation records, such as investigation proposals and insurance company data.	Closed Dec. 5, 2012	ODI provided documentation demonstrating that a process for using a case management system had been established to maintain pre-investigation data.

³ NHTSA’s Defect Assessment Panel reviews proposals for investigation and decides whether to open an investigation.

⁴ An investigation proposal is a report that summarizes the available information on a potential safety defect. The proposal includes but is not limited to early warning data, manufacturer service bulletins, and complaints.

Recommendation	Status	Actions Taken
Require that decisions made and actions taken by ODI Defect Assessment Panels are recorded, including justifications for not proceeding to investigations.	Closed Dec. 5, 2012	ODI provided documentation demonstrating that: <ul style="list-style-type: none"> • Defects Assessment Panel minutes are added to a standardized form and uploaded to the repository for the relevant issue evaluation (IE), • IEs that do not proceed to investigation are marked with one of two codes: “minimal hazard indicated” or “no actionable trend indicated,” and • specifics concerning panel dates and IE dispositions are recorded in Artemis annotations for the appropriate IEs. These data can be analyzed and presented in report form.

Source: OIG analysis of NHTSA documentation

NHTSA Lacked a Systematic Process for Determining When To Involve Third-Party Assistance

ODI investigators did not have direct access to test facilities and relied on third parties to test for potential mechanical or electronic defects and validate information provided by a vehicle manufacturer. However, not all investigators requested third-party assistance during investigations, and NHTSA lacked a process for identifying the need for third-party assistance.

We recommended that NHTSA establish a systematic process for determining when to use third parties to verify manufacturer information or assist in identifying a potential defect (see table 2). NHTSA has taken action to satisfy our recommendation.

Table 2. Status of OIG Recommendations Related to Third-Party Assistance

Recommendation	Status	Actions Taken
Establish systematic processes for determining when a third party or the Vehicle Research Test Center should be used to verify manufacturer information or assist in identifying a potential defect.	Closed Mar. 27, 2012	ODI provided revised office procedures, including a framework for obtaining third-party resources.

Source: OIG analysis of NHTSA documentation

ODI Did Not Properly Document Investigations

ODI did not have criteria to ensure proper documentation for investigations. Specifically, some investigation files did not include documentation of meetings with manufacturers and third parties, consumer complaints, testing needs, and justifications for closing investigations. For example:

- Eleven of the 42 NHTSA investigation cases we sampled involved meetings with manufacturers; however, ODI did not always document the information exchanged during the meetings or the decisions ODI made based on the meetings. In addition, 21 cases included some type of vehicle testing, but ODI did not document its determinations of testing needs.
- ODI recorded only the number of complaints, not the complaint identification numbers, which did not allow ODI to identify the specific complaints.
- For one investigation we sampled, ODI did not provide sufficient documentation to justify closing the investigation. In our interviews with ODI officials, we learned that the investigation was closed based on factors such as trending, frequency and severity rates, forecast analysis, and a review of crashes, injuries, and deaths. While the justification provided supported closing the case, ODI agreed that such evidence needs to be documented in the case file.

NHTSA has revised its investigative process to establish criteria for documenting evidence, as we recommended. Specifically, NHTSA established an “Investigation Documentation Checklist” (see table 3).

Table 3. Status of OIG Recommendations Related to Fully Documenting Investigation Decisions

Recommendation	Status	Actions Taken
Revise the ODI investigation process to establish criteria for documenting evidence, such as associated complaints, meetings with manufacturers and other stakeholders, and third-party analysis or testing conducted.	Closed Mar. 1, 2013	ODI provided documentation that it developed an “Investigation Documentation Checklist.” This checklist is a process for documenting evidence collected by the ODI investigators—including consumer complaints, meetings with manufacturers and third parties, and testing.

Source: OIG analysis of NHTSA documentation

NHTSA Lacked Processes for Ensuring an Adequate and Well-Trained Investigative Workforce

To ensure NHTSA has an adequate workforce to investigate vehicle defects, we recommended that the agency conduct a workforce assessment to determine the number of ODI staff and the specialized skills needed to conduct these investigations. NHTSA plans to complete its assessment by May 30, 2014 (see table 4).

We also recommended that NHTSA develop a formal training program to ensure its investigators stay current on technology advancements in the automotive industry. NHTSA developed a program that satisfies our recommendation.

Table 4. Status of OIG Recommendations Related to Workforce Assessments and Training

Recommendation	Status	Actions Taken
Conduct a workforce assessment to determine the number of staff required to ensure that ODI meets its objectives and determines the most effective mix of staff.	Open	ODI estimates that it will complete its workforce assessment by May 30, 2014.
Develop a formal training program to assist ODI staff in acquiring knowledge and staying abreast of ODI processes and current and new automobile technologies.	Closed May 29, 2013	ODI provided a copy of its new training plan. According to NHTSA officials, this plan will assist ODI in the development of its current and future workforce; ensure the continuity of institutional knowledge; and ensure that investigators and other ODI staff become proficient in new automotive, investigative, and vehicle safety technologies.

Source: OIG analysis of NHTSA documentation

We believe the enhanced processes NHTSA put in place to address our 2011 recommendations will put the Agency in a better position to identify and investigate vehicle safety defects—to the extent that ODI uses and applies these process enhancements when conducting its analyses and investigations. In response to the Secretary’s request, we will assess whether NHTSA has further opportunities to improve its oversight and performance.

INVESTIGATIVE EFFORTS HAVE RESULTED IN STRONG SANCTIONS FOR WITHHOLDING CRITICAL SAFETY DATA FROM NHTSA

While continued focus on NHTSA's processes will help ensure the Agency identifies and addresses vehicle safety defects, NHTSA cannot do its job effectively if auto manufacturers withhold critical safety information. Working with our law enforcement and prosecutorial partners, our work can help lead to strong action against companies that elect to withhold information from NHTSA. Most recently, our investigators participated in the multi-agency criminal probe of Toyota, subpoenaing and reviewing approximately 400,000 documents and interviewing more than 100 individuals.

The Toyota case perfectly demonstrates the risk involved when automakers fail to timely report safety defects to NHTSA. The Toyota case involved two unintentional acceleration issues. The first related to floor mats trapping gas pedals and causing unintended acceleration—sometimes to high speeds. In fall 2009, Toyota reported that it had addressed the root cause of the unintended acceleration by issuing a safety recall of eight Toyota and Lexus models for improperly secured or incompatible floor mats. However, our joint investigation with the Federal Bureau of Investigation and the Manhattan, NY, U.S. Attorney's Office revealed that, at the time the statements were made, Toyota did not recall some cars with design features that made them equally susceptible to floor-mat entrapment as some of the recalled cars. We also determined that, only weeks before these statements were made, Toyota had also taken steps to hide from NHTSA a second problem involving accelerators getting stuck at partially depressed levels, known as sticky pedal.

Ultimately, Toyota admitted that it concealed and made deceptive statements about safety issues affecting its vehicles, misleading U.S. consumers and NHTSA. Toyota was charged with wire fraud for providing the misleading information, and on March 19, 2014, the Department of Justice announced a criminal charge against Toyota and a deferred prosecution agreement that requires Toyota to forfeit \$1.2 billion—the largest penalty of its kind ever imposed on an automotive company. The deferred prosecution also imposes an independent monitor to review and assess policies, practices, and procedures relating to Toyota's safety-related public statements and reporting obligations.

This case sends a clear message to auto manufacturers: Safety is and will remain DOT's and OIG's highest priority. To this end, we expect the industry to be vigilant and forthcoming to keep the public safe.

This concludes my prepared statement. I will be happy to answer any questions you or other Members of the Subcommittee may have.

ATTACHMENT 1. STATUS OF 2011 OIG RECOMMENDATIONS FOR NHTSA'S VEHICLE DEFECT INVESTIGATION PROCESSES

Recommendation	Status	Actions Taken
Processes for Recommending Investigations		
Revise the pre-investigation processes to ensure that the review of each complaint is recorded and that complaints are tracked to associated investigations in Artemis.	Closed June 19, 2012	ODI provided documentation demonstrating that: <ul style="list-style-type: none"> • Artemis tracks complaint reviews (who and when), • all relevant complaint numbers are included in the resume for each phase of an investigation, and • investigation process documents have been updated to reflect these policy changes.
Establish pre-investigation processes for retaining and storing pre-investigation records, such as investigation proposals and insurance company data.	Closed Dec. 5, 2012	ODI provided documentation demonstrating that a process for using a case management system had been established to maintain pre-investigation data.
Require that decisions made and actions taken by ODI Defect Assessment Panels are recorded, including justifications for not proceeding to investigations.	Closed Dec. 5, 2012	ODI provided documentation demonstrating that: <ul style="list-style-type: none"> • Defects Assessment Panel minutes are added to a standardized form and uploaded to the repository for the relevant issue evaluation (IE), • IEs that do not proceed to investigation are marked with one of two codes: "minimal hazard indicated" or "no actionable trend indicated," and • specifics concerning panel dates and IE dispositions are recorded in Artemis annotations for the appropriate IEs. These data can be analyzed and presented in report form.
Third-Party Assistance		
Establish systematic processes for determining when a third party or the Vehicle Research Test Center should be used to verify manufacturer information or assist in identifying a potential defect.	Closed Mar. 27, 2012	ODI provided revised office procedures, including a framework for obtaining third-party resources.
Documentation of Investigation Decisions		
Revise the ODI investigation process to establish criteria for documenting evidence, such as associated complaints, meetings with manufacturers and other stakeholders, and third-party analysis or testing conducted.	Closed Mar. 1, 2013	ODI provided documentation that it developed an "Investigation Documentation Checklist." This checklist is a process for documenting evidence collected by the ODI investigators—including consumer complaints, meetings with manufacturers and third parties, and testing.

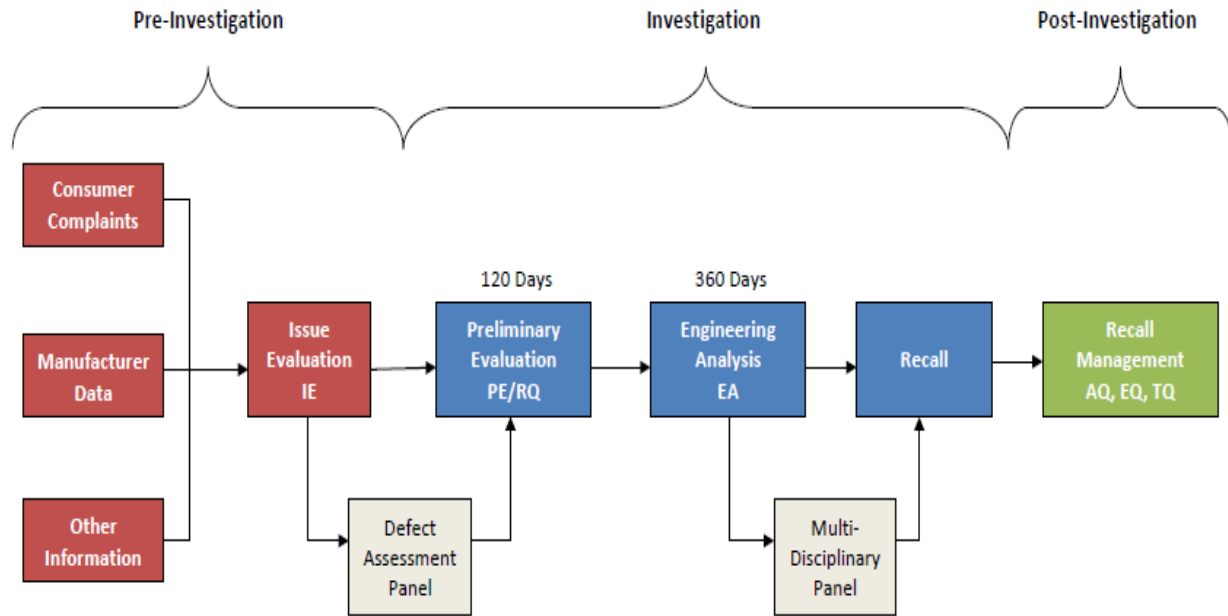
Recommendation	Status	Actions Taken
Workforce Assessments and Training		
Conduct a workforce assessment to determine the number of staff required to ensure that ODI meets its objectives and determines the most effective mix of staff.	Open	ODI estimates that it will complete its workforce assessment by May 30, 2014.
Develop a formal training program to assist ODI staff in acquiring knowledge and staying abreast of ODI processes and current and new automobile technologies.	Closed May 29, 2013	ODI provided a copy of its new training plan. According to NHTSA officials, this plan will assist ODI in the development of its current and future workforce; ensure the continuity of institutional knowledge; and ensure that investigators and other ODI staff become proficient in new automotive, investigative, and vehicle safety technologies.
Other⁵		
Revise the ODI investigation process to require justifications for continuing or closing investigations that exceed timeliness goals for preliminary evaluations and engineering analyses.	Closed Mar. 27, 2012	ODI established processes for justifying and documenting investigations that exceed timeliness goals.
Strengthen ODI's redaction policy and process to better protect consumers' personal information from public availability, such as by using automated redaction software.	Closed Oct. 13, 2011	ODI issued a revised redaction policy in August 2011.
Develop and implement a strategy for increasing coordination with foreign countries to enhance ODI's ability to identify safety defects and to exchange information on foreign recalls.	Closed Oct. 13, 2011	ODI stated that it planned to form an informal working group to discuss issues of mutual interest to the international enforcement community. NHTSA would chair the group, and the group would meet once or twice a year—with the first meeting taking place on November 17, 2011.

Source: OIG analysis of NHTSA documentation

⁵ These 2011 recommendations are related to NHTSA's processes for identifying and addressing vehicle safety defects but were not discussed in the body of the statement.

ATTACHMENT 2. OVERVIEW OF ODI'S INVESTIGATIVE PROCESSES

NHTSA's ODI conducts defect investigations and administers safety recalls. The following illustration breaks down the processes by which ODI conducts defect investigations and administers safety recalls.



Source: OIG analysis of ODI processes

The first phase, **pre-investigation**, involves the Defect Assessment Division, which screens consumer complaints, external manufacturer communications, and other information related to alleged safety defects. The screenings provide ODI the basis for determining whether to open an investigation, grant a petition for a defect investigation, determine the adequacy of safety recalls, and grant a petition for a public hearing on the adequacy of a safety recall. The pre-investigation phase also involves the Early Warning Division, which conducts preliminary reviews and analyses of early warning reporting information manufacturers submit to identify potential risks within these documents and alerts the Defect Assessment Division. When the Defect Assessment Division identifies a potential risk, it prepares an issue evaluation package. Ultimately, each IE is proposed for investigation, resolved with an action by the manufacturer, or reverted to a less active status for monitoring for future action. If the Defect Assessment Division determines that it needs to conduct additional discussion to determine the status of an IE proposed for investigation, the Defect Assessment Division can present the IE before the Defect Assessment Panel.⁶

⁶ The Defect Assessment Panel includes the Associate Administrator for Enforcement, ODI management and staff, a representative from the NHTSA Chief Counsel Office, and other individuals that may have related knowledge or experience of the issue under review.

The Defect Assessment Panel reviews IEs to decide collectively whether to open an investigation. The panel draws on the institutional knowledge and experience of ODI to identify high-priority cases. Although complaints and some early warning data are available to the public, ODI does not publically release pre-investigation analyses and decisions.

Defect petitions prompt some investigations. For example, any interested person may file a petition requesting that ODI conduct an investigation into an alleged safety-related defect in a motor vehicle or motor vehicle equipment. ODI can deny or grant a defect petition, or investigate it based on office workload and the nature of the petition. If ODI denies a defect petition, it sends a denial letter to the petitioner and publishes the action in the Federal Register. If ODI grants a defect petition, it sends a grant letter to the petitioner and opens an investigation.

The second phase, **investigation**, involves the formal investigation of alleged safety defects and recall adequacy. One of three ODI divisions—the Vehicle Control Division, Vehicle Integrity Division, and the Medium and Heavy Duty Vehicle Division—conducts investigations. The Vehicle Integrity Division investigates light vehicles, passenger cars, door integrity, airbags, seat belts, and child restraints. The Vehicle Control Division investigates engines, throttle, steering, brakes, suspension, wheels and tires, and control vehicle dynamics. The Medium and Heavy Duty Vehicle Division investigates all vehicles over 10,000 pounds, school buses, emergency vehicles, and motorcycles. The results of ODI investigations are available to the public.

Generally, investigations are conducted in two phases—a preliminary evaluation (PE) and engineering analysis (EA). A PE is the first phase of an investigation. During the PE, ODI sends an information request letter to the manufacturer, reviews applicable information, and conducts tests as needed. A recall query (RQ) is an investigation opened on a recall because the recall remedy appears inadequate or the scope of the recall appears to be insufficient. ODI conducts the RQ in a manner very similar to the PE, and attempts to complete the PE or RQ within 4 months. ODI may close a PE or RQ if it determines that further investigation is not warranted, or because the manufacturer has decided to conduct or expand a recall. If ODI determines that further analysis is warranted, the PE or RQ is upgraded to an EA. An EA is the second phase of an investigation. During the EA, ODI conducts a more detailed and complete analysis of the character and scope of the alleged defect. ODI attempts to complete the EA within 1 year or 360 days. If the results of the EA lead ODI to believe that there is a safety-related defect and the manufacturer has not conducted a recall, a Multi-Disciplinary Review Panel will be convened to consider what further action would be appropriate.

The Multi-Disciplinary Review Panel consists of senior NHTSA officials and representatives from ODI. If the panel agrees with ODI's assessment that a recall is warranted, it issues a Recall Request Letter to the manufacturer calling for a mandatory recall.

The third phase, **post-investigation**, involves the Recall Management Division, which monitors safety defect and noncompliance recalls assessing manufacturers' compliance with statutory and regulatory requirements. A manufacturer initiates a safety-related recall when it determines that any of its products contain a safety-related defect or fails to comply with a Federal Motor Vehicle Safety Standard. A safety-related recall involves notifying NHTSA, owners, purchasers, and dealers of a safety defect, and providing a free remedy. Once the manufacturer notifies NHTSA that it is conducting a recall, the manufacturer must submit six quarterly reports to the Recall Management Division on the progress of the recall. If any of those quarterly reports identify issues with a recall, the Recall Management Division can conduct an audit query, equipment query, or timeliness query. These queries assess the adequacy of the recall. If the recall has a relatively low completion rate, the Recall Management Division may initiate an audit query (AQ). The intent of an AQ is to ensure that all safety recall campaigns comply with all statutory requirements by examining the procedures and processes used by a manufacturer to conduct a safety recall. If the AQ questions the installation of a defective component in vehicles not subject to a recall, an equipment query (EQ) may be initiated. The intent of an EQ is to ensure the identity and recall of all the affected vehicles or motor vehicle equipment. If the Recall Management Division questions the timeliness of the recall, it may initiate a timeliness query (TQ).