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*Administrative Measures for Recall of Consumer Products.  
Selected and Proof- Read by SESEC team  
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EU standardization stakeholders  
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## **Administrative Measures for Recall of Consumer Products**

### **(Draft for comment)**

**Article 1 [Purpose and basis]** The Measures herein are developed with a view to standardizing the recall of consumer products, preventing and eliminating injuries caused possibly by defective consumer products, and safeguarding personal safety and property safety of consumers, in accordance with the *Product Quality Law of the People's Republic of China, Law of the People's Republic of China on Protection of Consumer Rights and Interests*, and other applicable laws and regulations.

**Article 2 [Scope]** The Measures herein apply to recall of consumer products manufactured and sold within the territory of China, as well as supervision and management of such recalls.

**Article 3 [Definition]** Consumer Products referred to herein mean the products that directly meet or are expected to meet the people's needs for use in daily life, business and entertainment, and are sold or available to consumers for use.

Defects referred to herein mean the unreasonable potential perils that widely exist in the same lot/type/category of consumer products due to improper design, manufacturing or labeling, and that don't comply with relevant national standard or industry standard for safeguarding of personal or property safety, or endangers personal or property safety in other ways.

Recall referred to herein means an initiative of consumer product manufacturers to take measures to eliminate defects or reduce or eliminate relevant risks of the consumer products already sold.

Manufacturers referred to herein mean consumer product-producing enterprises that are legally licensed within the territory of China and issue conformity certificates for products in their name. The enterprises importing consumer products from overseas to sell in China are considered manufacturers specified in the Measures herein.

**Article 4 [Manufacturer responsibility]** Manufacturers are the key party recalling defective consumer products. Where consumer products contain defects, the manufacturers shall recall them per the Measures herein.

**Article 5 [Catalogue management]** The consumer products recalled per the Measures herein are subject to catalogue management according to risks of injury and safety perils. The catalogue of consumer products that should be recalled is to be developed and adjusted by the General Administration of Quality Supervision, Inspection and Quarantine.

**Article 6 [Competent department]** The General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) is responsible for nationwide supervision and management of recall of consumer products.

The product quality supervision departments at provincial level, and the entry & exit inspection and quarantine bureaus directly under AQSIQ (hereinafter referred to as the Provincial quality inspection departments), per their functions assigned, are responsible for supervision and management of recall of consumer products within their respective regions. The provincial quality inspection departments may,





where needs arise, authorize a quality inspection department below provincial level to undertake some work on recall supervision and management.

The quality inspection departments below provincial level shall carry out relevant work per the authorization of the quality inspection departments at provincial level.

**Article 7 [Technical support bodies]** The defective product recall technical institution under AQSIQ (hereinafter referred to as Recall Technical Institution), per the requirements of the AQSIQ, carry out specific technical work with respect to recall of consumer products.

The defective product recall technical institutions under the quality inspection departments at provincial level shall, per the requirements of such provincial quality inspection departments, carry out specific technical work with respect to recall of consumer products within their respective administrative regions.

**Article 8 [Information system]** The AQSIQ shall enhance efforts to develop consumer product recall information management system for the state defective product recall information management platform (hereinafter referred to as Information system), which is intended to collect, analyze and handle relevant information, get manufacturer information registered, and enable sharing, release and fast communication of information.

**Article 9 [Collection, analysis and reporting of defect information]** The provincial quality inspection departments shall collect and handle the information such as product defect and complaints within their respective regions, and submit, without delay, the information possibly involving product defects to the AQSIQ, via the information system.

Any organization or individual may complain or report to the quality inspection department above provincial level about consumer products that are possibly defective.

The recall technical institutions shall collect and hold together all the consumer product-related information such as defect, injuries and recall from overseas, and conduct timely analysis, and where a consumer product is found possibly defective, shall report to the AQSIQ without delay. The AQSIQ will, via the information system, inform the provincial quality inspection department in the place where the manufacturer lies.

The manufacturers shall cooperate with the recall technical institution in verification of relevant information and technical analysis.

**Article 10 [Information sharing]** The AQSIQ shall set up a mechanism enabling the sharing of information such as mandatory standards for consumer products, CCC certification, supervision & inspection, law enforcement and crackdown upon fake products, complaints and reporting, risk monitoring, three-guarantee commitment on products, product injury information monitored, organization code and numbering of products.

**Article 11 [Expert database and testing institutions]** The AQSIQ will enhance efforts to develop a database of product recall specialists, and select nationally accredited state product quality testing institutions and labs to provide technical support for management of product recalls.

**Article 12 [Manufacturer's obligations of information collection & analysis and product recall]** Manufacturers shall be responsible for quality and safety of consumer products they manufacture, tighten management over product quality safety information, set up complete information archives, and release product quality safety information on their own initiative.



Manufacturers shall set up a system for collection, analysis and handling of defect information, collect product quality safety information on their own initiative, and where a product is found possibly defective, shall immediately conduct an investigation and analysis, and honestly report to the competent provincial quality inspection department on the investigation and analysis results. Where product defects are confirmed, all of its production, sales and import activities shall be stopped, and immediately recall the products already sold per the Measures herein.

**Article 13 [Obligations of relevant operators]** The relevant operators such as distributors, tenants, repairers, component producers and suppliers, and authorized manufacturing enterprises (hereinafter referred to as Operators) shall report to the competent quality inspection departments and inform the manufacturers of the possible defect information of consumer products.

Where an operator finds products are defective, he shall immediately stop sales, leasing and use of such consumer products, and assist the manufacturer with recall of such products.

**Article 14 [Investigation and analysis by manufacturer]** Where a provincial quality inspection department, via communication from the AQSIQ, or via complaints, finds that some consumer products made by the manufacturers in its administrative region are possibly defective, the relevant manufacturers shall be immediately informed to carry out investigation and analysis.

The provincial quality inspection department shall, within 5 business days after informing the manufacturer to carry out investigation and analysis, report to the AQSIQ via the information system.

The manufacturers shall follow the notification to immediately carry out investigation and analysis, and honestly report to the informing provincial quality inspection department on the investigation and analysis results.

**Article 15 [Conditions for initiating defect investigation]** Where the manufacturer fails to carry out investigation and analysis per the request of the provincial quality inspection department, or the investigation and analysis results cannot prove there is no defect, the provincial quality inspection department in the place where the manufacturer lies shall launch a defect investigation.

The provincial quality inspection department shall, within 5 business days after the launch of defect investigation, inform the AQSIQ of such launch via the information system. Where the AQSIQ deems the product may contain defects causing serious consequences or producing wide influence, the AQSIQ may directly launch a defect investigation, and inform the provincial quality inspection department in the place where the manufacturer lies.

**Article 16 [Defect investigation right of competent department]** The quality inspection departments above provincial level, when conducting a defect investigation, may access the production or business sites of the manufacturer or operator for a site investigation, reviewing and copying relevant documents and record, and interviewing relevant organizations and employees about possible presence of defects in products.

The manufacturer shall cooperate with the defect investigation, and provide required documents, consumer products and dedicated equipment. The operator shall cooperate with the defect investigation, and provide relevant materials required for such investigation.

The quality inspection departments above provincial level shall not use the documents, consumer products and dedicated equipment provided by the manufacturer or operator for the purposes beyond the technical testing and assessment required for the defect investigation.

**Article 17 [Defect investigation report]** The quality inspection departments above provincial level shall promptly analyze and handle the documents and information obtained for purpose of defect investigation, and generate a defect investigation report. The provincial quality inspection departments, when performing a defect investigation, shall, within 5 business days after completion of the defect investigation report, submit the report to the AQSIIQ via the information system.

**Article 18 [Inform the manufacturer to recall]** Where the quality inspection departments above provincial level deem, based on an investigation, that the products under investigation are defective, or the state's supervision and spot check program or administrative cases prove that the consumer products made by the manufacturer contain safety problems, the manufacturer shall be informed to recall such defective products.

**Article 19 [Manufacturer objection]** Where the manufacturer deems the products have no defects, such manufacturer may, within 15 business days after receiving the recall notification, raise an objection with the informing quality inspection department above provincial level, and provide proof documents. The quality inspection department above provincial level, after receiving such objection, shall organize experts or testing institutions or labs having no interest conflicts with the manufacturer to assess the proof documents and conduct technical evaluation, and make decisions to confirm the defect investigation results, and inform the manufacturer of such decisions. The provincial quality inspection departments shall, within 5 business days after making decisions, report to the AQSIIQ on the decisions via the information system.

Where the manufacturer fails to recall defective products per the request of notification, and fails to raise an objection within the period specified in the preceding paragraph, or where the expert assessment or technical evaluation organized by the quality inspection department above provincial level per the preceding paragraph proves the consumer product is defective, the informing quality inspection department above provincial level shall order the manufacturer to recall such products. The manufacturer shall then immediately stop the manufacturing, sales and import of such consumer products, and recall such defective products.

**Article 20 [Recall plan]** The manufacturer, when recalling defective products, shall develop a recall plan per the requirements of the AQSIIQ, and follow the plan to recall defective products.

The manufacturer shall develop a recall plan that is comprehensive, objective and accurate, and shall be responsible for the plan contents' authenticity and accuracy and the effectiveness of recall measures.

The manufacturer shall get the recall plan registered via the information system within 5 business days after the confirmation of produce defect or within 5 business days after receiving a recall order. The registered recall plan, after revised, shall be registered again, and a description of such revision shall be submitted at the same time.

**Article 21 [Recall communication]** The manufacturer shall communicate the registered recall plan to the relevant operators.

The manufacturer shall prepare and keep a complete recall record.

**Article 22 [Release of recall information]** The manufacturer, when recalling defective products, shall, within 5 business days after the registration of recall plan, unveil the recall information via newspapers and magazines, on websites, radio and TV which easily make the public know, informing consumers of the defects in the products, emergency response for avoiding injuries and the remedial measures taken by the manufacturer.

The AQSIQ is responsible for unveiling the information of defective products already confirmed and registered by the manufacturer, and other information on launch of recall by the manufacturer. Relevant provincial quality inspection department shall also unveil such information.

**Article 23 [Early warning about risks]** The quality inspection departments above provincial level may conduct a risk assessment on consumer products. Where a product is deemed having high defect risks, possibly leading to serious product safety incidents, but a recall per the Measures herein is impossible, the early warning information shall be unveiled to the public.

**Article 24 [Recall measures]** For recalled consumer products, the manufacturer shall promptly make rectifications or take the measures to eliminate defects or reduce or eliminate relevant risks, such as adding labels, repairs, replacement, returning of products, or refunding.

The costs incurred on the part of consumers due to recall of consumer products shall be borne by the manufacturer.

**Article 25 [Phased report on recall and final sum-up report]** The manufacturer shall, per the requirements of the AQSIQ, submit the phased report on recall and final sum-up report to the provincial quality inspection department in the place where the manufacturer lies.

The provincial quality inspection department shall submit the phased report on recall and final sum-up report to the AQSIQ via the information system.

**Article 26 [Supervision over implementation of recall]** The provincial quality inspection department in the place where the manufacturer lies shall supervise the implementation of recalls, and in case of failure to recall defective products per the Measures herein, the manufacturer shall be ordered to make rectifications.

**Article 27 [Punishment over violations]** In case of violating the Measures herein by a manufacturer, the competent provincial quality inspection department shall follow the *Consumer Right and Interest Protection Law* to give sanction to violators.

**Article 28 [Supplementary provisions]** The Measures herein don't apply to the following consumer products:

- (1) Service offerings, except the products used temporarily for providing services;
- (2) Products used for commercial exhibitions;
- (3) Transit products, transshipped products, and products destined solely for export;
- (4) Automotive products;
- (5) Food, drugs, cosmetics and medical devices;
- (6) Industrial products for military purpose;
- (7) Tobacco and tobacco products;
- (8) Pesticides;
- (9) Prints and duplicates of recording medium;



(10) Civil work and buildings, exclusive of building materials, building components and fittings and equipment used in the civil work and construction projects.

(11) Other products specifically specified in other laws and regulations.

**Article 29 [Interpretation]** The Measures herein are interpreted by the AQSIQ solely.

**Article 30 [Date of effectiveness]** The Measures herein will take effect from the date of release.

### **Acknowledgement to USITO**

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## **Introduction of SESEC Project**

The Seconded European Standardization Expert in China (SESEC) is a visibility project co-financed by the European Commission (EC), the European Free Trade Association (EFTA) secretariat and the three European Standardization Organizations (CEN, CENELEC and ETSI).



Since 2006, there has been two SESEC projects in China, SESEC I (2006-2009) and SESEC II (2009-2012). In Dec 2014, SESEC III was officially launched in Beijing, China. Dr. Betty XU was nominated as the SESEC expert and will spend the next 36 months on promoting EU-China standardization information exchange and EU-China standardization cooperation.

The SESEC project supports the strategic objectives of the European Union, EFTA and the European Standardization Organizations (ESOs). The purpose of SESEC project is to

- Promote European and international standards in China;
- Improve contacts with different levels of the Chinese administration, industry and standardization bodies;
- Improve the visibility and understanding of the European Standardization System (ESS) in China;
- Gather regulatory and standardization intelligence.

## **SESEC III Monthly Newsletter**

SESEC III Monthly Newsletter is the gathering of China regulatory and standardization intelligence. Most information of the Monthly Newsletter were summarized from China news media or website. Some of them are the first-hand information from TC meetings, forums/workshops, or meetings/dialogues with China government authorities in certain areas. Regulatory and standardization information summaries, translations, and strategic analyses in the prioritized areas selected by SESEC partners, were offered by SESEC III expert. With the limited resources of SESEC III, detailed translations of some news items only can be available on request.

## **SESEC III Special Reports**

SESEC III Special Reports are the regulatory and standardization reports on some areas with deeper and wider overview or analyses. SESEC III Special Reports also cover the prioritized areas selected by SESEC partners. They also can be some hot topics or lobby activities reports in China.