

Measures of Guangdong Province for the Administration of Consumer Products Recalls

(Promulgated by Decree No. 308 of the People's Government of Guangdong Province on December 13, 2023)

Article 1 These Measures have been formulated for the purposes of regulating the recall of defective consumer products, protecting human health and improving the safety of persons and property, in accordance with the *Product Quality Law of the People's Republic of China*, the *Law of the People's Republic of China on the Protection of Consumer Rights and Interests*, and other laws and regulations, and in light of the actual situation in Guangdong Province.

Article 2 These Measures are applicable to the recall of defective consumer products within the administrative region of this Province, as well as the supervision and administration associated therewith. Where alternative provisions on the recall of defective consumer products and associated supervision and administration exist in legislation, regulations, and departmental rules, such provisions shall prevail.

Article 3 For the purpose of these Measures, "consumer products" refers to products purchased and used by consumers for the purposes of their consumption needs, within the specific scope implemented by the relevant national regulations.

For the purpose of these Measures, "defects" refers to unreasonable dangers posing a threat to the safety of persons or property, that are prevalent within a given batch, model, or category of consumer products, for reason of design, manufacturing, or warnings.

For the purpose of these Measures, "recalls" refers to the producers' efforts to eliminate defects or reduce safety risks via remedial measures such as issuing supplementary or corrected warning notices, and repair, replacement, or return of defective consumer products.

Article 4 The supervision and administration department of the provincial people's government shall be responsible for the supervision and administration of the recall of defective consumer products across the province as a whole.

The supervision and administration departments of the people's governments of prefecture-level or above cities shall be responsible for the supervision and administration of the recall of defective consumer products within their respective administrative regions. The supervision and administration departments of the people's governments at the county level shall cooperate with higher level supervision and administration departments in carrying out the relevant work, such as information collection, recall supervision, and inspection of defective consumer products, within their respective administrative regions.

The relevant administrative departments, including those for health, emergency management, education, and industry and information technology, shall, within the respective scopes of their responsibilities, cooperate concerning the supervision and administration of the recall of defective consumer products.

Article 5 The supervision and administration department of the provincial people's government shall establish and develop a province-wide mechanism for information sharing concerning consumer product defects, and shall promote the strengthening of exchanges and cooperation concerning consumer product defect information collection, data sharing, and rapid early warning, amongst all prefecture-level cities and relevant administrative departments.

Article 6 The supervision and administration department of the provincial

people's government shall establish a unified technical expert database covering the recall of defective consumer products across the province, and implement its dynamic management.

Article 7 Producers and others operators engaged in the sale, leasing, and repair of consumer products (hereinafter referred to as "other operators") shall be responsible for the safety of the consumer products they produce and do business related to, in accordance with the law.

The supervision and administration departments of the people's governments at county level or above shall strengthen consumer product safety publicity and education in order to improve the quality, safety and risk prevention awareness of producers, other operators, and consumers.

Article 8 Where producers or other operators discover that the consumer products they produce or do business related to have caused or may cause death, serious personal injuries, or major property losses, or have been subject to a recall implemented outside the territory of the People's Republic of China, they shall report to the supervision and administration departments of the people's governments of prefecture-level or above cities within 2 working days of the date of such discovery.

Where a producer considers that a defect exists in a consumer product, it shall proactively implement its recall, immediately stop producing, selling, and importing the defective consumer product, notify other operators to cease engaging in related business to it, and bear consumers' necessary expenses incurred as a result of the recall. Upon receiving notice from the producer, other operators shall immediately stop selling defective consumer products and shall assist the producer in carrying out the recall.

Recalled consumer products whose defects have not been eliminated or whose safety risks have not been mitigated shall not be resold or delivered for use.

Article 9 Where the producer of a defective consumer product merges, its recall shall be carried out by the merged entity. Where the producer splits, the recall shall be carried out by the agreed upon entity after the split. In the absence of an agreement, a joint recall shall be implemented. If the producer is legally terminated, the supervision and administration department of the provincial people's government or the people's government of a prefecture-level or above city shall issue consumption warnings to the public.

If the seller of a defective consumer product cannot identify the producer or supplier of the defective product, the seller shall implement the recall in accordance with the relevant provisions regarding recall by producers contained in these Measures.

Institutions designated by overseas producers to implement recalls within the territory of the People's Republic of China shall be regarded as the producers, as specified in these Measures. In the absence of such a designation, the agents and importers of the imported consumer products shall be regarded as the producers, as specified in these Measures.

Article 10 The supervision and administration departments of the provincial people's government and the people's governments of prefecture-level or above cities shall establish and improve mechanisms for information collection on consumer product defects, proactively collecting such information via methods including supervision and inspection, injury monitoring, risk monitoring, public opinion monitoring, complaint and reporting, and case investigation and handling.

The relevant administrative departments of people's governments at county level or above, including health, emergency management, education, and industry and

information technology departments, shall promptly provide information on consumer product defects found during the performance of their duties to the supervision and administration department of the people's government at the same level.

Scientific research institutes, product quality inspection and testing institutions, and social organizations shall be encouraged to promptly provide information on any consumer product defects they discover to the supervision and administration departments in the regions of the product's producers.

Article 11 The supervision and administration departments of people's governments at county level or above shall publicize channels for reporting consumer product defect information, including their addresses, telephone numbers or websites, and email addresses. Any organization or individual has the right to report information concerning potential consumer product defects.

Article 12 The supervision and administration departments of people's governments at the county level shall organize and register information collected on consumer product defects, and submit it to the higher-level supervision and administration departments in a timely manner.

The supervision and administration departments of the provincial people's government, and the people's governments of prefecture-level or above cities, shall analyze information collected on consumer product defects, and shall notify the producers of potentially defective consumer products within their administrative regions to carry out defect investigation and analysis within 3 working days of the date of discovery of potential defects.

Where the producer is registered within the city's administrative region, the supervision and administration department of the prefecture-level or above city shall organize defect information analysis. If the producer is not registered within the city's administrative region, the supervision and administration department of the prefecture-level or above city shall promptly inform the supervision and administration department at the same level in the producer's location. If the producer is not registered within the province's administrative region, the provincial supervision and administration department shall inform the supervision and administration department of the province in which the producer is located.

Producers and operators may be invited to participate in the defect information analysis. Technical experts and professional institutions in relevant fields may also be invited where necessary.

Article 13 Where producers discover potential defects in their consumer products or receive a defect investigation and analysis notice from supervision and administration department, they should promptly conduct a defect investigation and analysis and report the results to the supervision and administration departments of the people's governments of prefecture-level or above cities within 10 working days from the date of discovery or receipt of the notice.

During defect investigation and analysis by the producer, the supervision and administration department of the provincial people's government or of the people's government of a prefecture-level or above cities may provide necessary guidance and technical support.

The producer shall immediately implement a recall upon confirming a defect in its consumer product through defect investigation and analysis.

Article 14 Where a producer fails to carry out defect investigation and analysis as notified by the supervision and administration department, or the supervision and administration department considers that the results of the producer's defect investigation and analysis are insufficient to prove that defects do not exist in the

consumer product, the supervision and administration department of the provincial people's government or the people's government of a prefecture-level or above city shall organize defect investigation.

Where the producer voluntarily implements a recall during a defect investigation organized by the supervision and administration department, the defect investigation may be terminated.

Article 15 The supervision and administration departments of the provincial people's government and the people's governments of prefecture-level or above cities may take the following steps during defect investigation:

- (1) Purchasing consumer products as samples for investigation;
- (2) Entering sites related to its production and operations to conduct on-site investigation;
- (3) Consulting and duplicating relevant data and records;
- (4) Inquiring and interviewing relevant units and staff;
- (5) Delegating technical experts and professional institutions to carry out technical analysis, inspection, testing, and risk assessment.

Article 16 Producers and other operators shall cooperate in defect investigation, providing the necessary materials, consumer products, and production equipment for the investigation.

Where defective consumer products are traded through trade fairs, leasing counters, or the Internet, the organizers, lessors, and online trading platform operators shall provide relevant transaction information, including the identities of market and platform operators, good or service details, payment records, logistics information, and return and exchange information.

Article 17 The supervision and administration department of the provincial people's government or the people's government of a prefecture-level or above city shall, based on the defect investigation, and a risk assessment covering the possibility, degree, and scope of harm to persons and property caused by a consumer product, reach a timely conclusion concerning whether the consumer product is defective.

Article 18 If the supervision and administration department of the provincial people's government or the people's government of a prefecture-level or above city determines that a consumer product is defective, it shall notify the producer to implement a recall. If the producer does not object, it shall implement the recall immediately.

If the producer has any objection, it may, within 10 working days of the date of receiving the recall notice, submit an objection application, along with any relevant materials, to the supervision and administration department which issued the notice.

Article 19 Upon receiving the objection application, the supervision and administration department shall review the relevant materials, arrive at a review conclusion on a timely basis, and inform the producer of that conclusion. When necessary, technical experts and professional institutions may be delegated to carry out technical analysis, or hearings may be organized for discussion.

If the review conclusion confirms that the consumer product is defective, the supervision and administration department that arrived at that review conclusion shall notify the producer to implement a recall, and the producer shall immediately implement the recall.

Article 20 If the producer both fails to implement a recall as notified by the supervision and administration department, and fails to submit an objection application within the stipulated period, or fails to implement a recall as required after the consumer product has been confirmed defective through reevaluation, the

supervision and administration department of the people's government of the prefecture-level or above city where the producer is located shall report the issue, level by level, to the State Administration for Market Regulation, which may then order a recall. If the producer still refuses to implement the recall or delays its implementation, actions shall be taken in accordance with the relevant provisions of the *Law of the People's Republic of China on the Protection of Consumer Rights and Interests*.

Article 21 When implementing a recall, producers shall formulate recall plans within 10 working days of the date on which the consumer products were found to be defective through defect investigation and analysis, or from the date of their receipt of the recall notice. They shall not conceal the scope and quantity of defective consumer products that need to be recalled, and shall present their recall plans to the supervision and administration departments of the people's governments of prefecture-level or above cities.

A recall plan shall include the following elements:

- (1) The scope, name, specification, model, quantity, and existing defects, the consumer product to be recalled, and emergency responses to avoid harm;
- (2) Specific recall measures;
- (3) The organization responsible for the recall, contact information, date, and schedule;
- (4) The scope of the expenses to be incurred for the recall;
- (5) Other content to be reported.

Article 22 The producers shall, within three working days from the date of presenting the recall plan, publicize the recall information in an easily accessible way, and accept public consultation.

Other operators shall display the recall information released by producers in prominent positions in their stores, websites, and other business premises. Online trading platform operators are encouraged to display the consumer product recall information released by the operators in prominent positions on those platforms.

The supervision and administration departments of the people's governments of the prefecture-level or above cities where the producers are located shall publicize producers' recall information through the national consumer product recall management information system and their official websites.

Article 23 The producers shall implement the recall according to the recall plan and prepare recall records, recording information such as the names, specifications, and models of the defective consumer products, time and quantity recalled, contact information of consumers, and supporting materials. The retention period for recall records shall be not less than five years.

Article 24 Where the recall duration is not longer than 3 months, the producer shall submit a periodic recall summary to the supervision and administration department to which the recall plan was presented every month after the implementation date of the recall. If the recall duration exceeds 3 months, the producer shall submit a periodic summary to the supervision and administration department to which the recall plan was presented every 3 months, and, after completing the recall plan, submit a recall summary within 15 working days.

Article 25 The defective consumer products recalled by the producers by means of replacement or return shall be handled in a timely manner. Where defective products may cause environmental pollution or other hazards to the public, technical processes shall be adopted to render them harmless.

Producers shall keep records of post-recall handling of defective consumer

products, including the names, specifications, and models of the defective consumer products, quantity handled, handling time, and handling measures. The retention period for post-recall handling records shall be not less than five years.

Article 26 The supervision and administration departments of the provincial people's government and the people's governments of prefecture-level or above cities shall supervise and inspect the recall of defective consumer products, conduct spot checks on the recall records, post-recall handling records, and recall effectiveness, and shall evaluate the recall effect.

If it is found that the scope of the recall is inaccurate, or that the recall measures were insufficient to eliminate the defects or to mitigate safety hazards, the producer shall be required to reinitiate the recall.

Article 27 If defects are commonly found in consumer products, the supervision and administration department of the provincial people's government or the people's government of a prefecture-level or above city shall issue suggestions on improving the quality of these consumer products to the relevant producers. Technical analysis meetings for industry quality improvement can be organized if necessary.

Industry associations shall strengthen industry guidance and support, and urge producers to proactively fulfill their obligations regarding consumer product recalls.

Article 28 Administrative supervisors, technical experts, and professional institutions involved in the recall of defective consumer products shall maintain the confidentiality of trade secrets or private personal matters learned during their work.

Article 29 Where any of the following circumstances apply to a producer or other operator, the supervision and administration department of the people's government of the prefecture-level or above city where the producer or operator is located shall record it in the credit profile of the producer or operator:

(1) Failure to report risk of death, serious personal injury, or major property loss caused, or potentially caused, by consumer products it produces or operates;

(2) Failure to report a recall implemented outside the territory of the People's Republic of China;

(3) Failure to implement a recall in accordance with the recall plan;

(4) Refusing to implement or delaying a recall ordered by the supervision and administration department.

Article 30 Producers recalling defective consumer products in accordance with these Measures shall not be exempted from their other legal responsibilities imposed by law.

Sellers recalling defective consumer products according to Paragraph 2 of Article 9 of these Measures shall not be exempted from their other legal responsibilities imposed by law.

Article 31 Where producers or other operators violate the provisions of Article 8, Paragraph 1 of Article 16, Paragraph 1 of Article 21, Paragraphs 1 and 2 of Article 22, Article 23, Article 24, or Paragraph 2 of Article 25 of these Measures, the supervision and administration department of the provincial people's government or the people's governments of a prefecture-level or above cities shall order them to make correction within a the prescribed time period. If they fail to do so within the prescribed time period, a fine of RMB 10,000-30,000 will be imposed on them. Where the said actions constitute a crime, criminal liability shall be investigated in accordance with the law.

Article 32 If personnel responsible for the supervision and administration of the recall of defective consumer products abuse their power, neglect their duties, or engage in malpractice for personal gains, the directly responsible persons-in-charge

and other directly responsible staff shall be punished in accordance with the law. Where the said actions constitute a crime, criminal liability shall be investigated in accordance with the law.

Article 33 These Measures shall come into force as of February 1, 2024.