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Regulations on Administration of the Recall of Defective Motor Vehicle Products

(Adopted at the 219th Executive Meeting of the State Council on October 10, 2012, promulgated by Decree No. 626 of the State Council of the People's Republic of China on October 22, 2012, and effective as of January 1, 2013)

Article 1 These Regulations are formulated for the purpose of regulating the recall of defective motor vehicle products, strengthening supervision and administration, and protecting personal and property safety.

Article 2 These Regulations apply to the recall of motor vehicles and trailers (hereinafter collectively referred to as motor vehicle products) which are manufactured and sold within the territory of China, as well as to the supervision and administration thereof.

Article 3 The term "defects" in these Regulations means non-compliance with national or industrial standards regarding protection of personal or property safety, or any other unreasonable risks to personal or property safety, which exist generally in the same lot, model or type of motor vehicle products due to reasons of design, manufacturing, labeling or other.

The term "recall" in these Regulations means that motor vehicle product manufacturers take measures to eliminate defects in motor vehicle products already sold by them.

Article 4 The product quality supervision department of the State Council shall be responsible for the supervision and administration of the recall of defective motor vehicle products nationwide.

The relevant departments of the State Council shall be responsible for the supervision and administration related to the recall of defective motor vehicle products within the scope of their respective functions and duties.

Article 5 The product quality supervision department of the State Council may, as needed for work, entrust part of the supervision and administration of recall of defective motor vehicle products to the product quality supervision departments of the

people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government, and to the import and export commodity inspection agencies.

The defective products recall technical agency of the product quality supervision department of the State Council shall, as prescribed by the product quality supervision department of the State Council, assume the specific technical work of the recall of defective motor vehicle products.

Article 6 All entities and individuals shall have the right to submit complaints to the product quality supervision departments regarding possible defects in motor vehicle products, and the product quality supervision department of the State Council shall publish the telephone number, e-mail address and mailing address for receiving the complaints in a manner facilitating public access.

The product quality supervision department of the State Council shall establish a recall information management system for defective motor vehicle products to collect, organize, analyze and process relevant information on defective motor vehicle products.

The product quality supervision departments, the competent motor vehicle products departments, the competent commerce departments, customs, the traffic administration departments of the public security authorities, the competent transport departments, the administrative departments for industry and commerce and other relevant departments shall establish an information-sharing mechanism on the manufacture, sale, import, registration and inspection, maintenance, consumer complaints and recall of the motor vehicle products.

Article 7 Product quality supervision departments, relevant departments and agencies, and their staff members shall not divulge any trade secrets and personal information known by them in the performance of the duties as provided in these Regulations.

Article 8 A manufacturer shall recall all of its defective motor vehicle products in accordance with these Regulations; if a manufacturer fails to implement a recall, the product quality supervision department of the State Council shall order the

manufacturer to implement a recall in accordance with these Regulations.

The term “manufacturer” in these Regulations means an enterprise legally established within the territory of China which manufactures motor vehicle products and in whose name a certificate of vehicle is issued.

An enterprise which imports motor vehicle products from outside the territory of China to sell within the territory of China shall be deemed a manufacturer as mentioned in the preceding paragraph.

Article 9 Manufacturers shall establish and preserve records of information on aspects including the design, manufacturing, labeling and inspection of motor vehicle products, as well as records on vehicle owners of the original retail sale of motor vehicle products, for a period of not less than 10 years.

Article 10 A manufacturer shall file the following information with the product quality supervision department of the State Council for the record:

- (1) basic information on the manufacturer;
 - (2) technical specifications of motor vehicle products and information on vehicle owners of the original retail sale of motor vehicle products;
 - (3) information of repair, replacement or return of motor vehicle products for their malfunctions which endanger personal or property safety;
 - (4) information on recall of motor vehicle products outside the territory of China;
- and
- (5) other information required for the record by the product quality supervision department of the State Council.

Article 11 Businesses engaging in selling, leasing or repair of motor vehicle products (hereinafter collectively referred to as dealers) shall, as prescribed by the product quality supervision department of the State Council, establish and preserve relevant information records of motor vehicle products for a period of not less than five years.

Where a dealer becomes aware of any defect in motor vehicle products, it shall immediately stop selling, leasing or using defective motor vehicle products, and assist a manufacturer in implementing a recall.

A dealer shall report to the product quality supervision department of the State Council and notify the manufacturer of relevant information on possible defects in motor vehicle products of which it becomes aware.

Article 12 Where a manufacturer becomes aware of any possible defect in its motor vehicle products, it shall immediately carry out investigation and analysis, and truthfully report the results of investigation and analysis to the product quality supervision department of the State Council.

Where a manufacturer confirms that there is a defect in its motor vehicle products, it shall immediately stop manufacturing, selling and importing defective motor vehicle products and implement a recall.

Article 13 Where the product quality supervision department of the State Council becomes aware of any possible defects in motor vehicle products, it shall immediately notify the manufacturer which shall conduct investigation and analysis; if the manufacturer fails to conduct investigation and analysis as notified, the product quality supervision department of the State Council shall initiate a defect investigation.

Where the product quality supervision department of the State Council deems that a possible defect in motor vehicle products may cause serious consequences, it may directly initiate a defect investigation.

Article 14 During a defect investigation, the product quality supervision department of the State Council may enter the business premises of a manufacturer or dealer to conduct on-site investigation, consult or copy relevant information and records, and interview relevant entities and individuals regarding possible defects in motor vehicle products.

A manufacturer shall cooperate in a defect investigation and provide relevant information, products and special equipment necessary for the investigation. A dealer shall cooperate in a defect investigation and provide relevant information necessary for the investigation.

The product quality supervision department of the State Council shall not use the information, products or special equipment, which is provided by manufacturers and

dealers, for purposes other than the technical detection and identification necessary for a defect investigation.

Article 15 Where the product quality supervision department of the State Council determines that there is a defect in motor vehicle products after investigation, it shall notify the manufacturer which shall implement a recall.

Where the manufacturer believes that there are no defects in its motor vehicle products, it may raise an objection to the product quality supervision department of the State Council within 15 working days from the date of receipt of the notice of recall and provide supporting materials. The product quality supervision department of the State Council shall arrange for disinterested experts with the manufacturer to deliberate on the supporting materials and, when necessary, conduct technical detection or identification of motor vehicle products.

Where a manufacturer neither implements a recall as notified nor raises objections within the time limit under the second paragraph of this Article, or where, after deliberation or technical detection or identification arranged by the product quality supervision department of the State Council under the second paragraph of this Article, it is confirmed that there is a defect in motor vehicle products, the product quality supervision department of the State Council shall order the manufacturer to implement a recall; the manufacturer shall immediately stop manufacturing, selling and importing defective motor vehicle products and implement a recall.

Article 16 To implement a recall, a manufacturer shall prepare a recall plan as prescribed by the product quality supervision department of the State Council, and file the plan with the product quality supervision department of the State Council for the record. Where a filed recall plan is modified, the plan shall be filed again for the record.

A manufacturer shall implement a recall in accordance with its recall plan.

Article 17 A manufacturer shall concurrently notify the sellers of its recall plan which is filed with the product quality supervision department of the State Council for the record, and the sellers shall immediately stop selling defective motor vehicle products.

Article 18 When implementing a recall, a manufacturer shall release information in a manner facilitating public access to inform vehicle owners of matters including the defects in motor vehicle products, emergency disposal methods for avoiding damage and measures taken by the manufacturer to eliminate defects.

The product quality supervision department of the State Council shall, in a timely manner, publish information on motor vehicle products confirmed as defective and relevant information on recalls implemented by the manufacturers.

Vehicle owners shall cooperate with manufacturers in implementing recalls.

Article 19 For the recalled defective motor vehicle products, a manufacturer shall promptly eliminate defects by taking measures including amending or adding labels, making repairs, replacing the products with new ones, or having the products returned.

A manufacturer shall assume expenses for elimination of defects and necessary expenses for transporting defective motor vehicle products.

Article 20 A manufacturer shall submit interim reports and a final report on recall as prescribed by the product quality supervision department of the State Council.

Article 21 The product quality supervision department of the State Council shall conduct supervision over the implementation of recalls and arrange for disinterested experts with the manufacturers to evaluate the result of manufacturers' elimination of defects.

Article 22 Where a manufacturer violates the provisions of these Regulations under any of the following circumstances, the product quality supervision department shall order it to make corrections and, if the manufacturer refuses to do so, impose on it a fine of not less than 50,000 yuan but not more than 200,000 yuan:

(1) failing to preserve records of information on motor vehicle products and vehicle owners as prescribed;

(2) failing to file relevant information or a recall plan for the record as prescribed; or

(3) failing to submit a relevant recall report as prescribed.

Article 23 Where a manufacturer or dealer violates the provisions of these Regulations under any of the following circumstances, the product quality supervision department shall order it to make corrections and, if the manufacturer or dealer refuses to do so, impose on it a fine of not less than 500,000 yuan but not more than 1,000,000 yuan; its illegal income, if any, shall be concurrently confiscated; if the circumstances are serious, the licensing authority shall revoke the related license:

(1) a manufacturer or dealer does not cooperate with the product quality supervision department in a defect investigation;

(2) a manufacturer fails to implement a recall in accordance with the filed recall plan; or

(3) a manufacturer fails to notify sellers of its recall plan.

Article 24 Where a manufacturer violates the provisions of these Regulations under any of the following circumstances, the product quality supervision department shall order it to make corrections, impose on it a fine of not less than 1% but not more than 10% of the monetary value of the defective motor vehicle products, and concurrently confiscate its illegal income, if any; if the circumstances are serious, the licensing authority shall revoke the related license:

(1) failing to stop manufacturing, selling or importing defective motor vehicle products;

(2) withholding information on defects; or

(3) refusing to implement a recall after so ordered.

Article 25 Where a person engaging in the supervision and administration of recall of defective motor vehicle products commits any of the following acts in violation of the provisions of these Regulations, such person shall be given a sanction in accordance with law:

(1) using the information, products or special equipment, which is provided by a manufacturer or dealer, for a purpose other than the technical detection or identification necessary for a defect investigation;

(2) divulging trade secrets or personal information of the party concerned; or

(3) otherwise neglecting duties, committing illegalities for personal gain, or

abusing powers.

Article 26 Where a violation of the provisions of these Regulations constitutes a crime, the violator shall be investigated for criminal liability in accordance with law.

Article 27 Where the tires not installed in motor vehicle products when such products leave factories are defective, the tire manufacturers shall be responsible for a recall. The specific measures shall be developed by the product quality supervision department of the State Council by referring to these Regulations.

Article 28 A manufacturer shall not be exempt from any liability which it shall assume in accordance with law for implementing a recall of defective motor vehicle products in accordance with these Regulations.

Where there are any quality problems with motor vehicle products other than the defects as provided in these Regulations, vehicle owners shall have the right to require the manufacturers and sellers to assume the corresponding legal liability for making repairs, replacing the products with new ones, having the products returned or providing compensation for losses, in accordance with the product quality law, the consumer rights and interests protection law and other laws, administrative regulations, the provisions of the State, as well as contractual provisions.

Article 29 These Regulations shall be effective as of January 1, 2013.

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