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EuropElectro¹ – European Electrical and Electronics Industry’s Position Paper on “Regulations on Consumer Products Recall (exposure draft)”

To Whom it may Concern,

On 16 June 2015, the department of supervision & inspection of AQSIQ solicited public comments on the “Regulation on Consumer Products Recall (exposure draft)”.

As a representative of the European electrical and electronic industry as well as Consumer Products manufactures, we are pleased with and support the measures AQSIQ carried out to regulate the market, improve products quality, strengthen the responsibility of producers and be responsible for the customers’ interests.

EuropElectro solicited comments from our member companies. We hereby propose the following detailed and concrete proposals and comments.

We would be very appreciative if MIIT takes our positions into account when formulating this regulation.

Best Regards,
EuropElectro Office

1.

EuropElectro helps to bring Europe and China closer together in technical legislation, standardization and certification for electrical and electronic products in order to facilitate the trade with these products in both directions. Through the cooperation with ORGALIME we are the voice of our member companies from all over Europe in China.

合作方:



Orgalime - The European Engineering Industries Association, Brussels

Orgalime - 欧洲工程行业协会, 布鲁塞尔



ZVEI - German Electrical and Electronic Manufacturers’ Association, Frankfurt

ZVEI - 德国电气电子行业协会, 法兰克福

I. General Evaluation

We're glad to see AQSIQ formulating relevant management regulations. We are also pleased to protect the maximum interests of consumers as manufactures.

Our major concern is that this Regulation on Consumer Products Recall (exposure draft) enlarges the concept of the recall, and tries to take all the elimination of all defects, reducing and eliminating relevant risks into the scope of management. This can lead to over recall. We propose that the regulation should be in accordance with its higher-level laws, such as 'Product Quality Law of the P.R.C', 'Law of P.R.C on the Protection of Consumer Rights and Interests', and etc. For instance, measures for recall should be aligned with the definition in 'Law of P.R.C on the Protection of Consumer Rights and Interests'.

This regulation should clearly define the conditions to resume production, sale and import, after the recall of defective products and related obligations are implemented and fulfilled.

The technical scheme and provision for testing and evaluation should be defined in this regulation or corresponding supporting documents.

The transition period of this regulation after its official release is proposed to be 3-5 years, so that the producers could better understand and comply with the regulation.

Our industry hopes that the regulator's follow-up actions will continue to be open and transparent.

II. Specific Article and Detailed Feedback:

Article of Regulations on Consumer Products Recall (exposure draft)	Feedback
Article I [Legislative purpose and basis]	
<p>The Regulations are promulgated on the basis of the Law of the People’s Republic of China on Product Quality and Law of the PRC on the Protection of the Rights and Interests of Consumers with the purpose of regulating the recall of consumer products, preventing and eliminating the harm possibly caused by the defect of consumer products and protecting the personal and property safety of the consumers.</p>	<p>Suggestion 1: The personal and property safety of consumers is suggested to specify clearly;</p>
Article II [Scope of application]	
<p>The Regulations apply to the recall of products manufactured and sold within the territory of the People’s Republic of China and the supervision and administration of such recalls.</p>	<p>Suggestion2: If the products manufactured in china but sold abroad, the administrative measures should not applicable for this kind of products. Thus , `products manufactured and sold within the territory of the People’s Republic of China’ is suggested to change into `products manufactured and sold within the territory of the People’s Republic of China (products only manufactured within but sold out of the territory of the People’s Republic of China are excluded)’;</p>
Article III [Definition and interpretation]	
<p>Under the Regulations, defect refers to the unreasonable dangers (not meeting the national and industrial standards for protecting personal and property safety or otherwise endangering the personal and property safety) universally existing in the consumer products of a certain batch, model or type caused by the reasons of design, production and identification.</p>	<p>Suggestion3: `The national standards and industry standards’ is suggested to change into `compulsory standards’ so that to be in line with the ongoing China Standardization Reform;</p> <p>Suggestion4: `personal and property safety’ need to be clarified.</p>
<p>Recall referred to herein shall mean the activities in which the manufacturer of the consumer products adopts measures over the already sold consumer products to eliminate the defect or reduce or remove relevant risks.</p>	<p>Suggestion5: `Recall’is suggested to be defined as `Reclamation taken by producers on defective consumer goods which have already been sold or in circulation.</p>
<p>Manufacturer referred to herein shall mean the enterprise legally established in China to produce consumer products and issuing certificate of quality therefor. Enterprise that imports consumer products from outside China and sells them in China will also be deemed manufacturer as specified herein.</p>	<p>Suggestion6: In order to be in line with the higher-level law of `Product Quality Law of the P.R.C’, `certification of quality’ is suggested to be changed into `Qualification’.</p>
Article VI [Competent authority]	
<p>The product quality supervision authorities under the people’s government at the levels of province, autonomous region and municipality directly under the Central Government and the</p>	<p>Suggestion7: In order to have the responsibility of administrative organization to be more specific and avoid the possible</p>

<p>administrations for entry & exit inspection and quarantine directly subordinate to AQSIQ (hereinafter referred to as “province level QSIQ departments”) shall be responsible for the work related to supervision and management over recall of consumer products within the respective jurisdictions based on the division of work. The province level QSIQ departments shall, based on the work demand, authorize those QSIQ departments of lower level to undertake part of the supervision and management work over the recall of consumer products.</p>	<p>confusion of supervision and management, we propose to delete the provision about province level QSIQ authorize surveillance and management work on recall of consumer products to lower level department or to stipulate the requirements for authorizing work. Or, just delete the sentence.</p>
Article VII [Technical support body]	
<p>The technical bodies for defective product recall under province level QSIQ departments shall undertake specific technical work for recall of consumer products within respective administrative areas based on the regulations of the province level QSIQ departments.</p>	<p>Suggestion8: We propose to modify ‘...the regulation of the province level QSIQ departments’ to ‘criteria given by the defect products recall technical organization of AQSIQ’.</p>
Article XI [Expert database and inspection body]	
<p>AQSIQ shall strengthen the building of expert database for consumer products recall and select national product quality inspection body and laboratory with legal qualification to provide technical support for the recall management of consumer products.</p>	<p>Suggestion9: ‘legal qualification’ need to be further specified. ‘AQSIQ should be responsible for establishing and publishing the list for these legal qualified inspection bodies and laboratories as well as their experts’ is suggested to be added into this article, to make the supervision more open and transparent.</p>
Article XII [Collection and analysis of manufacturer information and obligation of recall]	
<p>The manufacturer shall create defect information collection, analysis and handling system, take the initiative to collect consumer products quality safety information; where it is found that the consumer products may possibly be defective, the manufacturer shall immediately organize the investigation analysis and faithfully report the investigation analysis result to the province level QSIQ department at the place of the manufacturer; where the consumer products are actually defective, the production, sales and importation shall be stopped immediately and the recall shall be carried out immediately based on the provisions in the Regulations.</p>	<p>Suggestion10: Specific requirement on ‘The defect information collection analysis and handling system’ is suggested to be clearly defined in the regulation.</p> <p>Suggestion11: We propose to modify ‘the production, sales and importation shall be stopped’ into ‘the production, sales and importation of the defect products shall be stopped’;</p>
Article XIII [Obligations of relevant operators]	
<p>stop selling, leasing and using the consumer products</p>	<p>Suggestion12: Same as above item11, we propose to modify ‘the production, sales and importation shall be stopped’ into ‘the production, sales and importation of the defect products shall be stopped’;</p>
Article XVIII [Notifying the manufacturer to make recall]	
<p>Where the QSIQ department higher than province level believes that the consumer products are defective based on the</p>	<p>Suggestion13: As the condition for defect investigation has been defined and ‘safety</p>

<p>investigation or it is found in the national supervision sampling and administrative case that the consumer products produced by the manufacturer are of safety hazard, it shall notify the manufacturer to carry out recall activity.</p>	<p>hazard' is not equal to defect, we suggest to delete 'or it is found in the national supervision sampling and administrative case that the consumer products produced by the manufacturer are of safety hazard'. This provision can be the clue of judging defect;</p>
Article XIX [Objection of the manufacturer]	
<p>Where the manufacturer believes that their consumer products are free of defect, it may propose objection to the QSIQ department higher than province level notifying it to make recall within 15 working days after the date of notification and provide evidentiary materials.</p>	<p>Suggestion14: modify 'it may propose object to the QSIQ department higher than province level notifying it to make recall within 15 working days' to 'it may propose object to AQSIQ within 15 working days'</p>
<p>The QSIQ department higher than province level having received such objection shall organize experts or inspection and experiment body of no relation with the manufacturer to carry out demonstration or technical evaluation over the evidentiary materials and make determination with regard to the defect investigation result and notify such determination to the manufacturer. The QSIQ department of province level shall report the determination to AQSIQ through the information system within 5 working days after making the determination.</p>	<p>Suggestion15: 'Experts or inspection and experiment body of no interest relation with the manufacturer' is suggested to be specified; Suggestion16: 'Experts or inspection and experiment body' is suggested to be those defined in the list mentioned in the comments about Article XI; Suggestion17: 'notify such determination to the manufacturer' is suggested to be revised into 'notify such determination to the manufacturer in written form';</p>
<p>the manufacturer shall immediately stop producing, selling and importing the consumer products and make recall.</p>	<p>Suggestion18: same as item 11, we propose to modify 'stop producing, selling and importing the consumer products' into 'stop producing, selling and importing the defect consumer products';</p>
Article XX [Recall plan]	
<p>The manufacturer shall, within 5 working days after confirming the defect of the consumer products or within 5 working days after being ordered to make recall, file the recall plan through the information system. Where the filed recall plan is modified, it shall be filed again and explanation materials shall be submitted.</p>	<p>Suggestion19: '5 working days' is too short for manufacturers. We propose that modify '5 working days' to '15 working days'.</p>
Article XXI [Announcement of recall]	
<p>The manufacturer shall notify the filed recall plan to the relevant operators. The manufacturer shall prepare and keep complete recall record.</p>	<p>Suggestion20: We propose that revise 'the manufacturer shall prepare and keep complete recall record' to 'the manufacturer shall prepare and keep complete recall record for 2 years'.</p>
Article XXII [Announcement of recall information]	
<p>The manufacturer shall, within 5 working days after the filing of</p>	<p>Suggestion21: '5 working days' is too short</p>

recall plan, issue relevant information through newspapers and periodicals, network, broadcasting, television and other publicly known ways so as to notify the consumers	for manufacturers. We propose that modify '5 working days' to '15 working days'.
Article XXIII [Risk early warning]	
The QSIQ department higher than province level may make risk evaluation over the consumer products, where it believes that the risk of defect of the consumer products is high and may possibly cause serious product safety accident and the recall can not be made in accordance with the Regulations, it shall announce to the public the consumption early warning information.	Suggestion22: How to evaluate risk is not stipulated in this article, AQSIQ should clarify it. We propose that risk evaluation system should be established.
Article XXIV [Recall measures]	
For the recalled consumer products, the manufacturer shall eliminate the defects or reduce or remove relevant risks through the measures such as modification or supplement identification, repair, replacement, goods rejected or refund.	Suggestion23: 'Refund' is suggested be deleted from recall measures as it doesn't help to reduce the risk of defect. The higher-level law of 'The Law of the People's Republic of China on the Protection of Consumer Rights and Interests' is suggested to be reference and recall in this regulation should be in line with the law.

ORGALIME -Speaking for European engineering, Orgalime, represents 3 industrial branches (electrical & electronic, mechanical engineering and metal articles & metalworking) that manufacture over 28% of the total EU manufacturing output and has 37 member trade federations in 22 European countries. The industry accounted for some €1,666 billion in 2011. The industry not only represents more than one quarter of the output but also a third of the EU's manufacturing industries exports.

ZVEI –the German Electrical and Electronics Industry Association is one of the world's largest electrical and electronics industry associations. ZVEI represents, with 26 product divisions and 1600 member companies, the German electrical and electronics industry with €178 billion turnover in 2011 and accounts for more than 840,000 employees.